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STATUTORY RULES OF NORTHERN IRELAND

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**2012 No. 108**

**SOCIAL SECURITY; HOUSING; RATES**

**The Social Security (Recovery) (Amendment)  
Regulations (Northern Ireland) 2012**

*Made* - - - - *9th March 2012*

*Coming into operation* *1st April 2012*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 69(6)(a) and (8), 73(1), (4) and (5) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992<sup>(1)</sup> and now vested in it<sup>(2)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Recovery) (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 1st April 2012.

**Amendment of the Social Security (Payments on Account, Overpayments and Recovery) Regulations**

2.—(1) The Social Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988<sup>(3)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 13(b)<sup>(4)</sup> (sums to be deducted in calculating recoverable amounts)—

- (a) after “which was not payable” insert “to the person from whom the amount is recoverable or their partner”;
- (b) after “to be payable” insert “to that person or their partner”;
- (c) omit “or” after sub-paragraph (i); and
- (d) after sub-paragraph (ii) insert—  
“or

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(1) 1992 c. 8; section 69(8) was amended by paragraph 8 of Schedule 4 to the Tax Credits Act 2002 (c. 21), section 73 was amended by Article 15 of, and 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) and section 62 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

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

(3) S.R. 1988 No. 142; relevant amending Regulations are S.R. 2000 No. 266, S.R. 2003 No. 191 and S.R. 2008 No. 286

(4) Regulation 13 was amended by regulation 26(5) of S.R. 2003 No. 191 and regulation 15(8) of S.R. 2008 No. 286

(iii) on the basis of the determination if any change of circumstances had been notified at the time that change occurred.”.

- (3) In regulation 16(5)(5) (limitations on deductions from prescribed benefits)—
- (a) for “4 times” substitute “5 times”; and
  - (b) for the words from “where it is not a multiple of 10 pence” to the end substitute “where it is not a multiple of 5 pence, rounded to the next higher such multiple.”.

### **Amendment of the Housing Benefit Regulations**

**3.—**(1) The Housing Benefit Regulations (Northern Ireland) 2006(6) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 99(4)(7) (method of recovery)—
- (a) for “4 times” substitute “5 times”; and
  - (b) for the words from “but where that 5 per cent.” to the end substitute “that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple.”.
- (3) In regulation 101(1) (sums to be deducted in calculating recoverable overpayments) after “determined to be payable” insert “to the person from whom the overpayment is recoverable or their partner”.

### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations**

**4.—**(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(8) are amended in accordance with paragraphs (2) and (3).

- (2) In regulation 80(4)(9) (method of recovery)—
- (a) for “4 times” substitute “5 times”; and
  - (b) for the words from “but where that 5 per cent.” to the end substitute “that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple.”.
- (3) In regulation 82(1) (sums to be deducted in calculating recoverable overpayments) after “determined to be payable” insert “to the person from whom the overpayment is recoverable or their partner”.

Sealed with the Official Seal of the Department for Social Development on 9th March 2012

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social  
Development

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(5) Paragraph (5) was substituted by regulation 2(a) of S.R. 2000 No. 266  
(6) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 504  
(7) Paragraph (4) was amended by regulation 2(3)(d) of S.R. 2008 No. 504  
(8) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2008 No. 504  
(9) Paragraph (4) was amended by regulation 3(4)(d) of S.R. 2008 No.504

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 (“the POR Regulations”), the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit (SPC) Regulations”) regarding the calculation of the amount of a recoverable overpayment and to increase the maximum deduction which can be taken from benefit to recover an overpayment.

Regulation 2 amends the POR Regulations to provide that—

where there is an award of income support, state pension credit, income-based jobseeker’s allowance or income-related employment and support allowance, the amount of a recoverable overpayment is reduced by the additional amount of benefit which would have been payable either to the person from whom the overpayment is recoverable or their partner had all the correct facts relating to their claim for benefit or their benefit entitlement been known or the change of circumstances had been notified at the time the change occurred (paragraph (2)); and the maximum deduction from benefit to recover an overpayment which has arisen as a result of fraud is increased from 4 times 5 per cent. of the relevant personal allowance to 5 times 5 per cent. of that allowance and that the rules for calculating the maximum amount which may be deducted are consistent in all cases (paragraph (3)).

Regulations 3 and 4 make similar amendments to the Housing Benefit Regulations and the Housing Benefit (SPC) Regulations.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.