

**EXPLANATORY MEMORANDUM TO
THE FAMILY PROCEEDINGS (AMENDMENT) RULES (NORTHERN
IRELAND) 2010**

S.R.2010 No. 379

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice (Northern Ireland Courts and Tribunals Service) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 12 of the Family Law (Northern Ireland) Order 1993 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Family Proceedings Rules (Northern Ireland) 1996 ("the principal Rules") govern the practice and procedure in the Family Proceedings Court in Northern Ireland.
- 2.2. These Rules amend the principal Rules so as to make minor consequential amendments in consequence of provision in the Presumption of Death Act (Northern Ireland) 2009 ("the 2009 Act") and to prescribe the procedure to be followed in applications for orders preventing avoidance under Article 32L of the Child Support (Northern Ireland) Order 1991.

3. Background

- 3.1. The 2009 Act makes provision enabling the High Court to make a declaration of presumed death and to determine questions relation to the property of missing persons where no body has been recovered. The 2009 Act came into force on 2nd July 2009. These rules amend the principal Rules to make minor consequential amendments to take account of amendments made to the Matrimonial Causes (Northern Ireland) Order 1978 and the Civil Partnership Act 2004 by the 2009 Act.
- 3.2. Article 32L of the Child Support (Northern Ireland) Order 1991 gives the Department for Social Development the power to apply to the High Court for an order restraining a person who has not paid child support maintenance from disposing of property with the intention of avoiding payment of that maintenance. These rules amend the principal Rules to provide the procedure for obtaining this order preventing avoidance.

4. Consultation

- 4.1. Given the representative nature of the Family Proceedings Rules Committee and the procedural technical nature of the Rules, formal consultation was deemed unnecessary. The Rules make minor consequential amendments and provide the procedure for applications for orders preventing avoidance in the High Court set out under Article 32L of the Child Support (Northern Ireland) Order 1991.

5. Equality Impact

- 5.1. This Statutory Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

- 6.1. This Statutory Rule does not require a Regulatory Impact Assessment as it does not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. The Rules do not have any financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. It is the view of the Northern Ireland Courts and Tribunals Service that this Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. There are no EU implications associated with this Statutory Rule.

10. Parity or Replicatory Measure

- 10.1. In England and Wales the corresponding Statutory Instrument is the Family Proceedings (Amendment) Rules 2010 (S.I 2010 No.786) which was made on 10th March 2010 and came into force on 6th April 2010.

11. Additional Information

- 11.1. Not applicable.