STATUTORY RULES OF NORTHERN IRELAND

2007 No. 189

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 2007

Made - - - -	*20th March 2007*
To be laid before Parliament	
Coming into operation	*16th April 2007*

The Northern Ireland Supreme Court Rules Committee makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978(**1**)

Citation and commencement

1. These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 2007 and shall come into operation on the 16th April 2007.

Amendments to the Rules of the Supreme Court (Northern Ireland) 1980(2)

2. In Order 1—

(a) in rule 2(2)(b) after "matrimonial proceedings" insert "and proceedings under the Civil Partnership Act 2004" (**3**);

(b) in rule 10(a)(x) omit the full stop and insert a semi-colon;

(c) after rule 10(a)(x) insert—

"(xi) the grant and revocation of probate of wills and letters of administration of estates of deceased persons."; and

(d) in rule 12 omit paragraph (a)(i).

3. In Order 10, rule 4(1) after "wife or husband" insert "or civil partner".

(**1**) 1978 c.23 to which the most recent relevant amendments were made by the Constitutional Reform Act 2005 (c.4)
(**2**) **S.R. 1980 No. 346 to which the most recent amendments were made by S.R. 2005 No. 146, S.R. 2005 No.163 and S.R. 2006 No. 486**
(**3**) 2004 c.33

4. In Order 18, rule 22 for "the Merchant Shipping Acts 1894 to 1965" substitute "the Merchant Shipping Act 1995"(**4**).

5. In Order 22, rule 10 after "widow," insert "surviving civil partner,".

6. In Order 38, rule 3(2)(e) for "live television link" substitute "video link".

7. In Order 53A—

(a) after rule 2, insert the following new rule—

"**Representation of applicants while filter provision has effect**

2A.—(1) This rule applies during any period in which the filter provision has effect.

(2) An applicant may, for the purpose of taking any step under rules 3 or 4, be represented by any person permitted to provide him with immigration advice or services under section 84 of the Immigration and Asylum Act 1999(**5**).

(3) Where a representative is acting for an appellant who is within the jurisdiction, a document must be served on the appellant by—

(a) serving it on the representative; or

(b) serving it on the appellant personally or sending it to his address by ordinary first class post,

but if the document is served on the appellant under (b), a copy must also at the same time be sent to his representative.";

(b) in rule 3—

(i) in paragraph (4), for "The notice of application" substitute "During any period in which the filter provision does not have effect, the notice of application";

(ii) after paragraph (4), insert—

"(4A) During any period in which the filter provision has effect, the applicant must lodge with the notice of application a list of the documents referred to in paragraph (4)(a) to (e).";

(c) in rule 5, after paragraph (2) insert—

"(2A) The applicant must lodge with the notice—

(a) a copy of the Tribunal's notification that it does not propose to make an order for reconsideration or does not propose to allow the application to be made outside the relevant time limit;

(b) any other document which was served on the applicant by the Tribunal giving reasons for its decision in paragraph (a);

(c) written evidence in support of any application by the applicant to make the application outside the relevant time limit, if applicable; and

(d) a copy of the application for reconsideration under section 103A of the 2002 Act, as submitted to the Tribunal under rule 3(1)(a).";

(d) in rule 8—

(i) in paragraph (2), after "Where" insert "the appellant is within the jurisdiction and";

(ii) for paragraph (3)(b) substitute—

(**4**) 1995 c.21

(**5**) 1999 c.33. Part V of that Act has been amended by the Nationality, Immigration and Asylum Act 2002 (c.41), section 140 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19), sections 37 to 41 and Schedule 4.

"immediately after serving the order, notify—

(i) the Court; and

(ii) where the order requires the Tribunal to reconsider its decision on the appeal, the Tribunal,

on what date and by what method the order was served.";

(iii) in paragraph (5), after "(3)(b)" insert "(i)"; and

(iv) after paragraph (5), insert—

"(5A) Where the Court serves an order for reconsideration under paragraph (5), it will notify the Tribunal of the date on which the order was served."; and

(e) after rule 8, insert—

"**Continuing an application in circumstances in which it would otherwise be treated as abandoned**

9.—(1) This rule applies to an application under section 103A of the 2002 Act which—

(a) would otherwise be treated as abandoned under section 104(4A) of the 2002 Act; but

(b) meets the conditions set out in section 104(4B) or section 104(4C) of the 2002 Act.

(2) Where section 104(4A) of the 2002 Act applies and the applicant wishes to pursue the application, the applicant must lodge a notice in the Central Office—

(a) where section 104(4B) of the 2002 Act applies, within 28 days of the date on which the applicant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or

(b) where section 104(4C) of the 2002 Act applies, within 28 days of the date on which the applicant received notice of the grant of leave to enter or remain in the United Kingdom.

(3) Where the applicant does not comply with the time limits specified in paragraph (2), the application will be treated as abandoned in accordance with section 104(4) of the 2002 Act.

(4) The applicant must serve the notice lodged under paragraph (2) on the other party to the appeal.

(5) Where section 104(4B) of the 2002 Act applies, the notice lodged under paragraph (2) must state—

(a) the applicant's full name and date of birth;

(b) the High Court reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the applicant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and

(e) that the applicant wishes to pursue the application insofar as it is brought on grounds relating to the Refugee Convention specified in section 84(1)(g) of the 2002 Act.

(6) Where section 104(4C) of the 2002 Act applies, the notice lodged under paragraph (2) must state—

(a) the applicant's full name and date of birth;

(b) the High Court reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the applicant was granted leave to enter or remain in the United Kingdom; and

(e) that the applicant wishes to pursue the application insofar as it is brought on grounds relating to Article 20A of the Race Relations (Northern Ireland) Order 1997(**6**) specified in section 84(1)(b) of the 2002 Act.

(7) Where an applicant has lodged a notice under paragraph (2) the Court will notify the applicant of the date on which it received the notice.

(8) The Court will send a copy of the notice issued under paragraph (7) to the other party to the appeal.".

8. In Order 60A after rule 6, insert—

"**Continuing a referral to the Court of Appeal in circumstances in which it would otherwise be treated as abandoned**

7.—(1) This rule applies to an appeal to the Tribunal which is referred to the Court of Appeal under section 103C of the Act which—

(a) would otherwise be treated as abandoned under section 104(4A) of the Act; but

(b) meets the conditions set out in section 104(4B) or section 104(4C) of the Act.

(2) Where section 104(4A) of the Act applies and the appellant wishes to pursue the appeal, the appellant must lodge a notice in the Central Office—

(a) where section 104(4B) of the Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or

(b) where section 104(4C) of the Act applies, within 28 days of the date on which the appellant received notice of the grant of leave to enter or remain in the United Kingdom.

(3) Where the appellant does not comply with the time limits specified in paragraph (2), the application will be treated as abandoned in accordance with section 104(4) of the Act.

(4) The appellant must serve the notice lodged under paragraph (2) on the respondent.

(5) Where section 104(4B) of the Act applies, the notice lodged under paragraph (2) must state—

(a) the appellant's full name and date of birth;

(b) the Court of Appeal reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the appellant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and

(e) that the appellant wishes to pursue the application insofar as it is brought on grounds relating to the Refugee Convention specified in section 84(1)(g) of the Act.

(**6**) SI 1997/869 (NI 6) to which the most recent relevant amendments were made by S.R. 2003 No. 341