
STATUTORY INSTRUMENTS

1993 No. 650

SOCIAL SECURITY

The Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 1993

<i>Made</i>	- - - -	<i>11th March 1993</i>
<i>Laid before Parliament</i>		<i>15th March 1993</i>
<i>Coming into force</i>	- -	<i>5th April 1993</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 5(1)(r), 74(1) and 189(1) of the Social Security Administration Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 1993 and shall come into force on 5th April 1993.

Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

2.—(1) In regulation 2 of the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988⁽²⁾, after paragraph (3) there shall be inserted the following paragraph—

“(4) Where an interim payment of income support is made because a payment to which the recipient is entitled by way of child support maintenance under the Child Support Act 1991⁽³⁾, or periodical payments under a maintenance agreement within the meaning of section 9(1) of that Act or under a maintenance order within the meaning of section 107(15) of the Social Security Administration Act 1992, has not been made, the requirement in paragraph (2) of this regulation to give notice shall be omitted.”

(2) For regulation 3 of those Regulations there shall be substituted the following regulation—

“3. Where it is practicable to do so and, where notice is required to be given under regulation 2(2), such notice has been given—

(1) 1992 c. 5.
(2) S.I.1988/664; the relevant amending instrument is S.I. 1991/2742.
(3) 1991 c. 48.

- (a) any interim payment, other than an interim payment made in the circumstances mentioned in regulation 2(4),—
 - (i) which was made in anticipation of an award of benefit shall be offset by the adjudicating authority in reduction of the benefit to be awarded; and
 - (ii) whether or not made in anticipation of an award, which is not offset under sub-paragraph (i) shall be deducted by the Secretary of State from—
 - (a) the sum payable under the award of benefit on account of which the interim payment was made; or
 - (b) any sum payable under any subsequent award of the same benefit to the same person; and
 - (b) any interim payment made in the circumstances mentioned in regulation 2(4) shall be offset by the Secretary of State against any sum received by him in respect of arrears of child support maintenance payable to the person to whom the interim payment was made.”
- (3) In regulation 4 of those Regulations—
 - (a) in paragraph (1) for the words “that notice has been given as required by regulation 2(2)” there shall be substituted the words “where notice is required to be given under regulation 2(2), such notice has been given”.
 - (b) in paragraph (3), for the full stop at the end of sub-paragraph (b) there shall be substituted a semi-colon and after that there shall be inserted the word “or”; and
 - (c) after that sub-paragraph there shall be inserted the following sub-paragraph“(c) an interim payment of income support has been made under regulation 2(1)(b) in the circumstances mentioned in regulation 2(4).”
- (4) In regulation 7 of those Regulations—
 - (a) for paragraph (1) there shall be substituted the following paragraph

“(1) For the purposes of section 74(1) of the Social Security Administration Act 1992 (income support and other payments), a person’s prescribed income is—

 - (a) income required to be taken into account in accordance with Part V of the Income Support Regulations, except for the income specified in sub-paragraph (b).; and
 - (b) income which, if it were actually paid, would be required to be taken into account in accordance with Chapter VIIA of Part V of the Income Support Regulations (child support maintenance); but only in so far as it relates to the period beginning with the effective date of the maintenance assessment under which it is payable, as determined in accordance with regulation 30 of the Child Support (Maintenance Assessment Procedure) Regulations 1992 (4), and ending with the first day which is a day specified by the Secretary of State under regulation 4(1) of the Child Support (Collection and Enforcement) Regulations 1992 (5) as being a day on which payment of child support maintenance under that maintenance assessment is due.”;
 - (b) in paragraph (2) for the words “paragraph (1)” there shall be substituted the words “paragraph (1)(a)”; and
 - (c) after paragraph (2) there shall be inserted the following paragraphs—

(4) S.I. 1992/1813.
(5) S.I. 1992/1989.

“(3) Subject to paragraph (4), the prescribed date in relation to any payment of income prescribed by paragraph (1)(b) is the last day of the maintenance period, determined in accordance with regulation 33 of the Child Support (Maintenance Assessment Procedure) Regulations 1992, to which it relates.

(4) Where the period referred to in paragraph (1)(b) does not consist of a number of complete maintenance periods the prescribed date in relation to income prescribed by that sub-paragraph which relates to any part of that period which is not a complete maintenance period is the last day of that period.”.

Signed by authority of the Secretary of State for Social Security.

11th March 1993

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 so as to provide that where an interim payment of income support is made to a person who is entitled to receive child support maintenance under the Child Support Act 1991, or maintenance under a court order or a maintenance agreement, the requirement in regulation 2(2) that he shall be given notice of his liability to have the payment brought into account and to repay it is omitted. A new sub-paragraph is added to regulation 4(3) so that where an interim payment of income support has been made to such a person it may be determined that it has been overpaid. Regulation 7 is amended so as to provide for child support maintenance in respect of the period between the effective date of a maintenance assessment and the making of that assessment (which will always be later) to be prescribed income for the purposes of section 74(1) of the Social Security Administration Act 1992. That section makes provision for cases where an amount of income support is paid because some other income has not been paid at a prescribed time but is subsequently paid.