

**2015 No. 235**

**COURT OF JUDICATURE, NORTHERN IRELAND**

**PROCEDURE**

**The Rules of the Court of Judicature (Northern Ireland)  
(Amendment) 2015**

*Made* - - - - - *27th April 2015*  
*Coming into operation* - - - - - *19th May 2015*

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

**Citation, commencement and interpretation**

1.—(1) These rules shall be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2015 and shall come into operation on 19th May 2015.

(2) In these Rules, ‘the principal Rules’ means the Rules of the Court of Judicature (Northern Ireland) 1980<sup>(c)</sup> and an Order or rule referred to by number means the Order or rule so numbered in the principal Rules.

**Amendments to the principal Rules**

2. The principal Rules shall be amended as follows—

(1) In Order 1, after rule 11(n), insert—

“(o) applications under section 96AA of the Sexual Offences Act 2003<sup>(d)</sup>”.

(2) In Order 11—

(a) in rule 1(2), insert “Subject to paragraph (2A),” before “Service of a writ”;

(b) after rule 1(2)(a), insert—

“(aa) a claim which by virtue of the Judgments Regulation, the Court has power to hear and determine, made in proceedings in which the following conditions apply—

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(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 (S.I. 2010 No. 976)  
(c) 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. 2013 No. 202 and S.R. 2014 No.220  
(d) 2003 c. 42

- (i) no proceedings between the parties concerning the same cause of action are pending in the courts of any other part of the United Kingdom or of any other Member State; and
  - (ii) either—
    - the defendant is domiciled in any part of the United Kingdom or in any Member State;
    - the defendant is not a consumer but is a party to a consumer contract within article 17 of the Judgments Regulation;
    - the defendant is an employer and a party to a contract of employment within article 20 of the Judgments Regulation;
    - the proceedings are within article 24 of the Judgments Regulation; or
    - the defendant is a party to an agreement conferring jurisdiction, within article 25 of the Judgments Regulation;
- or”;
- (c) after rule 1(2) insert—
    - “(2A) Paragraph 2(aa)(i) does not apply if the jurisdiction conferred by the agreement conferring jurisdiction within article 25 of the Judgments Regulation referred to in paragraph (2)(aa) is exclusive.”;
  - (d) for rule 1, paragraphs (3) and (4), substitute—
    - “(3) Where a writ or notice of a writ is to be served out of the jurisdiction under paragraph (2) the time to be inserted therein within which the defendant must enter an appearance shall be—
      - (a) 21 days where the service is to be effected out of the jurisdiction—
        - (i) under paragraph (2)(a) in England and Wales, Scotland or in the European territory of another Contracting State; or
        - (ii) under paragraph (2)(aa) in the European territory of another Member State;
      - (b) 31 days where the service is to be effected—
        - (i) under paragraph (2)(a) in any other territory of a Contracting State; or
        - (ii) under paragraph 2(aa) in any other territory of a Member State; or
      - (c) limited in accordance with the practice adopted under rule 4(4) where the service is to be effected under paragraph (2)(a) or 2(aa) in a country not referred to in subparagraphs (a) or (b) or under paragraph (2)(b).
    - (4) For the purposes of this rule and rule 9 of this Order –
      - (a) “Convention territory” means the territory or territories of any Contracting State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the Brussels Conventions or the Lugano Convention as defined in section 1(1) of that Act apply;
      - (b) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(a), as amended from time to time and as applied pursuant to the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(b); and
      - (c) domicile is to be determined—

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(a) OJ No. L 351, 20.12.2012, p.1

(b) OJ No. L 299, 16.11.2005, p.62. For applications of the recast Judgments Regulation to Denmark, see also OJ No. L 79, 21.3.2013, p.4

- (i) in relation to a Convention territory, in accordance with sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982; and
  - (ii) in relation to a Member State, in accordance with the Judgments Regulation and paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001(a).”
- (3) In Order 22, rule 1(1)(b)—
- (a) for “3” substitute “6”; and
  - (b) for “4” where it appears for the second time substitute “7”.
- (4) In Order 23—
- (a) in rule 1(1)(a), at the beginning insert “subject to paragraph (4),”;
  - (b) after rule 1(3), insert—
 

“(4) The Court shall not require a plaintiff to give security by reason only of paragraph (1)(a) in an application for enforcement to which Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(b), as amended from time to time and as applied pursuant to the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters applies(c).”
- (5) In Order 55, after rule 20, insert—

**“Applications under section 96AA of the Sexual Offences Act 2003**

**20A.**—(1) This rule applies to an application under section 96AA of the Sexual Offences Act 2003(d) for an order that the applicant shall cease to be subject to the notification requirements imposed by Part 2 of that Act (“a section 96AA application”).

(2) The rules of this Part apply to a section 96AA application with the modifications set out in paragraphs (3) and (4) and any other necessary modifications.

(3) The time limit in rule 14(2) shall not apply to a section 96AA application.

(4) In the application of rule 15(1) to a section 96AA application—

- (i) the notice of motion shall be served within 21 days of the date upon which the application is entered for hearing; and
- (ii) the persons to be served with the application shall include the Police Service of Northern Ireland.”

(6) In Order 71, after rule 35, insert the rules set out in the Schedule to these Rules.

(7) In Order 106—

- (a) in rule 5(2), omit “(without naming him)”; and
- (b) in rule 10(1), omit “(without naming him)”.

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(a) S.I. 2001/3929, amended by S.I. 2007/1655, S.I. 2011/1484, S.I. 2014/879 and S.I. 2014/2947  
 (b) OJ No. L 351, 20.12.2012, p.1  
 (c) OJ No. L 299, 16.11.2005, p.62. For application of the recast Judgments Regulation to Denmark, see also OL No. L 79, 21.3.2013, p4  
 (d) 2003 c.42

*Declan Morgan  
John Gillen  
Mark Horner  
R Weatherup  
W R B Stephens  
Dermot Fee  
Ian Wimpres*

Dated this 17th day of April 2015.

In exercise of the powers conferred upon me by section 53A of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 27th April 2015.



*David Ford*  
Minister of Justice

**“IIIA RECIPROCAL ENFORCEMENT OF JUDGMENTS: THE  
JUDGMENTS REGULATION**

**Application and interpretation**

**35A.**—(1) In this Part of this Order, unless the context otherwise requires, —

- (a) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(**a**), as amended from time to time and as applied pursuant to the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(**b**);
- (b) an article referred to by number means an article of the Judgments Regulation;
- (c) “application under the Judgments Regulation” includes:
  - (i) an application under article 36(2) for a decision that there are no grounds for refusal of recognition;
  - (ii) an application under article 45(1) for refusal of recognition;
  - (iii) an application under article 46 for refusal of enforcement;
  - (iv) an application for the adaptation of a judgment or a challenge to the adaptation of a judgment pursuant to article 54;
- (d) “article 53 certificate” means a certificate issued pursuant to article 53 in the form annexed to the Judgments Regulation in Annex I;
- (e) “Enforcement of Judgments Office” means the office maintained by the Department of Justice under Article 7 of the Judgments Enforcement (Northern Ireland) Order 1981(**c**); and
- (f) “judgment” has the meaning given by article 2 of the Judgments Regulation.

(2) For the purposes of this Part of this Order, domicile shall be determined in accordance with paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001(**d**).

**Assignment of business and exercise of powers**

**35B.** The jurisdiction of the High Court under the Judgments Regulation shall be assigned to the Queen’s Bench Division and the powers conferred on the Court by the Regulation may be dealt with by a judge in chambers or by a master.

**Applications under the Judgments Regulation**

**35C.**—(1) An application under the Judgments Regulation shall be brought by originating summons in Form 7 unless made in pending proceedings, in which case it shall be made by summons in the proceedings.

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(a) OJ No. L 351, 20.12.2012, p.1

(b) OJ No. L 299, 16.11.2005, p.62. For application of the recast Judgments Regulation to Denmark, see also OJ No. L 79, 21.3.2013, p.4

(c) 1981 No. 226 (N.I. 6)

(d) S.I. 2001/3929, amended by S.I. 2007/1655, S.I. 2011/1484, S.I. 2014/879 and S.I. 2014/2947

- (2) A summons under this rule shall be supported by an affidavit—
- (a) exhibiting—
    - (i) the judgment or a verified or certified or otherwise authenticated copy of it;
    - (ii) any other documents relied upon;
    - (iii) where the judgment or document is not in English, a translation thereof into English certified by a notary public or a person qualified for the purpose in one of the Member States or authenticated by witness statement or affidavit;
  - (b) stating to the best of the information or belief of the deponent—
    - (i) the grounds on which the right to make the application is vested in the applicant;
    - (ii) as the case may require, either that, at the date of the application, the judgment has not been satisfied or the part or amount in respect of which it remains unsatisfied.
- (3) Unless the Court orders otherwise, the applicant must, as soon as is practicable, serve a copy of any order made in an application under the Judgments Regulation, or in any appeal from a decision made in an application under the Judgments Regulation, on—
- (a) all other parties to the proceedings and any other person affected by the proceedings; and
  - (b) where enforcement of the judgment is pending—
    - (i) by the Enforcement of Judgments Office, that Office; or
    - (ii) in any other court in Northern Ireland, that court.

### **Appeals**

**35D.**—(1) Subject to paragraphs (2) to (4), Part II of Order 55 shall apply with necessary modifications to an appeal from a decision made in an application under the Judgments Regulation.

(2) An appeal must be made by summons to a judge.

(3) A summons in an appeal must be served within one month of service of the order under rule 35C(3) or two months of service of such order where that order was served on a party not domiciled in the jurisdiction.

(4) If the party against whom judgment was given is not domiciled in a Member State and an application is made within two months of service of the order under rule 35C(3), the Court may extend the period within which an appeal may be made.

### **Enforcement of High Court judgments in other Member States**

**35E.**—(1) A person entitled to enforce a judgment entered in the High Court who wishes to enforce the judgment in another Member State shall apply ex parte to the Court for—

- (a) a certified copy of the judgment; and
- (b) an article 53 certificate in respect of the judgment.

(2) An application under paragraph (1) shall be supported by an affidavit which shall—

- (a) give particulars of the proceedings in which the judgment was obtained;
- (b) have annexed to it a copy of the writ, originating summons or other process by which the proceedings were begun, the evidence of service thereof on the defendant, a copy of the pleadings, if any, and a statement of the grounds on which the judgment was based together, where appropriate, with any document under which the applicant is entitled to legal aid or assistance by way of representation for the purposes of the proceedings;

- (c) state whether the defendant did or did not object to the jurisdiction, and if so, on what grounds;
- (d) show that the judgment has been served in accordance with Order 65, rule 5 and is not subject to any stay of enforcement;
- (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and, in either case, whether notice of appeal against the judgment has been given; and
- (f) state—
  - (i) whether the judgment provides for the payment of a sum of money;
  - (ii) whether interest is recoverable on the judgment or part thereof and if so, the rate of interest, the date from which interest is recoverable and the date on which interest ceases to accrue;

and shall be accompanied by a draft of the article 53 certificate being sought.

(3) The certified copy of the judgment shall be an office copy sealed with the seal of the Court and signed by the master and there shall be issued with the copy of the judgment a certified copy of any order which has varied any of the terms of the original order.

#### **Authentic instruments and court settlements**

**35F.** This Part of this Order shall apply to an authentic instrument to which article 58 applies and a court settlement to which article 59 applies as it applies to a judgment, subject to any necessary modifications.

#### **References under the Civil Jurisdiction and Judgments Order 2001**

**35G.** This Part of this Order shall apply, with necessary modifications, to references to the Court under paragraph 2A(5) of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001.”

## 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 1 to assign applications under section 96AA of the Sexual Offences Act 2003 to the Queen’s Bench Division of the High Court;
- amend Order 11, Order 23 and to insert a new Part IIIA into Order 71 to ensure that the provisions in the 1980 Rules governing procedure in relation to the recognition and enforcement of judgments between courts in Northern Ireland and courts in other EU member states are consistent with Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied pursuant to the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;
- make minor amendments to Order 22 to update the references to Order 25;
- amend Order 55 to make provision for applications to the High Court under section 96AA of the Sexual Offences Act 2003 for an order that the applicant should cease to be subject to the notification requirements imposed by the 2003 Act; and
- amend Order 106 to remove automatic anonymity for solicitors who are subject to proceedings in the High Court under the Solicitors (Northern Ireland) Order 1976.

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£6.00

N6646 05/2015 456646T 19585

ISBN 978-0-337-99786-0



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