

**EXPLANATORY MEMORANDUM TO  
THE FAMILY PROCEEDINGS (AMENDMENT) RULES (NORTHERN IRELAND)  
2006**

**Statutory Rule 2006 No. 304**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Description**

- 2.1 This instrument amends the Family Proceedings Rules (Northern Ireland) 1996 (“the 1996 Rules”) to:
- remove the requirement to lodge a bundle of pleadings in the Matrimonial Office of the Royal Courts of Justice in respect of undefended matrimonial and civil partnership causes;
  - require, in ancillary relief proceedings, a party with pension rights to provide information to the other party when the Board of the Pension Protection Fund is involved with the pension scheme; and
  - make two minor amendments consequential upon the Constitutional Reform Act 2005.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

**4. Legislative Background**

*Family Proceedings Rules (Northern Ireland) 1996*

- 4.1 The 1996 Rules govern the court procedure relating to family proceedings in the county court and High Court. This includes the procedure for divorce or dissolution, separation, annulment and applications for ancillary relief, as well as other family proceedings. The Rules also set out the procedures in relation to proceedings under the Children (Northern Ireland) Order 1995 and for adoption.

*Pensions Act 2004*

- 4.2 The Pensions Act 2004 (“the 2004 Act”) establishes the Pension Protection Fund (“the PPF”). The Pensions (Northern Ireland) Order 2005 (“the 2005 Order”) makes provision for the functions of the Board of the PPF (“the Board”) in relation to Northern Ireland. The Board pays compensation to members of certain pension schemes when a qualifying insolvency event in relation to the employer occurs and there are insufficient assets in the pension scheme to cover the levels of compensation, which would be payable by the Board under the 2004 Act or the 2005 Order.

- 4.3 If a qualifying insolvency event occurs in relation to a scheme, this will trigger the beginning of an assessment period during which the assets and liabilities of the scheme are valued to determine whether the Board should assume responsibility for the scheme. The trustees and managers of the scheme are then required to notify the member and send him a valuation summary under the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 129) (“the 2005 Regulations”). Where the Board of the PPF ultimately assumes responsibility for the scheme, compensation will then become payable to the members at the PPF compensation rate. Pursuant to the 2005 Regulations, the Board must notify the members that it has assumed responsibility for the scheme and send a forecast of compensation entitlement if requested to do so by a member. These events may be relevant to applications for ancillary relief where a party is applying for a pension sharing order or a pension attachment order.
- 4.4 The Matrimonial Causes (Northern Ireland) Order 1978 was amended by the 2005 Order to take account of the establishment of the PPF and corresponding provision was made in the Civil Partnership Act 2004.

#### *Constitutional Reform Act 2005*

- 4.5 The Constitutional Reform Act 2005 (“the 2005 Act”) reforms the office of the Lord Chancellor and provides for the Lord Chief Justice of Northern Ireland to assume the role and title of Head of the Judiciary of Northern Ireland. As a consequence, the Lord Chancellor’s judiciary related functions have either been transferred to the Lord Chief Justice, or modified to provide the Lord Chief Justice with a role. In particular, Article 48 of the Matrimonial Causes (Northern Ireland) Order 1978 has been amended by Schedule 5 to the 2005 Act to provide that the Lord Chancellor must seek the concurrence of the Lord Chief Justice before designating a county court as a divorce county court. Section 188 of the Civil Partnership Act 2004 has been amended by the Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 to provide that the Lord Chancellor must seek the concurrence of the Lord Chief Justice before designating a county court as a civil partnership proceedings county court.

### **5. Extent**

- 5.1 This instrument applies to Northern Ireland only.

### **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

### **7. Policy background**

#### *Bundles of Pleadings*

- 7.1 The policy intention behind the amendments in the Rules, which remove the requirement to lodge a bundle of pleadings in undefended matrimonial and civil partnership causes, is to save the Matrimonial Office in the Royal Courts of Justice and practitioners, the office time taken up in preparing papers for undefended causes.

It was considered that the office time used in preparing the bundles in such cases was disproportionate to the short hearing time in court and that the judge could instead use the original documents on the court file at the hearing.

#### *The Pensions Act 2004*

- 7.2 The policy intention is to ensure that, in ancillary relief proceedings, a party with pension rights sends a copy of all relevant information in relation to the pension scheme's status to the other party where the Board of the PPF is, or becomes, involved with the pension scheme. In particular, the amendments require the party with pension rights to send the other party a copy of:
- notification of an assessment period and the valuation summary; and
  - notification that the Board has assumed responsibility for a scheme and the forecast of pension entitlement.

#### *The Constitutional Reform Act 2005*

- 7.3 The Rules amend the definitions of “civil partnership proceedings county court” and “divorce county court” in the 1996 Rules consequential to the Constitutional Reform Act 2005.

### **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

### **9. Contact**

Jane McConnell at the Northern Ireland Court Service, Tel: 028 90412349 [e-mail: [janemcconnell@courtsni.gov.uk](mailto:janemcconnell@courtsni.gov.uk)] can answer any queries regarding the instrument.