STATUTORY RULES OF NORTHERN IRELAND

2011 No. 64

FAMILY PROCEEDINGS

COURT OF JUDICATURE

COUNTY COURTS

The Family Proceedings (Amendment) Rules (Northern Ireland) 2011

Made - - - - 24th February 2011

Coming into operation 25th March 2011

The Family Proceedings Rules Committee makes the following Rules in exercise of the powers conferred by Article 12 of the Family Law (Northern Ireland) Order 1993(**1**).

Citation and commencement

1.—(1) These Rules may be cited as the Family Proceedings (Amendment) Rules (Northern Ireland) 2011 and, subject to paragraph (2), shall come into operation on 25th March 2011.

(2) These Rules, so far as they relate to the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children(**2**), shall come into operation on the day the Convention enters into force for the United Kingdom, which date will be notified in the London, Edinburgh and Belfast Gazettes.

Amendment to the Family Proceedings Rules (Northern Ireland) 1996

2. The Family Proceedings Rules (Northern Ireland) 1996(**3**) are amended as follows—

(1) in the Arrangement of Rules—

(a) omit the entry relating to rule 4.28;

(b) after the entry relating to rule 4.27 insert—

(**1**) S.I. 1993/1576 (N.I. 6), Article 12 was amended by paragraph 90 of Schedule 5 to the Constitutional Reform Act 2005 (c.4).
(**2**) CM 7727.
(**3**) S.R. 1996 No. 322.

"**APPLICATIONS RELATING TO THE COUNCIL REGULATION AND THE 1996 HAGUE CONVENTION**

4.28. Interpretation

4.29. Transfer of proceedings under Article 15 of the Council Regulation or under Article 8 of the 1996 Hague Convention

4.30. Application by a party for transfer of the proceedings

4.31. Application by a court of another Member State or another Contracting State for transfer of the proceedings

4.32. Exercise by the court of its own motion of powers to seek to transfer the proceedings

4.33. Application to High Court to make request under Article 15 of the Council Regulation or Article 9 of the 1996 Hague Convention to request transfer of jurisdiction

4.34. Procedure where the court receives a request from the authorities of another Member State or Contracting State to assume jurisdiction in a matter concerning a child

4.35. Service of the court's order or request relating to transfer of jurisdiction under the Council Regulation or the 1996 Hague Convention

4.36. Questions as to the court's jurisdiction or whether the proceedings should be stayed

4.37. Request for consultation as to contemplated placement of child in Northern Ireland

4.38. Request made by court in Northern Ireland for consultation as to contemplated placement of child in another Member State or Contracting State

4.39. Application for a declaration as to the extent, or existence, of parental responsibility in relation to a child under Article 16 of the 1996 Hague Convention";

(c) in the final heading in Part VIII, after "REGISTRATION AND ENFORCEMENT UNDER THE COUNCIL REGULATION" insert "AND THE 1996 HAGUE CONVENTION";

(d) omit the entries relating to rules 8.33 to 8.48;

(e) after the heading insert—

"**8.33.** Application

8.34. Interpretation

8.35. Filing of applications

8.36. Application for registration, recognition or non-recognition of a judgment

8.37. Application for registration or recognition of a judgment under the Council Regulation

8.38. Application for non- recognition of a judgment under the Council Regulation

8.39. Application for registration of a judgment under the 1996 Hague Convention

8.40. Application for non-recognition of a judgment under the 1996 Hague Convention

8.41. Application for recognition only of a judgment under the 1996 Hague Convention

8.42. Application for recognition of a judgment under the Jurisdiction and Recognition of Judgments Regulations

8.43. Application for non-recognition of a judgment under the Jurisdiction and Recognition of Judgments Regulations

8.44. Documents – supplementary

8.45. Directions

8.46. Recognition and enforcement under the Council Regulation of a judgment given in another Member State relating to rights of access or under Article 11(8) for the return of the child to that State

8.47. Registration for enforcement or order for non-recognition of a judgment

8.48. Stay of recognition proceedings by reason of an appeal

8.49. Effect of refusal of application for a decision that a judgment should not be recognised

8.50. Notification of the court's decision on an application for registration or non-recognition

8.51. Effect of registration under rule 8.50

8.52. Decision on recognition of a judgment only

8.53. Appeal against the court's decision under rules 8.49, 8.50 or 8.52

8.54. Stay of enforcement where appeal pending in state of origin

8.55. Enforcement of judgments registered under rule 8.50

8.56. Request for a certificate or a certified copy of a judgment

8.57. Applications for certified copy of judgment and certificate under Article 41 or 42 of the Council Regulation

8.58. Applications for certified copy of judgment and certificate under Article 39 of the Council Regulation

8.59. Applications for certified copy of judgment under the 1996 Hague Convention

8.60. Certificates issued in Northern Ireland under Articles 41 and 42 of the Council Regulation

8.61. Rectification of certificate issued under Articles 41 or 42 of the Council Regulation

8.62. Authentic instruments and agreements under Article 46 of the Council Regulation

8.63. Application for provisional, including protective measures

MEDIATION DIRECTIVE

8.64. Application and interpretation

8.65. Relevant disputes: applications for consent orders in respect of financial remedies

8.66. Relevant disputes: financial remedies expressed in a foreign currency

8.67. Mediation evidence: disclosure or inspection

8.68. Mediation evidence: witnesses and depositions";

(2) in rule 1.3(1)—

(a) omit the definition of "Contracting State";

(b) after the definition of "financial relief", insert—

""the 1996 Hague Convention" means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996(**4**);"; and

(c) after the definition of "matrimonial proceedings", insert—

""Member State" means a Member State of the European Union which is bound by the Council Regulation or a country which has subsequently adopted the Council Regulation;";

(3) in rule 2.72(1), after "(3)", insert ", and rule 8.65";

(4) for rule 4.28, substitute rules 4.28 to 4.39 set out in Schedule 1;

(5) for rules 8.33 to 8.48, substitute rules 8.33 to 8.63 set out in Schedule 2;

(6) after new rule 8.63, insert the new rules 8.64 to 8.68 set out in Schedule 3;

Declan Morgan
W.R.B. Stephens
R.E.Weir
K.H.Wells
Dated 21st February 2011 *Gemma Loughran*

In exercise of the powers conferred by Article 12A (2) of the Family Law (Northern Ireland) Order 1993, the Department of Justice allows these Rules.
Sealed with the Official Seal of the Department of Justice on 24th February 2011

L.S.

David Ford
Minister of Justice

(**4**) CM 7727.

SCHEDULE 1 Rule 2(4)

"APPLICATIONS RELATING TO THE COUNCIL REGULATION AND THE 1996 HAGUE CONVENTION

Interpretation

4.28.—(1) In rules 4.28 to 4.39—

"Central Authority" means, in relation to Northern Ireland, the Department of Justice;

"Contracting State" means a State party to the 1996 Hague Convention;

"judgment" has the meaning given in Article 2(4) of the Council Regulation;

"parental responsibility" has the meaning given in—

(a) Article 2(7) of the Council Regulation in relation to proceedings under that Regulation; and

(b) Article 1(2) of the 1996 Hague Convention in relation to proceedings under that Convention; and

"seised" has the meaning given in Article 16 of the Council Regulation.

(2) In rules 4.29 to 4.38, references to the court of another Member State or Contracting State include authorities within the meaning of "court" in Article 2(1) of the Council Regulation and authorities of Contracting States which have jurisdiction to take measures directed to the protection of the person or property of the child within the meaning of the 1996 Hague Convention.

Transfer of proceedings under Article 15 of the Council Regulation or under Article 8 of the 1996 Hague Convention

4.29.—(1) Where a court is considering the transfer of proceedings to the court of another Member State or Contracting State under rules 4.30 to 4.32 it will—

(a) fix a date for a hearing for the court to consider the question of transfer; and

(b) give directions as to the manner in which the parties may make representations.

(2) The court may, with the consent of all parties, deal with the question of transfer without a hearing.

(3) Directions which are in force immediately prior to the transfer of proceedings to a court in another Member State or Contracting State under rules 4.30 to 4.32 will continue to apply until the court in that other State accepts jurisdiction in accordance with the provisions of the Council Regulation or the 1996 Hague Convention (as appropriate), subject to any variation or revocation of the directions.

(4) The proper officer or chief clerk will—

(a) take a note of the giving, variation or revocation of directions under this rule; and

(b) as soon as practicable serve a copy of the directions order on every party.

(5) A register of all applications and requests for transfer of jurisdiction to or from another Member State or Contracting State will be kept by the proper officer.