

EXPLANATORY MEMORANDUM TO

The County Court (Miscellaneous Amendment) Rules (Northern Ireland) 2016

S.R. 2016 No. 300

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 Article 47 of the County Courts (Northern Ireland) Order 1980 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to amend the Water Supplies and Sewerage (Northern Ireland) County Court Rules 1955; the County Court (Summoning of Witnesses in Criminal Proceedings and Appeals) Rules (Northern Ireland) 1966; and the County Court (Affidavit of Service) Rules (Northern Ireland) 1972, 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.

3. Background

- 3.1. Under the Act the existing statutory county court divisions and petty sessions districts are abolished; arrangements for the appointment of lay magistrates and justices of the peace are consequentially amended; and all statutory arrangements for the distribution of business in the county courts and magistrates' courts will be revoked. In their place an administrative framework, consisting of directions issued by the Department of Justice and the Lord Chief Justice, will be introduced.
- 3.2. The Departmental directions will create new administrative court divisions and will provide new arrangements for the allocation of business between chief clerks and clerks of petty sessions.
- 3.3. Further administrative arrangements will see the appointment of the county court's process servers to administrative court divisions in place of their current appointments to county court divisions.
- 3.4. The Lord Chief Justice will be responsible for the distribution of business in the county courts and magistrates' courts and for the allocation of judges. His directions will replace all existing statutory rules and other provisions which indicate the division in which a matter should be dealt with, but will be modelled upon those provisions, so that existing principles will prevail. The key change will be the introduction of new flexibility, allowing cases to be listed in, or transferred to, an alternative administrative court division where there is good reason to do so.

- 3.5. The rules which are amended by the Statutory Rule make provision for the practice and procedure to be followed in the county courts under the particular provisions to which they relate. They make references to county court divisions, which will become obsolete upon implementation of Part 1 of the Act. Where those references relate to a process server for a county court division they are amended to instead refer to a process server for an administrative court division. References to the county court division where proceedings should be heard, or the Judge or other officer for a particular County are omitted, as the new arrangements will make the required 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 County Court Rules Committee, which is made up of representatives from the Judiciary, the legal professions and Northern Ireland Courts and Tribunals Service were consulted prior to their making of the Rule.
- 4.3. The Department has also consulted on the Rule with the Lord Chief Justice per its statutory duty under Article 47 of the County Courts (Northern Ireland) Order 1980.

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.