STATUTORY RULES OF NORTHERN IRELAND

2006 No. 521

COUNTY COURTS

The County Court (Amendment) Rules (Northern Ireland) 2006

Made - - - - 14th December 2006

Coming into operation 8th January 2007

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

1. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2006.

Amendment to the County Court Rules (Northern Ireland) 1981(2)

2. In Order 14 (Interlocutory applications), after rule 10A (*Application under Article 42A(1) or 42B(3) of the Order*), insert—

"The European Intellectual Property Directive

10B.—(1) When an application is made to which Directive 2004/48/EC(**3**) applies, the Judge may grant an interim order making the continuation of an alleged infringement subject to guarantees.

(2) Where the Judge grants an order *ex parte* to which Directive 2004/48/EC applies, such order shall be granted only on terms providing for the issue of the civil bill and such other terms, if any, as the Judge thinks fit."

3. In Order 19 (Assessors), rule 5 (*Remuneration*) for "£28.10" substitute"£31.04".

4. In Order 24 (Evidence), rule 9 (*Witness summons*) in paragraph (7)(a)—

(a) for "£11.00" substitute "£12.15"; and

(b) for "£15.50" substitute "£17.12".

5. In Order 33 (Decrees), rule 10 (*Stay of execution and removal thereof*) in paragraph (6) for "£6.38" substitute "£7.05".

(**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 relevant amendments were made by S.R. 1999 No. 464, S.R. 2002 No.412 and S.R. 2003 No. 272**

(**3**) Directive on the Enforcement of Intellectual Property Rights (2004/48/EC)(OJ L157, 30.4.2004)

6. In Order 45 (Funds in Court) for rules 2 (*Investment*) and 3 (*Interpretation*), substitute the new rules set out in Schedule 1 to these Rules.

7. In Order 52 (Miscellaneous Enactments), in rule 13 (*Application for forfeiture orders under the Copyright, Designs and Patents Act 1988*)—

(a) for paragraph 1, substitute "An application under section 114, 204, or 231 of the Copyright, Designs and Patents Act 1988 (c. 48) or an application under section 97 of the Trade Marks Act 1994 (c. 26) shall be made by Notice in Form 323.";

(b) in paragraph 2, for "under section 58C of the Trade Marks Act 1938," substitute "under section 97 of the Trade Marks Act 1994,"; and

(c) after paragraph 3, insert—

"(4) Where the Judge makes an order for delivery up, forfeiture or destruction of infringing goods or articles designed or adapted to make such goods the defendant shall pay the costs of complying with the order unless the Judge orders otherwise.

(5) Without prejudice to any other provisions of these Rules, the Judge may, where he finds that an intellectual property right has been infringed, order appropriate measures for the dissemination and publication of the judgment to be made at the expense of the defendant.".

8. In Order 55 (Costs)—

(a) in rule 14 (*Costs in undefended cases*) in paragraphs (1) and (2) for "Table 3" substitute "Table 2"; and

(b) in rule 17 (*Services fee for postal service*) for "£2.37" substitute "£2.62".

9. In Order 56 (County Court seal and authentication of documents)—

(a) in rule 1 (*County Court seal*), omit "which shall incorporate the name of the division"; and

(b) after rule 4 (*Documents to be sealed*) insert—

"Interpretation

5. The county court seal may be affixed by placing the seal on the relevant document—

(a) by hand; or

(b) by printing a facsimile of the seal on the document whether electronically or otherwise.".

10. In Appendix 1 (*Forms*) in Form 323 for "Application for order under section 114, 204 or 231 of the Copyright, Designs and Patents Act 1988 or under section 58C of the Trade Marks Act 1938" substitute "Application for order under section 114, 204 or 231 of the Copyright, Designs and Patents Act 1988 or under section 97 of the Trade Marks Act 1994".

11. For Appendix 2 substitute the new Appendix 2 set out in Schedule 2 to these Rules.

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

T. A. Burgess
Philip Babington
Hilary Keegan
Barry Valentine
Brian F. Walker
Brian J. Stewart
Dated 15th November 2006 *Adrian Colton*

In exercise of the powers conferred by Article 47(4) of the County Courts (Northern Ireland) Order 19 80 and after consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 8th January 2007
Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Dated 14th December 2006 Department for Constitutional Affairs

SCHEDULE 1 Rule 6

"Investment of money recovered by person under disability

2.—(1) Moneys paid into court may be invested in the following securities—

(a) securities issued by Her Majesty's Government in the United Kingdom, the Government of Northern Ireland or the Government of the Isle of Man, being fixed-interest securities registered in the United Kingdom or the Isle of Man, Treasury Bills or Tax Reserve Certificates or any variable interest securities issued by Her Majesty's Government in the United Kingdom and registered in the United Kingdom;

(b) any securities the payment of interest on which is guaranteed by Her Majesty's Government in the United Kingdom or the Government of Northern Ireland;

(c) fixed-interest or variable interest securities issued in the United Kingdom by any public authority or by any nationalised industry or nationalised undertaking in the United Kingdom;

(d) debentures issued in the United Kingdom by a company incorporated in the United Kingdom, being debentures registered in the United Kingdom;

(e) equity shares in a public limited liability company whose shares are listed in the Official List of the Stock Exchange;

(f) equity shares in an investment trust company;

(g) any units of a gilt unit trust scheme;

(h) any units of an authorised unit trust scheme;

(i) any shares in an open-ended investment company within the meaning of the Open-Ended Investment Companies Regulations (Northern Ireland) 2004(**4**) or the Open-Ended Investment Companies Regulations 2001(**5**).

(2) Pending or in lieu of such investment, moneys so paid in may be lodged on deposit receipt in accounts held with the National Debt Commissioners or in accounts held with such bank as the Lord Chancellor may, with the concurrence of the Treasury, designate under section 79 of the Judicature (Northern Ireland) Act 1978(**6**).

Interpretation

3.—(1) In this Part, the expression—

"authorised unit trust scheme" has the meaning assigned by section 237(3) of the Financial Services and Markets Act 2000(**7**);

"debenture" includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

"fixed-interest securities" means securities which under the terms of issue bear a fixed rate of interest;

"gilt unit trust scheme" means an authorised unit trust scheme, or a recognised scheme, the objective of which is—

(a) to invest at least 90% of the property of the scheme in loan stock, bonds or other instruments creating indebtedness which—

(i) are transferable; and

(**4**) S.R. 2004 No. 335
(**5**) S.I. 2001 No. 1228
(**6**) 1978 c. 23
(**7**) 2000 c. 8

(ii) are issued or guaranteed by the Government of the United Kingdom or of any other country or territory, by a local authority in the United Kingdom or in a relevant state, or by an international organisation the members of which include the United Kingdom or a relevant state;

(b) to invest the remainder of the property of the scheme in shares, debentures or other instruments creating or acknowledging indebtedness, certificates representing securities or units in a collective investment scheme.

Sub-paragraphs (a) and (b) must be read with—

(i) section 22 of the Financial Services and Markets Act 2000;

(ii) any relevant Order under that section; and

(iii) Schedule 2 to that Act;

"investment trust company" has the meaning assigned by section 842 of the Income and Corporation Taxes Act 1988(**8**);

"securities" includes shares, debentures, Treasury Bills and Tax Reserve Certificates;

"share" includes stock;

"Treasury Bills" includes bills issued by Her Majesty's Government in the United Kingdom and Northern Ireland Treasury Bills;

"variable-interest securities" means securities which under the terms of issue bear a variable rate of interest.

(2) In this rule, the expression "relevant state" means Austria, Finland, Iceland, Liechtenstein, Norway, Sweden or a state other than the United Kingdom State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being."

SCHEDULE 2 Rule 11

"APPENDIX 2

PART I

Ordinary civil bills

(other than those provided for in Table 3)

Table 1: Plaintiff's and Defendant's Costs

In actions where amount decreed (in the case of the plaintiff) and where amount claimed (in the case of the defendant)		*Solicitor's costs*
(1)		*(2)*
(i)	does not exceed £1,000	£497

(**8**) 1988 c. 1