STATUTORY RULES OF NORTHERN IRELAND

# 2011 No. 62

# COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

## The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2011

*Made - - - - 24th February 2011*

*Coming into operation 25th March 2011*

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**).

### Citation, commencement and interpretation

**1.**—(1) These Rules may be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2011 and shall come into operation on 25th March 2011.

(2) In these Rules an Order or Form referred to by number or an Appendix referred to by letter means the Order or Form so numbered or the Appendix so lettered in the amended Rules.

### Amendments

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

(1) in the Arrangement of Orders—

(a) in the entry for Order 1, after "Judicature", insert "and Mediation";

(b) in the entry for Order 71, for "Reciprocal enforcement of judgments, enforcement of European Community judgments and European Order for Payment Procedure", substitute "Reciprocal enforcement of judgments, enforcement of European Community judgments, European Order for Payment Procedure and Mediation Directive"; and

(c) after the entry relating to Order 124, insert—

(**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 by Article 15 of and Schedule 17 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No. 976).

(**3**) S.R. 1980 No. 346. The Rules of the Supreme Court (Northern Ireland) 1980 were re-named 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. 2009 No.207, 230 and 345.

"**125.** Coroners and Justice Act 2009 – Exploitation Proceeds Orders";

(2) in Order 1—

(a) in the heading, after "JUDICATURE", insert "; MEDIATION";

(b) after rule 11(m), insert—

"(n) applications under Part 7 of the Coroners and Justice Act 2009(**4**) – Exploitation Proceeds Orders."; and

(c) after rule 18, insert the new rules set out in Schedule 1;

(3) in Order 66, rule 5, after paragraph (4), insert—

**2.**—"(5) No document—

(a) relating to an application under Order 71, rule 47(1) for a mediation settlement enforcement order;

(b) annexed to a mediation settlement enforcement order made under Order 71, rule 47(6);

(c) relating to an application under Order 71, rule 49(1) or otherwise for disclosure or inspection of mediation evidence; or

(d) annexed to an order for disclosure or inspection made under Order 71, rule 49 or otherwise,

may be inspected without the leave of the Court.";

(4) in Order 71—

(a) for the heading, substitute "RECIPROCAL ENFORCEMENT OF JUDGMENTS, ENFORCEMENT OF EUROPEAN COMMUNITY JUDGMENTS, EUROPEAN ORDER FOR PAYMENT PROCEDURE AND MEDIATION DIRECTIVE"; and

(b) after rule 44, insert the new rules set out in Schedule 2;

(5) after Order 124, insert new Order 125 as set out in Schedule 3.

*Declan Morgan*
*W R B Stephens*
*John Gillen*
*F P Girvan*
*Paul Maguire*
*Tony Caher*

Dated 21st February 2011

(**4**) c.25

In exercise of the powers conferred by section 55A(3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.
Sealed with the Official Seal of the Department of Justice on 24th February 2011







*David Ford*
Minister of Justice

SCHEDULE 1 Rule 2(2)(c)

# "PART III

## MEDIATION

**Interpretation**

19.—(1) In this Part of this Order—

(a) "an ADR process" means mediation, conciliation or another dispute resolution process approved by the Court, but does not include arbitration; and

(b) "party" includes the personal representative of a deceased party.

**Adjournment of proceedings for the purposes of ADR**

20.—(1) The Court, on the application of any of the parties or of its own motion, may, when it considers it appropriate and having regard to all the circumstances of the case, order that proceedings or any issue therein be adjourned for such time as the Court considers just and convenient and—

(a) invite the parties to use an ADR process to settle or determine the proceedings or issue; or

(b) where the parties consent, refer the proceedings or issue to such process,

and may, for the purposes of such invitation or reference, invite the parties to attend such information session on the use of mediation, if any, as the Court may specify.

(2) Where the parties decide to use an ADR process, the Court may make an order extending the time for compliance by any party with any provision of these Rules or any order of the Court in the proceedings, and may make such further or other orders or give such directions as the Court considers will facilitate the effective use of that process.

**Application for order under rule 20**

21. An application by a party for an order under rule 20 shall be made by notice of motion and shall, unless the Court otherwise orders, be supported by an affidavit.

**Time limit for application under rule 20**

22. Save where the Court for special reason to be stated in the Court's order allows, an application for an order under rule 20 shall not be made later than 56 days before the date on which the proceedings are first listed for hearing."

SCHEDULE 2 Rule 2(4)(b)

# "V. MEDIATION DIRECTIVE

**Application and interpretation**

45.—(1) This Part of this Order applies to mediated cross-border disputes that are subject to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters(**5**).

(2) In this Part—

(a) "Mediation Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;

(b) "cross-border dispute" has the meaning given by article 2 of the Mediation Directive;

(c) "mediation" has the meaning given by article 3(a) of the Mediation Directive;

(d) "mediation administrator" means a person involved in the administration of the mediation process;

(e) "mediation evidence" means evidence arising out of or in connection with a mediation process;

(f) "mediation settlement" means the content of a written agreement resulting from mediation of a relevant dispute;

(g) "mediation settlement agreement" means a written agreement resulting from mediation of a relevant dispute;

(h) "mediation settlement enforcement order" means an order made under rule 47(6);

(i) "mediator" has the meaning given by article 3(b) of the Mediation Directive; and

(j) "relevant dispute" means a cross-border dispute that is subject to the Mediation Directive.

**Assignment of business and exercise of powers**

46. Any applications to the High Court under the Mediation Directive shall be assigned to the Queen's Bench Division and the powers conferred on the Court by that Directive may be dealt with by a judge in chambers or by a master.

**Mediation settlement enforcement orders**

47.—(1) Where the parties, or one of them with the explicit consent of the others, wish to apply for a mediation settlement to be made enforceable, the parties or party may apply by way of originating summons.

(2) An originating summons under this rule may be issued without naming a defendant and no appearance need be entered.

(3) An application shall be made ex parte and supported by an affidavit exhibiting the mediation settlement agreement.

(4) Except to the extent that paragraph (8) applies, the parties shall lodge any evidence of explicit consent to the application under paragraph (1) when the parties lodge the application.

(**5**) OJ No. L136, 24.05.2008.