

EXPLANATORY MEMORANDUM TO

The County Courts (Financial Limits) Order (Northern Ireland) 2022

2022 No. 158

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 22(1) of the County Courts (Northern Ireland) Order 1980 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule will amend Article 30(3) of the County Courts (Northern Ireland) Order 1980 (“the Order”) to increase the upper jurisdictional limit of the Small Claims Court from £3,000 to £5,000.
- 2.2. The Statutory Rule is made by the Department of Justice after consultation with the Lady Chief Justice.

3. Background

- 3.1. Since the last increase in small claims jurisdiction in 2011 and wider county court jurisdiction in 2013, two reviews of the legal system in Northern Ireland, namely A Strategy for Access to Justice: The Report of Access to Justice II (Stutt Review) and the Review of Civil and Family Justice in Northern Ireland: Review Group’s Report on Civil Justice (Gillen Review), recommended that the current county court financial limits should be increased, to maximise the efficiency of the system, with cases heard in the right court setting, consistent with their complexity and relative value.

4. Consultation

- 4.1. On 4 February 2021 the Department initiated a policy consultation inviting views on proposals relating to the financial jurisdiction of the county courts in Northern Ireland, which include the small claims court. The broad intention of the proposals outlined in the consultation was to make our civil justice system faster, more convenient and more efficient for those people who come into contact with it. This involves ensuring, so far as possible, cases are heard in the right court setting, consistent with the complexity and value of the case, and making the most effective use of judicial and administrative resources.
- 4.2. The consultation explored the benefits of extending the jurisdiction of the county courts which would ensure that the claims which do not need the procedural complexity of High Court proceedings or the attention of a High Court judge, would be heard instead in the county courts. Views were also sought as to whether the small claims jurisdiction should be increased from £3,000 to £5,000; whether the current county court

jurisdiction of £30,000 for clinical negligence claims should be maintained; whether county court and district judges should have a statutory power to remove cases from the county courts to the High Court; and, whether the general civil jurisdiction in respect of defamation cases should be increased and, if so, to what level.

- 4.3. The consultation closed on 20 April 2021. Eighteen responses were received, with just over three quarters from the legal professions or insurance companies. Responses were also received from the judiciary and public sector organisations. The summary of responses to the consultation was published on 23 November 2021 in which the Department indicated its intention to increase the jurisdiction of the small claims court from £3,000 to £5,000 effected by this Statutory Rule on 3 November 2022. The Department proposed that the other issues on which it consulted may be taken forward at a later date.
- 4.4. Orders made under Article 22 of the County Courts (Northern Ireland) Order are subject to consultation with the Lady Chief Justice of Northern Ireland. The Lady Chief Justice was consulted and her comments taken into account.

4.5.

5. Equality Impact

- 5.1. The policy to which this Statutory Rule gives effect has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified. The equality screening exercise found proposals are likely to have a positive impact, particularly on those with mobility or dependency issues, as changes will improve access to justice by ensuring a greater number of cases be heard in convenient local courts.

6. Regulatory Impact

- 6.1. An RIA was undertaken during the development of the policy proposals outlined in the consultation, with a full business case undertaken and approved by the Department of Finance prior to making the Order. It is the Department's view that the assessments presented a reasonable view of likely costs, benefits and impacts on the available statistical evidence. They showed proposals relating to the small claims court would bring monetary and nonmonetary benefits to society and the justice system, with cases directed to the most appropriate court consistent with their complexity and relative value, the efficient allocation of judicial and administrative resources, and modest potential savings to the Legal Aid budget.

7. Financial Implications

- 7.1. The proposal to increase the jurisdiction of the small claims court was subject to a proportionate business case, approved by the Department of Finance. The operating costs associated with change are based primarily on fees reduction for Northern Ireland Courts & Tribunal Service (NICTS). This reflects the fact that the fees for proceeding with a case in the small claims court is lower than in the county court. The impact on

NICTS in 2021/22 would be met from internal budgets. Thereafter, a review of court fees and administrative resourcing would be undertaken after one year to take account of increased caseloads.

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 this Statutory Rule is compliant.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. Not applicable

11. Additional Information

11.1. Not applicable