

## **EXPLANATORY MEMORANDUM TO**

### **The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2022**

**S.R. 2022 No. 218**

#### **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 13 of the Magistrates' Courts (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. The purpose of the Statutory Rule is to amend the Magistrates' Courts Rules (Northern Ireland) 1984 (S.R. 1984 No. 225) in consequence of amendments made to the Magistrates' Courts (Northern Ireland) Order 1981 (1981 No. 1675 (N.I. 26)) by sections 1 to 3 of, and the Schedule to, the Criminal Justice (Committal Reform) Act (Northern Ireland) 2022 (c.4) ("the Act") to abolish preliminary investigations and mixed committals.

#### **3. Background**

- 3.1. Under the Act the existing options for proceeding with a committal hearing by way of a preliminary investigation or mixed committal are abolished for proceedings instituted on or after the coming into operation of sections 1 to 3 of, and the Schedule to, the Act.
- 3.2. This will mean that witnesses will not be required to provide evidence on oath and face cross examination as part of the committal proceedings and the process will now be completed by way of preliminary inquiry.
- 3.3. The magistrates' courts rules which are amended by the Statutory Rule make provision for the practice and procedures to be followed in the magistrates' courts when conducting a committal hearing.
- 3.4. The amendments take account of the changes introduced by the Act. This is achieved through amendments to existing rules or by repealing a number of rules which are no longer needed.

#### **4. Consultation**

- 4.1. In the absence of a Committee for Justice, consultation could not take place with them as usual. However, the policy content has not changed

from earlier consultations with the Committee and wider stakeholders through the introduction of the Primary Legislation.

- 4.2. The Magistrates' Courts Rules Committee, which is made up of representatives from the Judiciary, the legal professions and Northern Ireland Courts and Tribunals Service, were consulted prior to their making of the Rule.
- 4.3. The Department has also consulted on the Rule with the Lady Chief Justice per its statutory duty under Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981.

## **5. Equality Impact**

- 5.1. The underlying policies were screened before the making of the primary legislation. No adverse impacts for any of the nine categories in section 75 of the Northern Ireland Act 1998 were identified. A full Equality Impact Assessment was, therefore, not conducted.
- 5.2. The amendments made by the statutory rule are technical and purely consequential upon the primary provisions. No new policy is introduced.

## **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment is not considered necessary. There will be no impact on business, charities or voluntary bodies.

## **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 the Rules are not incompatible with the Convention rights, are not incompatible with European Union 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. None.

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

- 10.1. The abolition of preliminary investigations and mixed committals is not intended to replicate arrangements elsewhere.

## **11. Additional Information**

- 11.1. None.