

## **EXPLANATORY MEMORANDUM TO**

### **The Legal Aid for Crown Court Proceedings (Costs) (Amendment No. 3) Rules (Northern Ireland) 2016**

**SR 2016 No. 397**

#### **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 36(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ("the 1981 Order") and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. These Rules amend the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 by inserting new provisions to provide that criminal legal aid funding for representation under the 1981 Order is available for the following proceedings in the Crown Court: breach of a Slavery and Trafficking Prevention Order ("STPO") and breach of a Violent Offences Prevention Order ("VOPO"). They 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. Breach of a STPO's conditions, or its notification requirements, without reasonable excuse, will be a criminal offence, punishable by up to six months imprisonment on summary conviction, or up to five years imprisonment on indictment.
- 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. Breach of a VOPO's conditions, or its notification requirements, without reasonable excuse, will be a criminal offence, punishable by up to six months imprisonment on summary conviction, or up to five years imprisonment on indictment.

#### **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, the Office of the Lord Chief Justice, the Attorney General and the Crown

Court Rules Committee. In addition, the Department obtained the approval of the Department of Finance.

4.2. No wider consultation took place on the Rules.

## **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 Rules were screened for their regulatory impact. The provisions contained in the Rules 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 criminal 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 these Rules 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.