STATUTORY INSTRUMENTS

2004 No. 2247

SOCIAL SECURITY, NORTHERN IRELAND

The Distraint by Authorised Officers (Fees, Costs and Charges) (Northern Ireland) Regulations 2004

Made - - - -	*1st September 2004*
Laid before Parliament	*1st September 2004*
Coming into force - -	*22nd September 2004*

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 115A(8) of the Social Security Administration (Northern Ireland) Act 1992(**a**), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Distraint by Authorised Officers (Fees, Costs and Charges) (Northern Ireland) Regulations 2004 and shall come into force on 22nd September 2004.

(2) In these Regulations—

"authorised officer" means an officer of the Inland Revenue authorised for the purposes of section 115A of the Social Security Administration (Northern Ireland) Act 1992;

"close possession" means physical possession by the distrainor, or a person acting on his behalf, of the goods and chattels distrained;

"total sum certified" means the total amount of any contributions, or interest or penalty in respect of contributions, which an authorised officer certifies a person is liable to pay to the Inland Revenue in accordance with section 112(1) of the Social Security Administration (Northern Ireland) Act 1992(**b**);

"walking possession" means possession in accordance with an agreement between the distrainor and the distrainee whereby, in consideration of the distrainor not remaining in close possession, the distrainee undertakes not to dispose of the goods distrained or any part of them, or permit their removal by any person not authorised by the distrainor to remove them.

Ascertainment of fees, costs and charges

2. The fees chargeable on or in connection with the levying of distress and the costs and charges recoverable where distress has been levied shall be those specified in the Schedule to these Regulations, but subject to any provision of that Schedule.

(**a**) 1992 c. 8. Section 115A was inserted by Article 59 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10): "the 1998 Order") and substituted by section 6(1) of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3).

(**b**) Relevant amendments to section 112 were made by Article 58(1) of the 1998 Order and paragraph 7(2) of Schedule 4 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

Deduction of fees, costs and charges by an authorised officer

3. The fees, costs and charges specified in the Schedule to these Regulations shall be deducted by the authorised officer from the sums received on or in connection with the levying of distress or where distress has been levied.

Disputes as to fees, costs and charges

4.—(1) In the case of dispute as to any fees chargeable, or costs and charges recoverable, under the Schedule to these Regulations, the amount of those fees, costs and charges shall be taxed.

(2) Such a taxation shall be carried out by the Master (Taxing Office), and he may give such directions as to the costs of the taxation as he thinks fit.

Ann Chant
Dave Hartnett
1st September 2004 — Two of the Commissioners of Inland Revenue

SCHEDULE

Regulations 2 and 3

Action taken	*Fees, Costs and Charges*
On or in connection with the levying of distress	***Fees***
For making a visit to premises with a view to levying distress (whether the levy is made or not).	A sum not exceeding £12.50.
Levying distress where the total sum certified is £100 or less.	£12.50.
Levying distress where the total sum certified is more than £100.	12½% on the first £100 of the amount to be recovered; 4% on the next £400; 2½% on the next £1,500; 1% on the next £8,000; and ¼% on any additional sum.
Where distress has been levied	*Costs and Charges*
1. ***Taking possession***	
Where close possession is taken.	£4.50 for the day of levy only.
Where walking possession is taken.	45p per day, payable for the day the distress is levied and up to 14 days thereafter.
2. ***Removal and storage of goods***	The reasonable costs and charges of removal and storage.
3. ***Appraisement***	The reasonable fees, charges and expenses of the person appraising.
4. ***Sale***	
Where the sale is held on the auctioneer's premises, for the auctioneer's commission (to include all out-of-pocket expenses, other than charges for advertising, removal and storage).	15% on the sum realised plus the reasonable costs of advertising, removal and storage.
Where the sale is held on the debtor's premises, for the auctioneer's commission (not to include out-of-pocket expenses or charges for advertising).	7½% on the sum realised plus out-of-pocket expenses reasonably incurred and the reasonable costs of advertising.

1. In any case where close possession is taken, an individual left in possession must provide his own board.

2. For the purpose of calculating any percentage fees, costs and charges, a fraction of £1 is to be reckoned as £1, but any fraction of a penny in the total amount so calculated shall be disregarded.

3. In addition to any amount authorised by this Schedule in respect of the supply of goods or services on which value added tax is chargeable there may be added a sum equivalent to the value added tax at the appropriate rates on that amount.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for fees, costs and charges where an authorised officer of the Inland Revenue distrains upon the goods and chattels of a person who is in default in respect of contributions payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

Regulation 1 provides for the citation and commencement of these Regulations and defines certain terms used in them.

Regulation 2 provides that the fees, costs and charges arising on or in connection with the levying of distress shall be determined in accordance with the Schedule to the Regulations.

Regulation 3 provides for the deduction by the authorised officer of the fees, costs and charges authorised by this instrument from sums received on or in connection with the levying of distress.

Regulation 4 provides for the Master (Taxing Office) to tax fees, costs and charges which are disputed.

A Regulatory Impact Assessment for all of the measures contained in or resulting from the National Insurance Contributions and Statutory Payments Act 2004 (c. 3), including the consequential amendments made by statutory instruments, was prepared in connection with the passage through Parliament of the Bill for that Act. A copy can be found on the Inland Revenue's website at www.inlandrevenue.gov.uk/ria.

£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.
E1186 9/2004 141186T 19585

ISBN 0-11-049761-9

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