

EXPLANATORY MEMORANDUM TO

The Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018

S.R. 2018 No. 102

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 sections 6(12), 15(2), 18(4) and (6), 19(2) and (3), 20(5) and (6), 21(3), 22(4) and (7), 23(1), (7) and (8) and 60 of, and paragraphs 4, 7(5) and (6) and 10 of Schedule 1 to the Justice Act (Northern Ireland) 2016 ("the Act") and is subject to the negative resolution 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 Act, which makes new provision in relation to the enforcement and collection of fines and other financial penalties.
- 2.2. The Statutory Rule gives details of arrangements and procedures to be followed in relation to the new collection options available under Part 1.

3. Background

- 3.1. Part 1 of the Act introduces a new system of collection of unpaid fines and other financial penalties whereby civilian collection officers are given powers to deal with defaulters under the authority of a collection order made by the court at the point of imposing a financial penalty, or registering a penalty for enforcement.
- 3.2. When a person defaults on payment of the penalty a collection officer may extend the time for payment, apply for deductions from the defaulter's benefits, or make an attachment of earnings order. If none of these are successful a collection officer may make an interim bank account order, which 'freezes' a specified amount in the defaulter's account until the court can review the case, or he may refer the matter back to court with a request that a vehicle seizure order be made. Alternatively he may refer the matter back to court at any point without taking any further action.
- 3.3. The Act provides the defaulter with a right of appeal to the responsible court against any decision of a collection officer.
- 3.4. When a case is referred back to court following default the court may then deal with the defaulter using any of a menu of options permitted under section 9 of the Act.
- 3.5. It is intended that the new arrangements will result in reduced levels of unpaid debt and prison committals for what is often relatively low level offending.
- 3.6. The Statutory Rule makes provision in relation to:
 - the content of an application for deductions from benefits;
 - attachment of earnings orders;
 - bank account orders; and
 - vehicle seizure orders.

3.7. Regulations made by the Department for Communities make provision in relation to the calculation and making of deductions from benefits for the purpose of paying outstanding financial penalties, while further instruments made or allowed by the Department of Justice amend the Magistrates' Courts Rules (Northern Ireland) 1984 and make a small number of other consequential provisions.

4. Consultation

- 4.1. Consultation took place with the Magistrates' Courts Rules Committee. The Department also consulted with the Department for Communities in relation to Part 2 of the Rule (applications for deductions from benefits); with UK Finance, representing banks and other financial institutions, in relation to Part 4 (bank account orders); and with PSNI in relation to the procedures around vehicle seizure orders (Part 5).
- 4.2. The Department of Justice completed a public consultation entitled "Fine Collection and Enforcement" in 2014, and the provisions of Part 1 of the Act were then consulted upon in the form of the Justice Committee's call for evidence during Committee Stage of the Act's passage through the Assembly.

5. Equality Impact

- 5.1. The provisions of the Statutory Rule are purely consequential upon the primary provisions, providing detail of the arrangements and procedures to be followed in making and applying the new measures provided for under the Act. No adverse impacts arise.
- 5.2. The underlying policy was screened before the making of the primary legislation. 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 impact on charities or voluntary bodies. Regulation 13 of the Statutory Rule mitigates against any negative impact on employers who are required to implement attachment of earnings orders by allowing for an administrative charge to be levied on each occasion that a deduction is made. A similar provision is made in respect of banks and other financial institutions who will be required to process any bank account orders in accordance with Part 4 of the Statutory Rule: Regulation 30 of the Rule provides for the financial institutions to levy an administrative charge on customers to offset any cost incurred.

7. Financial Implications

- 7.1. None.

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 Regulations are not incompatible with the Convention rights; are not incompatible with European Union law; do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do 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 provisions of the Statutory Rule are not necessary for parity elsewhere, but were modelled upon similar arrangements which have been in existence across England and Wales and Scotland for a number of years.

11. Additional Information

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