

EXPLANATORY MEMORANDUM TO

The Magistrates' Courts (Amendment No 2) Rules (Northern Ireland) 2016

S.R. 2016 No. 304

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 13 of the Magistrates' Courts (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to amend the Magistrates' Courts Rules (Northern Ireland) 1984 ("the 1984 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.

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 magistrates' courts' summons servers to the new administrative court divisions, in place of their existing appointments to petty sessions districts.
- 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 these 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 1984 Rules are the main rules making provision for the practice and procedures to be followed in the magistrates' courts. The amendments made by the Statutory Rule take account of the changes introduced by the Act.

- 3.6. This is achieved, primarily, by: amending the rules to omit references to the county court division and petty sessions district in which a matter should be heard or dealt with; amending references to the chief clerk, judge, and clerk of petty sessions to remove references to the particular county court division or petty sessions district for which they act; amending references to summons servers for a petty sessions district to instead refer to the administrative court division for which they will be appointed; and by omitting or amending other references to petty sessions districts or county court divisions as appropriate.
- 3.7. The Statutory Rule also omits those rules which are premised upon the existence of county court divisions and petty sessions districts and so 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 Magistrates' Courts 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 in accordance with its statutory duty under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981.

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.