**EXPLANATORY MEMORANDUM TO THE**

# FAMILY PROCEEDINGS COURTS (CHILDREN ACT 1989) (AMENDMENT NO.3) RULES 2005

**2005 No.585**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

   This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Description

2.1. These rules amend the Family Proceedings Courts (Children Act 1989) Rules 1991 ("the 1991 Rules"), in order to make changes consequent on the introduction of Welsh family proceedings officers.

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

3.1. None.

## 4. Legislative Background

4.1 The Children Act 2004 ("the CA 2004") was given Royal Assent on 15th November 2004. Part 4 of that Act relates to advisory and support services for family proceedings and transfers to the National Assembly for Wales those functions of the Children and Family Court Advisory and Support Service ("CAFCASS") which relate to children ordinarily resident in Wales. In addition section 35 of the Act provides for the creation of "Welsh family proceedings officers". They will perform, on behalf of the National Assembly for Wales, those functions currently performed by officers of the Service for CAFCASS. At present the 1991 Rules confer a number of obligations on officers of the Service. In order to fully implement the CA 2004 it was therefore necessary to extend those obligations to Welsh family proceedings officers and this new provision is contained in these rules.

## 5. Extent

5.1. This instrument applies to England and Wales.

## 6. European Convention on Human Rights

6.1. Not applicable.

## 7. Policy background

7.1. These Rules amend the 1991 Rules to enable a Welsh family proceedings officer to be appointed by the Court and for the functions of an officer of the Service to be performed instead by a Welsh family proceedings officer. Rules 8 and 9 ensure that, where an officer of the Service has been appointed to act in any proceedings, that appointment will not be affected if they become Welsh family proceedings officers. This ensures that continuity of professional assistance will be available for children and families where proceedings have already been commenced.

7.2. In light of the limited changes to the 1991 Rules made by these provisions a formal consultation exercise was not carried out. However they were sent to the members of the Magistrates' Courts Rules Committee were, in accordance with the statutory requirements governing the making of these Rules. No changes to the draft were felt necessary by the committee.

## 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 save minor changes to records held.

8.2 There is no impact on the public sector from the rules relating to Welsh family proceedings officers. These amendments provide for their appointment in cases where an officer of the Service may currently be appointed. No new functions are created.

## 9. Contact

9.1 For matters relating to Welsh family proceedings officers: Therese Gray at the National Assembly for Wales. Tel: 02920 826813 or e-mail: therese.gray@wales.gsi.gov.uk.