STATUTORY RULES OF NORTHERN IRELAND

2019 No. 237

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2019

Made - - - - 16th December 2019

Coming into operation in accordance with rule 1

The Northern Ireland Court of Judicature Rules Committee(**1**) makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978(**2**) and section 48 of the Civil Jurisdiction and Judgments Act 1982(**3**).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2019 and shall come into operation in accordance with paragraph (2).

(2) Except as provided by paragraph (3), these Rules come into operation on exit day.

(3) Rules 3(4)(b), 3(5)(f), 3(11)(c)(iii) to 3(11)(k), 3(17)(a) and 3(17)(c)(iii) come into operation on 13th January 2020.

2. In these Rules a reference to an Order or rule referred to by number means the Order or rule so numbered in the Rules of the Court of Judicature (Northern Ireland) 1980(**4**).

Amendments to the Rules of the Court of Judicature (Northern Ireland) 1980

3. The Rules of the Court of Judicature (Northern Ireland) 1980 are amended as follows—

(1) In the Arrangement of Orders, in the entry for Order 71, omit ", enforcement of European Community judgments, European Order for Payment Procedure and Mediation Directive".

(2) In Order 1—

(**1**) 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.

(**2**) 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(e) 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).

(**3**) 1982 c. 27; to which the most recent relevant amendments were made by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015 No. 1644).

(**4**) S.R. 1980 No. 346 to which there have been recent amendments but none relevant.

(a) in rule 3(1), omit the definition of "European lawyer";

(b) in rule 10 (h), for "sections 28, 62 or 63", insert "section 28";

(c) in rule 12(b), omit head (xv).

(3) In Order 6—

(a) in rule 4(1)—

(i) in sub-paragraph (a), omit "or any other EEA state";

(ii) omit sub-paragraph (aa);

(iii) in sub-paragraph (b), omit "or any other EEA state";

(b) in rule 4(2)—

(i) in sub-paragraph (a), omit "or European lawyer";

(ii) in sub-paragraph (b), omit "or any other EEA state";

(c) in rule 6—

(i) in paragraph 1(b), for ", Scotland or another Convention territory" insert "or Scotland";

(ii) omit paragraph (7).

(4) In Order 10—

(a) in rule 3(3), omit "Article 17 of Schedule 1, Article 17 of Schedule 3C or Article 17 of";

(b) after rule 3(3) insert—

"(4) Where a contract is one to which the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague applies and the writ or notice thereof is served under Order 11, rule 1(2)(ab) the writ or notice thereof shall be deemed to have been duly served on the defendant.".

(5) In Order 11—

(a) in rule 1(1), omit sub-paragraph (p);

(b) in rule 1(2), omit "Subject to paragraph (2A),";

(c) in rule 1(2)(a)(i), omit "or of any other Convention territory";

(d) in rule 1(2)(a)(ii)—

(i) omit "or in any other Convention territory";

(ii) omit "Article 16 of Schedule 1, Article 16 of Schedule 3C or Article 16 of";

(iii) omit "Article 17 of Schedule 1, Article 17 of Schedule 3C or Article 17 of";

(e) for rule 1(2)(aa), insert—

"(aa) a claim which, by virtue of section 15A to section 15E of the 1982 Act, the Court has power to hear and determine, made in proceedings in which the following conditions apply—

(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; and

(ii) either—

the defendant is not a consumer but is a party to a consumer contract within section 15B(1) of the 1982 Act; or

the defendant is an employer and a party to a contract of employment within section 15C(1) of the 1982 Act; or";

(f) after rule 1(2)(aa), insert—

"(ab) a claim which, by virtue of the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague, the Court has power to determine and the defendant is a party to an exclusive choice of court agreement conferring jurisdiction on that Court within the meaning of Article 3 of that Convention;";

(g) omit rule 1(2A);

(h) for rule 1(3), insert—

"(3) Where a writ or notice of a writ is to be served out of the jurisdiction 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 in England and Wales or Scotland; or

(b) limited in accordance with the practice adopted under rule 4(4) where the service is to be effected elsewhere.";

(i) omit rule 1(4).

(6) In Order 12—

(a) in rule 3(3)(a) and (b), omit "or any other EEA state";

(b) in rule 3(3)(c), omit from "or any other EEA state" to "in any EEA state";

(c) in the words after rule 3(3)(c), omit "or nominated European lawyer".

(7) In Order 13—

(a) in rule 7B(1), omit "or in any other Convention territory";

(b) in rule 7B(2)(b), omit "within the meaning of Schedule 1 or Schedule 3C or";

(c) in rule 7B(2)(c), omit from "of Schedule 1" to "of Article 20";

(d) omit rule 7B(3);

(e) after rule 7C, insert—

"**Judgments where writ or notice of writ served under Order 11, rule 1(2)(ab)**

7D.—(1) Where a writ or notice of a writ has been served out of the jurisdiction under Order 11 rule 1(2)(ab) the plaintiff shall not be entitled to enter judgment under this Order except with the leave of the Court.

(2) An application for leave to enter judgment may be made ex parte and shall be supported by an affidavit stating that in the deponent's belief—

(a) each claim made by the writ is one which by virtue of the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague the Court has power to hear and determine; and

(b) the writ or notice thereof was served out of the jurisdiction under Order 11 rule 1(2)(ab) in accordance with Order 11;

and giving in each case the sources and grounds of such belief.".

(8) In Order 23—

(a) in rule 1(3), for "the foregoing paragraphs" substitute "this rule";

(b) for rule 1(4), 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 the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague applies.".

(9) In Order 29, omit rule 10A.

(10) In Order 66, omit rule 5(5).

(11) In Order 71—

(a) in the heading, omit ", enforcement of European Community judgments, European Order for Payment Procedure and Mediation Directive";

(b) omit Part II. Enforcement of European Community Judgments (Rules 13 to 21);

(c) in rule 22(1)—

(i) omit the definition of "Convention territory";

(ii) omit the definition of "protective measures";

(iii) at the end, insert—

""the 2005 Hague Convention" means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague.";

(d) in rule 24, after "4" insert "B";

(e) in rule 25(1)—

(i) after "4" insert "B";

(ii) after sub-paragraph (a)(iv) insert—

"and

(v) any other documents required by Article 13 of the 2005 Hague Convention.".

(f) in rule 26, after "4" insert "B";

(g) in rule 27—

(i) in paragraph (1), after "4" insert "B";

(ii) in paragraph (2), for "protective measures" insert "orders to preserve the property of the party against whom enforcement is sought".

(h) in rule 28—

(i) in the heading, after "4" insert "B";

(ii) after "4" insert "B".

(i) for rule 30 insert—

"**30.**—(1) An appeal under section 6B of the Act of 1982 must be made by summons to a judge.

(2) The summons must be served—

(a) where the appeal is against the granting of registration within one month of service of any notice of registration of the judgment; or

(b) two months of service of such notice where that notice was served on a party not domiciled within the jurisdiction; and

(c) one month where the appeal is against the refusal of registration.

(3) If the party against whom judgment was given is not domiciled within a Contracting State and an application is made within two months of service of notice of