

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

TUESDAY 28 JANUARY 2020

Senate Chamber, Parliament Buildings, Belfast

Present: Mr Paul Givan MLA (Chairperson)

Ms Linda Dillon MLA (Deputy Chairperson)

Mr Doug Beattie MLA Mr Gordon Dunne MLA Mr Patsy McGlone MLA Mr Pat Sheehan MLA Ms Rachel Woods MLA

Apologies: Mr Paul Frew MLA

Mr Raymond McCartney MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)

Mrs Kathy O'Hanlon (Senior Assistant Assembly Clerk)

Mr Peter Madine (Assistant Assembly Clerk) Ms Leanne Johnston (Clerical Supervisor) Mrs Allison Mealey (Clerical Officer)

The meeting commenced at 10.31a.m.in open session.

1. Apologies

As above.

2. SR 2019/28: The Police Act 1997 (Criminal Records) (Fees) (Amendment) Regulations (Northern Ireland) 2019

The Committee considered SR 2019/28: The Police Act 1997 (Criminal Records) (Fees) (Amendment) Regulations (Northern Ireland) 2019 which reduces the fee payable for a basic and standard disclosure certificate and increases the fees for registration of an organisation and registration of an additional individual person as a countersignatory within an organisation.

Agreed: The Committee considered SR 2019/28: The Police Act 1997 (Criminal

Records) (Fees) (Amendment) Regulations (Northern Ireland) 2019 and,

subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

3. SR 2019/40: The International Joint Investigation Teams (International Agreements) (EU Exit) Order (Northern Ireland) 2019

The Committee considered SR 2019/40: The International Joint Investigation Teams (International Agreements) (EU Exit) Order (Northern Ireland) 2019 which is required to provide the legal basis to ensure that Joint Investigation Teams with four member states - Italy, Greece, Luxembourg and Slovakia - retain the same powers and operational capability following the UK's exit from the EU.

Agreed: The Committee considered SR 2019/40: The International Joint Investigation Teams (International Agreements) (EU Exit) Order (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

4. SR 2018/100: The Enforcement of Fines and Other Penalties (Revocations) Order (Northern Ireland) 2018

The following official joined the meeting at 10.38 a.m.:

Angela Bell, Head of Branch Road Traffic and Sentencing Policy Review, Department of Justice.

Ms Bell provided a brief overview of the following Statutory Rules and answered Members' questions:

- SR 2018/100: The Enforcement of Fines and Other Penalties (Revocations) Order (Northern Ireland) 2018
- SR 2018/102: The Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018
- SR 2018/103: The Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2018

The Chairperson thanked the official for her attendance and she left the meeting.

The Committee considered SR 2018/100: The Enforcement of Fines and Other Penalties (Revocations) Order (Northern Ireland) 2018 which revokes the Road Traffic Fixed Penalties (Enforcement of Fines) Regulations (Northern Ireland) 1997 and the Penalty Notices (Justice Act (Northern Ireland) 2011) (Enforcement of Fines) Regulations (Northern Ireland) 2012, as they are no longer required following the introduction of a new system of collection of unpaid fines and other financial penalties.

Agreed: The Committee considered SR 2018/100: The Enforcement of Fines and Other Penalties (Revocations) Order (Northern Ireland) 2018 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

5. SR 2018/102: The Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018

The Committee considered SR 2018/102: The Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018 which makes provision for the content of an application for deductions from benefits; attachment of earnings orders; bank account

orders; and vehicle seizure orders in relation to the new system for collection of unpaid fines and other financial penalties.

Agreed: The Committee considered SR 2018/102: The Enforcement of Fines and Other

Penalties Regulations (Northern Ireland) 2018 and, subject to the Examiner of

Statutory Rules' report, had no objection to the Rule.

6. SR 2018/103: The Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2018

The Committee considered SR 2018/103: The Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2018 which amends the Magistrates' Courts Rules (Northern Ireland) 1984 to prescribe court procedures in relation to the new system for collection of unpaid fines and other financial penalties.

Agreed: The Committee considered SR 2018/103: The Magistrates' Courts

(Amendment No. 2) Rules (Northern Ireland) 2018 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

Gordon Dunne left the meeting at 10.45a.m.

7. SR 2018/129: The Protection of Freedoms Act 2012 (Relevant Official Records) Order (Northern Ireland) 2018

The Committee considered SR 2018/129: The Protection of Freedoms Act 2012 (Relevant Official Records) Order (Northern Ireland) 2018 which makes provision for a person who has a conviction or caution for certain consensual offences with persons over 17 to apply to the Department of Justice to have that conviction or caution disregarded and prescribes which records of convictions and cautions, other than the main database of police and criminal records, are relevant official records should an application for a disregard be successful; the relevant data controllers in relation to those official records; and for certain records to be annotated rather than deleted.

Gordon Dunne rejoined the meeting at 10.50 a.m.

Agreed: The Committee considered SR 2018/129: The Protection of Freedoms Act 2012 (Relevant Official Records) Order (Northern Ireland) 2018 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

8. SR 2019/131: The Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2019

The Committee considered SR 2019/131: The Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2019 which provides for sentences imposed in the Crown Court for offences that are specified in the Order to be referred to the Court of Appeal by the Director of Public Prosecutions (DPP) where he considers the sentence passed to be unduly lenient and extends the range of offences in respect of which that power may be exercised by the DPP in Northern Ireland to include offences tried in the Crown Court that can be linked to terrorism and organised crime groups.

Agreed: The Committee considered SR 2019/131: The Criminal Justice Act 1988

(Reviews of Sentencing) Order (Northern Ireland) 2019 and, subject to the

Examiner of Statutory Rules' report, had no objection to the Rule.

9. SR 2019/214: The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2019

The Committee considered SR 2019/214: The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2019 which adjusts the terms of the filtering scheme to allow more than one old and minor conviction to be filtered.

Agreed: The Committee considered SR 2019/214: The Rehabilitation of Offenders

(Exceptions) (Amendment) Order (Northern Ireland) 2019 and, subject to the

Examiner of Statutory Rules' report, had no objection to the Rule.

10. SR 2017/213: The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2017

The Committee considered SR 2017/213: The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2017 which amends Order 53 Rules 4(1) of the Rules of the Court of Judicature (Northern Ireland) 1980 to remove the requirement of promptitude from the time limit for lodging an application for leave to apply for judicial review, with the result that the time limit is three months from the date from which grounds for the application first arose, unless extended by the Court thus ensuring clarity and legal certainty.

Agreed: The Committee considered SR 2017/213: The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2017 and, subject to the Examiner of

Statutory Rules' report, had no objection to the Rule.

11. SR 2019/80: The Damages for Bereavement (Variation of Sum) Order (Northern Ireland) 2019

The Committee considered SR 2019/80: The Damages for Bereavement (Variation of Sum) Order (Northern Ireland) 2019 which will increase the level of the bereavement award in line with inflation as measured by CPI, rounded to the nearest £100 thereby increasing the sum that may be awarded for damages for bereavement in Northern Ireland from £14,200 to £15,100 for causes of action arising on or after 1 May 2019.

Agreed: The Committee considered SR 2019/80: The Damages for Bereavement

(Variation of Sum) Order (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

12. SR 2019/233: The Crown Court (Amendment) Rules (Northern Ireland) 2019

The following official joined the meeting at 11.08 a.m.:

Jo Wilson, Head of Civil Courts and Brexit, Department of Justice.

Ms Wilson provided clarification of the reason for making the following Statutory Rules at this particular time and answered Members' questions:

- SR 2019/233: The Crown Court (Amendment) Rules (Northern Ireland) 2019
- SR 2019/234: The County Court (Amendment) Rules (Northern Ireland) 2019
- SR 2019/235: The Family Proceedings (Amendment) Rules (Northern Ireland) 2019
- SR 2019/237: The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2019
- SR 2019/238: The Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2019

The Chairperson thanked the official for her attendance and she left the meeting.

The Committee considered SR 2019/233: The Crown Court (Amendment) Rules (Northern Ireland) 2019 which amends the Crown Court Rules (Northern Ireland) 1979 to remove the provisions which relate to the process for referral to the Court of Justice of the European Union, which will no longer be applicable in the event the UK exits the European Union without a withdrawal agreement.

The Committee noted that, under legislation related to the UK's withdrawal from the EU, the rule is deferred until completion of the implementation period under any agreement between the UK and EU on the UK's withdrawal from the EU.

Agreed: The Committee considered SR 2019/233: The Crown Court (Amendment) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

13. SR 2019/234: The County Court (Amendment) Rules (Northern Ireland) 2019

The Committee considered SR 2019/234: The County Court (Amendment) Rules (Northern Ireland) 2019 which amend the County Court Rules (Northern Ireland) 1981 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 EU without a withdrawal agreement.

The Committee noted that, under legislation related to the UK's withdrawal from the EU, the rule is deferred until completion of the implementation period under any agreement between the UK and EU on the UK's withdrawal from the EU.

Agreed: The Committee considered SR 2019/234: The County Court (Amendment) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

14. SR 2019/235: The Family Proceedings (Amendment) Rules (Northern Ireland) 2019

The Committee considered SR 2019/235: The Family Proceedings (Amendment) Rules (Northern Ireland) 2019 which revokes redundant provisions in the Family Proceedings Rules (Northern Ireland) 1996 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 EU without a withdrawal agreement.

The Committee noted that, under legislation related to the UK's withdrawal from the EU, the rule is deferred until completion of the implementation period under any agreement between the UK and EU on the UK's withdrawal from the EU.

Agreed: The Committee considered SR 2019/235: The Family Proceedings

(Amendment) Rules (Northern Ireland) 2019 and, subject to the Examiner of

Statutory Rules' report, had no objection to the Rule.

15. SR 2019/237: The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2019

The Committee considered SR 2019/237: The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2019 which revokes redundant provisions in the Rules of the Court of Judicature (Northern Ireland) 1980 relating to powers, processes and orders under EU instruments and treaties, which will no longer be applicable in the event the UK exits the EU without a withdrawal agreement and provides the process and procedure for applications under the Hague Choice of Court Convention on Choice of Court agreements made between parties to international commercial contracts following the UK becoming an independent contracting party to the Convention in preparation for its withdrawal from the EU.

The Committee noted that, under legislation related to the UK's withdrawal from the EU, the rule is deferred until completion of the implementation period under any agreement between the UK and EU on the UK's withdrawal from the EU.

Agreed: The Committee considered SR 2019/237: The Rules of the Court of Judicature

(Northern Ireland) (Amendment) 2019 and, subject to the Examiner of

Statutory Rules' report, had no objection to the Rule.

16. SR 2019/238: The Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2019

The Committee considered SR 2019/238: The Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2019 which amend the Magistrates' Courts (Civil Jurisdiction and Judgements Act 1982) Rules (Northern Ireland) 1986 and the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 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 EU without a withdrawal agreement.

The Committee noted that, under legislation related to the UK's withdrawal from the EU, the rule is deferred until completion of the implementation period under any agreement between the UK and EU on the UK's withdrawal from the EU.

Agreed: The Committee considered SR 2019/238: The Magistrates' Courts

(Miscellaneous Amendments) Rules (Northern Ireland) 2019 and, subject to

the Examiner of Statutory Rules' report, had no objection to the Rule.

17. SR 2018/44: The Valuation Tribunal (Amendment) Rules (Northern Ireland) 2018

The Committee considered SR 2018/44: The Valuation Tribunal (Amendment) Rules (Northern Ireland) 2018 which amends The Valuation Tribunal Rules (Northern Ireland) 2007 as a result of a rate rebate replacement scheme arising from Universal Credit and corrects a drafting error.

Agreed: The Committee considered SR 2018/44: The Valuation Tribunal (Amendment) Rules (Northern Ireland) 2018 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

18. SR 2019/26: The Judicial Pensions (Amendment) Regulations (Northern Ireland) 2019

The Committee considered SR 2019/26: The Judicial Pensions (Amendment) Regulations (Northern Ireland) 2019 which extends the current member contribution rates and earning thresholds for the Northern Ireland Judicial Pension scheme for a one-year period from 1 April 2019 to 31 March 2020.

Agreed: The Committee considered SR 2019/26: The Judicial Pensions (Amendment) Regulations (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

Pat Sheehan left the meeting at 11.18 a.m.

19. SR 2019/165: The Review Tribunal (Amendment) Rules (Northern Ireland) 2019
20. SR:2019/191: The Review Tribunal (Revocation) Rules (Northern Ireland) 2019
21. SR:2019/202: The Review Tribunal (Amendment No.2) Rules (Northern Ireland) 2019

The Committee agreed to consider the next three Statutory Rules together as they related to the partial commencement of the Mental Capacity Act (Northern Ireland) 2016:

- SR 2019/165: The Review Tribunal (Amendment) Rules (Northern Ireland) 2019
- SR 2019/191: The Review Tribunal (Revocation) Rules (Northern Ireland) 2019
- SR 2019/202: The Review Tribunal (Amendment No. 2) Rules (Northern Ireland) 2019

The Committee noted that SR 2019/165, which renames the current Mental Health Review Tribunal as the Review Tribunal to allow it to take on the additional role of considering appeals against authorisations for deprivations of liberty and considering applications for the appointment or removal of nominated persons under the Mental Capacity Act (Northern Ireland) 2016; and introduces a right to appeal an authorisation of deprivation of liberty or apply for the appointment or revocation of a nominated person under the Mental Capacity Act (Northern Ireland) 2016 was laid on 6 September 2019 and scheduled to come into operation on 1 October 2019 to coincide with the partial commencement of the Mental Capacity Act (Northern Ireland) 2016 by the Department of Health.

The Department of Health subsequently took the decision to delay the partial commencement of the Mental Capacity Act (Northern Ireland) 2016 to allow Health and Social Care Trusts to make further preparations to manage their responsibilities under the Act.

The Committee noted that it was therefore necessary to revoke the Review Tribunal (Amendment) Rules (Northern Ireland) 2019 and SR 2019/191: The Review Tribunal (Revocation) Rules (Northern Ireland) 2019 was made by the Department of Justice on 27 September 2019 and came into operation on 1 October 2019.

Following the partial commencement of the Mental Capacity (Northern Ireland) Act 2016 by the Department of Health on 2 December 2019, the Department of Justice made SR 2019/202: The Review Tribunal (Amendment No.2) Rules (Northern Ireland) 2019 to remake the provisions relating to the Review Tribunal and the right of appeal.

Agreed: The Committee considered SR 2019/165: The Review Tribunal (Amendment) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

Agreed: The Committee considered SR 2019/191: The Review Tribunal (Revocation) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

Agreed: The Committee considered SR 2019/202: The Review Tribunal (Amendment No. 2) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

Agreed: An overview briefing on the implementation of the Mental Capacity Act (Northern Ireland) 2016 by departmental officials will be scheduled into the work programme.

22. SR 2019/54: The Police Pension Schemes (Amendment) Regulations (Northern Ireland) 2019

The Committee considered SR 2019/54: The Police Pension Schemes (Amendment) Regulations (Northern Ireland) 2019 which makes various technical amendments to The Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006, The Police Pension (Northern Ireland) Regulations 2009, and The Police Pensions Regulations (Northern Ireland) 2015 including continued legislative provision for the deduction of employee contributions from 1 April 2019 and the removal of the requirement for completion of a nomination form (unmarried survivors).

Agreed: The Committee considered SR 2019/54: The Police Pension Schemes (Amendment) Regulations (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

23. SR 2020/9: The Police Pensions (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2020

The Committee considered SR 2020/9: The Police Pensions (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2020 which amend the Royal Ulster Constabulary Pensions (Additional Voluntary Contributions) Regulations 1993 to enable continued payment of AVCs by Police Scheme Members following the transfer from a previous provider, Equitable Life, to Utmost Life and Pensions Limited.

Agreed: The Committee considered SR 2020/9: The Police Pensions (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2020 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

Pat Sheehan rejoined the meeting at 11.26 a.m.

24. SR 2019/13: The Civil Legal Services (General) (Amendment) Regulations (Northern Ireland) 2019

The Committee considered SR 2019/13: The Civil Legal Services (General) (Amendment) Regulations (Northern Ireland) 2019 which make technical amendments to transfer the responsibility for the financial eligibility assessments in respect of representation (higher courts) in applications for civil legal aid to the Director of Legal Aid Casework, Legal Service Agency, Department of Justice from the Department of Communities.

Agreed: The Committee considered SR 2019/13: The Civil Legal Services (General)

(Amendment) Regulations (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' Report, had no objection to the Rule.

25. SR 2019/14: The Civil Legal Services (Financial) (Amendment) Regulations (Northern Ireland) 2019

The Committee considered SR 2019/14: The Civil Legal Services (Financial) (Amendment) Regulations (Northern Ireland) 2019 which make technical amendments to transfer the responsibility for the financial eligibility assessments in respect of representation (higher courts) in applications for civil legal aid to the Director of Legal Aid Casework, Legal Service Agency, Department of Justice from the Department of Communities.

Agreed: The Committee considered SR 2019/14: The Civil Legal Services (Financial)

(Amendment) Regulations (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' Report, had no objection to the Rule.

26. SR 2019/119: The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019

The Committee considered SR 2019/119: The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 which makes a number of minor technical

amendments to correct a number of errors and admissions in the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015.

Agreed: The Committee considered SR 2019/119: The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

27. SR 2019/122: The Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2019

The Committee considered SR 2019/122: The Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2019 which amends the Legal Aid for Crown Court Proceedings (Costs) Rules 2005 to introduce new provision for the payment of a time-based fee in respect of fine enforcement Referral Hearings in the Crown Court as a result of the implementation of the new fine collection and enforcement arrangements.

Agreed: The Committee considered SR 2019/122: The Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

28. SR 2019/123: The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2019

The Committee considered SR 2019/123: The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2019 which makes new provision for the payment of a fixed fee of £75 for representation at a Fine Enforcement Referral Hearing at a Magistrates' Courts as a result of the implementation of the new fine collection and enforcement arrangements.

Agreed: The Committee considered SR 2019/123: The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

29. SR 2019/203: The Civil Legal Services (Financial) (Amendment No. 2) Regulations (Northern Ireland) 2019

The following officials joined the meeting at 11.32 a.m:

Stephen Martin, Deputy Director, Enabling Access to Justice Division, Department of Justice

John Bradley, Head of Civil Legal Aid Reform, Department of Justice Eamon O'Connor, Principal Legal Officer, Department of Justice

The officials gave a brief overview of the Statutory Rule and answered Members' questions.

The Chairperson thanked the officials for their attendance and they left the meeting.

The Committee considered SR 2019/203: The Civil Legal Services (Financial) (Amendment No. 2) Regulations (Northern Ireland) 2019 which exempt certain applications for advice and assistance in potential proceedings, or representation in certain proceedings or potential proceedings before the Review Tribunal, under the Mental Capacity Act (Northern Ireland) 2016, from financial eligibility assessments.

Agreed: The Committee considered SR 2019/203: The Civil Legal Services (Financial) (Amendment No. 2) Regulations (Northern Ireland) 2019 and, subject to the Examiner of Statutory Rules' report, had no objection to the Rule.

30. Date and Time of Next Meeting.

The next meeting will be held on Thursday 30 January at 2.00 p.m. in Room 30, Parliament Buildings.

The Chairperson drew Members' attention to the press release by the Minister of Justice announcing her intention to bring the domestic abuse legislation through the Assembly and indicated that there would be an opportunity to discuss this at the meeting on Thursday.

The meeting was adjourned at 11.42 a.m.

Paul Givan MLA Chairperson, Committee for Justice