STATUTORY RULES OF NORTHERN IRELAND

2016 No. 63

SOCIAL SECURITY

The Social Security (Penalty Notice) (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*22nd February 2016*
Laid before Parliament	*29th February2016*
Coming into operation	*4th April 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 109A(2)(b), 165(1), (4) and (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(**1**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(b) of the Welfare Reform (Northern Ireland) Order 2015(**2**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Penalty Notice) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 4th April 2016.

Transitional provision

2. The amendments made by regulation 3 apply to a notice given under subsection (2) of section 109A of the Social Security Administration Act (Northern Ireland) 1992 (penalty as alternative to prosecution) only where the act or omission referred to in subsection (1)(a) of that section occurs wholly on or after 4th April 2016.

Amendment of the Social Security (Penalty Notice) Regulations (Northern Ireland) 1997

3.—(1) Regulation 2 of the Social Security (Penalty Notice) Regulations (Northern Ireland) 1997(**3**) (notice) is amended in accordance with paragraphs (2) to (4).

(**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)) and amended by Articles 115(1) to (7) and 116(1) of the Welfare Reform (Northern Ireland) Order 2015 (S.I 2015/2006 (N.I)). 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) and section 18(5) of the National Insurance Contributions Act 2014 (c. 7). Section 165(6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I.10)). Section 167(1) is cited for the meaning of "prescribe".

(**2**) S.I. 2015/2006 (N.I. 1).

(**3**) S.R. 1997 No. 514

(2) In paragraph (1)—

(a) after the first "1992" insert "("the 1992 Act") in a case to which section 109A(1) of that Act applies";

(b) in sub-paragraph (a)—

(i) omit "only";

(ii) for "69, 69A or 73 of the Social Security Administration (Northern Ireland) Act 1992" substitute "69, 69ZB, 69A or 73 of the 1992 Act;"(**4**);

(c) in sub-paragraph (b) omit "only";

(d) in sub-paragraph (c) for "30 per cent. of the amount of the overpayment" substitute "50 per cent. of the amount of the overpayment (subject to the maximum and minimum amounts in section 109A(3) of the 1992 Act)".

(3) After paragraph (1) insert—

"(1A) Where the Department or Housing Executive gives to a person written notice under section 109A(2) of the 1992 Act in a case to which section 109A(1A) of that Act(**5**) applies the notice shall contain the information that—

(a) the penalty applies where it appears to the Department or the Housing Executive that there are grounds for instituting proceedings against the person for an offence relating to an act or omission on the part of the person in relation to any benefit;

(b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable under section 69, 69ZB, 69A or 73 of the 1992 Act;

(c) the penalty is £350;

(d) a person who agrees to pay the 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 any overpayment attributable to the act or omission would not have been recoverable or due, so much of the penalty as has already been recovered shall be repaid;

(f) the payment of a penalty does not give the person immunity from prosecution in relation to any overpayment or any other offence not relating to an overpayment.".

(4) In paragraph (2) after "The notice" insert ", in either case,".

(**4**) Section 69ZB was inserted by Article 109(1) of S.I. 2015/2006 (N.I. 1)
(**5**) Section 109A(1A) was inserted by Article 115(2) of S.I. 2015/2006 (N.I. 1)