STATUTORY RULES OF NORTHERN IRELAND

2009 No. 176

COUNTY COURTS

The County Court (Amendment No. 2) Rules (Northern Ireland) 2009

Made - - - -	*27th April 2009*
Coming into operation	*18th May 2009*

The County Court Rules Committee makes the following Rules in exercise of the powers conferred by Article 47 of the County Courts (Northern Ireland) Order 1980(**1**).

Citation and commencement

1. These Rules may be cited as the County Court (Amendment No. 2) Rules (Northern Ireland) 2009 and shall come into operation on 18th May 2009.

Amendments

2. In the Arrangement of Orders in the County Court Rules (Northern Ireland) 1981(**2**) ("the principal Rules"), at the entry for Order 27, insert "European Small Claims Procedure".

3. In Order 1, rule 1(1) of the principal Rules, after "Order 26 Rule 29," insert "Order 27, Rule 8,".

4. In Order 26, rule 46 of the principal Rules, for "Table 3" substitute "Table 2".

5. After Order 26 of the principal Rules, insert the new Order 27 set out in Schedule 1.

6. In Appendix 1 to the principal Rules, after Form 125, insert the new Form 126 set out in Schedule 2.

(**1**) S.I. 1980/397 (N.I. 3) to which the most recent relevant amendments were made by the Constitutional Reform Act 2005 (c. 4).
(**2**) S.R. 1981 No.225 to which the most recent amendments were made by S.R. 2009 No.19.

The undersigned members of the County Court Rules Committee certify these Rules and submit them to the Lord Chancellor.

T.A. Burgess
Philip Babington
C.E. Philpott
Brian J. Stewart
Dated 3rd April 2009 *Dorcas Crawford*

In exercise of the powers conferred by Article 47(4) of the County Courts (Northern Ireland) Order 1980 and after consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 18th May 2009.
Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under-Secretary of State
Dated 27th April 2009 Ministry of Justice

SCHEDULE 1 Rule 5

"ORDER 27

EUROPEAN SMALL CLAIMS PROCEDURE

Application, interpretation and scope

1.—(1) This Order applies to proceedings under Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European small claims procedure.

(2) In this Order—

(a) "ESCP Regulation" means Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European small claims procedure(**3**);

(b) "ESCP" means the European small claims procedure established by the ESCP Regulation;

(c) "ESCP claim form" means the claim form annexed to the ESCP Regulation as Form A;

(d) "ESCP counterclaim" has the meaning given to "counterclaim" by recital 16 of the ESCP Regulation;

(e) "ESCP judgment" means a judgment given in the ESCP;

(f) "small claims court" means a court which processes small claims;

(g) "the applicant" means the person who makes the initial claim under the ESCP;

(h) "the judge" means the district judge;

(i) "the officer" means the person in the small claims office who processes the application for a small claim;

(j) "the respondent" means the person against whom the initial claim is made;

(k) "the respondent's response" means the response to the ESCP claim form annexed to the ESCP Regulation as Form C;

(l) "the SCCPC" means the Small Claims Civil Processing Centre, PO Box 882, Royal Courts of Justice, Belfast BT1 3JF; and

(m) "the small claims office" means the office of the small claims court or the SCCPC.

(3) This Order applies only to those applications that fall within the scope of the ESCP Regulation as prescribed in Article 2 of that Regulation.

Translations

2. Except where the ESCP Regulation makes different provision about the certification or verification of translations required by this Order, such translation must be accompanied by a statement by the person making it that it is a correct translation. The statement must include that person's name, address and qualifications for making the translation.

(**3**) No. L 199, 31.07.07

ESCP proceedings

3. Proceedings are to be brought and conducted in accordance with the ESCP Regulation.

4. Where an applicant wishes to lodge the ESCP claim form, the original form and, where appropriate, relevant supporting documents should be lodged, together with two copies and the appropriate fee, with the small claims office.

5. If there is more than one respondent, the applicant must lodge one extra copy of the ESCP claim form for each additional respondent.

6. When the relevant forms and the appropriate fee are received in the small claims office, the officer will—

(a) complete Part I of the respondent's response and issue it to the respondent(s);

(b) file the original ESCP claim form;

(c) return one copy of the ESCP claim form to the applicant; and

(d) issue one copy of the ESCP claim form to the respondent(s).

7. The SCCPC shall keep a record of—

(a) the applications which are received; and

(b) the small claims office to which those applications are sent.

Venue for an ESCP hearing

8. If the judge determines that a hearing is required under Article 7 of the ESCP Regulation, this may take place—

(a) in a court in the county court division in which the applicant or one of the applicants lives or carries on business; or

(b) in a court in the county court division in which the respondent or one of the respondents lives or carries on business.

Procedure on an ESCP hearing

9. An ESCP hearing—

(a) shall be informal; and

(b) shall not be subject to the strict rules of evidence.

10. The judge may adopt any procedure which he considers to be fair.

Transfer of proceedings

11. If the judge is satisfied that a claim under the ESCP could be more conveniently or fairly dealt with in another small claims court, he may order the application to be transferred to that court and the officer of the small claims court in which the application is originally made must—

(a) inform all the parties of the transfer; and

(b) send to the officer of the other court any relevant court records and documents.

12. On receiving the relevant records and documents, the judge of the other small claims court shall determine the claim.