

**EXPLANATORY MEMORANDUM TO  
THE RULES OF THE SUPREME COURT (NORTHERN IRELAND)  
(AMENDMENT No.2) 2005**

**2005 No. 163**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

**2. Description**

- 2.1 The instrument amends Order 38 of the Rules of the Supreme Court (Northern Ireland) 1980 (“the principal Rules”) to allow for evidence of any particular fact to be given by live television link, telephone or any other method of direct communication.

- 2.2 The instrument also amends Order 88 of, and Appendix A to, the principal Rules to:

- provide that any postal address for the security must be included in the description in the originating summons;
- reflect the requirement for notice to be sent in certain circumstances to prior mortgagees; and
- substitute for two of the forms currently prescribed in the principal Rules, a single notice to defendant which explains to mortgagor defendants the procedure in residential property cases, should they wish to apply for time to address their obligations. The new notice also contains a detailed written budget form for a defendant to complete.

- 2.3 The Rules also substitute a new Form 38 (Notice of application to the High Court for bail) into the principal Rules.

**3. Matters of special interest to the Joint Committee on Statutory Instruments/Select Committee on Statutory Instruments**

- 3.1 None

**4. Legislative Background**

- 4.1 None – These Rules make a number of amendments to the principal Rules to give effect to recommendations from different bodies and to improve the manner in which certain applications are dealt with in the High Court (*See section 7*).

**5. Extent**

- 5.1 The instrument extends to Northern Ireland only.

**6. European Convention on Human Rights**

- 6.1 Not applicable.

## **7. Policy background**

- 7.1 The Civil Justice Reform Group recommended that there should be increased use of technology in the civil courts, with particular reference to its value in receiving evidence from expert witnesses. These Rules allow for certain evidence to be given by live television link, telephone or any other method of direct communication.
- 7.2 The Rules, insofar as they relate to mortgage actions, give effect to a number of recommendations of the Chancery Division Liaison Committee.
- 7.3 The Rules also substitute a new notice of application to the High Court for bail which will require an applicant to provide information regarding his readiness to proceed. This information will be used to facilitate more efficient listing of bail applications in the High Court, thereby reducing the number of adjournments.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities, or voluntary bodies.

## **9. Contact**

- 9.1 Geraldine Fee at the Northern Ireland Court Service (telephone: 028 9041 2250); e-mail: [geraldinefee@courtsni.gov.uk](mailto:geraldinefee@courtsni.gov.uk)) can answer any queries about this instrument.