

**EXPLANATORY MEMORANDUM TO  
DEPARTMENTS (TRANSFER OF FUNCTIONS) ORDER (NORTHERN  
IRELAND) 2011**

**S.R. 2011 No. 44**

**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 Article 8 of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)) by the First Minister and Deputy First Minister, acting jointly, and is subject to the affirmative resolution procedure.

**2. Purpose**

- 2.1. The Order transfers statutory responsibility to the Department of Justice for a variety of functions relating to the administration of the:
  - Mental Health Review Tribunal;
  - Care Tribunal;
  - Tribunal under Schedule 11 of the HSS(NI) Order 1972;
  - Special Educational Needs and Disability Tribunal;
  - Lands Tribunal;
  - Traffic Penalty Tribunal; and
  - Health and Safety Tribunal.
- 2.2. The functions transferred previously vested in the Department of Education, the Department of Enterprise, Trade and Investment, Department of Finance and Personnel Department of Health, Social Services and Public Safety and the Department for Regional Development.

**3. Background**

- 3.1. The Department of Justice is responsible for the administration of the majority of tribunals sitting in Northern Ireland. However statutory, financial, and policy responsibilities for many tribunals vests in the Northern Ireland department whose decisions or policies are subject to appeal before the tribunal. The absence of a single administration for tribunals has meant that historically the benefits of shared services have not been realised. The Northern Ireland Executive therefore agreed in July 2009 to the creation of a single unified and coherent system for the administration of tribunals under the remit of the then Northern Ireland Court Service.
- 3.2. Progress has already been made on the creation of a unified system for the administration for tribunals through administrative arrangements made under section 28 of the Northern Ireland Act 1998. Those arrangements have allowed the relevant sponsor Departments to contract with the Northern Ireland Courts and Tribunals Service for the management of

tribunals under a Service Level Agreement. This Order now provides for the statutory transfer of those responsibilities in respect of the tribunals listed above. The transfer was endorsed by the Justice Committee on 13 May 2010 and agreed by the Executive on 18 November 2010. The functions transferring under the Order varies from tribunal to tribunal, depending on the statutory framework, and the extent to which the ceding Department has retained responsibility for certain functions, but the framework for the creation of unified coherent efficient system is established.

#### **4. Consultation**

4.1. The Justice Committee and Committees for the Departments which presently have responsibility for the administration of the transferring tribunals have been consulted. The Department of Justice also consulted and obtained agreement of the departments whose functions are being transferred in the Order.

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

5.1. The proposal has been screened as not requiring an equality impact assessment. The proposals are likely to have positive benefits for human rights as they address concerns that tribunals are not presently sufficiently independent as required by Article 6.

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

6.1. This Rule gives realigns statutory responsibilities and will not affect delivery of functions to members of the public. The Rule does not impose any additional costs or savings on businesses, charities, social economy enterprises or voluntary bodies. A Regulatory Impact Assessment is not therefore required.

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

7.1. The transfer of responsibility for tribunals under the Order follows agreement as to the transfer of appropriate resources to the Department of Justice.

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

8.1. It is the view of the Northern Ireland Courts and Tribunals Service that that this Statutory Rule is 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.