

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision consequential on section 26 of the Victims and Witnesses (Scotland) Act 2014 (“the 2014 Act”). Section 26 of the 2014 Act adds sections 253F to 253J to the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) which provide for the introduction of a victim surcharge. The victim surcharge is to be imposed by the court on a person convicted of an offence (other than an offence that is exempted, or in circumstances which are exempted, under regulations made by the Scottish Ministers) whenever the court imposes a sentence or class of sentence that is prescribed by the Scottish Ministers in regulations. However, the victim surcharge provisions do not apply where the court makes a restitution order instead.

Section 24 of the Criminal Justice Act 1991 (“the 1991 Act”) enables the Secretary of State to make regulations providing for a system whereby fines, compensation orders, unlawful profit orders and slavery and trafficking reparation orders can be paid via deductions from certain benefits payable to the offender. Under regulation 4 of the Fines (Deductions from Income Support) Regulations 1992, the Secretary of State may deduct sums from benefits payable to the offender and pay those sums to the court in satisfaction of a fine or compensation order imposed on the offender.

Section 24(3A) of the 1991 Act provides that any reference to a “fine” in section 24(1) or (3) includes a reference to a surcharge imposed under section 161A of the Criminal Justice Act 2003. The Secretary of State can therefore make deductions from an offender’s benefit payments in order to pay those sums to the court in satisfaction of a surcharge imposed in England and Wales. Article 2 of this Order amends section 24(3A) of the 1991 Act so as to provide that any reference to “fine” in section 24(1) or (3) includes a reference to a victim surcharge imposed under section 253F of the 1995 Act. This will ensure that the Secretary of State will be able to deduct sums from an offender’s benefits and pay those sums to the court in satisfaction of a victim surcharge imposed in Scotland.

An impact assessment has not been produced for this instrument as no, or no significant, additional impact on the private, voluntary or public sectors is foreseen.