

**EXPLANATORY MEMORANDUM TO**  
**THE FAMILY PROCEEDINGS**  
**(AMENDMENT) RULES (NORTHERN IRELAND)**  
**2008**

**SR 2008 No. 24**

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

**2. Description**

2.1 The Family Proceedings Rules (Northern Ireland) 1996 (S.R. 1996 No. 322) (“the principal Rules”) prescribe the procedure in relation to family proceedings in the High Court and county courts in Northern Ireland.

2.2 The instrument amends the principal Rules in consequence of the Children (Emergency Protection Orders) Act (Northern Ireland) 2007 (c.3).

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

None.

**4. Legislative Background**

*The Children (Emergency Protection Orders) Act (Northern Ireland) 2007*

4.1 The Children (Emergency Protection Orders) Act (Northern Ireland) 2007 repeals Article 64(8) of the Children (Northern Ireland) Order 1995 (“the 1995 Order”), which provided that an application to discharge an emergency protection order could not be heard by a court for 72 hours after the order had been made.

4.2 The repeal of Article 64(8) of the 1995 Order follows a decision of the High Court of Northern Ireland in ES, Re Application for Judicial Review [2007] NIQB 58 that this provision was incompatible with Articles 6 and 8 of the European Convention on Human Rights.

**5. Territorial Extent and Application**

This instrument applies to Northern Ireland only.

**6. European Convention on Human Rights**

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

## **7. Policy background**

- 7.1 It is considered that there is nothing in the principal Rules which would prohibit an application to discharge an emergency protection order being heard any time after the order is made. However to facilitate the service of relevant documents, the instrument amends the court's power to make directions in relation to service of documents in proceedings under the 1995 Order, to provide that the court may abridge the time prescribed for service. It also makes a minor amendment to the form for an emergency protection order to reflect that the court is no longer prohibited from hearing an application to discharge an emergency protection order for 72 hours after the order is made.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as there is no impact on business, charities or voluntary bodies.
- 8.2 This instrument has no impact on the public sector.

## **9. Contact**

- 9.1 Jane Maguire at the Northern Ireland Court Service (Tel: 028 9041 2319 or e-mail: [janemaguire@courtsni.gsi.gov.uk](mailto:janemaguire@courtsni.gsi.gov.uk)) can answer any queries regarding the instrument.