

EXPLANATORY MEMORANDUM TO
THE FAMILY PROCEEDINGS (AMENDMENT) RULES (NORTHERN
IRELAND) 2007

SR 2007 No. 324

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.

2. Description

2.1 The Family Proceedings Rules (Northern Ireland) 1996 (S.R. 1996 No. 322) (“the principal Rules”) prescribe the procedure in relation to family proceedings in the High Court and county courts in Northern Ireland.

2.2 This instrument amends the principal Rules so as to:

- enable the court to allow a witness to give evidence by video link or any other means of direct communication; and
- make a minor technical amendment to the provision in relation to the service, registration and rectification of certificates issued pursuant to Council Regulation (EC) 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility (“the Brussels IIa Council Regulation”).

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

None.

4. Legislative Background

Article 42 of the Brussels IIa Council Regulation

4.1 The principal Rules were amended in consequence of the Brussels IIa Council Regulation by the Family Proceedings (Amendment No. 2) Rules (Northern Ireland) 2005 (S.R. 2005 No. 497).

4.2 This instrument makes a minor technical amendment in relation to the service, registration and rectification of certificates issued under the Brussels IIa Council Regulation to refer to certificates issued under Article 42 of that Regulation. Article 42 certificates relate to cases involving child abduction. Such a certificate may be issued where a court in a Member State to which a child has been abducted has made a non-return order and the court in the child’s country of origin subsequently makes a decision on custody entailing the return of the child to that jurisdiction. The Article 42 certificate enables the latter judgment to be directly enforced in the Member State that made the non-return order.

5. Territorial Extent and Application

This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

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

7. Policy background

Evidence by Video Link

- 7.1 The Children Order Advisory Committee (a non-statutory body which monitors the operation of the Children (Northern Ireland) Order 1995) recommended that there should be provision to allow for evidence to be given by video link in family proceedings in all court tiers. Such a facility will be particularly useful in respect of expert witnesses who might otherwise have to travel significant distances to give evidence. Provision for the giving of evidence by video link is already available in the High Court. This amendment will make it available in family proceedings in county courts.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as there is no impact on business, charities or voluntary bodies.
- 8.2 This instrument has no impact on the public sector.

9. Contact

Jane Maguire at the Northern Ireland Court Service (Tel: 028 9041 2319 or e-mail: janemaguire@courtsni.gsi.gov.uk) can answer any queries regarding the instrument.