

2015 No. 368

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

**The Rules of the Court of Judicature (Northern Ireland)
(Amendment No. 2) 2015**

Made - - - - - *9th November 2015*

Coming into operation - *7th December 2015*

To be laid before Parliament

The Northern Ireland Court of Judicature Rules Committee^(a) makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978^(b) and section 210 of the Extradition Act 2003^(c).

Citation, commencement and interpretation

1.—(1) These Rules shall be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment No.2) 2015 and shall come into operation on 7th December 2015.

(2) In these Rules “the principal Rules” means the Rules of the Court of Judicature (Northern Ireland) 1980^(d) and an Order or rule referred to by number means the Order or rule so numbered in the principal Rules.

Amendment to the principal Rules

2. In Order 61A, for rule 3 substitute—

“Applications for leave to appeal under the Act

3.—(1) An application for leave to appeal under the Act shall be brought by ex parte motion entitled in the matter of the Act and specifying the grounds for the application and shall be supported by—

- (a) an affidavit verifying the facts relied upon;
- (b) a copy of the order to which the application relates; and

(a) The Northern Ireland Supreme Court Rules Committee was renamed the Northern Ireland Court of Judicature Rules Committee in accordance with section 59(3) of the Constitutional Reform Act 2005 (c.4)

(b) 1978 c.23; to which the most recent relevant amendments were made by paragraphs 29 and 30 of Schedule 5 to the Constitutional Reform Act 2005 (c.4) and paragraph 6 of Schedule 17, and paragraph 15 of Schedule 18, to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No. 976)

(c) 2003 c.41

(d) S.R. 1980 No. 346; The Rules of the Supreme Court (Northern Ireland) 1980 were renamed in accordance with paragraph 3 of Schedule 11 to the Constitutional Reform Act 2005 (c.4). The most recent relevant amendments were made by S.R. 2014 No. 220 and S.R. 2015 No. 235.

- (c) if applicable, a copy of the judgment to which the application relates.
- (2) In the case of an application for leave to appeal brought under section 26 or 28 of the Act, the ex parte motion shall be endorsed with the date and time of the person's arrest.
- (3) The applicant shall lodge the ex parte motion and supporting documents—
- (a) in the case of an application for leave to appeal under section 26 or 28 of the Act, within 7 days starting with the date on which the order was made;
 - (b) in the case of an application for leave to appeal under section 103 of the Act, within 14 days starting with the day on which the Secretary of State informs the person under section 100(1) or (4) of the Act of the order he has made in respect of the person;
 - (c) in the case of an application for leave to appeal under section 105 of the Act, within 14 days starting with the day on which the order for discharge is made;
 - (d) in the case of an application for leave to appeal under section 108 of the Act, within 14 days starting with the date on which the Secretary of State informs the person that he has ordered his extradition;
 - (e) in the case of an application for leave to appeal under section 110 of the Act, within 14 days starting with the day on which the Secretary of State informs the person acting on behalf of a category 2 territory of the order for discharge;
- and shall at the same time send a copy to any party affected by the application.
- (4) An application for leave to appeal may be determined by a judge in chambers.
- (5) The decision on the application for leave to appeal shall be served on the applicant by the proper officer as soon as is practicable.
- (6) Where leave to appeal is refused without a hearing on all or any of the grounds specified in the ex parte motion, the applicant may renew the application for leave to appeal on any refused ground at a hearing.
- (7) Notice of a renewed application under paragraph (6) shall be served on any party affected by the application within 5 days of the decision refusing leave wholly or in part, together with—
- (a) the ex parte motion and the supporting documents lodged under paragraph (1); and
 - (b) a copy of the decision.
- (8) The applicant shall lodge the notice of renewal application within 5 days of the decision refusing leave to appeal and the notice lodged shall be endorsed with particulars of service on the other parties.
- (9) Where leave to appeal is granted on all or any of the grounds in the ex parte motion—
- (a) the ex parte motion shall be treated as the notice of appeal insofar as it relates to the grounds on which leave has been granted; and
 - (b) the applicant shall within 5 days of the decision granting leave serve on all parties to the appeal—
 - (i) the motion together with a copy of the supporting documents lodged under (1); and
 - (ii) a copy of the decision.
- (10) Where an application for leave to appeal is renewed or where leave to appeal is granted, the respondent may lodge a response not less than 2 clear days before the hearing and shall at the same time serve a copy of the response on the other parties to the proceedings.”

*Declan Morgan
Mark Horner
Dermot Fee
Gerald McAlinden
Ian Wimpres
R Weatherup
Peter Campbell
John Gillen*

Dated this 21st day of September 2015

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.

Shailesh Vara
Parliamentary Under-Secretary of State
Ministry of Justice

Dated this 9th day of November 2015

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Rules of the Court of Judicature (Northern Ireland) 1980 (S.R. 1980 No. 346) to amend Order 61A by substituting a new rule 3 to make provision for applications for leave to appeal to the High Court under sections 26, 28, 103, 105, 108 and 110 of the Extradition Act 2003 (c.41).

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