EXPLANATORY MEMORANDUM TO

The Magistrates' Courts (Miscellaneous Amendment) Rules (Northern Ireland) 2019

S.R. 2019 No. 238

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 13 of the Magistrates' Courts (Northern Ireland) Order 1981, Article 165 of the Children (Northern Ireland) Order 1995 and section 48 of the Civil Jurisdiction and Judgments Act 1982 and is subject to the negative resolution procedure.

2. Purpose

2.1. The draft Rules amend the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986 ("the 1986 Rules") and the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 ("the 1996 Rules") to remove provisions which relate to powers, processes and orders under EU instruments or treaties which will no longer be applicable in the event the UK exits the European Union without a withdrawal agreement.

3. Background

3.1. The 1986 and 1996 Rules make provision governing practice and procedure for proceedings under a number of EU instruments, treaties and agreements between the EU and third countries.

3.2. On EU Exit, the European Union (Withdrawal) Act 2018 and statutory instruments made under it will revoke the EU instruments, for which provision is made in the 1986 and 1996 Rules, and repeal or amend associated domestic legislation. The provisions governing practice and practice for these proceedings will, subject to transitional and savings provisions, be superfluous as such proceedings will no longer be possible. The draft Rules revoke these redundant provisions and ensure that there are appropriate transitional and savings provisions for any proceedings commenced but not concluded under the EU instruments before exit day. The approach is to follow the provisions made in the relevant statutory instrument made under the European Union (Withdrawal) Act 2018. Broadly, the approach allows proceedings started in a court in Northern Ireland before exit day to be concluded after exit day under the rules as they stood immediately before exit day.

4. Consultation

4.1. The relevant Rules Committee, which is comprised of representatives from the Judiciary, the legal professions and Northern Ireland Courts and Tribunals Service were consulted prior to their makingof the Rule.

5. Equality Impact

5.1. Given the technical and purely consequential nature of these amendments, no assessment under section 75 of the Northern Ireland Act 1998 was considered necessary.

6. Regulatory Impact

6.1. No Regulatory Impact Assessment was considered necessary. There is no, or no significant, impact on business, charities, voluntary bodies or the public sector.

7. Financial Implications

7.1. None.

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 the Rules are compliant.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. There are similar amendments to court rules in the other legal jurisdictions in the UK.

11. Additional Information

11.1. Not applicable.