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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 514**

**SOCIAL SECURITY**

**The Social Security (Penalty Notice)  
Regulations (Northern Ireland) 1997**

*Made* - - - - *26th November 1997*

*Coming into operation* *18th December 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 109A(2)(b) and 165(1), (3) and (5) of the Social Security Administration (Northern Ireland) Act 1992(1) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made consequential upon Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997(2), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Penalty Notice) Regulations (Northern Ireland) 1997 and shall come into operation on 18th December 1997.

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

**Notice**

2.—(1) Where the Department(4) or the Housing Executive gives to a person a written notice under section 109A(2) of the Social Security Administration (Northern Ireland) Act 1992, the notice shall contain the information that—

(a) the penalty only applies to an overpayment which is recoverable under section 69(5), 69A(6) or 73(7) of the Social Security Administration (Northern Ireland) Act 1992;

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(1) 1992 c. 8; section 109A was inserted by Article 14 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)  
(3) 1954 c. 33 (N.I.)  
(4) “Department” includes Department of the Environment for Northern Ireland *see* paragraph 7 of Schedule 1 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997  
(5) Section 69 was amended by section 2 of the Social Security (Overpayments) Act 1996 (c. 51), Article 33 of, and paragraph 31 of Schedule 2 to, and Schedule 3 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))  
(6) Section 69A was inserted by Article 20 of the Jobseekers (Northern Ireland) Order 1995  
(7) Section 73(1) was amended by Schedules 1 and 2 to the Social Security Administration (Fraud) (Northern Ireland) Order 1997 and Section 73(5) to (7) was added by Article 15 of that Order

- (b) the penalty only applies where it appears to the Department or the Housing Executive that the making of the overpayment was attributable to an act or omission by the person and that there are grounds for instituting proceedings for an offence relating to the overpayment;
  - (c) the penalty is 30 per cent. of the amount of the overpayment, is payable in addition to repayment of the overpayment and is recoverable by the same methods as those by which the overpayment is recoverable;
  - (d) a person who agrees to pay a penalty may withdraw the agreement within 28 days (including the date of the agreement) by notifying the Department or the Housing Executive in the manner specified by the Department or the Housing Executive; if the person withdraws the agreement, so much of the penalty as has already been recovered shall be repaid and the person will no longer be immune from proceedings for an offence;
  - (e) if it is decided on review or appeal (or in accordance with regulations) that the overpayment is not recoverable or due, so much of the penalty as has already been recovered shall be repaid;
  - (f) if the amount of the overpayment is revised on review or appeal, except as covered by a new agreement to pay the revised penalty, so much of the penalty as has already been recovered shall be repaid and the person will no longer be immune from proceedings for an offence;
  - (g) the payment of a penalty does not give the person immunity from prosecution in relation to any other overpayment or any offence not relating to an overpayment.
- (2) The notice shall set out—
- (a) the manner specified by the Department or the Housing Executive by which the person may agree to pay a penalty;
  - (b) the manner specified by the Department or the Housing Executive by which the person may notify the withdrawal of his agreement to pay a penalty.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland  
on

26th November 1997.

*John O'Neill*  
Assistant Secretary

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## EXPLANATORY NOTE

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

Section 109A of the Social Security Administration (Northern Ireland) Act 1992 (“the Administration Act”), provides for a person who has caused an overpayment of social security benefit or housing benefit, to pay a penalty in lieu of criminal proceedings. In this connection the Department of Health and Social Services for Northern Ireland, the Department of the Environment for Northern Ireland or the Northern Ireland Housing Executive may give the person a notice about the agreement to pay a penalty. These Regulations require such a notice to set out certain additional information relating to the operation of these provisions.

These Regulations are made in consequence of Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (“the Order”) which inserted section 109A into the Administration Act. The Social Security Administration (Fraud) (1997 Order) (Commencement No. 4) Order (Northern Ireland) 1997 (S.R. 1997 No. 508 (C. 29)) provides for the coming into operation of Article 14 of the Order, for the purposes only of authorising the making of regulations on 21st November 1997 and for all other purposes, on 18th December 1997. As these Regulations are made before the end of a period of 6 months from the commencement of the said Article, they are, accordingly exempt, by virtue of section 150(5)(b) of the Administration Act, from reference to the Social Security Advisory Committee.