EXPLANATORY MEMORANDUM TO
THE RULES OF THE SUPREME COURT (NORTHERN IRELAND) (AMENDMENT No. 2) 2006

Statutory Rule 2006 No.305

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Rules of the Supreme Court (Northern Ireland) 1980 (S.R. 1980 No. 346 – "the principal Rules") regulate the practice and procedure of proceedings before the Supreme Court.

2.2 This instrument amends Order 64 of the principal Rules, which makes provision in relation to the sittings, vacations and office hours of the High Court and Court of Appeal, so as to bring provisions relating to court vacations in line with current practice.

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

3.1 None

4. Legislative Background

4.1 As indicated above, these rules amend the principal rules. In particular the principal Rules are amended so as to –

- provide that one or more judges of the High Court or Court of Appeal may sit in vacation on such days as the Lord Chief Justice may direct, to hear matters which require immediate or prompt consideration;
- provide that any judge who sits during the vacation shall be known as the Vacation Judge;
- revoke provisions which provide that an order of the Vacation Judge cannot be reversed or varied by any other judge, except in certain specified circumstances.

5. Extent

5.1 This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

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

7. Policy background

7.1 As originally drafted, the principal Rules provided that judges of the High Court or Court of Appeal should be available to sit as Vacation Judge for a period of one year on a rotational basis. However, to ensure flexibility and adequate judicial resource, practice has been to divide responsibility during vacation between all judges of the High Court and Court of Appeal. This instrument formalises that practice.

7.2 Provision in the principal Rules that Orders made by the Vacation Judge cannot be varied or reversed by any other judge has been found to be impractical and the rule is not observed in practice. It is considered that observation of that rule could lead to undesirable delay in processing court business.

7.3 The Northern Ireland Supreme Court Rules Committee is responsible for making Rules regulating the practice and procedure of any proceedings before the High Court and Court of Appeal. In making these Rules, the Committee has formalised the arrangements which currently apply to ensure that flexible procedures are in place to hear urgent matters during vacation periods.

7.4 The Rules are procedural in nature and are therefore of limited public interest. It is not considered that the amendments made by these Rules are politically or legally important.

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.

8.2 This instrument has no impact on the public sector.

9. Contact

9.1 **Peter Luney** at the Northern Ireland Court Service (Policy and Legislation Division) Tel: (028) 90412282 or e-mail: peterluney@courtsni.gsi.gov.uk can answer any queries regarding the instrument.