

**2007 No. 189**

**SUPREME COURT, NORTHERN IRELAND**

**PROCEDURE**

**The Rules of the Supreme Court (Northern Ireland)  
(Amendment) 2007**

*Made* - - - - - *20th March 2007*

*Coming into operation* - *16th April 2007*

*To be laid before Parliament*

The Northern Ireland Supreme Court Rules Committee makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978<sup>(a)</sup>

**Citation and commencement**

1. These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 2007 and shall come into operation on the 16th April 2007.

**Amendments to the Rules of the Supreme Court (Northern Ireland) 1980<sup>(b)</sup>**

2. In Order 1—

- (a) in rule 2(2)(b) after “matrimonial proceedings” insert “and proceedings under the Civil Partnership Act 2004” <sup>(c)</sup>;
- (b) in rule 10(a)(x) omit the full stop and insert a semi-colon;
- (c) after rule 10(a)(x) insert—
  - “(xi) the grant and revocation of probate of wills and letters of administration of estates of deceased persons.”; and
- (d) in rule 12 omit paragraph (a)(i).

3. In Order 10, rule 4(1) after “wife or husband” insert “or civil partner”.

4. In Order 18, rule 22 for “the Merchant Shipping Acts 1894 to 1965” substitute “the Merchant Shipping Act 1995”<sup>(d)</sup>.

5. In Order 22, rule 10 after “widow,” insert “surviving civil partner.”.

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(a) 1978 c.23 to which the most recent relevant amendments were made by the Constitutional Reform Act 2005 (c.4)  
(b) S.R. 1980 No. 346 to which the most recent amendments were made by S.R. 2005 No. 146, S.R. 2005 No.163 and S.R. 2006 No. 486  
(c) 2004 c.33  
(d) 1995 c.21

6. In Order 38, rule 3(2)(e) for “live television link” substitute “video link”.

7. In Order 53A—

(a) after rule 2, insert the following new rule—

*“Representation of applicants while filter provision has effect*

**2A.**—(1) This rule applies during any period in which the filter provision has effect.

(2) An applicant may, for the purpose of taking any step under rules 3 or 4, be represented by any person permitted to provide him with immigration advice or services under section 84 of the Immigration and Asylum Act 1999(a).

(3) Where a representative is acting for an appellant who is within the jurisdiction, a document must be served on the appellant by—

- (a) serving it on the representative; or
- (b) serving it on the appellant personally or sending it to his address by ordinary first class post,

but if the document is served on the appellant under (b), a copy must also at the same time be sent to his representative.”;

(b) in rule 3—

(i) in paragraph (4), for “The notice of application” substitute “During any period in which the filter provision does not have effect, the notice of application”;

(ii) after paragraph (4), insert—

“(4A) During any period in which the filter provision has effect, the applicant must lodge with the notice of application a list of the documents referred to in paragraph (4)(a) to (e).”;

(c) in rule 5, after paragraph (2) insert—

“(2A) The applicant must lodge with the notice—

- (a) a copy of the Tribunal’s notification that it does not propose to make an order for reconsideration or does not propose to allow the application to be made outside the relevant time limit;
- (b) any other document which was served on the applicant by the Tribunal giving reasons for its decision in paragraph (a);
- (c) written evidence in support of any application by the applicant to make the application outside the relevant time limit, if applicable; and
- (d) a copy of the application for reconsideration under section 103A of the 2002 Act, as submitted to the Tribunal under rule 3(1)(a).”;

(d) in rule 8—

(i) in paragraph (2), after “Where” insert “the appellant is within the jurisdiction and”;

(ii) for paragraph (3)(b) substitute—

“immediately after serving the order, notify—

- (i) the Court; and
  - (ii) where the order requires the Tribunal to reconsider its decision on the appeal, the Tribunal,
- on what date and by what method the order was served.”;

(iii) in paragraph (5), after “(3)(b)” insert “(i)”; and

(iv) after paragraph (5), insert—

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(a) 1999 c.33. Part V of that Act has been amended by the Nationality, Immigration and Asylum Act 2002 (c.41), section 140 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19), sections 37 to 41 and Schedule 4.

“(5A) Where the Court serves an order for reconsideration under paragraph (5), it will notify the Tribunal of the date on which the order was served.”; and

(e) after rule 8, insert—

*“Continuing an application in circumstances in which it would otherwise be treated as abandoned*

9.—(1) This rule applies to an application under section 103A of the 2002 Act which—

(a) would otherwise be treated as abandoned under section 104(4A) of the 2002 Act; but

(b) meets the conditions set out in section 104(4B) or section 104(4C) of the 2002 Act.

(2) Where section 104(4A) of the 2002 Act applies and the applicant wishes to pursue the application, the applicant must lodge a notice in the Central Office—

(a) where section 104(4B) of the 2002 Act applies, within 28 days of the date on which the applicant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or

(b) where section 104(4C) of the 2002 Act applies, within 28 days of the date on which the applicant received notice of the grant of leave to enter or remain in the United Kingdom.

(3) Where the applicant does not comply with the time limits specified in paragraph (2), the application will be treated as abandoned in accordance with section 104(4) of the 2002 Act.

(4) The applicant must serve the notice lodged under paragraph (2) on the other party to the appeal.

(5) Where section 104(4B) of the 2002 Act applies, the notice lodged under paragraph (2) must state—

(a) the applicant’s full name and date of birth;

(b) the High Court reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the applicant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and

(e) that the applicant wishes to pursue the application insofar as it is brought on grounds relating to the Refugee Convention specified in section 84(1)(g) of the 2002 Act.

(6) Where section 104(4C) of the 2002 Act applies, the notice lodged under paragraph (2) must state—

(a) the applicant’s full name and date of birth;

(b) the High Court reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the applicant was granted leave to enter or remain in the United Kingdom; and

(e) that the applicant wishes to pursue the application insofar as it is brought on grounds relating to Article 20A of the Race Relations (Northern Ireland) Order 1997(a) specified in section 84(1)(b) of the 2002 Act.

(7) Where an applicant has lodged a notice under paragraph (2) the Court will notify the applicant of the date on which it received the notice.

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(a) SI 1997/869 (NI 6) to which the most recent relevant amendments were made by S.R. 2003 No. 341

(8) The Court will send a copy of the notice issued under paragraph (7) to the other party to the appeal.”.

**8. In Order 60A after rule 6, insert—**

*“Continuing a referral to the Court of Appeal in circumstances in which it would otherwise be treated as abandoned*

7.—(1) This rule applies to an appeal to the Tribunal which is referred to the Court of Appeal under section 103C of the Act which—

- (a) would otherwise be treated as abandoned under section 104(4A) of the Act; but
- (b) meets the conditions set out in section 104(4B) or section 104(4C) of the Act.

(2) Where section 104(4A) of the Act applies and the appellant wishes to pursue the appeal, the appellant must lodge a notice in the Central Office—

- (a) where section 104(4B) of the Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or
- (b) where section 104(4C) of the Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom.

(3) Where the appellant does not comply with the time limits specified in paragraph (2), the application will be treated as abandoned in accordance with section 104(4) of the Act.

(4) The appellant must serve the notice lodged under paragraph (2) on the respondent.

(5) Where section 104(4B) of the Act applies, the notice lodged under paragraph (2) must state—

- (a) the appellant’s full name and date of birth;
- (b) the Court of Appeal reference number;
- (c) the Home Office reference number, if applicable;
- (d) the date on which the appellant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and
- (e) that the appellant wishes to pursue the application insofar as it is brought on grounds relating to the Refugee Convention specified in section 84(1)(g) of the Act.

(6) Where section 104(4C) of the Act applies, the notice lodged under paragraph (2) must state—

- (a) the appellant’s full name and date of birth;
- (b) the Court of Appeal reference number;
- (c) the Home Office reference number, if applicable;
- (d) the date on which the appellant was granted leave to enter or remain in the United Kingdom; and
- (e) that the appellant wishes to pursue the application insofar as it is brought on grounds relating to Article 20A of the Race Relations (Northern Ireland) Order 1997 specified in section 84(1)(b) of the Act.

(7) Where an appellant has lodged a notice under paragraph (2) the Court of Appeal will notify the appellant of the date on which it received the notice.

(8) The Court of Appeal will send a copy of the notice issued under paragraph (7) to the other party to the appeal.”.

**9. In Order 62—**

- (a) in rule 16(6)(b) for “section 504 of the Merchant Shipping Act 1894” substitute “sections 183 to 189 of the Merchant Shipping Act 1995”;

- (b) in rule 32A(1), omit “of disbursement”;
- (c) in Form No. 1 (Application for Short Form Taxation) in Appendix 4, after “Here give brief particulars of the nature of the case in which the Order for Taxation was obtained” insert “, including a list of agreed items”.

**10. In Order 75—**

- (a) in rule 1(2) in the definition of “limitation action” for “the Merchant Shipping Acts 1894 to 1974” substitute “the Merchant Shipping Act 1995”;
- (b) in rule 2—
  - (i) in paragraph (1)(a)(iii) for “collision regulations” substitute “safety regulations”;
  - (ii) in paragraph (1)(c)—
    - (aa) for “section 1 of the Merchant Shipping (Oil Pollution) Act 1971” substitute “section 153 of the Merchant Shipping Act 1995”; and
    - (bb) for “section 4 of the Merchant Shipping Act 1974” substitute “section 175 of the Merchant Shipping Act 1995”; and
  - (iii) for paragraph (2) substitute—
 

“In this rule “safety regulations” means regulations under section 85 of the Merchant Shipping Act 1995.”;
- (c) for rule 2A substitute—

*“Proceedings against, or concerning, the International Oil Pollution Compensation Fund 1992 and the International Oil Pollution Compensation Supplementary Fund 2003*

**2A.—(1) In this rule—**

a section referred to by number means the section so numbered in the Merchant Shipping Act 1995;

“the Fund” means the International Oil Pollution Compensation Fund 1992; and

“the Supplementary Fund” means the International Oil Pollution Compensation Supplementary Fund 2003.

(2) All proceedings against the Fund under section 175, or the Supplementary Fund under section 176A, shall be commenced in the Central Office.

(3) For the purposes of section 177, any party to proceedings brought against an owner or guarantor in respect of liability under section 153 may give notice to the Fund of such proceedings by serving a notice in writing on the Fund together with a copy of the writ and copies of the pleadings (if any) served in the action.

(4) The Court shall, on the application made ex parte by the Fund or by the Supplementary Fund, grant it leave to intervene in any proceedings to which the preceding paragraph applies, whether notice of such proceedings has been served on it or not, and paragraphs (3) and (4) of rule 17 shall apply to such an application.

(5) Where judgment is given against the Fund in any proceedings under section 175, or against the Supplementary Fund in any proceedings under section 176A, the Registrar shall cause a stamped copy of the judgment to be sent to it.

(6) The Registrar shall be notified—

(a) by the Fund of the matters set out in section 176(3)(b); or

(b) by the Supplementary Fund of the matters set out in section 176B(2)(b),

by a notice in writing, sent by post to, or delivered at, the Central Office.”;

- (d) in rule 5(8) for “section 1 of the Merchant Shipping (Oil Pollution) Act 1971” substitute “sections 153 to 154 of the Merchant Shipping Act 1995” and for “section 13(2)” substitute “section 166(2) and (3)”;

- (e) in rule 32(3) for “section 556 of the Merchant Shipping Act 1894” substitute “section 229 of the Merchant Shipping Act 1995”; and
- (f) in rule 38(5) for “section 504 of the Merchant Shipping Act 1894” substitute “sections 183 to 189 of the Merchant Shipping Act 1995”.

**11.** In Order 76, rule 15(5) for “Family Division” substitute “Chancery Division”.

**12.** In Order 80, rule 10(5) for “section 504 of the Merchant Shipping Act 1894” substitute “sections 183 to 189 of the Merchant Shipping Act 1995”.

**13.** In Order 93—

- (a) in rule 1 after paragraph (2)(p) insert—

“(q) Regulation 33(6) of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004(a),

(r) Regulation 22(6) of the European Cooperative Society (Involvement of Employees) Regulations 2006(b).”;

- (b) after rule 10, insert the following new rules—

*“Applications under regulation 33(6) of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004*

**11.**—(1) An application to the Court under regulation 33(6) of the European Public Limited-Liability Company Regulations (Northern Ireland) 2004 (“the 2004 Regulations”) for a penalty notice shall be made by originating summons.

(2) Such an application must be supported by a copy of the declaration made by the Industrial Court under regulation 33(4) of the 2004 Regulations or an explanation as to why none is included.

*Applications under regulation 22(6) of the European Cooperative Society (Involvement of Employees) Regulations 2006*

**12.**—(1) An application to the Court under regulation 22(6) of the European Cooperative Society (Involvement of Employees) Regulations 2006 (“the 2006 Regulations”) for a penalty notice shall be made by originating summons.

(2) Such an application must be supported by a copy of the declaration made by the Industrial Court under regulation 22(4) of the 2006 Regulations or an explanation as to why none is included.”.

**14.** In Order 97—

- (a) in rule 1(1) –

- (i) for the words “Family Division”, wherever they appear, substitute “Chancery Division” and;

- (ii) for “Probate and Matrimonial Office” substitute “Chancery Office”;

- (b) in rule 20(1)(i) after “spouse” insert “or civil partner”;

- (c) in rule 20(2) after “spouse” insert “or civil partner”; and

- (d) in rule 24 after “spouse” insert “or civil partner”.

**15.** In Order 105, rule 25(1) after “Article 34 of the Order of 1978” insert “or paragraph 56 of Schedule 15 to the Civil Partnership Act 2004”.

**16.** In Appendix C, in Forms No.1 (*Surety’s Guarantee*) and No. 2 (*Surety’s Guarantee: on application for resealing under Colonial Probate Acts 1892 and 1927*), for “FAMILY

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(a) S.R. 2004 No. 417

(b) S.I. 2006/2059

DIVISION” substitute “CHANCERY DIVISION” and for “Probate and Matrimonial Office” substitute “Chancery Office”.

*Brian Kerr*  
*Anthony Campbell*  
*Paul Girvan*  
*Patrick Coghlin*  
*Declan Morgan*  
*Mark Horner*  
*Caroline McGonagle*

Dated 28th February 2007

Signed by the authority of the Lord Chancellor

In exercise of the powers conferred by section 55A(3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

*Bridget Prentice*  
Parliamentary Under-Secretary of State  
Department for Constitutional Affairs

Dated 20th March 2007

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 (“the principal Rules”), so as to—

- make a number of amendments consequential to the Civil Partnership Act 2004 (c.33);
- transfer probate business from the Family Division to the Chancery Division and make a small number of consequential amendments;
- update a number of references to merchant shipping legislation, which has been repealed and consolidated in the Merchant Shipping Act 1995 (c.21);
- provide for taxation of solicitor’s professional costs as a single item under the short form procedure;
- provide for proceedings against or concerning the International Oil Pollution Compensation Supplementary Fund 2003;
- make a minor amendment in respect of giving evidence by video link;
- make a number of amendments in relation to the procedure for applications for statutory review and appeals under the Nationality, Immigration and Asylum Act 2002 (c.41), as amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) and the Immigration, Asylum and Nationality Act 2006 (c.13); and
- prescribe the procedure for applications to the High Court under the European Public Limited-Liability Company Regulations (Northern Ireland) 2004 (S.R. 2004 No. 417) and the European Cooperative Society (Involvement of Employees) Regulations 2006 (S.I. 2006/2059).

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