**EXPLANATORY MEMORANDUM TO**

**The Judgment Enforcement Fees (Amendment) Order (Northern Ireland) 2017**

**S.R. 2017 No. 12**

## 1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 116(1) and (1A) of the Judicature (Northern Ireland) Act 1978. Section 119 of that Act provides that an Order made under section 116 is not subject to any resolution process, however in making this Order the Department has undertaken to comply with the conventions applicable to the negative resolution procedure.

## 2. Purpose

2.1. This Statutory Rule is required in order to increase the fees charged for the delivery of business in the Enforcement of Judgments Office in Northern Ireland over a three year period and also recognise Universal Credit as a qualifying benefit. The purpose of the fee increase is to move towards a position of full cost recovery in the provision of civil and family court business, including Enforcement of Judgments business, a requirement that is placed upon Northern Ireland Courts and Tribunal Service (NICTS) by Managing Public Money (NI).

## 3. Background

3.1. The fees currently charged by the NICTS do not cover the costs associated with running the civil and family courts; NICTS is currently recovering around 75% of these costs. This position is not sustainable as it places an additional burden on NICTS, the Department and the general taxpayer at a time when public sector finances are under significant pressure. By increasing the fees charged to those who make use of the civil and family courts, then the taxpayers' contribution to the court system will be reduced.

3.2. The NICTS will continue to operate a court fee exemption and remission policy in order to protect access to justice for those individuals on low incomes who cannot afford to pay court fees.

## 4. Consultation

4.1. A 12 week public consultation closed in June 2016. A total of 10 responses were received; this included one individual and nine organisations. A number of respondents recognised the need to increase court fees given that fees have not increased since 2007. The majority of respondents indicated that, if fees have to increase, they would favour a phased approach to the increase. Several respondents raised concerns regarding the potential impact on access to justice. The concept of full cost recovery was also questioned with several respondents suggesting that

the cost of running the civil and family justice system should not fall exclusively on users.

## 5. Equality Impact

5.1. NICTS completed Equality Impact screening on the proposals to increase fees and concluded that there is no evidence to suggest that the increase to court fees will impact adversely on the Section 75 categories.

## 6. Regulatory Impact

6.1. A Regulatory Impact Assessment (RIA) has been completed to ascertain the impact on the business community. The results of the RIA indicate that while an increase in court fees will impact on businesses within Northern Ireland who use the courts, this is not expected to be significant.

## 7. Financial Implications

7.1. A phased increase in fees over a three year period will result in additional income for NICTS. This will help to ease the budgetary pressure associated with the under recovery of costs.

7.2. The fundamental aim of the proposals is to move towards a position of full cost recovery, so there are no additional funding requirements.

## 8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is satisfied that no issues arise regarding section 24 of the Northern Ireland Act 1998.

## 9. EU Implications

9.1. Not applicable.

## 10. Parity or Replicatory Measure

10.1. The proposed fee structure is comparable to arrangements that already exist in the rest of the United Kingdom.

## 11. Additional Information

11.1. Not applicable.