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STATUTORY INSTRUMENTS

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1988 No. 929 (N.I. 8)

NORTHERN IRELAND

**The Fees &c (Northern Ireland) Order 1988**

*Made* 25th May 1988

*Laid before Parliament* 7th June 1988

*Coming into Operation* 16th June 1988

At the Court at Buckingham Palace, the 25th day of May 1988

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of section 102 of the Finance (No. 2) Act 1987:

1987 c. 51

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 102(8) of the said Act of 1987) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1974 c. 28

*Title and commencement*

1.—(1) This Order may be cited as the Fees &c (Northern Ireland) Order 1988.

(2) This Order shall come into operation on the expiration of 21 days from the day on which it is made.

*Interpretation*

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

1954 c. 33 (N.I.)

*Government fees and charges*

3.—(1) This Article applies where a Minister of the Crown or Northern Ireland department or any other person has power under a relevant enactment (whenever passed) to require the payment of, or to determine by subordinate legislation the amount of, any fee or charge (however described), which is payable to the Minister or department or to any other person who is required to pay the fee or charge into a Consolidated Fund (whether the obligation is so expressed or is expressed as a requirement to make the payment into an Exchequer).

(2) In the following provisions of this Article, a power falling within paragraph (1) is referred to as a "power to fix a fee" and, in relation to such a power,—

- (a) "fee" includes charge;
- (b) "the appropriate authority" means—
  - (i) if the power is exercisable by a Minister of the Crown, that Minister;
  - (ii) if the power is exercisable by a Northern Ireland department or head of such a department, that department or head;
  - (iii) in any other case, such Northern Ireland department as the Department of Finance and Personnel may determine; and
- (c) "the recipient" means the Minister, department or other person to whom the fee is payable.

(3) In relation to any power to fix a fee, the appropriate authority or any Minister of the Crown or Northern Ireland department with the consent of the appropriate authority may, by order made by statutory rule, specify functions, whether of the recipient or any other person and whether arising under any enactment, by virtue of any Community obligation or otherwise, the costs of which, in addition to any other matters already required to be taken into account, are to be taken into account in determining the amount of the fee.

(4) In relation to any functions the costs of which fall to be taken into account on the exercise of any power to fix a fee (whether by virtue of paragraph (3) or otherwise) the appropriate authority or any Minister of the Crown or Northern Ireland department with the consent of the appropriate authority may, by order made by statutory rule, specify matters which, in addition to any matters already required to be taken into account, are to be taken into account in determining those costs, and, without prejudice to the generality of the power conferred by this paragraph, those matters may include deficits incurred before as well as after the exercise of that power, a requirement to secure a return on an amount of capital and depreciation of assets.

(5) An order made under paragraph (3) or (4) shall—

- (a) where the order relates to an excluded matter, be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 shall apply accordingly;
- (b) in any other case, be subject to affirmative resolution.

(6) An order under paragraph (3) or paragraph (4) has effect in relation to any exercise of the power to fix the fee concerned after the coming into operation of the order; but no earlier exercise of that

power shall be regarded as having been invalid if, had the order been in operation before that exercise of the power, the exercise would have been validated by the order.

(7) In this Article—

- (a) “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975; 1975 c. 26
- (b) “relevant enactment” means any enactment except, in relation to a Minister of the Crown, an Act of the Parliament of the United Kingdom;
- (c) “excluded matter” means any matter other than a transferred matter within the meaning of the Northern Ireland Constitution Act 1973; 1973 c. 36
- (d) subject to sub-paragraph (b), “subordinate legislation” has the same meaning as “statutory instrument” has in the Interpretation Act (Northern Ireland) 1954, but as if in section 1 of that Act, “Act” included any enactment; 1954 c. 33 (N.I.)
- (e) “Northern Ireland department” includes the head of such a department;
- (f) “Consolidated Fund” means the Consolidated Fund of the United Kingdom or of Northern Ireland, and “Exchequer” shall be construed accordingly.

*G. I. de Deney*  
*Clerk of the Privy Council*

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EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of section 102 of the Finance (No. 2) Act 1987. It authorises Ministers of the Crown and Northern Ireland departments to make orders specifying—

- (a) functions the costs of which are to be taken into account in determining certain fees; and
- (b) matters which are to be taken into account in determining those costs.