STATUTORY RULES OF NORTHERN IRELAND

2010 No. 49

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2010

Made - - - - 24th February 2010

To be laid before Parliament

Coming into operation 1st April 2010

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 10 of the Defamation Act 1996(**3**).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2010 and shall come into operation on 1st April 2010.

(2) In these Rules "the principal Rules" means the Rules of the Court of Judicature (Northern Ireland) 1980(**4**).

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

2. In the Arrangement of Orders, after the entry relating to Order 60A, insert the following new entry—

"60B	Appeals to the Court of Appeal from Industrial Tribunals and the Fair Employment Tribunal.".

3. In Order 1, rule 12(b), after sub-paragraph (xvi), insert—

"(xvii) Article 32L of the Child Support (Northern Ireland) Order 1991(**5**);

(**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).
(**3**) 1996 c.31.
(**4**) S.R 1980 No. 346 to which the most recent amendments were made by S.R. 2009 No. 264 and S.R. 2009 No. 345.
(**5**) 1991/2628 (N.I. 23); Article 32L was inserted by the Child Maintenance Act (Northern Ireland) 2008 (c.10).

(xviii) The Hague Convention of 19th October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children;".

4. After Order 60A, insert new Order 60B as set out in the Schedule to these Rules.

5. In Order 61, after rule 18, insert—

"**Application for suspension of a foreign driving disqualification under the Crime (International Co-operation) Act 2003**

19.—(1) In this rule and rule 20 —

"the Department" means the Department of the Environment for Northern Ireland; and

"the 2003 Act" means the Crime (International Co-operation) Act 2003(**6**).

(2) An application to the Court of Appeal under section 62(3) of the 2003 Act to suspend a driving disqualification shall be made by way of notice of motion and shall be accompanied by a copy of the application to state a case lodged with the clerk of petty sessions under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981(**7**).

(3) The applicant shall serve a copy of the application made under paragraph (2) on the clerk of petty sessions for the magistrates' court which heard the appeal against the disqualification under section 59 of the 2003 Act.

(4) The proper officer shall as soon as practicable after the Court of Appeal has made a decision in respect of an application under paragraph (2) notify—

(a) the clerk of petty sessions for the magistrates' court which heard the appeal against the disqualification under section 59 of the 2003 Act ; and

(b) each of the parties to the proceedings,

of that decision.

20. An application to the Court of Appeal under section 62(4) of the 2003 Act to suspend a driving disqualification shall be by way of notice of motion and shall be accompanied by —

(a) a copy of the application made under the Act for leave to appeal to the Supreme Court or a copy of the order granting leave to appeal as appropriate; and

(b) an affidavit setting out the grounds on which the applicant seeks to have the driving disqualification suspended.

21. The provisions of Order 8 shall apply to applications brought under rules 19 and 20.".

6. In Order 82 —

(a) after rule 3(6), insert—

"(6A) Where the defendant relies on an offer to make amends made under section 2 of the Defamation Act 1996(**8**), (referred to in this Order as "the 1996 Act"), by way of defence, the defence must—

(a) state that the defendant is relying on the offer in accordance with section 4(2) of the 1996 Act;

(b) state that the offer has not been withdrawn or accepted; and

(c) have a copy of the offer attached to it.";

(**6**) 2003 c.32.
(**7**) 1981 No. 1675 (26).
(**8**) 1996 c.31.

(b) in the heading of rule 8, omit "under s. 4 of Defamation Act (Northern Ireland) 1955";

(c) in rule 8(1), for "section 4 of the Defamation Act (Northern Ireland) 1955", substitute "section 3 of the Defamation Act 1996";

(d) after rule 8(2), insert—

"(3) The application must include—

(a) a copy of the offer to make amends;

(b) details of the steps taken to fulfil the offer to make amends;

(c) a copy of the text of any correction and apology;

(d) details of the publication of the correction and apology;

(e) a statement of the amount of any sum paid as compensation;

(f) a statement of the amount of any sum paid as costs; and

(g) why the offer to make amends is unsatisfactory.

(4) Where any step specified in section 2(4) of the 1996 Act has not been taken, the application must state—

(a) what steps are proposed by the party to fulfil the offer to make amends and the date or dates on which each step will be fulfilled; or

(b) that no proposal has been made to take that step to fulfil the offer to make amends."; and

(e) after rule 8, insert—

"**Summary disposal under the Defamation Act 1996**

9.—(1) This rule applies to proceedings for summary disposal under sections 8 and 9 of the 1996 Act.

(2) The Court may, at any stage of the proceedings—

(a) treat any application, pleading or other step in the proceedings as an application for summary disposal; or

(b) make an order for summary disposal without any such application.

(3) The Court may, on any application for summary disposal, direct the defendant to elect whether or not to make an offer to make amends under section 2 of the 1996 Act.

(4) When it makes a direction under paragraph (3), the Court will specify the time by which and the manner in which—

(a) the election is to be made; and

(b) notification of the election is to be given to the Court and other parties.

(5) An application for summary disposal must be supported by an affidavit which—

(a) states that it is an application under section 8 of the 1996 Act;

(b) verifies the facts on which the application is based;

(c) identifies concisely any point of law on which the application relies;

(d) states that in the deponent's belief the claim or the defence has no realistic prospect of success and that there is no reason why the claim should be tried; and