**EXPLANATORY MEMORANDUM**

**TO The Parole Commissioners' (Amendment) Rules (Northern Ireland) 2026.**

**[Statutory Rule no. tbc]**

## 1. Introduction

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

1.2 The Statutory Rule is made under Article 100(5) of, and paragraph 4 of Schedule 4 to, the Criminal Justice (Northern Ireland) Order 2008 ("the 2008 Order") and is subject to the negative resolution procedure.

## 2. Purpose

2.1 The purpose of the Statutory Rule is to amend Rule 22 of the 2009 Parole Commissioners' (Northern Ireland) Rules 2009 ("the 2009 Rules"), which deals with the "Location and Privacy of Oral Hearings".

## 3. Background

3.1 This is in response to a recent finding by the Court in *McGuinness's (Deborah) Application (No 2), McGuinness's (Deborah) Application (No 4)* Neutral Citation No. [2026] NIKB 57 that Rule 22(2) of the 2008 Order is ultra vires on the basis that it states that *"oral hearings shall be held in private"*. The judgment determined that this requirement is not compatible with the common law principle of open justice and the Parole Commissioners ought to have the discretion to conduct an open or partly open hearing should they wish to do so.

## 4. Consultation

4.1 The Department has consulted with the Victims Commissioner Designate and the Parole Commissioners of Northern Ireland about the proposed rule change.

## 5. Equality Impact

5.1 There will be no differential impact across Section 75 groups as the proposed change will enable any member of the public to request that a parole hearing is held in public, either in part of full.

## 6. Regulatory Impact

6.1 A Regulatory Impact Assessment has not been prepared as there will be no regulatory impact on business, charities, social economy enterprises and voluntary bodies as a result of this rule change.

**7. Financial Implications**

7.1 Additional costs may arise for the Department and for the Parole Commissioners of Northern Ireland in terms of giving practical effect to the rule.

**8. Section 24 of the Northern Ireland Act 1998**

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that this Statutory Rule is not incompatible with rights under the European Convention; is not incompatible with European Community Law and does not discriminate on the grounds of religious belief or political opinion.

**9. EU Implications**

9.1Not applicable.

**10. Parity or Replicatory Measure**

10.1 The Statutory Rule reflects a similar approach to oral hearings as the provisions in England and Wales. Rule 15(3) of The Parole Board Rules 2019 (as amended) state that an oral hearing (including a case management conference) must be held in private unless the Board chair considers, on their own initiative or on an application to the Board, that it is in the interests of justice for the oral hearing to be held in public.

**11. Additional Information**

11.1 Not applicable.