EXPLANATORY MEMORANDUM TO

THE BLOOD TESTS (EVIDENCE OF PATERNITY) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2007

S.R. 2007 No. 99

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

2. Description

This instrument amends the Blood Tests (Evidence of Paternity) Regulations (Northern Ireland) 1978 ("the principal Regulations") so as to increase the charges which may be made by samplers under the principal Regulations in respect of scientific tests carried out on samples of bodily fluid or tissue for the purpose of determining parentage in civil proceedings.

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

None

4. Legislative Background

4.1 Article 10(1) of the Family Law Reform (Northern Ireland) Order 1977 (S.I. 1977/1250 (N.I. 17)) empowers the Secretary of State to make regulations regarding the charges that may be made for the taking and testing of bodily samples and for reporting to the court on the results thereof. The principal Regulations were made in pursuance of this power.

4.2 Under Article 13 of, and Schedule 3 to, the Family Law (Northern Ireland) Order 1993 (S.I. 1576 (N.I. 6)), this power was subsequently transferred to the Lord Chancellor.

4.3 The principal Regulations were last amended for the purpose of increasing the above-mentioned charges by the Blood Tests (Evidence of Paternity) (Amendment) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 225).

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland only.

5.2 However, this instrument does bring policy in relation to these matters fully into line with existing policy and regulations in England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The charges which may be made by a sampler in Northern Ireland were last increased in 1992 in order to correspond with an identical increase in England and Wales that same year. Since then, a further increase in England and Wales has been effected by the Blood Tests (Evidence of Paternity) (Amendment) Regulations 2004 (S.I. 2004/596). That instrument replaced the previous system of calculating charges by reference to the number of samples and subjects with a single increased charge of £27.50 for each arrangement to take a sample (whether or not a sample is taken). This amount is based on the General Practitioner Treasury hourly rate of £110 (allowing 15 minutes per sample).

7.2 By replicating S.I. 2004/596, this instrument will bring charges and the system of charging in Northern Ireland fully into line with the regime in England and Wales.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 This instrument has no impact on the public sector.

9. Contact

Michael Kelly at Northern Ireland Court Service (PH: 02890412394 or e-mail: michaelkelly@courtsni.gov.uk) can answer any queries regarding the instrument.