

EXPLANATORY MEMORANDUM TO

The Crown Court (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) (Amendment) Rules (Northern Ireland) 2016

S.R. 2016 No. 298

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 (Criminal Procedure and Investigations Act 1996) (Tainted Acquittals) Rules (Northern Ireland) 1997 ("the 1997 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.
- 3.2. While these arrangements will not affect the business of the Crown Court (which already operates for the whole of Northern Ireland), a small amendment to the 1997 Rules is nonetheless required.
- 3.3. The 1997 Rules make provision in relation to applications to the High Court for orders quashing a person's 'tainted' acquittal of an offence. Rule 4 specifies the persons who are to be served with notice of the application, including the clerk of petty sessions for the petty sessions district where the acquittal took place.
- 3.4. A consequence of the creation of a single jurisdiction is that chief clerks and clerks of petty sessions will no longer act for a county court division or petty sessions district. Instead, Departmental directions will make provision for the allocation of their business.
- 3.5. The Statutory Rule therefore seeks to remove from Rule 4 the reference to petty sessions district, which will become obsolete upon implementation of Part 1 of the Act.

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 amendment made by the Statutory Rule is 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 jurisdiction 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.