

PRESS RELEASE

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Q: I have been fined £5,000 under the Immigration Asylum and Nationality Act for employing an illegal worker. He had a national insurance number and appeared legitimate. I cannot afford to pay the fine. Is there anything I can do?

A. Appearances can be deceptive and I doubt that defence will ever provide a way out of the penalty. Also, a National Insurance number on its own is not



proof of a right to work in the UK. Put simply, unless you have been taken in by forged documents that appeared to prove a right to work, it is likely that you will end up paying a fine. However, all may not be lost. From experience, the Home Office often ignores the Code of Practice, which supplements the rules. Read it carefully, especially if you genuinely cannot afford to pay because they are obliged to consider this. If you wish to object to the penalty or dispute the amount, you must file your letter of objection within the 28-day deadline described in the penalty notice. Be aware,

they are likely to ignore what you say, even when you give good evidence about your means and send copies of your financial statements to back it up, but you can appeal to the County Court. It seems to me that the County Court Judge must listen to what you say about your means before deciding the size of the penalty. The dilemma is one of costs, because if you lose the appeal you may be ordered to pay the Home Office's legal costs. Think about offering a lower amount, without admitting liability, and read the rules and the Code to make sure you send a good letter of objection. You stand a better

chance of protecting your costs position if you can prove that the Home Office ignored everything you said at objection stage.

The truth is that this one is best left to the lawyers.

END

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