

## **EXPLANATORY MEMORANDUM TO**

### **The Civil Legal Services (Remuneration) (Amendment) (No. 2) Order (Northern Ireland) 2016**

**SR 2016 No. 396**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 12(3) and 47 of the Access to Justice (Northern Ireland) Order 2003 ("the 2003 Order") and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. This Order amends the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015 by inserting new provisions to provide that civil legal services funding for representation under the 2003 Order is available for the following proceedings in a court of summary jurisdiction: proceedings under paragraph 2, 6 or 7 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (in relation to the Slavery and Trafficking Prevention Order – "STPO") and proceedings under section 57, 60 or 61 of the Justice Act (Northern Ireland) 2015 (in relation to the Violent Offences Prevention Order – "the VOPO"). It will come into operation on 1 December 2016.

#### **3. Background**

- 3.1. The STPO is also a new civil preventative order aimed at helping to protect the public or specific persons, from the physical or psychological harm posed by an individual who has committed a slavery or trafficking offence. The STPO will allow the court to place prohibitions or requirements on the activities and behaviour of a slavery or human trafficking adult offender (those aged 18 years or over), and those subject to the Order will also be made automatically subject to notification requirements.
- 3.2. The VOPO is a new civil preventative order aimed at helping to mitigate against the risk of violent re-offending. It will allow the court to place relevant prohibitions or requirements on the behaviour of a qualifying violent offender, and those subject to the Order will also be made automatically subject to notification requirements.
- 3.3. Representation for these proceedings -- as listed at paragraph 2.1 above -- are not currently listed under Article 12(5) of, together with Schedule 2 to, the 2003 Order as services which may be funded by way of civil legal services.
- 3.4. The Civil Legal Services (Scope) (No. 2) Regulations (Northern Ireland) 2016 will come into operation on 1 December 2016 and will bring these proceedings within the scope of civil legal services. This Order makes

consequential amendments which are linked to the Scope No. 2 Regulations.

#### **4. Consultation**

- 4.1. The Department issued a targeted consultation with the Law Society of Northern Ireland, the General Council of the Bar of Northern Ireland and the Office of the Lord Chief Justice.
- 4.2. No wider consultation took place on the Order.

#### **5. Equality Impact**

- 5.1. An equality screening exercise was carried out. This indicated that a full equality impact assessment was not required under section 75 of the Northern Ireland Act 1998.

#### **6. Regulatory Impact**

- 6.1. The Order was screened for its regulatory impact. The provisions contained in the Order will impose no additional costs on businesses, charities or the voluntary sector. Accordingly, a full Regulatory Impact Assessment was not considered necessary.

#### **7. Financial Implications**

- 7.1. As civil legal aid funding is being introduced for these new types of proceedings, it is anticipated that there will be a modest associated annual financial cost.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. The Department considers this Order to be compatible with section 24 of the Northern Ireland Act 1998.

#### **9. EU Implications**

- 9.1. Not applicable.

#### **10. Parity or Replicatory Measure**

- 10.1. Not applicable.

#### **11. Additional Information**

- 11.1. Not applicable.