EXPLANATORY MEMORANDUM TO

The Civil Legal Services (Financial) (Amendment) Regulations (Northern Ireland) 2016

SR 2016 No. 338

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 Article 13 of the Access to Justice (Northern Ireland) Order 2003 ("the 2003 Order") and is subject to the draft negative resolution procedure.

2. Purpose

2.1. These Regulations amend the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015 by inserting new provisions to provide that civil legal services funding for representation under the Access to Justice (Northern Ireland) Order 2003 is available without an assessment of an individual's financial resources for proceedings under Article 44 or 45 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and proceedings under paragraph 29 or 36 of Schedule 8 to the Terrorism Act 2000. They will come into operation on 11 October 2016.

3. Background

3.1. In April 2015 the Department implemented civil legal services under the the 2003 Order. When the relevant provisions in Articles 10 to 20A of the 2003 Order were commenced, together with a suite of secondary legislation made under those provisions, it provided a new legislative framework for the funding of civil cases. That framework replaced the previous framework provided under Part 2 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (“the 1981 Order”).

3.2. However, representation for certain proceedings -- to include those as listed at paragraph 2.1 above -- were not listed under Article 12(5) of, together with Schedule 2 to, the 2003 Order as services which may be funded by way of civil legal services.

3.3. The Civil Legal Services (Scope) Regulations (Northern Ireland) 2016 were made by the Department to amend Schedule 2 to the 2003 Order and bring the missing proceedings within the scope of civil legal services. These Regulations make consequential amendments which are linked to the Scope Regulations.

4. Consultation

4.1. The Department issued a targeted consultation with the Law Society of Northern Ireland, the General Council of the Bar of Northern Ireland and the Office of the Lord Chief Justice.

4.2. No wider consultation took place on the draft Regulations.

5. Equality Impact

5.1. An equality screening exercise was carried out. This indicated that a full equality impact assessment was not required under section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1. The Regulations were screened for their regulatory impact. The provisions contained in the Regulations will impose no additional costs on businesses, charities or the voluntary sector. Accordingly, a full Regulatory Impact Assessment was not considered necessary.

7. Financial Implications

7.1. These Regulations are intended to replicate the position under the 1981 Order. On that basis, they are not expected to have any specific financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department considers these Reguations to be 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.