

**EXPLANATORY MEMORANDUM TO**  
**THE RULES OF THE COURT OF JUDICATURE (NORTHERN IRELAND)**  
**(AMENDMENT) 2011**

**S.R. 2011 No.62**

**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 sections 55 and 55A of the Judicature (Northern Ireland) Act 1978 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1. The Rules of the Court of Judicature (Northern Ireland) 1980 ('the principal Rules') govern practice and procedure in the High Court and Court of Appeal in Northern Ireland.
- 2.2. These Rules amend the principal Rules to give effect to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters ('the Directive') and to take account of the provisions of Part 7 of the Coroners and Justice Act 2009 ('2009 Act').
- 2.3. The Statutory Rule is made by the Court of Judicature Rules Committee and allowed by the Department of Justice.

**3. Background**

- 3.1. The Directive requires Member States to legislate by 21 May 2011 to facilitate the use of mediation in cross-border disputes in civil and commercial matters where parties attempt to reach an amicable settlement on a voluntary basis. These Rules make provision for the enforceability of mediation agreements, the confidentiality of the mediation process and allow the High Court to invite parties to have recourse to mediation and to extend the time for compliance with any provision in the principal Rules or any order of the High Court.
- 3.2. Part 7 of the 2009 Act introduced exploitation proceeds orders through which courts can order offenders to pay a specified sum of money in respect of assets or other benefits derived from the exploitation of their crimes by, for example, selling memoirs or receiving payments for public speaking or media interviews. Sums arising from exploitation proceeds orders are paid to the Serious Organised Crime Agency. These Rules amend the principal Rules make prescribe the procedure relating to applications for, or in relation to, exploitations proceeds orders.

#### **4. Consultation**

- 4.1. Given the representative nature of the Court of Judicature Rules Committee, the procedural technical nature of the Statutory Rule and the fact that the purpose of the Statutory Rule is to give effect to an existing Directive and primary legislation, formal consultation was deemed unnecessary.

#### **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. This Statutory Rule does 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. This Statutory Rule implements Directive 2008/52/EC. Member States are required to legislate to give effect to the Directive by 21 May 2011.

#### **10. Parity or Replicatory Measure**

- 10.1. In England and Wales the corresponding Statutory Instrument in relation to the Rules implementing the Directive is the Civil Procedure (Amendment) Rules 2011 (SI 2011/88) which was made on 17 January 2011 and comes into operation on 6 April 2011.

#### **11. Additional Information**

- 11.1. Not applicable.