STATUTORY RULES OF NORTHERN IRELAND

2005 No. 459

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 2005

Made - - - -	*20th October 2005*
Coming into operation	*10th April 2006*

The Department for Social Development, in exercise of the powers conferred by section 122(1)(d) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) sections 73(1), (2), (3) and (4) and 165(1), (4) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and now vested in it(**3**), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(**4**), and after agreement by the Social Security Advisory Committee(**5**) that proposals in respect of these Regulations should not be referred to it, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) (Amendment No.2) Regulations (Northern Ireland) 2005 and shall come into operation on 10th April 2006.

(2) In these Regulations—

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**6**).

(3) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) 1992 c. 7

(**2**) 1992 c. 8. Section 73(1) was amended by paragraph 2 of Schedule 1 and Schedule 2 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I.1997/1182 (N.I.11)). Section 73(3) was substituted by section 62 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4). Section 165(6) was amended by paragraph 86 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)

(**3**) *See* Article 8(b) of S.R. 1999 No. 481

(**4**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment)(Northern Ireland) Order 1993 (S.I.1993/1579 (N.I. 8)); *see* also Article 6(b) of S.R 1999 No.481

(**5**) *See* section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

(**6**) S.R. 1987 No.461; relevant amending Regulations are S.R. 1991 Nos. 176 and 337, S.R. 2000 No. 265 and S.R. 2001 Nos. 179 and 215

(**7**) 1954 c. 33 (N.I.)

Amendment of regulation 98 of the Housing Benefit Regulations

2. In regulation 98 of the Housing Benefit Regulations(**8**) (meaning of overpayment) for "as subsequently revised or further revised" there shall be substituted "or as subsequently revised or superseded or further revised or superseded".

Amendment of regulation 99 of the Housing Benefit Regulations

3.—(1) Regulation 99 of the Housing Benefit Regulations (recoverable overpayments) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph (2)(**9**) for "caused by" there shall be substituted "which arose in consequence of".

(3) In paragraph (3)(**10**) for "caused by official error" there shall be substituted "which arose in consequence of an official error".

(4) In paragraph (4A)(**11**) after "revised" there shall be inserted "or superseded" and after "revision" there shall be inserted "or supersession".

Amendment of regulation 101 of the Housing Benefit Regulations

4.—(1) Regulation 101 of the Housing Benefit Regulations(**12**) (person from whom recovery may be sought) shall be amended in accordance with paragraphs (2) to (5).

(2) After sub-paragraph (b) of paragraph (1), there shall be inserted the following sub-paragraph —

"(bb) the Executive is satisfied that the overpayment did not occur as a result of any change of dwelling occupied by the claimant as his home;".

(3) For paragraph (2) there shall be substituted the following paragraph—

"(2) For the purposes of section 73(3)(b) of the Administration Act (overpayments of housing benefit), where recovery of an overpayment is sought by the Executive—

(a) the prescribed person from whom it is sought shall be—

(i) in a case where an overpayment arose in consequence of a misrepresentation of or a failure to disclose a material fact (in either case, whether fraudulently or otherwise) by or on behalf of the claimant or any other person to whom housing benefit has been paid, the person who misrepresented or failed to disclose that material fact instead of, if different, the person to whom the payment was made;

(ii) in a case where an overpayment arose in consequence of an official error where the claimant or a person acting on his behalf or any other person to whom the payment has been made could reasonably have been expected, at the time of receipt of the payment or of any notice relating to that payment, to realise that it was an overpayment, that person instead of, if different, the person to whom the payment was made, or

(b) where sub-paragraphs (a)(i) and (ii) do not apply, the prescribed person from whom it is sought is—

(i) the claimant.;

(**8**) Regulation 98 was substituted by regulation 5 of S.R. 1991 No. 176 and amended by regulations 4(o) and 5(d) of S.R. 2001 No. 215
(**9**) Paragraph (2) was amended by regulation 10 of S.R. 1991 No. 47 and regulation 14(a) of S.R. 1991 No. 337
(**10**) Paragraph (3) was substituted by regulation 8(c) of S.R. 2001 No. 215
(**11**) Paragraph (4A) was added by regulation 14(b) of S.R. 1991 No. 337 and amended by regulation 5(e) of and Schedule 1 to S.R. 2001 No. 215
(**12**) Regulation 101 was substituted by regulation 2(3) of S.R. 2001 No.179