STATUTORY RULES OF NORTHERN IRELAND

2006 No. 10

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 2006

Made - - - -	*19th January 2006*
To be laid before Parliament	
Coming into operation	*13th February 2006*

The Northern Ireland Supreme Court Rules Committee makes the following Rules in exercise of the powers conferred by section 55 of the Judicature (Northern Ireland) Act 1978(**1**) and section 446 of the Proceeds of Crime Act 2002(**2**). The Lord Chancellor has concurred in the making of these Rules:—

Citation and commencement

1. These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 2006 and shall come into operation on 13th February 2006.

Amendment of the Rules of the Supreme Court (Northern Ireland) 1980(**3**)

2. Order 123 shall be amended as follows—

(1) For rule 1, there shall be substituted the following new rule—

"**Interpretation**

1. In this Order—

"the Act" means the Proceeds of Crime Act 2002 and a section referred to by a number means the section so numbered in the Act, and expressions used have the same meaning in this Order as in the Act;

(**1**) 1978 c. 23
(**2**) 2002 c. 29; which is amended by the Serious Organised Crime and Police Act 2005 (c. 15)
(**3**) **S.R. 1980 No. 346 to which the most recent relevant amendment was made by S.R. 2003 No. 54**

"the Order in Council" means the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(**4**), and expressions used have the same meaning in this Order as in the Order in Council;

"civil recovery proceedings" means proceedings under Part 5 of the Act or, as the case may be, Part 5 of the Order in Council;

"Master" means the Master (Queen's Bench and Appeals);

"the Regulations" means the Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) (Regulations) 2005(**5**);

"taxing master" means the Master (Taxing Office)".

(2) In rule 2, after the words "the Act", there shall be inserted the words "or Part 5 of the Order in Council";

(3) For the title of Part II, there shall be substituted the following new title, namely "CIVIL RECOVERY PROCEEEDINGS UNDER PART 5 OF THE ACT OR PART 5 OF THE ORDER IN COUNCIL";

(4) In rule 4(1), after the words "the Act" there shall be inserted the words "or, as the case may be, Part 5 of the Order in Council";

(5) For rule 5, there shall be substituted the following new rule—

"**Application for a recovery order**

5.—(1) An application by the Director for a recovery order under section 243 shall be made by originating summons.

(2) An application for a recovery order based on an external order shall include an application to register the external order (a copy of which shall accompany the application under paragraph (1)).

(3) An application under paragraph (1) shall be supported by an affidavit which shall contain the following—

(a) full particulars of the matters relied upon in support of the application;

(b) identify the property in respect of which the order is sought;

(c) a statement of whether each piece of property is alleged to be recoverable or associated property;

(d) details of any person who is alleged to hold the property; and

(e) details of the person nominated by the Director under section 267 or Article 178 of the Order in Council to act as trustee for civil recovery.

(4) The application and affidavit in support shall be served in accordance with section 243(2) or, as the case may be, Article 143(2) of the Order in Council not less than seven days before the date fixed for the hearing of the application.

(5) Where the application under paragraph (1) includes an application to register an external order, and—

(a) the sum specified in the external order is expressed in a currency other than sterling; and

(b) there are not sufficient funds held in the United Kingdom in the currency in which the sum specified is expressed to satisfy the external order,

(**4**) S.I.2005/3181
(**5**) S.I. 2005/3382

the application shall state the sterling equivalent of the sum specified (which shall, in accordance with Article 145(2) of the Order in Council, be calculated in accordance with the exchange rate prevailing at the end of the day on which the external order is made).".

(6) In rule 6, after the words "section 243(2)(b)" there shall be inserted the words "or, as the case may be, Article 143(2)(b) of the Order in Council,".

(7) For rule 7, there shall be substituted the following new rule—

"**Application for a property freezing order or an interim receiving order**

7.—(1) An application by the Director for—

(a) a property freezing order under section 245A or, as the case may be, Article 147 of the Order in Council; or

(b) an interim receiving order under section 246 or, as the case may be, Article 151 of the Order in Council,

may be made by summons.

(2) An application under paragraph (1) shall be supported by an affidavit, which shall:

(a) give full particulars of the matters relied upon in support of the application;

(b) to the best of the deponent's ability, give full particulars of the property in respect of which the order is sought;

(c) state whether each piece of property is alleged to be recoverable or associated property and the matters relied upon in support of those allegations;

(d) state who is believed to hold the property or, if the Director has not established the identity of the person who holds it, specify the steps that have been taken to do so.

(3) In the case of an application for an interim receiving order, the affidavit under paragraph (2) shall also—

(a) specify the person nominated by the Director under section 246 or, as the case may be, Article 151 of the Order in Council to act as interim receiver ("the nominee");

(b) where the Director wishes the Court to authorise the nominee to act without the giving of security or before he has given security, specify the reasons why the Director considers this to be necessary;

(c) have exhibited thereto, the written consent of the nominee to act, if appointed; and

(d) have exhibited thereto, an affidavit by a deponent who knows the nominee, stating that he believes that the nominee is a suitable person to be appointed as receiver and the grounds for that belief.

(4) Where a property freezing order or an interim receiving order is made, unless the Court directs otherwise, the Director shall serve a copy of the order and the affidavit in support of the defendant and any other person of whom the Director is aware who may be affected by the order."

(8) After rule 7, there shall be inserted the following new rule—

"**Initial exclusion from property freezing order or interim receiving order**

7A.—(1) Where the Court makes a property freezing order or interim receiving order on an ex parte application, it may make an exclusion from the order (in this rule referred to as an "initial exclusion") for the purpose of enabling a person to meet his reasonable legal expenses so that he may—

(a) take advice in relation to that order;