EXPLANATORY MEMORANDUM

The Administration of Estates (Small Payments) (Increase of Limit) Order (Northern Ireland) 2020

S.R. 2020 No. 280

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Finance ("the Department") to accompany this Statutory Rule which is laid before the Northern Ireland Assembly

1.2 The Statutory Rule is made under Article 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967 and is subject to the affirmative resolution procedure.

2. Purpose

2.1 The Statutory Rule is to increase the small payments limit in the Administration of Estates (Small Payments) Act (Northern Ireland) 1967. The Act specifies a limit on the amount of property which is allowed, under certain statutory provisions, to be disposed of on death without the necessity for probate or other proof of title, or in pursuance of a nomination made by the deceased.

2.2 The limit was increased from £5,000 to £10,000 by the Administration of Estates (Small Payments) (Increase of Limit) Order (Northern Ireland) 2004. Article 2 of the present Order, which revokes that Order, further increases the limit to £20,000.

2.3 By virtue of section 6(2) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967, this Order applies in relation to deaths occurring, or nominations affected, after the expiration of a period of one month beginning with the date on which the Order comes into operation

3. Background

3.1 The small payments limit sets a limit on the amount of money that may be released to the beneficiaries of a deceased person from that person's estate by certain organisations without the need to obtain a grant of probate**.**

3.2 Section 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967 gives the Department of Finance the power to vary the limit at which probate is required with regard to a number of different organisations such as credit unions, industrial and provident societies.

3.3 The Department has raised the limit a number of times in the intervening years most recently in 2004, when the figure of £5000 was raised to £10000.

3.4 As the costs in accessing probate can be significant in the context of a small estate, and the time taken from applying to the grant of probate can be lengthy this can cause difficulties for beneficiaries. In many cases, the release of these funds is important to cover, for example, funeral costs.

3.5 This situation has been exacerbated by the COVID-19 pandemic, particularly as applications for probate are typically effected after instructing a solicitor. There is evidence that the limit is proving particularly problematic in the credit union sector, which services many of the less affluent in the community.

3.5 It is 16 years since the last rise and the proposal is to raise the limit to £20,000.

3.6 The primary legislation, above, which confers the power on the Department to amend the limit does mean that any change must be the subject of secondary legislation, and this must be effected under the affirmative resolution procedure.

4 Consultation

4.1 A short, targeted consultation ran for eight weeks over the summer months. Despite
assistance from colleagues in the Department for the Economy to raise awareness of the consultation, only one response was received, from the Irish League of Credit Unions, which was entirely supportive of the proposal.

5 Equality Impact

5.1 Consideration has been given to human rights and equality issues in relation to the proposed rule. It is considered that no human rights or equality issues arise. Given the minor and technical nature of the proposal, a full equality impact assessment was not considered necessary.

6 Regulatory Impact

6.1 No regulatory issues were identified and a full Regulatory Impact Assessment was not considered necessary

7 Financial Implications

7.1 Potentially a small impact on the amount of fee income to Northern Ireland Courts and Tribunal Service as a result of fewer applications for Grant of Probate or

Grant of Letters of Administration. However any impact is likely to be offset by administrative savings. Therefore, no significant financial implications have been identified.

8 Section 24 of the Northern Ireland Act 1998

8.1 It is the view of the Department that these Regulations are compatible with section 24 of the Northern Ireland Act 1998

9 EU Implications

There are no relevant European Regulations or Directives.