STATUTORY RULES OF NORTHERN IRELAND

2001 No. 179

HOUSING

The Housing Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 2001

Made - - - -	*23rd April 2001*
Coming into operation	*1st October 2001*

The Department for Social Development, in exercise of the powers conferred on it by sections 73(3) and 165(1), (3) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and now vested in it(**2**), and of all other powers enabling it in that behalf, 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) 2001 and shall come into operation on 1st October 2001.

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

Amendment of the Housing Benefit (General) Regulations

2.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(**4**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) after the definition of "the Contributions and Benefits Act" there shall be inserted the following definition—

> ""the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;".

(3) For regulation 101 (person from whom recovery may be sought) there shall be substituted the following regulation—

(**1**) 1992 c. 8; section 73(3) was substituted by section 62 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) 1954 c. 33 (N.I.)
(**4**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1994 No. 335, S.R. 1996 Nos. 181, 334 and 448 and S.R. 1997 Nos. 22 and 452

"**Person from whom recovery may be sought**

101.—(1) For the purposes of section 73(3)(a) of the Administration Act (prescribed circumstances in which an amount recoverable shall not be recovered from the person to whom it was paid), the prescribed circumstance is—

(a) housing benefit has been paid to a landlord in accordance with regulation 93(**5**) or regulation 94(**6**) (circumstances in which payment is or may be made to a landlord);

(b) the landlord has notified the Executive or the Department in writing that he suspects that there has been an overpayment;

(c) it appears to the Executive that, on the assumption that there has been an overpayment—

(i) there are grounds for instituting proceedings against any person for an offence under section 105A(**7**) or 106(1)(**8**) of the Administration Act (dishonest or false representations for obtaining benefit etc.), or

(ii) there has been a deliberate failure to report a relevant change of circumstances contrary to the requirement of regulation 75(1) (duty to notify changes of circumstances) and the overpayment occurred as a result of that deliberate failure, and

(d) the Executive is satisfied that the landlord—

(i) has not colluded with the claimant so as to cause the overpayment;

(ii) has not acted, or neglected to act, in such a way so as to contribute to the period, or the amount, of the overpayment.

(2) For the purposes of section 73(3)(b) of the Administration Act (recovery from such other person, as well as or instead of the person to whom the overpayment was made), the prescribed person is—

(a) in a case where the overpayment arose as a consequence of a misrepresentation or 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;

(b) in a case where a recoverable overpayment is made to a claimant who has one or more partners, the claimant's partner or any of his partners;

(c) the claimant.

(3) For the purposes of paragraph (1), "landlord" shall have the same meaning as it has for the purposes of regulation 93.

(4) For the purposes of paragraph (2)(*b*), recovery of the overpayment may be by deduction from any housing benefit payable to a partner provided that the claimant and that partner were members of the same household both at the time of the overpayment and when the deduction is made.".

(**5**) Regulation 93 was amended by regulation 16 of S.R. 1996 No. 334, regulation 7(*g*) of S.R. 1996 No. 448, regulation 11 of S.R. 1997 No. 22 and regulation 2 of S.R. 1997 No. 452

(**6**) Regulation 94 was amended by regulation 10 of S.R. 1994 No. 335, regulation 7 of S.R. 1996 No. 181, regulation 7(*g*) of S.R. 1996 No. 448, regulation 12 of S.R. 1997 No. 22 and regulation 3 of S.R. 1997 No. 452

(**7**) Section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))

(**8**) Section 106(1) was amended by paragraph 3(2) of Schedule 1 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997