EXPLANATORY MEMORANDUM TO

The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2019

SR 2019 No. 123

1. Introduction

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

1.2. The Statutory Rule is made under Article 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

2.1. This Statutory Rule makes further amendment to the Magistrates' Courts and County Court Appeals (Criminal Legal Aid)(Costs) Rules (Northern Ireland) 2009 which prescribe the remuneration for solicitors and counsel assigned under the 1981 Order.

2.2. The purpose of the Statutory Rule is to introduce provision for the payment of a fixed fee in respect of Referral Hearings in the magistrates' courts. Referral Hearings occur when a court has imposed a financial penalty, the person liable to pay the penalty is in default and that person's case has been referred back to the court responsible for enforcing payment of the penalty. At the Referral Hearing, the court will consider the exercise of its powers under section 9 of the Justice Act (Northern Ireland) 2016.

3. Background

3.1. On 1 June 2018, the Department of Justice introduced the Fine Collection and Enforcement Service. The scheme introduced dedicated Collection Officers to provide advice to debtors and to collect and enforce outstanding financial penalties imposed (or registered) by a criminal court where a collection order has been made.

3.2. The Department identified that certain proceedings associated with the Fine Collection and Enforcement Service scheme are not covered within the existing legal aid framework. Remuneration proposals have been developed to address this gap.

4. Consultation

4.1. The Department issued a targeted consultation with the Law Society of Northern Ireland, the Gernal Council of the Bar of Northern Ireland, the office of the Lord Chief Justice, the Attorney General, the Director of Public Prosecutions, the County Court Rules Committee, the Magistrates' Court Rules Committee and the Crown Court Rules Committee. In addition, the Department obtained the approval of the Department of Finance.

5. Equality Impact

5.1. An equality screening exercise was carried out. This indicated that a full equality impact assessment was not required under section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1. These Rules were screened for their regulatory impact. The provisions contained in the Rules will impose no additional costs on businesses, charities or the voluntary sector. Accordingly, a full Regulatory Impact Assessment was not considered necessary.

7. Financial Implications

7.1. Legal aid costs associated with fine default are projected to reduce by 75% under the new fine collection and enforcement arrangements.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department considers these Rules to be compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. Not applicable

11. Additional Information

11.1. Not applicable