

**EXPLANATORY MEMORANDUM TO**  
**THE PENALTY NOTICES (JUSTICE ACT (NORTHERN IRELAND)**  
**2011)(ENFORCEMENT OF FINES) REGULATIONS (NORTHERN**  
**IRELAND) 2012**

**S.R 2012 No 188**

**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 This Statutory Rule is made under section 67(4) of the Justice Act (Northern Ireland) 2011 (“the 2011 Act”) and is subject to negative resolution.

**2. Purpose**

- 2.1 The Regulations will set out the procedure for the enforcement before a magistrates’ court of an unpaid Penalty Notice issued under Part 6, Chapter 1 of the 2011 Act.
- 2.2 In particular, the Regulations will prescribe that an unpaid Penalty Notice must be registered for enforcement in either the petty sessions district in which the offender appears to reside, or where the offender does not appear to reside in Northern Ireland, the petty sessions district in which the offence occurred.
- 2.3 The Regulations will also provide that where a defaulter resides in Northern Ireland, the court may, on complaint by the clerk of petty sessions issue either a summons or a warrant for him to be brought before the court. Where the defaulter resides in England, Wales or Scotland, the court may use any of the powers available to it under the provisions in Part IX of the Magistrates’ Courts (Northern Ireland) Order 1981 relating to the satisfaction and enforcement of fines. This includes the power to transfer the fine to the relevant court in the jurisdiction in which the defaulter resides for enforcement.
- 2.4 Where the court proceedings to hear the complaint, it may make any order under Part IX of the 1981 Order it considers appropriate. This includes an order to pay the fine as a lump sum or in periodical payments if appropriate.

**3. Matters of special interest**

- 3.1 None.

## **4. Background**

- 4.1 When commenced in June 2012, Part 6, Chapter 1 of the 2011 Act will allow the PSNI to issue a Penalty Notice to an offender (who is over 18 years) in respect of certain offences (listed in Schedule 4 to the 2011 Act), such as criminal damage or indecent behaviour.
- 4.2 Where a Penalty Notice has been issued, the offender has 28 days to either pay or to indicate that he wishes to be tried in respect of the offence. If the offender fails to either pay or make a request to be tried, the police may move to enforce the penalty.
- 4.3 Section 66 of the 2011 Act provides that the Chief Constable may issue and send a registration certificate, in relation to the unpaid Penalty Notice, to the clerk of petty sessions for enforcement in a magistrates' court. Section 67 provides that where the clerk of petty sessions receives a registration certificate, notice of registration will be sent to the defaulter with a demand for payment.
- 4.4 Where payment is still not received, enforcement of the unpaid Penalty Notice will be pursued in the same manner as enforcement of a fine, subject to any specific enforcement Regulations made under section 67 of the 2011 Act.

## **5. Consultation**

- 5.1 Due to the procedural and technical nature of the Regulations, a consultation was not considered necessary. The Regulations were, however, shared with the Magistrates' Courts Rules Committee (which comprises members of the Judiciary, PPS and legal professions) and it had no comment.

## **6. Equality Impact**

- 6.1 The Department of Justice screened the consultation paper in accordance with the Equality Scheme and in compliance with section 75 of the Northern Ireland Act 1998. It was decided that the Regulations were to be 'screened out' without mitigation or an alternative policy to be adopted. Although males between the ages of 18-29 years were disproportionately affected this was because of the increased likelihood of their involvement in breaches of criminal law.

## **7. Regulatory Impact**

- 7.1 The Regulations will not affect any law-abiding citizens or businesses. The voluntary sector and charities should not be affected. The main

stakeholders affected will be those public bodies implementing and enforcing the Regulations. They are supportive of these changes.

## **8. Financial Implications**

8.1 As Penalty Notices are treated in the same way as a fine for collection and enforcement purposes, all revenue generated will be paid into the consolidated fund. Any monies recouped through the enforcement of Penalty Notices in England, Wales or Scotland will be returned to Northern Ireland.

## **9. Section 24 of the Northern Ireland Act 1998**

9.1 The proposed Regulations are considered to be compliant with section 24 of the Northern Ireland Act 1998, including Community Law and Convention Rights as defined in the Human Rights Act 1998.

9.2 Although part of the draft Regulations will have implications for England, Wales and Scotland in terms of a Penalty Notice transferring for enforcement, it is considered that, as they do not affect the function of the Scottish or Westminster Executives they do not require a legislative consent motion.

## **10. EU Implications**

10.1 As an unpaid Penalty Notice will be treated like a fine for enforcement purposes, it will be subject to the EU Framework Decision on the Mutual Recognition of Financial Penalties which was implemented in domestic law through the Criminal Justice and Immigration Act 2008. This allows for the transfer for enforcement of unpaid fines between EU Member States.

## **11. Parity or Replicatory Measure**

11.1 The Regulations are procedural in nature and the policy has already been determined in the 2011 Act.

11.2 In relation to the 2011 Act, the police-issued fixed penalty scheme being introduced to Northern Ireland is similar to the Penalty Notice for Disorder (PND) scheme which was introduced in England and Wales under the Criminal Justice and Police Act 2001 and implemented in 2004. However, in Northern Ireland we are introducing the disposal for only 7 offences (England and Wales have 26 offences which attract fixed penalties). Additionally, in Northern Ireland the fixed penalty will only be available for those aged 18 or

over; in England and Wales, a PND may be administered to an offender aged 10 or over.

**12. Additional Information**

12.1 None.