

EXPLANATORY MEMORANDUM TO

The Magistrates' Courts Fees (Amendment) Order (Northern Ireland) 2018

S.R. 2018 No. 101

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 116(1) of the Judicature (Northern Ireland) Act 1978 and is not subject to any Assembly procedure.

2. Purpose

- 2.1. The Statutory Rule is one of a number of instruments made to support the commencement of Part 1 of the Justice Act (Northern Ireland) 2016 ("the Act"), which makes new provision in relation to the enforcement of fines and other penalties.
- 2.2. The statutory Rule amends the Magistrates' Courts Fees Order (Northern Ireland) 1996 ("the 1996 Order") so that an employer shall not be required to pay a court fee on an application under paragraph 3 of Schedule 1 to the Act for a determination as to whether payments to a debtor are earnings for the purpose of an attachment of earnings order.

3. Background

- 3.1. Part 1 of the Act provides a new range of options for dealing with fine default, including attachment of earnings orders.
- 3.2. Where a person (the debtor) is in default of payment, an attachment of earnings order may require the debtor's employer to make payments to the court directly from the debtor's earnings for the purpose of securing payment of the outstanding amount.
- 3.3 A person is to be treated as employing the debtor if he pays to the debtor sums defined as 'earnings' for the purposes of section 18 of the Act. Regulations being made under section 18(6) of the Act define the payments which are to be considered 'earnings'.
- 3.4 Paragraph 3 of Schedule 1 to the Act makes provision for the debtor or the employer to apply to the court for a determination as to whether payments of a description specified in the application are earnings.
- 3.5 It is considered inappropriate to require an employer to pay the court fee on such an application, and accordingly the Statutory Rule provides an exemption.

4. Consultation

- 4.1. The Statutory Rule is made with the concurrence of the Department of Finance and after consultation with the Lord Chief Justice, as is required by section 116(1) of the Judicature (Northern Ireland) Act 1978.

5. Equality Impact

- 5.1. No equality issues arise. The provisions of the Statutory Rule seek to protect employers, who are not a party to the recovery of unpaid fines, from having to pay a court fee to determine their responsibilities under an attachment of earnings order.

5.2. The underlying fine collection policy was screened before the making of the Act. No adverse impacts for any of the nine categories in section 75 of the Northern Ireland Act 1998 were identified.

6. Regulatory Impact

6.1. There will be no financial impact on businesses, charities or voluntary bodies as a result of the Statutory Rule.

7. Financial Implications

7.1. The Statutory Rule makes an amendment to the Magistrates' Courts Fees Order (Northern Ireland) 1996. The Department does not envisage large numbers of applications to be made. Any financial impact on collection of court fees will be negligible.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that the Rule is not incompatible with the Convention rights; is not incompatible with European Union law; does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None.

10. Parity or Replicatory Measure

10.1. The Statutory Rule is not required for the purposes of parity or to replicate a measure elsewhere in the United Kingdom.

11. Additional Information

11.1. It is intended that the Statutory Rule will come into operation on 1 June 2018 along with other instruments related to Part 1 of the Act.