STATUTORY RULES OF NORTHERN IRELAND

1997 No. 454

HOUSING

The Housing Benefit (Recovery of Overpayments) Regulations (Northern Ireland) 1997

Made - - - -	*10th October 1997*
Coming into operation	*3rd November 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 5(1)(*j*), 61(1) and (2), 73(3) to (7) and 165(4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and of all other powers enabling it in that behalf, and by this statutory rule which contains only regulations made by virtue of, or consequential upon, Article 15 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997(**2**) and is made before the end of the period of six months from the coming into operation of that Article, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (Recovery of Overpayments) Regulations (Northern Ireland) 1997 and shall come into operation on 3rd November 1997, immediately following the coming into operation of the Housing Benefit (General) (Amendment No. 7) Regulations (Northern Ireland) 1997(**3**).

(2) In these Regulations—

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

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**4**);

and other expressions used in these Regulations and in the Housing Benefit Regulations shall have the same meanings in these Regulations as in the Housing Benefit Regulations.

(3) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to a Measure of the Assembly.

(**1**) 1992 c. 8; subsections (5) to (7) were added to section 73 by Article 15 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))
(**2**) S.I. 1997/1182 (N.I. 11); *see* section 150(5)(*b*) of the Social Security Administration (Northern Ireland) Act 1992
(**3**) S.R. 1997 No. 452
(**4**) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 No. 424, S.R. 1992 No. 6, S.R. 1996 No. 334 and S.R. 1997 No. 452
(**5**) 1954 c. 33 (N.I.)

Prescribed benefits

2.—(1) The benefits prescribed for the purposes of section 73(5) and (7)(**6**) of the Act (recovery of overpaid housing benefit) are those set out in paragraphs (2) to (4).

(2) Prescribed benefits within section 73(5)(*a*) of the Act are—

(a) housing benefit, and

(b) those benefits prescribed from time to time in regulation 105(1) of the Housing Benefit Regulations(**7**) (recovery of overpayments from prescribed benefits), but only in cases where—

(i) the Executive has, pursuant to regulation 102 of the Housing Benefit Regulations (method of recovery), requested the Department to recover an overpayment of housing benefit from such benefits, and

(ii) the Department is satisfied as to the matters prescribed in regulation 105(3) of the Housing Benefit Regulations.

(3) Housing benefit is prescribed for the purposes of section 73(5)(*b*) or (*c*) of the Act (benefits paid to a landlord or agent to discharge an obligation owed by another person).

(4) Prescribed benefits within section 73(7) of the Act (benefits recoverable from the county court) are housing benefit and those benefits prescribed from time to time in regulation 105(1) of the Housing Benefit Regulations.

Restriction on recovery of rent and consequent notifications

3.—(1) Where, pursuant to section 73(5)(*b*) of the Act, an amount has been recovered by deduction from housing benefit paid to a person (referred to as "the landlord" in this regulation) to discharge (in whole or in part) an obligation owed to him by the person on whose behalf the recoverable amount was paid (referred to as "the tenant" in this regulation) that obligation shall, in a case to which paragraph (2) applies, be taken to be discharged by the amount of the deduction.

(2) This paragraph applies in a case where the amount recovered from the landlord relates to an overpayment of housing benefit in relation to which the landlord has—

(a) agreed to pay a penalty pursuant to section 109A(4) of the Act(**8**) (penalty as an alternative to prosecution), or

(b) been convicted of an offence arising under the Act or any other statutory provision.

(3) In any case to which paragraph (2) applies where the Executive has determined that there is an overpayment and that it is recoverable from the landlord it shall notify both the landlord and the tenant that—

(a) the overpayment that it has recovered or that it has determined to recover ("that sum") was one to which paragraph (2) applies, and

(b) the landlord has no right in relation to that sum against the tenant, and that his obligation to the landlord shall be taken to be discharged by the amount so recovered.

Amendment of Schedule 6 to the Housing Benefit Regulations

4.—(1) Schedule 6 to the Housing Benefit Regulations (matters to be included in the notice of determination) shall be amended in accordance with paragraphs (2) to (4).

(**6**) Section 73(5) and (7) was inserted by Article 15 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997

(**7**) Regulation 105(1) was amended by regulation 16 of S.R. 1988 No. 424, regulation 11(3) of S.R. 1992 No. 6 and regulation 18 of S.R. 1996 No. 334

(**8**) Section 109A was inserted by Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997