
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(a) and sections 73(1) to (4) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(b) and now vested in it(c), and of all other powers enabling it in that behalf, with the consent of the Department of Finance and Personnel(d), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(e), 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(f).

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

Amendment of regulation 97 of the principal Regulations

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

-
- (a) 1992 c. 7
(b) 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))
(c) 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)
(d) 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
(e) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992
(f) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1992 No. 141
(g) 1954 c. 33 (N.I.)
(h) Regulation 97 was amended by regulation 12 of S.R. 1992 No. 141

“(1A) Where an amount has been deducted under regulation 104(1)(a) (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(b) 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

(a) Regulation 104 is substituted by regulation 5 of these Regulations
(b) Section 109A was inserted by Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997

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 of Schedule 3 (sums to be disregarded in the calculation of earnings) or paragraphs 13 or 15 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings), the deduction under paragraph (2) may be increased by not more than half the amount of the reduction.

(5) No deduction made under this regulation shall be applied so as to reduce the housing benefit in respect of a benefit week to less than 50 pence.

(6) In this regulation—

“admission after caution” means an admission after a caution has been administered in accordance with a Code issued under the Police and Criminal Evidence (Northern Ireland) Order 1989(a);

“personal allowance for a single claimant aged not less than 25” means the amount specified in paragraph 1(1)(c) of column 2 of Schedule 2 (applicable amounts).”.

(2) The amendment made by paragraph (1) shall not apply in respect of an offence committed or an admission after caution or an agreement to pay a penalty made before these Regulations come into force.

Substitution of regulation 104 of the principal Regulations

5. For regulation 104 of the principal Regulations (sums to be deducted in calculating recoverable overpayments) there shall be substituted the following regulation—

“Sums to be deducted in calculating recoverable overpayments

104.—(1) Subject to paragraph (3) in calculating the amount of a recoverable overpayment, the appropriate authority shall deduct any amount of housing benefit which should have been determined to be payable in respect of the whole or part of the overpayment period—

(a) on the basis of the claim as presented to the authority;

(b) on the basis of the claim as it would have appeared had any misrepresentation or non-disclosure been remedied before the determination, or

(c) on the basis of the claim as it would have appeared if any change of circumstances had been notified at the time that change occurred.

(2) For the purposes of paragraph (1)(c) where the change of circumstances is the cessation of entitlement to income support or

income-based jobseeker's allowance the deduction shall be made as if that change of circumstances had not ended the benefit period.

(3) In the case of a rent or rate rebate only, in calculating the amount of a recoverable overpayment the appropriate authority may deduct so much of any payment by way of rent or rates in respect of the overpayment period which exceeds the amount, if any, which the claimant was liable to pay for that period under the original erroneous determination.”.

Sealed with the Official Seal of the Department for Social Development on 31st August 2000.

(L.S.)

Bryan Davis
Senior Officer of the Department
for Social Development

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 1st September 2000.

(L.S.)

Brian Delaney
Senior Officer of the Department
of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Housing Benefit (General) Regulations (Northern Ireland) 1987 (“the Housing Benefit Regulations”).

Regulation 2 amends regulation 97 of the Housing Benefit Regulations to permit offsetting of amounts deducted in the process of calculating a recoverable overpayment under regulation 104.

Regulation 3 revokes regulation 100 of the Housing Benefit Regulations. The power of the Northern Ireland Housing Executive (“the Executive”) or the Department of Finance and Personnel to recover overpayments is set out in section 73 of the Social Security Administration (Northern Ireland) Act 1992.

Regulation 4 replaces regulation 102 with a new regulation. The substituted regulation sets a standard maximum rate of recovery of overpayments where the Executive chooses to recover from on-going entitlement to housing benefit being paid to a person as a claimant. A higher rate of deduction may be applied when deducting from housing benefit payable to a claimant who has been implicated in fraud in respect of that overpayment or where specified income or earnings disregards have been applied in calculating the housing benefit.

Regulation 5 replaces regulation 104 of the Housing Benefit Regulations with a new regulation which specifies more precisely the deductions to be made in calculating a recoverable overpayment.

These Regulations do not impose any charge on business.

£2.00

Published by The Stationery Office Limited

ISBN 0-3379371-6-8