EXPLANATORY MEMORANDUM TO

THE RULES OF THE COURT OF JUDICATURE (NORTHERN IRELAND) (AMENDMENT) 2024

S.R. 2024 No 177

1. Introduction

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

1.2. The Statutory Rule is made by the Northern Ireland Court of Judicature Rules Committee in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule will amend the Rules of the Court of Judicature (Northern Ireland) 1980 to provide for a time limit, in a civil case, so that an application for leave to appeal to the Supreme Court shall be made within 28 days of the decision or order in respect of which leave is sought

2.2. The Statutory Rule is made by the Court of Judicature Rules Committee and allowed by the Department of Justice.

3. Background

3.1 The UK Supreme Court hears appeals on arguable points of law of general public importance, for the whole of the United Kingdom in civil cases, and for England & Wales and Northern Ireland in criminal cases. It also decides devolution issues as well as references from lower courts regarding retained European Union Law post Brexit.

3.2 There is currently no time limit in the Rules of Court of Judicature, in civil cases, for an unsuccessful party to lodge an application for leave with the Court of Appeal, to appeal to the UK Supreme Court.

4. Consultation

4.1 A UK wide consultation ran from 2 April – 17 May 2024 primarily focused on practice and procedure in the UK Supreme Court. Despite this a question arose as to the lack of a time limit prescribed in civil cases for an application to the Court of Appeal for leave to bring an appeal to the UK Supreme Court. Consultees were asked whether an amendment was required in our Court of Judicature Rules prescribing a time limit of 28 days from the date of the decision the applicant wishes to appeal. No consultee raised concerns regarding the introduction of a time limit for the application to the court below for permission to appeal.

4.2 The relevant Rules Committee were consulted prior to their making of the Rule.

5. Equality Impact

5.1. The 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. There is no impact on business, charities, social economy enterprises or the voluntary sector. A regulatory impact assessment is not, therefore, necessary.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Department that this Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. It is the view of the Department that this Statutory Rule does not have any EU implications

10. Parity or Replicatory Measure

10.1. A similar amendment was made to the Civil Procedure Rules in England and Wales to provide for a time limit of 28 days in civil cases when a party seeks permission of the Court of Appeal to appeal a decision to the Supreme Court.

10.2. In Scotland the legislation already provides for a time limit of 28 days to lodge an application for permission to appeal to the Inner House to take an appeal to the Supreme Court

11. Additional Information

11.1. Not applicable.