EXPLANATORY MEMORANDUM TO

THE FAMILY PROCEEDINGS (AMENDMENT) RULES (NORTHERN IRELAND) 2011

S.R.2011 No. 64

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice (Northern Ireland Courts and Tribunals Service) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 12 of the Family Law (Northern Ireland) Order 1993 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Family Proceedings Rules (Northern Ireland) 1996 ("the principal Rules") govern the practice and procedure in the Family Proceedings Court in Northern Ireland.

2.2. These Rules amend the principal Rules to give effect to the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (‘the Convention’) and Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters ('the Directive').

2.3. The Statutory Rule is made by the Family Proceedings Rules Committee and allowed by the Department of Justice.

3. Background

3.1. The Convention is concerned with a range of civil protection measures relating to children including parental responsibility and contact orders, public measures of protection and care, representation, and the protection of children’s property. It provides uniform rules for determining which country’s authorities are competent to take necessary measures, provides for the recognition and enforcement of measures taken in Contracting States, and a framework for the exchange of information.

3.2. These Rules amend the principal Rules to support the implementation of the Convention. They prescribe procedures for the recognition, non-recognition and enforcement of orders, for the transfer of jurisdiction between Convention States, and for applications for declarations of parental responsibility.

3.3. The Directive requires Member States to legislate by 21 May 2011 to facilitate the use of mediation in cross-border disputes in civil and commercial matters where parties attempt to reach an amicable settlement on a voluntary basis. These Rules make provision for the enforceability of medication agreements, the confidentiality of the mediation process and allow the court to invite parties to have recourse to mediation and to

extend the time for compliance with any provision in the principal Rules or any order of the court.

4. Consultation

4.1. Given the representative nature of the Family Proceedings Rules Committee and the procedual technical nature of the Rules, formal consultation was deemed unnecessary.

5. Equality Impact

5.1. This Statutory Rule 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.

6. Regulatory Impact

6.1. This Statutory Rule does not require a Regulatory Impact Assessment as it does not impose any additional costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1. The Rules do not have any financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Northern Ireland Courts and Tribunals Service that this Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. This Statutory Rule implements Directive 2008/52/EC. Member States are required to legislate to give effect to the Directive by 21 May 2011.

10. Parity or Replicatory Measure

10.1. In England and Wales the corresponding Statutory Instrument is the Family Procedure Rules 2010 (2010 No.2955) which was made on 13 Dec 2010 and comes into force on 6 April 2011.

11. Additional Information

11.1. Not applicable.