

EXPLANATORY MEMORANDUM TO

The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2016

S.R. 2016 No. 299

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 sections 55 and 55A 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 Rules of the Court of Judicature (Northern Ireland) 1980 ("the 1980 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 new provisions and amendments made by the Act will not affect the business of the High Court which already operates for the whole of Northern Ireland.
- 3.3. A small number of the 1980 Rules, which govern the practice and procedures in the High Court, nonetheless require to be amended: those rules which deal with the transfer of business between the High Court and the lower courts make reference to county court divisions or petty sessions districts; as do the rules relating to the appointment of commissioners for oaths and notaries public, for whom the Lord Chief Justice is responsible.
- 3.4. The Statutory Rule amends those rules to take account of the changes. Arrangements for the appointment of commissioners for oaths and notaries public are amended to refer to local government districts rather than petty sessions districts. The intention of this change is to retain the local nature of these appointments.

- 3.5. The remaining amendments simply remove the references to county court divisions and petty sessions districts.

4. Consultation

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

5. Equality Impact

- 5.1. The underlying policies were 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.