2001 No. 1190

SOCIAL SECURITY

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

Made - - - - -	*26th March 2001*
Laid before Parliament	*2nd April 2001*
Coming into force - -	*1st October 2001*

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 75(3), 189(3) and (4) and 191 of the Social Security Administration Act 1992(**a**)and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned(**b**)and which is made before the end of a period of six months beginning with the coming into force of section 71 of the Child Support, Pensions and Social Security Act 2000(**c**), by this Instrument, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Housing Benefit (General) Amendment (No.2) Regulations 2001 and shall come into force on 1st October 2001.

Amendment of the Housing Benefit (General) Regulations 1987

2. For regulation 101 of the Housing Benefit (General) Regulations 1987(**d**)there shall be substituted the following regulation—

"Person from whom recovery may be sought

101.—(1) For the purposes of section 75(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 in accordance with regulation 93 (circumstances in which payment is to be made to the landlord) or regulation 94 (circumstances in which payment may be made to a landlord);

(b) the landlord has notified the relevant authority or the Secretary of State in writing that he suspects that there has been an overpayment;

(c) it appears to the relevant authority 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 111A(**e**) or 112(1)(**f**) of the Administration Act (dishonest or false representations for obtaining benefit); or

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(**a**) 1992 c.5. Section 75 was substituted by the Child Support Pensions and Social Security Act 2000 (c. 19), section 71. Section 191 is an interpretation provision and is cited because of the meaning ascribed to the word "prescribed".
(**b**) *See* section 176(1)(a) of the Social Security Administration Act 1992.
(**c**) *See* section 173(5)(a) of the Social Security Administration Act 1992.
(**d**) S.I. 1987/1971.
(**e**) Section 111A was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 13.
(**f**) Section 112(1) was amended by the Social Security Administration (Fraud) Act 1997, Schedule 1, paragraph 4(2).

(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 a change in circumstances) and the overpayment occurred as a result of that deliberate failure; and

(d) the relevant authority 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 75(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.".

Signed by authority of the Secretary of State for Social Security.

Angela Eagle
Parliamentary Under-Secretary of State,
Department of Social Security

26th March 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) in consequence of the coming into force of section 71 of the Child Support, Pensions and Social Security Act 2000 (c.19) which introduces revised powers relating to the recovery of overpaid housing benefit. These Regulations are made before the expiry of six months from the commencement of the provisions under which they are made and are accordingly exempt under section 173(5)(a) of the Social Security Administration Act 1992 (c.5) from reference to the Social Security Advisory Committee and have not been so referred.

Regulation 2 of these Regulations substitutes Regulation 101 of those Regulations and in particular, prescribes circumstances when overpaid housing benefit need not be recovered from the person to whom such benefit was paid and prescribe persons from whom such benefit may be recovered in addition to, or instead of, the person to whom it was paid.

These Regulations do not impose a charge on business.

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