EXPLANATORY MEMORANDUM TO

THE RETENTION OF KNIVES IN COURT (NORTHERN IRELAND) REGULATIONS 2010

2010 No. 105

1. 1.1 This explanatory memorandum has been prepared by the Ministry of Justice (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 Schedule 3 to the Justice (Northern Ireland) Act 2004 ('the 2004 Act') provides for court security and other related matters. Paragraphs 4 and 5 provide court security officers with power to request the surrender or seizure of an article in specified circumstances.

2.2 New paragraph 5A (as inserted by section 147 of the Coroners and Justice Act 2009 ('the 2009 Act')), modifies these powers to provide for the retention of knives brought into court buildings. The purpose of this instrument is to prescribe —

- the procedure to be followed when a knife is retained by court security officers;
- the requirement that the court manager keep a written record of any knives retained by court security officers;
- how requests for the return of a retained knife are to be dealt with; and
- the procedure to be followed for the return of retained knives.

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

3.1 These are the first regulations made under paragraphs 5A and 6 of Schedule 3 to the Justice (Northern Ireland) Act 2004.

4. Legislative Context

4.1 Section 147 of the 2009 Act inserts new paragraph 5A into Schedule 3 to the 2004 Act. New paragraph 5A modifies the existing powers of court security officers, and provides that when a knife has been surrendered or seized by a court security officer, it must be retained,

unless returned or disposed of in accordance with regulations made under 5A(5). The Regulations govern the procedure for retaining knives, for seeking their return and returning them.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

6.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The policy intention behind new paragraph 5A was to reduce the number of knives being brought into court buildings and carried back onto the street.

7.2 Paragraph 5 of Schedule 3 to the 2004 Act already permits a court security officer to retain any article which he reasonably believes to be evidence of, or in relation to an offence. However, under current policy such articles are returned to the person upon leaving the court building or at the end of the permitted period (24 hours) to allow it to be brought to the attention of the police.

7.3 New paragraph 5A of Schedule 3 to the 2004 Act departs from this approach and allows court security officers to retain <u>any</u> knife (or item which has a blade and is sharply pointed) for as long as necessary in order to bring it to the attention of the police.

7.4 <u>All</u> knives brought into a court building will now be retained by the court (rather than returning them to the person as they leave the court building). A retained knife may be returned following a written request to the court manager in accordance with the Regulations, and on the advice of the police.

8. Consultation outcome

8.1 Due to the fact that these Regulations are procedural in nature (and therefore of limited public interest), no formal consultation was considered necessary on this occasion.

9. Guidance

9.1 These Regulations will be published on the Northern Ireland Court Service website.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The Regulations do not apply to small business.

12. Monitoring & review

12.1 The operation of the Regulations shall be kept under review by the Northern Ireland Court Service. These Regulations are made by the Lord Chancellor, however on the devolution of policing and justice functions the responsibility will pass to the Justice Minister of the Northern Ireland Assembly.

13. Contact

13.1 Aisling Quinn at the Northern Ireland Court Service (Criminal Policy Division) Tel: 028 9041 2205 or email aislingquinn@courtsni.gov.uk can answer any queries regarding this instrument.