STATUTORY RULES OF NORTHERN IRELAND

2000 No. 265

HOUSING; RATES

The Housing Benefit (General) (Amendment No. 5) Regulations (Northern Ireland) 2000

Made - - - -	*31st August 2000*
Coming into operation	*2nd October 2000*

The Department for Social Development, in exercise of the powers conferred by sections 122(1)(*d*) and 171(1) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 73(1) to (4) and 165(1) and (4) to (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 that proposals in respect of these Regulations should not be referred to it(**5**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) (Amendment No. 5) Regulations (Northern Ireland) 2000 and shall come into operation on 2nd October 2000.

(2) In these Regulations "the principal 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 by Schedule 2 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))
(**3**) *See* Article 8(*b*) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (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)); consent function transferred from the Department of the Environment for Northern Ireland to the Department of Finance and Personnel; *see* Article 6(*b*) of, and Part II of Schedule 4 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999
(**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. 1992 No. 141
(**7**) 1954 c. 33 (N.I.)

Amendment of regulation 97 of the principal Regulations

2. In regulation 97 of the principal Regulations(**8**) (offsetting) after paragraph (1) there shall be inserted the following paragraph—

"(1A) Where an amount has been deducted under regulation 104(1)(**9**) (sums to be deducted in calculating recoverable overpayments) an equivalent sum shall be offset against any arrears of entitlement under the subsequent determination except to the extent that the sum exceeds the arrears and shall be treated as properly payable on account of them."

Revocation of regulation 100 of the principal Regulations

3. Regulation 100 of the principal Regulations (person by whom recovery may be made) is revoked.

Substitution of regulation 102 of the principal Regulations

4.—(1) For regulation 102 of the principal Regulations (method of recovery) there shall be substituted the following regulation—

"**Method of recovery**

102.—(1) Without prejudice to any other method of recovery, the appropriate authority may recover a recoverable overpayment from any person referred to in regulation 101 by deduction from any housing benefit to which that person is entitled (including arrears of entitlement after offsetting under regulation 97) or, where it is unable to do so, may request the Department to recover any recoverable overpayment from the benefits prescribed in regulation 105.

(2) Subject to paragraphs (4) and (5), where the Executive makes deductions permitted by paragraph (1) from the housing benefit in respect of rent it is paying to a claimant (other than deductions from arrears of entitlement), the deduction in respect of a benefit week shall be—

(a) in a case to which paragraph (3) applies, not more than the amount there specified, and

(b) in any other case, not more than 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25, that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple.

(3) Where the Executive makes deductions from housing benefit in respect of rent it is paying to a claimant who has, in respect of the whole or part of the recoverable overpayment—

(a) been found guilty of an offence under statute or otherwise;

(b) made an admission after caution of deception or fraud for the purpose of obtaining relevant benefit, or

(c) agreed to pay a penalty under section 109A of the Social Security Administration (Northern Ireland) Act 1992(**10**) and the agreement has not been withdrawn,

the amount deducted under paragraph (2) shall be not more than 4 times 5 per cent. of the personal allowance for a single claimant aged not less than 25, but where that 5 per cent is not a multiple of 10 pence, it shall be rounded to the nearest 10 pence or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.

(4) Where, in the calculation of housing benefit in respect of rent, the amount of earnings or other income falling to be taken into account is reduced by reason of paragraphs 3 to 8

(**8**) Regulation 97 was amended by regulation 12 of S.R. 1992 No. 141
(**9**) Regulation 104 is substituted by regulation 5 of these Regulations
(**10**) Section 109A was inserted by Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997