

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
QUESTION SUBMITTED ON MONDAY 29TH NOVEMBER 2021
ANSWER TO BE TABLED ON MONDAY 6TH DECEMBER 2021**

Question

Will H.M. Attorney General state whether members of the public who have been held to owe the Social Security money for alleged overpayment have any legal recourse to claim back any money they have paid in the event that it is discovered they were not initially overpaid; if there is such recourse, does any time limit apply legally to claiming back the money; and is any such time limit affected in the event the department is found to have withheld relevant information?

Answer

1. Article 18 (Return of amount paid in error) of the Social Security (Contributions) (Jersey) Order 1975 (the “1975 Order”) provides that, in respect of an amount paid to the Minister in the erroneous belief that it was a contribution payable under the Social Security (Jersey) Law 1974 (the “1974 Law”), the Minister shall return the amount to the person who paid it.
2. This is subject to the proviso under Article 18(2) and (3) that the Minister shall deduct from that amount above
 - (a) Any amount treated under Article 17 - where contributions paid in error may be treated as paid on account of other contributions properly payable; and
 - (b) Any amount that it has paid by way of benefit in the belief that the amount paid under Article 18 was a contribution.
3. Article 19 (Return of contributions in excess of required amount) of the 1975 Order provides that where primary Class 1 contributions paid to the Minister in respect of monthly earnings of a Class 1 insured person exceed the amount required by Schedule 1A to the 1974 Law, the Minister shall repay the excess to that insured person.
4. This is subject to the proviso that the Minister may treat any excess of contributions as paid on account, or in satisfaction of unpaid contributions and shall not be required to make any repayment where the excess is less than one pound (see Article 19(2)).
5. The Social Security (Contributions) (Jersey) Order 1975 is silent on the matter of time limits. However, the standard procedure for determining claims and questions under the Social Security (Jersey) Law 1974 is found in the Social Security (Determination of Claims and Questions) (Jersey) Order 1974. There are time limits (21 days) where a person wishes to have a decision by a determining officer redetermined by a second determining officer under Article 1A(b) and further time limits (14 or 28 days) where a person wishes to appeal to the Social Security Tribunal against the second determining officer’s decision under Article 9. Such time periods are of course capable of being varied by agreement.
6. If the department is found to have withheld relevant information, then in principle that would affect the time limit if the information was necessary to inform the alleged overpaying party that they had overpaid, depending on the facts of the individual case.

7. If the overpayment in question relates to a different type of benefit than mentioned above, then the relevant law relating to the particular benefit would need to be considered.