

EXPLANATORY MEMORANDUM TO
The Crown Court (Amendment) Rules (Northern Ireland) 2015

SR No. 241

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 52(1) and 53A of the Judicature (Northern Ireland) Act 1978 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule will amend the Crown Court Rules (Northern Ireland) 1979 to allow for amendments to the Proceeds of Crime Act 2002 ("POCA") which were introduced by the Serious Crime Act 2015. The new procedures for which updated rules are necessary are: application for a compliance order (Rule 76A inserted) and application for discharge or variation of a confiscation or compliance order (Rule 76B inserted and Rules 83 and 84 amended).

3. Background

- 3.1. Government is strengthening the arrangements to tackle criminal finances by making it harder to move, hide and use the proceeds of crime. In line with this objective, the Serious Crime Act 2015 seeks to tighten the POCA legislation.
- 3.2. Among the new measures are the introduction of compliance orders through which the court may impose any restrictions, prohibitions or requirements that it considers appropriate to ensure that a confiscation order is paid. In particular, the court must consider whether to place a restriction or prohibition on the defendant's overseas travel in order to prevent disposal of assets beyond the reach of the confiscation order. It is possible for those affected, as well as the prosecutor, to apply to vary or discharge the order.
- 3.3. The Serious Crime Act further introduces the ability to discharge a confiscation order where the defendant has died and it is not feasible to seek further payment of the order from the defendant's estate.

4. Consultation

- 4.1. A consultation was carried out during policy development.

5. Equality Impact

- 5.1. Equality implications were considered during policy development – no equality issues were identified.

6. Regulatory Impact

- 6.1. None.

7. Financial Implications

7.1. None.

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 these Regulations are not incompatible with Convention rights, nor are they incompatible with Community law, do not discriminate against a person or class of person on the grounds of religious belief or political opinion, and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. There are no EU implications.

10. Parity or Replicatory Measure

10.1. The Ministry of Justice are considering the development of equivalent amendments to their own Crown Court Rules

11. Additional Information

11.1. Not applicable