

**EXPLANATORY MEMORANDUM TO**  
**THE ROAD TRAFFIC FIXED PENALTIES (ENFORCEMENT OF FINES)**  
**(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2011**

**S.R 2011 No 242**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department of Justice (Northern Ireland Courts and Tribunals Service) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 This Statutory Rule is made under Article 76(4) of the Road Traffic Offenders (Northern Ireland) Order 1996 and is subject to negative resolution.

**2. Purpose**

- 2.1 The Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997 ('the principal Regulations') provide the procedure for the enforcement of unpaid fixed penalties through the courts.
- 2.2 This instrument amends the principal Regulations to –
  - make specific provision for the enforcement of an unpaid fixed penalty notice issued in Northern Ireland against a defaulter who resides in England, Wales or Scotland;
  - substitute references to "Chief Constable" with "relevant person" to reflect current practice which allows either the Chief Constable or the Department of the Environment ('DoE') to register an unpaid fixed penalty for enforcement; and
  - make a number of amendments to the Form to reflect the amendments made in the body of the Regulations.

**3. Matters of special interest**

- 3.1 None.

**4. Background**

- 4.1 The Road Traffic Offenders (Northern Ireland) Order 1996 ('the 1996 Order') provides for the use of fixed penalty notices ('FPNs') for

driving offenders in Northern Ireland. Article 75 of the 1996 Order provides that FPNs are to be treated as fines for the purposes of enforcement, subject to Regulations to be made by the Department of Justice.

- 4.2 The details of the enforcement procedure to be followed by the court upon registration are set out in the principal Regulations. Under the existing Regulations, the court has no effective means of enforcement in respect of an unpaid fixed penalty notice registered against someone from England, Wales or Scotland. The draft Regulations insert a new provision to allow that where a defaulter appears to reside in England, Wales or Scotland, the court may use any powers available to it under Part IX of the Magistrates' Courts (Northern Ireland) Order 1981. Essentially, this means that an unpaid FPN in this scenario can be transferred as a fine to the appropriate court in England, Wales or Scotland for enforcement.
- 4.3 Finally, a number of minor technical amendments are made to the 1997 Regulations to reflect current practice which allows either the Chief Constable or the DoE to register an unpaid fixed penalty for enforcement.

## **5. Consultation**

- 5.1 A consultation was not required on this discrete issue. Correspondence with HM Courts Service in England and Wales and the Scottish Courts Service confirmed that they had no issues with the proposed changes. The Department of the Environment and PSNI (who are responsible for registering unpaid FPNs before the court for enforcement) are supportive of the proposals.

## **6. Equality Impact**

- 6.1 The Northern Ireland Courts and Tribunals Service screened the consultation paper in accordance with the Agency's Equality Scheme and in compliance with section 75 of the Northern Ireland Act 1998. It was decided that the policy was to be 'screened out' without mitigation or an alternative policy to be adopted. Although males and those under 30 years of age were disproportionately affected, this was because of their increased involvement in breaching road traffic legislation.

## **7. Regulatory Impact**

- 7.1 After an initial Regulatory Impact Assessment it was decided that a full assessment was not required. The proposed policy change will not affect any law-abiding citizens or businesses. The voluntary sector and charities should not be affected. The main stakeholders affected will be

those public bodies implementing and enforcing the Regulations. They are supportive of these changes.

## **8. Financial Implications**

8.1 Any monies collected as a result of fines transferred from England, Wales or Scotland to Northern Ireland are returned to the respective jurisdiction. Similarly, any funds that will be raised through transferring fines to GB will be returned to Northern Ireland. It is not anticipated that these changes will generate substantial revenue.

## **9. Section 24 of the Northern Ireland Act 1998**

9.1 The proposed Regulations are considered to be compliant with section 24 of the Northern Ireland Act 1998, including Community Law and Convention Rights as defined in the Human Rights Act 1998.

## **10. EU Implications**

10.1 There are no EU implications. The proposed changes are intra-UK and will not impact on any enforcement issues outside of the UK.

## **11. Parity or Replicatory Measure**

11.1 Provisions for the enforcement of unpaid FPNs in England, Wales and Scotland are set out in sections 70 and 71 of the Road Traffic Offenders Act 1988.

## **12. Additional Information**

12.1 Although these amendments will have implications for England, Wales and Scotland, in terms of FPNs transferring for enforcement, it is considered that, as they do not affect the function of the Scottish or Westminster Executives, they do not require a legislative consent motion. Essentially, the FPN will transfer as a fine for enforcement under the terms of the Magistrates' Courts (Northern Ireland) Order 1981, and the courts in England, Wales and Scotland already have the power to deal with the fines in this respect. We have spoken to our counterparts in both jurisdictions and they are content that we make the proposed changes.

12.2 The DoE have a wider policy interest in road traffic matters and, although this matter is in relation to enforcement (which is a matter for the Department of Justice), the DoE confirmed their support for the proposed changes.

