EXPLANATORY MEMORANDUM TO

The County Court (Amendment) Rules (Northern Ireland) 2022

S.R. 2022 No. 233

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 47 of County Courts (Northern Ireland Order 1980 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Statutory Rule is to amend the County Court Rules (Northern Ireland) 1981 ('the 1981 Rules') to reflect the change in the jurisdiction of the small claims court from £3,000 to £5,000.

2.2. The Statutory Rule is made by the County Court Rules Committee and allowed by the Department of Justice after consultation with the Lady Chief Justice.

3. Background

3.1. Article 30(3) of the County Courts (Northern Ireland) Order 1980 ('the 1980 Order') allows claims valued at under £3,000 to be dealt with in such fashion as provided by the 1981 Rules. Rule 26 of the 1981 Rules outlines the practice and procedures to be followed in respect of certain categories of claims valued at under £3,000 ('a small claim'), excluding a number of categories outlined in rule 2 of Order 26. This Statutory Rule amends rule 3(1) of Order 26 to increase the maximum value of a small claim from £3,000 to £5,000.

4. Consultation

4.1. In February 2021 the Department initiated a policy consultation inviting views on proposals relating to the financial jurisdiction of county courts in Northern Ireland, which include the small claims court. The broad intention of the proposals outlined in the consultation was to make the civil justice system faster, more convenient and more efficient for those people who come into contact with it. This involves ensuring, so far as possible, that cases are heard in the right court setting, consistent with the complexity and value of the case, and making the most effective use of judicial and administrative resources.

4.2. Among the questions explored in the consultation, views were sought as to whether or not the small claims jurisdiction should be increased from £3,000 to £5,000. Following consideration of responses, the Department indicated its intention to increase the jurisdiction of the small claims court from £3,000 to £5,000.

4.3. The County Court Rules Committee, which is made up of representatives of the judiciary and the legal profession and non-legal members, was asked

to make the necessary amendments to the 1981 Rules in light of the change to the 1980 Order.

4.4. Before allowing the Statutory Rule, the Department consulted the Lady Chief Justice as required under Article 47 of the 1980 Order.

5. Equality Impact

5.1. The policy to which this Statutory Rule gives effect has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified. The equality screening exercise found that proposals are likely to have a positive impact, particularly on those with mobility or dependency issues, as changes will improve access to justice by ensuring a greater number of cases be heard in convenient local courts.

6. Regulatory Impact

6.1. A regulatory impact assessment was undertaken during the development of the policy proposals outlined in the consultation on increasing the general civil jurisdiction of the county courts, which found that there should be a positive impact for businesses, charities and voluntary groups, with most claims progressing more quickly and with less cost to litigants in the small claims court when compared to the county courts.

7. Financial Implications

7.1. A business case for the increase to the jurisdiction of the small claims court was approved by the Department of Finance. The operating costs associated with change result primarily from a reduction in fees income to the Northern Ireland Courts and Tribunals Service (NICTS). This reflects the fact that the fees for proceeding with a case in the small claims court are lower than for county courts more generally. The impact on NICTS in 2022/23 will be met from internal budgets. Thereafter, a review of court fees and administrative resourcing will be undertaken after one year to take account of increased caseloads.

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 this Statutory Rule is compliant.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.