STATUTORY RULES OF NORTHERN IRELAND

2010 No. 379

FAMILY PROCEEDINGS

COURT OF JUDICATURE

COUNTY COURTS

The Family Proceedings (Amendment) Rules (Northern Ireland) 2010

Made - - - -	*18th November 2010*
Coming into operation	*20th December 2010*

The Family Proceedings Rules Committee make 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. These Rules may be cited as the Family Proceedings (Amendment) Rules (Northern Ireland) 2010 and shall come into operation on 20th December 2010.

Amendment to the Family Proceedings Rules (Northern Ireland) 1996

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

3. In rule 1.3(7) for "section 161(1)(a), (b) or (c)" substitute "section 161(1)(a) or (b)".

4. In rule 2.6(1)(a) omit ", other than Article 21 of the Order of 1978,".

5. In rule 2.6(1)(b) omit ", other than a petition under section 178 of the Act of 2004,".

6. In Part III, after rule 3.46, insert—

"**Application under Article 32L of the Order of 1991: Interpretation**

3.47. In rules 3.48 to 3.52—

(a) "child support maintenance" has the meaning assigned to it in Article 4(6) of the Order of 1991;

(**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**) S.R. 1996 No. 322 to which the most recent amendments were made by S.R. 2007 No. 324, S.R. 2008 No. 24, S.R. 2008 No. 259 and S.R. 2008 No. 466.

(b) "the Department" has the meaning assigned to it in Article 2(2) of the Order of 1991;

(c) "reviewable disposition" has the meaning assigned to it in Article 32L(5) of the Order of 1991.

Application under Article 32L of the Order of 1991

3.48.—(1) An application for an order preventing avoidance under Article 32L of the Order of 1991 shall be made by originating summons in Form CS1 issued out of the Matrimonial Office and shall be supported by an affidavit by the applicant.

(2) The affidavit in support shall—

(a) include the following information—

(i) the name and address of the person who owes child support maintenance;

(ii) the amount of outstanding child support maintenance and the period during which that amount has been outstanding;

(iii) any steps taken to date to enforce payment of the amount of outstanding child support maintenance;

(iv) in the case of applications made without notice, the reasons why notice has not been given;

(b) where the application relates to land—

(i) state, if known to the applicant whether the title to the land is registered or unregistered and, if registered, the Land Registry folio number;

(ii) give particulars, so far as known to the applicant, of any mortgage, charge or lien whatsoever on the land or on any interest thereon;

(c) in the case of an application under Article 32L(2) of the Order of 1991, state the name and address of the person in whose favour the reviewable disposition is alleged to have been made; and

(d) state the facts relied on in support of the application including—

(i) in the case of an application under Article 32L(1) of the Order of 1991, the proposed disposition or other dealing with property which would have the consequence of making ineffective a step that has been or may be taken to recover the amount of outstanding child support maintenance;

(ii) in the case of an application under Article 32L(2) of the Order of 1991, the disposition which is alleged to be reviewable and has had the consequence of making ineffective a step taken or which may have been taken to recover the amount of outstanding child support maintenance.

(3) Where the applicant is not relying on evidence to give rise to the presumption under Article 32L(7) of the Order of 1991 that the person who disposed of or is about to dispose of or deal with property did so or, as the case may be is about to do so, with the intention of avoiding payment of child support maintenance, then the applicant must give other evidence supporting the person's intention of avoiding such payment.

Parties to proceedings under Article 32L of the Order of 1991

3.49.—(1) In proceedings under Article 32L of the Order of 1991, the applicant is the Department and the respondent is the person who has failed to pay child support maintenance.

(2) The court may at any time direct that—

(a) any person be made a party to proceedings; or

(b) a party to the proceedings cease to be a party.

Service of an application under Article 32L of the Order of 1991

3.50.—(1) In every application made on notice the applicant shall serve the application, a copy of the affidavit in support and the acknowledgement of service in Form CS2 on—

(a) each respondent;

(b) the person in whose favour the reviewable disposition is alleged to have been made; and

(c) any other person directed by the court.

(2) Where an application includes an application relating to land, the applicant must serve a copy of the application on any—

(a) mortgagee;

(b) trustee of a trust of land or settlement; and

(c) other person who has an interest in the land,

of whom particulars are given in the application.

(3) Any person served under paragraph (2) may make a request to the court in writing, within 14 days after service of the application, for a copy of the applicant's affidavit in support of the application.

(4) Any person who—

(a) is served with copies of the application and the applicant's affidavit in support of the application under paragraph (1); or

(b) receives a copy of the applicant's affidavit in support of the application following a request under paragraph (3),

may within 14 days after service file an affidavit in answer.

Application under Article 32L(1) of the Order of 1991 without notice

3.51.—(1) This rule applies to an application under Article 32L(1) of the Order of 1991.

(2) The court may grant an application made without notice if it appears to the court that there are good reasons for not giving notice.

(3) If the court grants an application under paragraph (2)—

(a) the order shall include a provision allowing any respondent to apply to the court for the order to be reconsidered as soon as just and convenient at a full hearing; and

(b) the applicant shall, as soon as reasonably practicable, serve upon each respondent a copy of the order and a copy of the application and affidavit in support of the application.

Hearing of applications under Article 32L of the 1991 Order

3.52. Unless the court otherwise directs, an application for an order under Article 32L of the Order of 1991 shall be heard by a judge in chambers.".

7. In Appendix 1, after Form A27 insert the forms set out in the Schedule to these Rules.