

## **EXPLANATORY MEMORANDUM TO**

### **The Justice Act (Northern Ireland) 2015 (Single Jurisdiction) (Consequential Amendments and Revocations) Order (Northern Ireland) 2016**

**S.R. 2016 No. 317**

#### **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 section 6(2) and (3) of the Justice Act (Northern Ireland) 2015 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. The purpose of the Statutory Rule is to amend subordinate legislation (other than court rules which have been amended separately) 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; Northern Ireland will be divided, by directions issued by the Department of Justice, into areas to be known as administrative court divisions; the Lord Chief Justice will issue directions as to the distribution of business in the magistrates' and county courts; the Department of Justice may give directions as to the statutory functions of chief clerks and clerks of petty sessions; arrangements for the appointment of lay magistrates and justices of the peace are consequentially amended; and the concepts of divorce county courts and civil partnership proceedings county courts as distinct categories of county courts are abolished.
- 3.2. The Lord Chief Justice's 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.
- 3.3. The Statutory Rule amends subordinate legislation which makes reference to county court divisions, petty sessions districts, divorce county courts and civil partnership proceedings county courts. This is achieved, primarily, by omitting references to the county court division and petty sessions district in which a matter should be heard or dealt with; omitting references to divorce county courts and civil partnership proceedings county courts; 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.

- 3.4. A number of consequential insertions or amendments of text are also made for the purposes of clarity; to ensure the ongoing operation of the provisions which are amended; and to maintain the intention of the provisions as appropriate. In particular, the Schedule to the Order inserts a new Schedule into the Juries (Northern Ireland) Order 1996 for use in preparing jury lists. The new Schedule specifies the local government wards from which jurors may be selected for each of the new administrative court divisions. Previously jurors were selected by reference to the petty sessions district in which they lived. Retaining boundaries for the purpose of their selection will ensure that jurors do not have to travel excessive distances to comply with their juror duties.
- 3.5. The Statutory Rule also revokes those Orders which specify the county court divisions and petty sessions districts into which Northern Ireland is divided and those Orders which specify the county courts which are designated as divorce county courts and civil partnership proceedings county courts.

#### **4. Consultation**

- 4.1. Consultation with the Justice Committee took place in relation to the proposed Statutory Rule in June 2016.
- 4.2. The Department has also consulted on the Rule with key operational colleagues.

#### **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.