

**EXPLANATORY MEMORANDUM TO**  
**THE RULES OF THE COURT OF JUDICATURE (NORTHERN IRELAND)**  
**(AMENDMENT NO. 2) 2015**

**2015 NO. 368**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice, in conjunction with the Home Office as the lead policy department for extradition matters, and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The Rules of the Court of Judicature (Northern Ireland) (Amendment No. 2) 2015 amend the Rules of the Court of Judicature (Northern Ireland) 1980 (“the Principal Rules”) to make provision in relation to applications for leave to appeal to the High Court under the Extradition Act 2003 (“the “2003 Act”).

**3. Matters of special interest to Parliament**

*Matters of Special Interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 On 15 April 2015, the 2003 Act was amended by the Anti-Social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”) to introduce an ‘appeals filter’ whereby parties must now obtain leave from the High Court before an appeal against a decision to order extradition or a decision to discharge can be heard.
- 4.2 In order to make the appeals filter work properly in Northern Ireland, changes to court rules in that jurisdiction are required. Therefore, and in accordance with sections 55 and 55A of the Judicature (Northern Ireland) Act 1978, the Northern Ireland Court of Judicature Rules Committee has met and has made amendments to the relevant rules, with the approval of the Lord Chancellor.

## **5. Territorial Extent and Application**

5.1 This instrument extends and applies to Northern Ireland.

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

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

## **7. Policy background**

7.1 The 2014 Act and the Extradition Act 2003 (Amendment to Designations and Appeals) Order 2015 (“the 2015 Order”)<sup>1</sup> amend the 2003 Act. The effect of the amendments is two-fold. First, they make the requested person’s and requesting State’s rights of appeal under the relevant provisions of the 2003 Act<sup>2</sup> lie only with the leave of the High Court: in this case, the High Court in Northern Ireland.

7.2 Second, they set out that the High Court must not refuse to entertain an application for leave to appeal by the requested person solely because it has been submitted outside the normal time period, if the person did everything reasonably possible to ensure that the notice was given as soon as it could be. Normally, notice of appeal must be given within seven days of the extradition order being made in Part 1 cases, and within 14 days of the date on which the Secretary of State informs the person of the order in Part 2 cases.

7.3 The change in the 2014 Act aimed to ensure that the appeal process was not used simply as a means of delaying the extradition process, and that unmeritorious appeals were filtered out of the system, allowing challenges with merit to be heard and resolved quickly.

7.4 These changes mean that the Principal Rules require amendment. The amendments made by this instrument specifically affect Rule 3 of Order 61A of the Principal Rules, which governs applications for leave under the 2003 Act.

## **8. Consultation outcome**

8.1 The Northern Ireland Rules Committee consulted on an informal basis with the Crown Solicitor and Northern Ireland Courts and Tribunal Service, prior to making the amending rules. In addition, the legal professions, judiciary and Northern Ireland Attorney General’s Office are all represented on the Committee and to that extent, stakeholders were directly involved in the making of the changes.

## **9. Guidance**

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<sup>1</sup> Article 2 of the Anti-social Behaviour, Crime and Policing Act (Commencement No. 9 and Transitional Provisions) Order 2015/987 brought into force section 160 of the 2014 Act on 15 April 2015. Article 3 of the Extradition Act 2003 (Amendment to Designations and Appeals) Order 2015/992 also came into force on 15 April 2015 and made consequential amendments to the 2003 Act in relation to the operation of the appeals filter.

<sup>2</sup> (Sections 26, 28, 103, 105, 108, 110 of the 2003 Act)

9.1 None

**10. Impact**

10.1 There is no impact on business, charities or voluntary bodies or on the public sector.

10.2 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 It is one of the functions of the Rules Committee to monitor the operation of court rules. This is done through meetings of the Committee and informally by individual members who may put issues before the full Committee for consideration. It is anticipated that the rules implementing the appeals filter in extradition proceedings will be monitored in this way.

**13. Contact**

13.1 Emma Burgess at the Ministry of Justice: 020 3334 4727 or email: [emma.burgess@justice.gsi.gov](mailto:emma.burgess@justice.gsi.gov) can answer any queries regarding the instrument.