**EXPLANATORY MEMORANDUM TO**

# The Social Security (Fines) (Deductions from Benefits) Regulations (Northern Ireland) 2021

**S.R. 2021 No. 215**

## Introduction

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

1.2 The Statutory Rule is made under sections 5(1)(m) and (q), 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and sections 15(1) and 60(2), (4) and (7) of the Justice Act (Northern Ireland) 2016 (c.21) and is subject to the negative resolution procedure.

## Purpose

2.1 These Regulations, will provide for deductions to be made from Universal Credit where a fine or compensation order has been imposed upon a person (the offender) by a court to meet the sums due in respect of such fines and compensation orders.

2.2 Where the Department receives an application from a court or a collections officer, as the case may be, in respect of an offender who is entitled to Universal Credit, these Regulations provide that the Department may deduct a sum from that benefit which is equal to 5 per cent. of the standard allowance or £5, whichever is the greater amount.

2.3 These Regulations provide for deductions to be made in respect of one application at a time, establish the circumstances in which deductions should cease and that the payment of deduction shall be made at intervals of 13 weeks by the Department for Communities to the court.

## Background

3.1 Section 60(1) of the Justice Act (Northern Ireland) 2016 (c. 21) ("the Justice Act") provides for regulations under that Act to be made by the Department for Justice except that, subject to section 60(2), the Department for Communities will be responsible for making regulations under section 15(1) of that Act which relates to deductions from benefits orders.

3.2 The Justice Act gives effect to the desire of the Justice Minister to enhance a key component aspect of the criminal justice system, namely: fine collection. For many years there have been significant numbers of fine defaulters ending up in prison for non-payment of their fines and other financial penalties. A new civilian-based collection service will largely

replace the role currently played by police officers and new collection and enforcement provisions in the Act will provide additional ways for offenders to pay their financial penalty.

3.3 Part 1 of the Justice Act creates an entirely new regime for the collection and enforcement of financial penalties. It creates collection officers whose function it will be to operate and enforce collection orders as imposed by courts. The changes to fine collection and enforcement will significantly reduce the numbers of people going to prison for fine default (until recently several thousand defaulters went to prison each year for short periods often for relatively minor offences).

3.4 Collection officers will be able to allow the defaulter extra time to pay or to make payment by instalments. If that were to prove difficult or unsuccessful, collection officers would be able to consider a deductions order whereby payments to clear the outstanding penalty could be deducted, in appropriate circumstances, from certain welfare benefits.

3.5 Section 14 of the Justice Act defines what an application for a deduction from benefits is, namely an application to the Department for Communities for deductions to be made from a debtor's relevant welfare benefit to pay the sum that he owes to the Court (Section 14(1)). The relevant welfare benefits are jobseeker's allowance, state pension credit, employment and support allowance and income support (Section 14(3)), and now universal credit.

3.6 The Department for Communities will receive an application from the Fines Enforcement and Collection Service. If the application is granted, the Department must deduct the sums payable by the debtor from his benefit and pay these to the Court (Section 14(4)). The application will be treated as having failed if the Department rejects the application, the application is withdrawn by the collection officer, the application is successfully appealed or the Department stops making the deductions whilst the debtor is still liable to pay any part of the sum owing to the Court (Section 14(5)). The Section also confers a regulation making power on the Department of Justice to amend the list of relevant benefits (Section 14(7)).

3.7 Section 15 of the Justice Act provides for regulations to be made in respect of applications for deductions from benefits, and outlines what, in particular, regulations may provide for. Regulations made by the Department for Communities may provide, the eligibility for deductions, the deduction amounts and periods, the cessation of deductions, the priority between collection order deductions and other deduction orders (Section 15(1)).

3.8 This deduction already applies to income support, state pension credit, jobseeker's allowance and employment and support allowance – please see the Social Security (Fines) (Deductions from Benefits) Regulations (Northern Ireland) 2018 (S.R. 2018 No. 98).

**Consultation**

4. The Department of Justice carried out a full consultation with regard to the provisions contained in the Justice Act (Northern Ireland) 2016 including proposals regarding deductions from benefits. There is therefore no requirement to consult in relation to these Regulations.

**Equality Impact**

5. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these Regulations and concluded that they do not have significant implications for equality of opportunity or good relations. In light of this, the Department considered that an equality impact assessment is not necessary.

**Regulatory Impact**

6. The Regulations do not require a Regulatory Impact Assessment as they do not impose any costs on business, charities, social enterprises or voluntary bodies.

**Financial Implications**

7. The majority of costs will be borne by DoJ although some operational costs for set up and operation of deductions would be expected. DoJ and DfC have previously considered and agreed the initial costs and resource assumptions.

**Section 24 of the Northern Ireland Act 1998**

8. The Department is content that the statutory rule complies with section 24 of the Northern Ireland Act 1998 (convention rights etc…).

**EU Implications**

9. Not applicable.

**Parity or Replicatory Measure**

10. The measures provided for in the regulations are not part of parity arrangements. The corresponding Great Britain Regulations have been in place since 1992, the Fines (Deductions from Income Support) Regulations 1992 (S.I. 1992/2182). However, following the devolution of policing and justice powers to Northern Ireland, DoJ sought to introduce a number of changes to the criminal justice system including a package of proposals designed to improve fine recovery and collection.

**Additional Information**

11. Not applicable