

EXPLANATORY MEMORANDUM TO
The Criminal Justice (European Protection Order) (Amendment) Regulations
(Northern Ireland) 2015

2015 No. 353

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. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 (the Department of Justice is designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to criminal justice (S.I. 2012/2751)) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of this Statutory Rule is to make some minor amendments to the Criminal Justice (European Protection Order) (Northern Ireland) Regulations 2014 in order to ensure that the policy operates as intended.

3. Background

- 3.1. The purpose of the original 2014 Regulations is to give effect to Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order (“the Directive”), which came into force on 11 January 2015. The Statutory Rule will allow "protection measures" made in criminal matters by other EU member States to be recognised and operate in Northern Ireland.
- 3.2. This Statutory Rule makes minor amendments and technical corrections to the 2014 Regulations. Regulation 2(2) amends Regulation 3 of the 2014 Regulations to ensure that a “European protection order” is defined and has the meaning given by regulation 4(9) of those Regulations, and to clarify the definition of "protection measure". Regulation 2(3) amends Regulation 10 of the 2014 Regulations to deal with decisions to renew, (rather than review) modify and revoke the underlying protection measure and the effect on the European protection order. Regulation 2(4) amends Regulation 14 of the 2014 Regulations to ensure that the protected person and the competent authority of the issuing State are informed of the terms of the order and the possible legal consequences in the event of breach. "Issuing" has substituted the word "member" in the above instance in order to make it clear which state is being referred to. Regulation 2(5) amends regulation 17 of the 2014 Regulations to apply where the competent authority of the issuing State has modified a European protection order.

4. Consultation

4.1. No formal consultation on this instrument has taken place as the United Kingdom Government opted in to the Directive at the outset and constituent jurisdictions are therefore bound to implement its provisions into domestic law. The agents of delivery are chiefly public authorities and those have been engaged in the development of the original policy and legislation.

5. Equality Impact

5.1. The Regulations are a requirement of the specified EU Directive which itself has been subject to equality and human rights assessment. The Regulations improve the protections available to all vulnerable individuals who may move between member States. They will be of equal benefit to all and are therefore in compliance with section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1. There is no foreseen impact on business, charities or voluntary bodies. An Impact Assessment has therefore not been prepared for this instrument.

7. Financial Implications

7.1. The amendments made by the Regulations will have no financial impact on the public sector within the criminal justice system.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations have been assessed as being compatible with Convention rights and are a requirement of Community law. The procedures being introduced will be available to all of those, without discrimination, who need member State protection measures recognised and if necessary enforced by the criminal justice system in Northern Ireland.

9. EU Implications

9.1. The Regulations implement Northern Ireland's requirements arising from Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order ("the Directive"). These Regulations will come into force on 2 November 2015.

10. Parity or Replicatory Measure

10.1. The Regulations as amended maintain parity with equivalent subordinate legislation in England and Wales to ensure that a consistent approach to the recognition of protection measures is provided in both jurisdictions.

11. Additional Information

11.1. Not applicable.