
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to provisions concerning recovery of overpaid social security benefits.

Regulation 2 amends the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988 (S.I.1988/664) (“the 1988 Regulations”), the Housing Benefit Regulations 2006 (S.I.2006/213) (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I.2006/214) (“the Housing Benefit (SPC) Regulations”), the Council Tax Benefit Regulations 2006 (S.I.2006/215) (“the Council Tax Benefit Regulations”) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I.2006/216) (“the Council Tax Benefit (SPC) Regulations”). The amendments to those Regulations ensure that the amount of a recoverable overpayment or excess benefit is reduced by the additional amount of benefit which would have been payable either to the person from whom the overpayment or excess benefit is recoverable, or their partner, had all the correct facts relating to their benefit claim or award had been known.

Regulation 2 also amends the 1988 Regulations to provide that where there is an award of income support, state pension credit or income-based jobseeker’s allowance, the amount of any recoverable overpayment is reduced by the additional amount of that benefit which would have been payable if any change of circumstances had been notified at the time that change occurred.

Regulation 3 amends the 1988 Regulations, the Housing Benefit Regulations and the Housing Benefit (SPC) Regulations. This is to provide both that the maximum deduction from benefit to recover an overpayment which has arisen as a result of fraud is increased from 4 times 5 per cent. of the relevant personal allowance to 5 times 5 per cent. of that allowance and that the rules for rounding the maximum amount which may be deducted in both fraud and non-fraud cases are made consistent with each other.

Regulation 4 amends the Council Tax Benefit Regulations and the Council Tax Benefit (SPC) Regulations to correct erroneous cross-references to the provisions in those Regulations relating to recovery of excess council tax benefit from partners of persons from whom that excess is recoverable.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.