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STATUTORY INSTRUMENTS

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**2006 No. 213**

**The Housing Benefit Regulations 2006**

**PART 13**

**Overpayments**

**Method of recovery**

**102.**—(1) Without prejudice to any other method of recovery, an authority may recover a recoverable overpayment from any person referred to in regulation 101 (persons from whom recovery may be sought) by deduction from any housing benefit to which that person is entitled (including arrears of entitlement after offsetting under regulation 98 (offsetting)) or, where it is unable to do so, may request the Secretary of State to recover any recoverable overpayment from the benefits prescribed in regulation 105 (recovery of overpayments from prescribed benefits).

(2) Subject to paragraphs (4) and (5), where an authority makes deductions permitted by paragraph (1) from the housing benefit 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 three times five per cent. of the personal allowance for a single claimant aged not less than 25, that five per cent. being, where it is not a multiple of five pence, rounded to the next higher such multiple.

(3) Where an authority makes deductions from housing benefit 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 whether under a 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 115A of the Administration Act<sup>(1)</sup> (penalty as an alternative to prosecution) and the agreement has not been withdrawn,

the amount deducted under paragraph (2) shall be not more than four times five per cent. of the personal allowance for a single claimant aged not less than 25, but where that five 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, the amount of earnings or other income falling to be taken into account is reduced by reason of paragraphs 3 to 10 of Schedule 4 (sums to be disregarded in the calculation of earnings) or paragraph 14 or 15 of Schedule 5 (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.

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(1) Section 115A was inserted by the [Social Security Administration \(Fraud\) Act \(c. 47\)](#), section 15.

(6) In this regulation—

“admission after caution” means—

- (i) in England and Wales, an admission after a caution has been administered in accordance with a Code issued under the Police and Criminal Evidence Act 1984<sup>(2)</sup>;
- (ii) in Scotland, admission after a caution has been administered, such admission being duly witnessed by two persons; and

“personal allowance for a single claimant aged not less than 25” means the amount specified in paragraph 1(1)(b) of column 2 of Schedule 3 (applicable amounts).

(7) This regulation shall not apply in respect of an offence committed or an admission after caution or an agreement to pay a penalty made before 2nd October 2000.

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(2) 1984 c. 60.