

EXPLANATORY MEMORANDUM TO

The Crown Court (Amendment) Rules (Northern Ireland) 2016

S.R. 2016 No. 297

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 powers conferred by sections 52(1) and 53A of the Judicature (Northern Ireland) Act 1978 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to amend the Crown Court Rules (Northern Ireland) 1979 ("the 1979 Rules") in consequence of Part 1 of (and Schedule 1 to) the Justice Act (Northern Ireland) 2015 ("the Act") which creates a single territorial jurisdiction for the county courts and the magistrates' courts in Northern Ireland, similar to that which already exists for the High Court, Crown Court and Coroners' Courts.

3. Background

- 3.1. Under the Act the existing statutory county court divisions and petty sessions districts are abolished; administrative court divisions will be created; arrangements for the appointment of lay magistrates and justices of the peace are consequentially amended; and all statutory arrangements for the distribution of court business will be revoked and replaced by new, more flexible administrative directions. Chief clerks and clerks of petty sessions will no longer act for a county court division or petty sessions district, but instead, Departmental directions will make provision for the allocation of their business.
- 3.2. The 1979 Rules make provision for the practice and procedures to be followed in the Crown Court. While the arrangements introduced by the Act will not affect the business of the Crown Court (which already operates for the whole of Northern Ireland), a number of the 1979 Rules make reference to county court divisions and to the chief clerk for a particular Court or county court division, which require to be amended.
- 3.3. Except in relation to Rule 47A of the 1979 Rules, the Statutory Rule seeks to omit all references to "county court division" found in the 1979 Rules, and to amend the references to the chief clerk to remove those jurisdictional limitations.
- 3.4. Rule 47A of the 1979 Rules makes provision for the excusing of jurors and for appeals against Juries Officers' decisions in this regard. The rule includes a definition of "county court division" for the purposes of defining "Juries Officer". Paragraph 108 of Schedule 1 to the Act amends the Juries (Northern Ireland) Order 1996 so that references in that Order to

a county court division become references to an administrative court division.

- 3.5. The Statutory Rule seeks to amend the reference to county court division in Rule 47A in line with the primary provision.

4. Consultation

- 4.1. Consultation with the Justice Committee took place in relation to the proposed Statutory rule in June 2016.
- 4.2. The Crown Court Rules Committee, which is chaired by the Lord Chief Justice and made up of representatives from the Judiciary and the legal professions were consulted prior to their making of the Rule.

5. Equality Impact

- 5.1. The underlying policy was screened before the making of the primary legislation. No adverse impacts for any of the nine categories in section 75 of the Northern Ireland Act 1998 were identified. A full Equality Impact Assessment was, therefore, not conducted.
- 5.2. The amendments made by the Statutory Rule are technical and purely consequential upon the primary provisions. No new policy is introduced.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment is not considered necessary. There will be no impact on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. None.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that the Rules are not incompatible with the Convention rights, are not incompatible with European Union law, do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. None.

10. Parity or Replicatory Measure

- 10.1. The creation of a single jurisdiction in Northern Ireland is not intended to replicate arrangements elsewhere, however, a single county court was created in England and Wales by virtue of section 17 of the Crime and Courts Act 2013.

11. Additional Information

- 11.1. None.