

## **EXPLANATORY MEMORANDUM TO**

### **The Magistrates' Courts (Amendment No.2) Rules (Northern Ireland) 2018**

#### **S.R. 2018 No. 103**

#### **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 Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 ("the 1981 Order") 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 Justice Act (Northern Ireland) 2016 ("the Act"), which makes new provision in relation to the enforcement of fines and other financial penalties.
- 2.2. The Statutory Rule amends the Magistrates' Courts Rules (Northern Ireland) 1984 ("the 1984 Rules") to prescribe court procedures to be followed when a court imposes or registers a financial penalty and makes a collection order. It also makes provision in relation to the court procedure to be followed when a person defaults on payment of a financial penalty under a collection order, and the procedure for appeals against collection officers' decisions. Existing court Forms are also amended and new Forms prescribed as required.

#### **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 the 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. Related instruments made by the Department of Justice and the Department for Communities make further provision in relation to the arrangements and procedures associated with Part 1 of the Act.

#### **4. Consultation**

4.1. Consultation on the Statutory Rule took place between the Department of Justice and the Magistrates' Courts Rules Committee and the Lord Chief Justice.

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 subsequently 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 technical and procedural, amending the 1984 Rules and are purely consequential upon the primary provisions. No equality issues 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. A Regulatory Impact Assessment is not considered necessary. The Statutory Rule makes procedural provision only in support of the primary legislation and will not impact on businesses, charities or voluntary bodies.

#### **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 Statutory 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 provisions of the Statutory Rule are not necessary for parity elsewhere.

#### **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.