EXPLANATORY MEMORANDUM TO

THE ENVIRONMENTAL OFFENCES (FIXED PENALTIES) (MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2022

2022 No. 302

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) to accompany the Statutory Rule and is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred on it by Article 18A(1) of the Litter (Northern Ireland) Order 1994 ("the 1994 Order") and section 44(4) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 ("the 2011 Act") and is subject to the negative resolution procedure. It will come into operation on 30th December 2022.

2. Purpose of the instrument

2.1 The Statutory Rule amends the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations (Northern Ireland) 2012 ("the 2012 Regulations") to increase the maximum penalty capable of being specified by a district council:

(a) under Article 6(6A)(a) of the 1994 Order for the offence of littering; and

(b) under section 44(1)(a) of the 2011 Act for the offence of contravention of a dog control order relating to dog fouling,

from £80 to £200.

3. Background

3.1 The 2012 Regulations prescribe the ranges within which the amounts of certain fixed penalties that are capable of being specified by a district council are required to fall. The Regulations also prescribe the minimum amount of fixed penalty that a district council may (if it chooses to do so) treat as full payment of the fixed penalty where a lesser amount than the full prescribed amount is paid within such period as may be specified by the district council.

3.2 Fixed penalty notices are a simple and visible way of dealing with environmental offences. If used properly, they provide an effective deterrent and avoid the cost of court action. Prior to the introduction of the 2011 Act, fixed penalty notices could be issued for littering and dog fouling offences and also for some noise violation offences. The 2011 Act made greater use of fixed penalty notices as an alternative to prosecution and gave district councils the flexibility, subject to upper and lower limits, to set their own fixed rates. The Act extended the use of fixed penalty notices for offences related to nuisance and abandoned vehicles, litter controls, other dog controls and additional noise controls.

3.3 Over the past few years, district councils have made representations to the Department that the current £80 maximum fixed penalty payable as an alternative to prosecution for

litter and dog fouling offences is no longer appropriate and should be increased to £200 to give councils greater flexibility to specify higher amounts.

4. Consultation

4.1 The intention to increase the maximum fixed penalty payable as an alternative to prosecution for litter and dog fouling offences was made public as part of the consultation on the draft Environment Strategy which ran from 11 November 2021 to 18 January 2022. There was widespread support for the proposed increase whilst correspondence asking for the Department to take stronger action in relation to these offences is regularly received from stakeholders and members of the public.

5. Equality Impact

5.1 The Department is required under section 75 of the Northern Ireland Act 1998 to screen the proposed changes to ascertain if an Equality Impact Assessment is required. A screening exercise has been carried out and no equality issues were identified, therefore no impact assessment has been completed in respect of this Rule.

6. Regulatory Impact

6.1 The Department has not carried out a Regulatory Impact Assessment as the Regulations have no impact on the costs to business.

7. Rural Needs Impact

7.1 A screening exercise was carried out as part of the policy consultation and no rural needs implications were identified. A separate screening exercise was not carried out in respect of this Rule.

8. Financial Implications

8.1 It is anticipated that the increase to the maximum amount of the fixed penalty payable will generate additional income for district councils which may be used to fund street cleansing activities.

9. Section 24 of the Northern Ireland Act 1998

9.1 The Statutory Rule does not have any human rights implications nor is it incompatible with EU law. It, therefore, complies with the requirements of section 24 of the Northern Ireland Act 1998.

10. EU Implications

10.1 Not applicable.

11. Parity or Replicatory Measure

11.1 The Statutory Rule is not necessary for parity elsewhere.

12. Additional Information

12.1 N/A

13. Contact

13.1 Simon Webb at the Department of Agriculture, Environment and Rural Affairs: Telephone: 028 9056 9487 or email: simon.webb@daera-ni.gov.uk can be contacted with any queries regarding the instrument.

13.2 Dave Foster at the Department of Agriculture, Environment and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.