



Employment Tribunals Act 1996

1996 CHAPTER 17

^{F1}PART I

^{F1}EMPLOYMENT TRIBUNALS]

Recoupment of social security benefits

16 Power to provide for recoupment of benefits.

- (1) This section applies to payments which are the subject of proceedings before ^{F1}employment tribunals] and which are—
- (a) payments of wages or compensation for loss of wages,
 - (b) payments by employers to employees under sections 146 to 151, sections 168 to 173 or section 192 of the ^{M1}Trade Union and Labour Relations (Consolidation) Act 1992,
 - (c) payments by employers to employees under—
 - (i) Part III, V, VI or VII,
 - (ii) section 93, or
 - (iii) Part X,of the ^{M2}Employment Rights Act 1996, ^{F2}...
 - (d) payments by employers to employees of a nature similar to, or for a purpose corresponding to the purpose of, payments within paragraph (b) or (c),^{F3F4}...
 - (e) payments by employers to employees under regulation 5, 6 or 9 of the Employment Relations Act 1999 (Blacklists) Regulations 2010,^{F5}or
 - (f) payments by NHS employers to applicants under regulation 6 of the Employment Rights Act 1996 (NHS Recruitment – Protected Disclosure) Regulations 2018 (remedies),]
- and to payments of remuneration under a protective award under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (2) The Secretary of State may by regulations make with respect to payments to which this section applies provision for any or all of the purposes specified in subsection (3).

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- (3) The purposes referred to in subsection (2) are—
- (a) enabling the Secretary of State to recover from an employer, by way of total or partial recoupment of [^{F6}universal credit,] jobseeker’s allowance [^{F7}, income support or income-related employment and support allowance] —
 - (i) a sum not exceeding the amount of the prescribed element of the monetary award, or
 - (ii) in the case of a protective award, the amount of the remuneration,
 - (b) requiring or authorising an [^{F1}employment tribunal] to order the payment of such a sum, by way of total or partial recoupment of [^{F8}universal credit,][^{F9}jobseeker's allowance, income support or income-related employment and support allowance] , to the Secretary of State instead of to an employee, and
 - (c) requiring an [^{F1}employment tribunal] to order the payment to an employee of only the excess of the prescribed element of the monetary award over the amount of any [^{F10}universal credit,] jobseeker’s allowance [^{F11}, income support or income-related employment and support allowance] shown to the tribunal to have been paid to the employee and enabling the Secretary of State to recover from the employer, by way of total or partial recoupment of the benefit, a sum not exceeding that amount.
- (4) Regulations under this section may be framed—
- (a) so as to apply to all payments to which this section applies or to one or more classes of those payments, and
 - [^{F12}(b) so as to apply to all or any of the benefits mentioned in subsection (3).]
- (5) Regulations under this section may—
- (a) confer powers and impose duties on [^{F1}employment tribunals] or [^{F13}adjudication officers or] other persons,
 - (b) impose on an employer to whom a monetary award or protective award relates a duty—
 - (i) to furnish particulars connected with the award, and
 - (ii) to suspend payments in pursuance of the award during any period prescribed by the regulations,
 - (c) provide for an employer who pays a sum to the Secretary of State in pursuance of this section to be relieved from any liability to pay the sum to another person,
 - [^{F14}(cc) provide for the determination by the Secretary of State of any issue arising as to the total or partial recoupment in pursuance of the regulations of [^{F15}universal credit,] a jobseeker’s allowance, unemployment benefit [^{F16}, income support or income-related employment and support allowance] ,
 - [^{F14}(d) confer on an employee a right of appeal to [^{F17}the First-tier Tribunal] against any decision of the Secretary of State on any such issue, and]
 - (e) provide for the proof in proceedings before [^{F1}employment tribunals] (whether by certificate or in any other manner) of any amount of [^{F18}universal credit,] jobseeker’s allowance [^{F19}, income support or income-related employment and support allowance] paid to an employee.
- (6) Regulations under this section may make different provision for different cases.

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Textual Amendments

- F1** Words in s. 16(1)(3)(c)(5)(a)(e) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)(b)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F2** Word in s. 16(1)(c) omitted (2.3.2010) by virtue of [The Employment Relations Act 1999 \(Blacklists\) Regulations 2010](#) (S.I. 2010/493), regs. 1(b), **17(3)(a)**
- F3** S. 16(1)(e) and word inserted (2.3.2010) by [The Employment Relations Act 1999 \(Blacklists\) Regulations 2010](#) (S.I. 2010/493), regs. 1(b), **17(3)(b)**
- F4** Word in s. 16(1)(d) omitted (23.5.2018) by virtue of [The Employment Rights Act 1996 \(NHS Recruitment Protected Disclosure\) Regulations 2018](#) (S.I. 2018/579), regs. 1(2), **10(3)(a)**
- F5** S. 16(1)(f) and word inserted (23.5.2018) by [The Employment Rights Act 1996 \(NHS Recruitment Protected Disclosure\) Regulations 2018](#) (S.I. 2018/579), regs. 1(2), **10(3)(b)**
- F6** Words in s. 16(3)(a) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013](#) (S.I. 2013/630), regs. 1(2), **11(2)(a)**
- F7** Words in s. 16(3)(a) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), **Sch. 3 para. 15(2)(a)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F8** Words in s. 16(3)(b) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013](#) (S.I. 2013/630), regs. 1(2), **11(2)(a)**
- F9** Words in s. 16(3)(b) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), **Sch. 3 para. 15(2)(b)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F10** Words in s. 16(3)(c) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013](#) (S.I. 2013/630), regs. 1(2), **11(2)(a)**
- F11** Words in s. 16(3)(c) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), **Sch. 3 para. 15(2)(a)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F12** S. 16(4)(b) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), **Sch. 3 para. 15(2)(c)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F13** Words in s. 16(5)(a) repealed (18.10.1999 and 29.11.1999 for certain purposes and otherwise prosp.) by 1998 c. 14, s. 86(1)(2), **Sch. 7 para. 147(a)**, **Sch. 8**; S.I. 1999/2860, **art. 2** (subject to transitional provisions in **Schs. 16-18**); S.I. 1999/3178, art. 2(1), **Sch. 1** (subject to transitional provisions in **Schs. 21-23**)
- F14** S. 16(5)(cc)(d) substituted for s. 16(5)(d) (18.10.1999 and 29.11.1999 for certain purposes and otherwise prosp.) by 1998 c. 14, s. 86(1), **Sch. 7 para. 147(b)**; S.I. 1999/2860, **art. 2** (subject to transitional provisions in **Schs. 16-18**); S.I. 1999/3178, art. 2(1), **Sch. 1** (subject to transitional provisions in **Schs. 21-23**)
- F15** Words in s. 16(5)(cc) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013](#) (S.I. 2013/630), regs. 1(2), **11(3)**
- F16** Words in s. 16(5)(cc) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), **Sch. 3 para. 15(2)(a)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F17** Words in s. 16(5)(d) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008](#) (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 137**
- F18** Words in s. 16(5)(e) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013](#) (S.I. 2013/630), regs. 1(2), **11(2)(b)**
- F19** Words in s. 16(5)(e) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), **Sch. 3 para. 15(2)(a)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.

Marginal Citations

- M1** 1992 c. 52.

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M2 1996 c. 18.

17 Recoupment: further provisions.

- (1) Where in pursuance of any regulations under section 16 a sum has been recovered by or paid to the Secretary of State by way of total or partial recoupment of [^{F20}universal credit,] jobseeker’s allowance [^{F21}, income support or income-related employment and support allowance] —
- (a) no sum shall be recoverable under Part III or V of the ^{M3}Social Security Administration Act 1992, and
 - (b) no abatement, payment or reduction shall be made by reference to the [^{F22}universal credit,] jobseeker’s allowance [^{F21}, income support or income-related employment and support allowance] recouped.
- (2) Any amount found to have been duly recovered by or paid to the Secretary of State in pursuance of regulations under section 16 by way of total or partial recoupment of jobseeker’s allowance shall be paid into the National Insurance Fund.
- (3) In section 16—
- “monetary award” means the amount which is awarded, or ordered to be paid, to the employee by the tribunal or would be so awarded or ordered apart from any provision of regulations under that section, and
- “the prescribed element”, in relation to any monetary award, means so much of that award as is attributable to such matters as may be prescribed by regulations under that section.
- (4) In section 16 “income-based jobseeker’s allowance” has the same meaning as in the ^{M4}Jobseekers Act 1995.
- [^{F23}(5) In this section and section 16 “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).]

Textual Amendments

- F20** Words in s. 17(1) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **11(4)**
- F21** Words in s. 17(1) substituted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), **Sch. 3 para. 15(3)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F22** Words in s. 17(1)(b) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **11(4)**
- F23** S. 17(5) inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), **Sch. 3 para. 15(4)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.

Marginal Citations

- M3** 1992 c. 5.
M4 1995 c. 18.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A(2F) inserted by [2022 c. 35 Sch. 4 para. 1\(2\)](#)
- s. 7B(A1) inserted by [2022 c. 35 Sch. 5 para. 4\(2\)](#)
- s. 9(2ZA) inserted by [2022 c. 35 Sch. 5 para. 5\(5\)](#)
- s. 9(5) inserted by [2022 c. 35 Sch. 5 para. 5\(9\)](#)
- s. 10(10) inserted by [2022 c. 35 Sch. 5 para. 6\(4\)](#)
- s. 29A(11) inserted by [2022 c. 35 Sch. 4 para. 1\(3\)](#)
- s. 30A inserted by [2022 c. 35 Sch. 5 para. 19](#)
- s. 37QA and cross-heading inserted by [2022 c. 35 s. 34\(4\)](#)
- s. 37QB inserted by [2022 c. 35 Sch. 5 para. 24](#)
- Sch. A1 para. 21A inserted by [2022 c. 35 Sch. 4 para. 1\(4\)](#)
- Sch. A1 inserted by [2022 c. 35 Sch. 5 para. 1](#)