

EXPLANATORY MEMORANDUM TO

The Social Security (Fines) (Deductions from Benefit) Regulations (Northern Ireland) 2018

S.R. 2018 No. 98

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 5(1)(m) and (q), 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and sections 15(1) and 60(2), (4) and (7) of the Justice Act (Northern Ireland) 2016 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations, will provide for deductions to be made from certain social security benefits where a fine or compensation order has been imposed upon a person (the debtor) by a court to meet the sums due in respect of such fines and compensation orders.

3. Background

- 3.1 Section 60(1) of the Justice Act (Northern Ireland) 2016 (c. 21) (“the Justice Act”) provides for regulations under that Act to be made by the Department for Justice except that, subject to section 60(2), the Department for Communities will be responsible for making regulations under section 15(1) of the Act which relates to deductions from benefits orders.
- 3.2 The Justice Act enhances a key component of the criminal justice system, namely: fine collection.
- 3.3 Part 1 of the Justice Act creates an entirely new regime for the collection and enforcement of financial penalties. It creates collection officers whose function it will be to operate and enforce collection orders as imposed by courts. The changes to fine collection and enforcement will significantly reduce the numbers of people going to prison for fine default.
- 3.4 Collection officers will be able to allow the debtor extra time to pay or to make payment by instalments. If that were to prove difficult or unsuccessful, collection officers would be able to consider a deductions order whereby payments to clear the outstanding penalty could be deducted, in appropriate circumstances and on application to the Department for Communities, from certain welfare benefits.

- 3.5 Section 14 of the Justice Act defines what an application for a deduction from benefits is, namely an application to the Department for Communities for deductions to be made from a debtor's relevant welfare benefit to pay the sum that he owes to the Court (section 14(1)). The relevant welfare benefits are jobseeker's allowance, state pension credit, employment and support allowance and income support (section 14(3)). In due course, universal credit will become a relevant benefit upon amendment of the Justice Act.
- 3.6 The Department for Communities will have discretion in whether to approve the application. If the application is granted, the Department must deduct the sums payable by the debtor from his benefit and pay these to the Court (section 14(4)). The application will be treated as having failed if –
- the Department rejects the application;
 - the application is withdrawn by the collection officer;
 - the application is successfully appealed; or
 - the Department stops making the deductions whilst the debtor is still liable to pay any part of the sum owing to the Court (section 14(5)).
- 3.7 Section 15 of the Justice Act provides for Regulations to be made in respect of applications for deductions from benefits. The Regulations may provide for eligibility of deductions, amounts and periods, the cessation of deductions, the priority between collection order deductions and other deduction orders (section 15(1)).

4. Consultation

- 4.1. There is no requirement to consult in relation to these Regulations.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these Regulations and concluded that they do not have significant implications for equality of opportunity or good relations. In light of this, the Department considered that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. The Regulations do not require a Regulatory Impact Assessment as they do not impose any costs on business, charities, social enterprises or voluntary bodies.

7. Financial Implications

- 7.1 The majority of costs will be borne by Department of Justice although some operational costs for set up and operation of deductions would be expected. The Department of Justice and the Department for Communities have previously considered and agreed the initial costs and resource assumptions.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
 - (b) is not incompatible with Community law,
 - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The measures provided for in the regulations are not part of parity arrangements. The corresponding Great Britain Regulations have been in place since 1992, the Fines (Deductions from Income Support) Regulations 1992. However, following the devolution of policing and justice powers to NI, DOJ thought to introduce a number of changes to the criminal justice system including a package of proposals designed to improve fine recovery and collection.
- 10.2. Due to the upcoming launch of the Department for Justice Fines and Enforcement Service on 1st June 2018, it was necessary for the Department to make the Regulations during interregnum to support the introduction of this service, specifically those provisions relating to recovery of fines via deductions from benefits.

11. Additional Information

- 11.1. Not applicable