

EXPLANATORY MEMORANDUM ON THE DECLARATIONS OF PARENTAGE (ALLOCATION OF PROCEEDINGS) (AMENDMENT) ORDER (NORTHERN IRELAND) 2004

1. Title of the instrument

- i). The Declarations of Parentage (Allocation of Proceedings) (Amendment) Order (Northern Ireland) 2004

Laying Authority and Purpose

- ii). This explanatory memorandum is laid before Parliament by Command of Her Majesty.

Department responsible

- iii). Department for Constitutional Affairs (Northern Ireland Court Service).

2. Description

The instrument amends the Declarations of Parentage (Allocation of Proceedings) Order (Northern Ireland) 2002 to allow for the transfer of proceedings under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (Declarations of Parentage) from one family proceedings court to another family proceedings court.

It also designates Dungannon county court as a family care centre and designates the juvenile court in East Tyrone (instead of the juvenile court in Omagh) as a family proceedings court for the purpose of hearing declarations of parentage proceedings.

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

There are no matters of special interest.

4. Legislative Background

Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 provides for applications to a court for a declaration of parentage (that is whether or not a person named in the application is or was the parent of another named person). Proceedings under Article

31B of the 1989 Order are commenced in, and where appropriate transferred between courts in accordance with the Declarations of Parentage (Allocation of Proceedings) Order (Northern Ireland) 2002.

The 2002 Order allows an application for a declaration of parentage to be commenced in the High Court, a family proceedings court (which are juvenile courts for the petty sessions districts listed in Schedule 1) or in a family care centre (which are those county courts listed in Schedule 2). Proceedings may also be transferred between such courts.

5. Extent

The instrument extends to Northern Ireland only.

6. European Convention on Human Rights

It is the Minister's view that the Order is compatible with the European Convention on Human Rights.

7. Policy background

The 2002 Order does not currently allow for the lateral transfer of proceedings under Article 31B of the 1989 Order from one family proceedings court to another. It is considered that, where the application concerns a child, the courts should be allowed that degree of flexibility in managing cases where that is in the child's interest.

The 2002 Order specifies three county courts in Northern Ireland as family care centres to which proceedings under Article 31B of the 1989 Order, which are exceptionally important or complex, might be transferred. It is considered that designating Dungannon County Court as an additional family care centre for the purpose of such proceedings will provide greater flexibility, increase access to justice and assist in reducing delays in hearing these cases.

It is also considered that it is desirable to designate the juvenile court in East Tyrone as a family proceedings court instead of the juvenile court in Omagh, as the recently constructed courthouse in Dungannon (where East Tyrone juvenile court sits) will provide superior facilities for the family proceedings court.

The Declarations of Parentage (Allocation of Proceedings) (Amendment) Order (Northern Ireland) 2004 will therefore amend the 2002 Order to

provide in certain circumstances for the lateral transfer of declaration of parentage proceedings from one family proceedings court to another, to specify Dungannon County Court an additional family care centre and to designate the juvenile court in East Tyrone (instead of the juvenile court in Omagh) as a family proceedings court for the purpose of hearing declarations of parentage proceedings.

8. Impact

It is considered that the instrument will have no significant impact on business, charities, voluntary bodies or the Exchequer.

9. Contact

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