EXPLANATORY MEMORANDUM

The Distraint by Authorised Officers (Fees, Costs and Charges) (Northern Ireland) Regulations 2004 No. 2247

1. This explanatory memorandum has been prepared by the Inland Revenue and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 These regulations make provision for fees, costs and charges where an authorised officer of the Inland Revenue carries out distraint action in Northern Ireland to recover a National Insurance Contributions (NICs) debt.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 There are no matters of special interest which need to be brought to the attention of the Committee. These fees, costs and charges relating to Northern Ireland replicate the fees, costs and charges in place for England and Wales.

4. Legislative Background

4.1 Section 6 of the National Insurance Contributions and Statutory Payments Act 2004 (NICSPA 2004) substitutes a new section 115A in the Social Security Administration (Northern Ireland) Act 1992. It provides for authorised officers of the Inland Revenue to take distraint action in their own right in Northern Ireland as is already the case in England and Wales (previously action in Northern Ireland was via the Enforcement of Judgements Office) calling on powers consistent with those which apply in England and Wales.

4.2 This instrument is made under new section 115A(8) whereby fees, costs and charges may be provided for by Regulation. The fees, costs and charges in question replicate the fees, costs and charges in place for England and Wales (which are specified in the Distraint by Authorised Officers (Fees, Costs and Charges) Regulations 1999).

5. Extent

5.1 This instrument applies to Northern Ireland.

6. European Convention on Human Rights

6.1 These Regulations are subject to annulment and do not amend primary legislation. Accordingly no certificate under section 19 of the Human Rights Act 1998 is required.

7. Policy Background

7.1 The objectives of the NICSPA 2004 are to bring equivalent tax, NICs and Statutory Payments regimes closer together and to make the administration of NICs less burdensome for employers. It also seeks to put the Inland Revenue in Northern Ireland on the same footing as the Inland Revenue in England and Wales as regards collecting NICs debts.

7.2 For the avoidance of doubt, distraint does not apply in Scotland (section 121B of the Social Security Administration Act 1992 deals with debt collection in Scotland). The issue of fees and charges for distraint action does not therefore arise in relation to Scotland.

8. Impact

8.1 A Regulatory Impact Assessment (RIA) has not been prepared for this instrument. An RIA for all the measures in the NICSPA 2004, including the consequential amendments made by Statutory Instrument, was prepared for the passage of the Bill through Parliament and therefore a further RIA is not necessary.

8.2 The impact on the public sector is that the Exchequer will benefit by receiving NICs more promptly and the costs to the Inland Revenue will reduce as they can combine distraint action for all tax and NICs debts. However, as a tiny amount of NICs debt is distrained each year in Northern Ireland this effect will be negligible.

9. Contact Details

Katherine Mansfield at the Inland Revenue (tel: 020 7438 7544) can answer any queries regarding this instrument