2002 No. 181

HEALTH AND PERSONAL SOCIAL SERVICES

Health and Personal Social Services (Penalty Charge) Regulations (Northern Ireland) 2002

Made . . . . . *10th May 2002*

Coming into operation . . *10th June 2002*

The Department of Health, Social Services and Public Safety(**a**) in exercise of powers conferred on it by Articles 98, 106, and 107(6) of, and paragraph 6 of Schedule 15 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**b**) and of all other powers enabling it in that behalf, with the approval of the Department of Finance and Personnel, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Penalty Charge) Regulations (Northern Ireland) 2002 and shall come into operation on 10th June 2002.

(2) In these Regulations—

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972; and

"surcharge" has the meaning given in regulation 4.

Service of a penalty notice

2.—(1) Where a person fails to pay any amount referred to in paragraph 6(1)(*a*) or (*b*) of Schedule 15 to the Order, the responsible authority may serve a penalty notice requiring the person, within the period of 28 days beginning with the date on which the penalty notice was sent, to pay that amount to the responsible authority together with a penalty charge determined in accordance with regulation 3.

(2) The penalty notice shall state—

(a) the name of the person liable to pay the amount required to be paid under the penalty notice;

(b) the amount recoverable as mentioned in paragraph 6(1)(*a*) or (*b*) of Schedule 15 to the Order;

(c) the amount of the penalty charge calculated in accordance with regulation 3;

(d) the sum of the amounts referred to in sub-paragraphs (*b*) and (*c*), which shall represent the total amount required to be paid under the penalty notice;

(e) in relation to the total amount required to be paid under the penalty notice—

(i) the responsible authority to whom that amount shall be paid;

(ii) the address to which that amount shall be sent;

(iii) the methods by which payment may be made; and

(iv) in accordance with paragraph (1), the date by which that amount shall be paid to the responsible authority;

(f) that if the person fails to pay the amount he is required to pay by the date specified in the penalty notice—

(i) the person must also pay to the responsible authority a surcharge;

(ii) the amount of the surcharge he must pay, calculated in accordance with regulation 4(2); and

(**a**) *See* S.I. 1999/283 (N.I. 1) — Article 3(6)
(**b**) S.I. 1972/1265 (N.I. 14) — Relevant Amending instruction is 2001 c. 3 (N.I.) — Section 48

(g) that a person is not liable by virtue of a penalty notice—

(i) to pay at any time so much of any amount referred to in paragraph 6(1)(*a*) or (*b*) of Schedule 15 to the Order for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other, or

(ii) to a penalty charge, or a surcharge, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.

Calculation of penalty charge

3. The amount of the penalty charge shall be whichever is the smaller of—

(a) £100, and

(b) the amount referred to in paragraph 6(1)(*a*) or (*b*) of Schedule 15 to the Order, multiplied by 5.

Surcharge

4.—(1) Where a person fails to pay the amount required to be paid under the penalty notice in accordance with regulation 2(1), he shall, in addition, be liable to pay to the responsible authority a further sum (in these Regulations referred to as "a surcharge"), calculated in accordance with paragraph (2).

(2) The amount of the surcharge shall be 50% of the amount of the penalty charge (rounded down, where necessary, to the nearest whole penny).

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 10th May 2002.

(L.S.) *A. Hamilton*

Senior Officer of the Department of Health, Social Services and Public Safety

The Department of Finance and Personnel hereby approves the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 10th May 2002.

(L.S.) *R. Scott*

Senior Officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision for a civil penalty to be imposed where a person fails to pay a Health Service (HS) charge in respect of the provision of drugs and medicines, dental treatment and appliances, optical services, or any other appliances, or receives a payment or benefit towards the cost of an HS charge or service to which he is not entitled, such as HS spectacle vouchers or free HS sight tests.

Regulation 2 provides for a penalty notice to be issued to a person requiring payment of the amount that the person has failed to pay and an additional penalty charge. It sets out the period within which those amounts must be paid, and the information that the penalty notice must contain.

Regulation 3 sets out how the amount of the penalty charge payable shall be calculated.

Regulation 4 provides that where the amount requiring to be paid under the penalty notice is not paid within the period prescribed, a further sum by way of penalty ("a surcharge") must be paid.

Paragraphs 5 to 7 of Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972 (the "1972 Order"), one of the enabling provisions under which these Regulations are made, is substituted by section 48(1) of the Health and Personal Social Services Act (Northern Ireland) 2001 (the "2001 Act"). The provisions of the 2001 Act which amend the 1972 Order in relation to evasion of charges etc. is brought into operation on 10th June 2002 by virtue of the Health and Personal Social Services (2001) Act (Commencement No. 4) Order (Northern Ireland) 2002 (S.R. 2002 No. 180 (C. 17)).

£1·75

Published by The Stationery Office Limited

ISBN 0-337-94266-8

9 780337 942662

Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N201518. C3. 5/02. Gp. 130. 14567.