

**EXPLANATORY MEMORANDUM TO**  
**THE RULES OF THE COURT OF JUDICATURE (NORTHERN IRELAND)**  
**(AMENDMENT NO. 3) 2011**

**S.R. 2011 No. 229**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice (Northern Ireland Courts and Tribunals Service) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 55 and 55A of the Judicature (Northern Ireland) Act 1978 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1. The Rules of the Court of Judicature (Northern Ireland) 1980 ('the principal Rules') (S.R. 1980 No. 346) govern practice and procedure in the High Court and Court of Appeal in Northern Ireland.
- 2.2. These Rules amend the principal Rules to provide for the award of penalties by the High Court (rather than the Industrial Court) under the Transnational Information and Consultation of Employee Regulations 1999 ('the 1999 Regulations')(S.I. 1999/3323) in consequence of amendments made by the Transnational Information and Consultation of Employee Regulations (Amendment) Regulations 2010 ('the 2010 Regulations') (S.I. 2010/1088).
- 2.3. The Statutory Rule is made by the Court of Judicature Rules Committee and allowed by the Department of Justice.

**3. Background**

- 3.1. Employees of large multinational companies based in the UK and with a presence elsewhere in Europe have a right to ask for a European Works Council ('EWC') to be set up. An EWC is a body that represents employees of the multinational in the European Economic Area in discussions with management on transnational issues. The right to be represented by an EWC was first introduced by the European Works Council Directive in 1994 (1994/45/EC). This was extended to cover the UK in 1997 and was implemented in the UK through the 1999 Regulations.
- 3.2. Under the 1999 Regulations, the Industrial Court in Northern Ireland had the powers both to hear complaints and award penalties relating to EWCs. This was an anomaly and the 2010 Regulations offered the first opportunity to amend this to provide for the award of penalties by the High Court. The 2010 Regulations were required to implement the provisions of the recast European Works Council Directive (2009/38/ EC). This Statutory Rule amends the principal Rules to enable the award of these penalties by the High Court.

#### **4. Consultation**

- 4.1. Given the representative nature of the Court of Judicature Rules Committee, the procedural and technical nature of the Statutory Rule and the fact that the purpose of the Statutory Rule is to give effect to amending regulations which are of a technical nature, a formal consultation was deemed unnecessary.

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

- 5.1. This Statutory Rule gives effect to the 2010 Regulations which are amending regulations and are technical in nature, correcting an anomaly in the current legislation. The 2010 Regulations will have no impact on any part of Section 75 of the Northern Ireland Act 1998.

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

- 6.1. This Statutory Rule does not require a Regulatory Impact Assessment as it does not impose any additional costs or savings on business, charities or voluntary bodies.

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

- 7.1. This Statutory Rule does not have any financial implications.

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

- 8.1. It is the view of the Northern Ireland Courts and Tribunals Service that this Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

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

- 9.1. This Statutory Rule supports implementation of the recast European Works Council Directive (2009/38/ EC).

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

- 10.1. Not applicable.

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

- 11.1. Not applicable.