STATUTORY RULES OF NORTHERN IRELAND

2005 No. 497

FAMILY PROCEEDINGS
SUPREME COURT
COUNTY COURTS

The Family Proceedings (Amendment No. 2) Rules (Northern Ireland) 2005

Made - - - -	*7th November 2005*
To be laid before Parliament	
Coming into operation	*5th December 2005*

We, the Family Proceedings Rules Committee, in exercise of the powers conferred on us by Article 12 of the Family Law (Northern Ireland) Order 1993(**1**) hereby with the concurrence of the Lord Chancellor, make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Family Proceedings (Amendment No. 2) Rules (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

(2) In these Rules a reference to a rule or Appendix by number alone is a reference to the rule or Appendix so numbered in the Family Proceedings Rules (Northern Ireland) 1996(**2**) ("the 1996 Rules") and a form referred to by letter and number means the form so designated in Appendix 1 to those Rules.

Amendment to the 1996 Rules

2. In the Arrangement of Rules—

(a) in the heading following Part II, after "Matrimonial Causes" insert "and Civil Partnership Causes";

(b) after the entry relating to rule 2.6 insert—

(**1**) S.I. 1993/1576 (N.I. 6)
(**2**) S.R. 1996 No. 322 as amended by S.R. 1999 No. 88, S.R. 2000 No. 329, S.R. 2002 No. 137, S.R. 2003 No. 75 and S.R. 2005 No. 144

"**2.6A.** Petition for nullity on ground of issue of interim gender recognition certificate."

"**2.6B.** Petition for nullity on ground that respondent's gender had become acquired gender at time of marriage or civil partnership";

(c) after the entry relating to rule 2.10 insert—

"**2.10A.** Acknowledgement of service of petition for nullity brought on ground relating to gender recognition";

(d) for the entry relating to rule 2.12 substitute—

"Consent to grant of decree or civil partnership order";

(e) after the entry relating to rule 2.14 insert—

"**2.14A.** Answer praying for decree of nullity on ground of issue of interim gender recognition certificate.

2.14B. Answer praying for decree of nullity on ground that petitioner's gender had become acquired gender at time or marriage or civil partnership";

(f) after the entry relating to rule 2.15 insert—

"**2.15A.** Reply to answer praying for decree of nullity on ground relating to gender recognition";

(g) for the entry relating to rule 2.23 substitute—

"Re-transfer of cause to divorce county court or civil partnership proceedings county court";

(h) for the entry relating to rule 2.26 substitute—

"Medical examination in proceedings for nullity of marriage";

(i) for the entry relating to rule 2.34 substitute—

"Lists in the designated county courts";

(j) for the entry relating to rule 2.37 substitute—

"Procedure for complying with Article 44 of the Order of 1978 or section 186 of the Act of 2004";

(k) for the entry relating to rule 2.42 substitute—

"Evidence of marriage or overseas relationship outside Northern Ireland";

(l) for the entry relating to rule 2.47 substitute—

"Application for recission of decree or conditional order";

(m) for the entry relating to rule 2.48 substitute—

"Application under Article 12(2) of the Order of 1978 or section 172(2) of the Act of 2004";

(n) for the entry relating to rule 2.51 substitute—

"Recission of decree nisi or conditional order by consent";

(o) for the entry relating to rule 2.52 substitute—

"Decree absolute or final order on lodging notice";

(p) for the entry relating to rule 2.53 substitute—

"Decree absolute or final order on application";

(q) after the entry relating to rule 2.54 insert—

"**2.54A.** Indorsement and certificate of final order;

2.54B. Application under section 6 of the Gender Recognition Act 2004(**3**)

(r) for the entry relating to rule 2.70 substitute—

"Request for periodical payments order at same rate as order for maintenance pending suit or maintenance pending outcome of proceedings";

(s) for the entry relating to rule 2.71 substitute—

"Application for order under Article 39(2)(a) of the Order of 1978 or paragraph 67(2) of Schedule 15 to the Act of 2004";

(t) for the entry relating to rule 3.1 substitute—

"Application by spouse or civil partner for failure to maintain";

(u) for the entry relating to rule 3.7 substitute—

"Application of other rules to proceedings under Article 37 or 38 of the Order of 1978 or under paragraphs 62 or 66 of Schedule 15 to the Act of 2004";

(v) for the entry relating to rule 3.9 substitute—

"Transfer of certain tenancies on divorce etc., dissolution etc., of civil partnership or on separation of cohabitees";

(w) after the entry relating to rule 3.10 insert—

"**3.10A.** Application under section 181 of the Act of 2004 for declaration as to civil partnership status";

(x) for the entry relating to rule 3.11 substitute—

"Procedure to be followed in relation to application under rules 3.10 and 3.10A";

(y) for the entry relating to rule 3.12 substitute—

"Application for leave to apply for financial relief after overseas divorce or overseas dissolution etc., of a civil partnership";

(z) for the entry relating to rule 3.13 substitute—

"Application for an order for financial relief or an avoidance of transaction order under Part IV of the Order of 1989 or under Schedule 17 to the Act of 2004";

(aa) for the entry relating to rule 3.14 substitute—

"Application for an order under Article 28 of the Order of 1989 or under paragraph 17 of Schedule 17 to the Act of 2004 preventing transaction";

(bb) after the entry relating to rule 3.38 insert—

"**3.39.** Reference under section 8(5) of the Gender Recognition Act 2004";

(cc) after the entry relating to rule 4.27 insert—

"**4.28.** Stay under the Council Regulation";

(dd) after the entry relating to rule 5.3 insert—

"**5.4.** Appeal under section 8(1) of the Gender Recognition Act 2004";

(ee) for the entry relating to rule 7.9 substitute—

"Copies of decrees, civil partnership orders and other orders";

(ff) after the entry relating to rule 7.13 insert—

(**3**) 2004 c. 7

"**7.13A.** Documents in family proceedings concerning gender recognition";

(gg) for the entry relating to rule 8.31 substitute—

"Special provisions as to judgment summonses in designated county court";

(hh) for the entry relating to rule 8.32 substitute—

"Removal of designated county court order into High Court";

(ii) in the entry relating to rule 8.41 (Application for recognition), after "recognition" insert "or non-recognition";

(jj) in the entry relating to rule 8.42 (Enforcement of judgments in other Contracting States), for "Enforcement" substitute "Recognition or enforcement"; and

(kk) after the entry relating to rule 8.43 insert—

"**8.44.** Service of a certificate under Article 41 of the Council Regulation;

8.45. Registration of a certificate issued under Article 41 of the Council Regulation;

8.46. Application by a party for transfer of proceedings to a court of another Member State;

8.47. Application by a court of another Member State for transfer of proceedings;

8.48. Rectification of a certificate issued under Article 41 of the Council Regulation".

3. In rule 1.3 (Interpretation)—

(a) in paragraph (1)—

(i) after the definition of "the Order of 1999" insert—

""the Act of 2004" means the Civil Partnership Act 2004(**4**);";

(ii) in the definition of "ancillary relief", after paragraph (c) insert—

"(ca) an order for maintenance pending outcome of proceedings,";

(iii) for the definition of "avoidance of disposition order" substitute—

""avoidance of disposition order" means—

(a) in matrimonial proceedings, an order under Article 39(2)(b) or (c) of the Order of 1978, and

(b) in civil partnership proceedings, an order under paragraph 67(3) or (4) of Schedule 15 to the Act of 2004;";

(iv) for the definition of "cause" substitute—

""cause" means—

(a) a matrimonial cause under the Order of 1978, or

(b) a civil partnership cause under the Act of 2004;";

(v) for the definition of "child" and "child of the family" substitute—

""child", except in Part IV or Part IVB, in relation to one or both of the parties to a marriage or civil partnership, includes an illegitimate child of that party or, as the case may be, of both parties;

"child of the family" has, except in Part IV or Part IVB, the meaning assigned to it by Article 2(2) of the Order of 1995;";

(**4**) 2004 c. 33

(vi) after the definition of "child of the family" insert—

""civil partnership cause" has the meaning assigned to it by section 190(3) of the Act of 2004;

"civil partnership order" means one of the orders mentioned in section 161 of the Act of 2004;

"civil partnership proceedings" means any proceedings under the Act of 2004;

"civil partnership proceedings county court" means a county court so designated by the Lord Chancellor under section 188(4) of the Act of 2004;";

(vii) for the definition of "consent order" substitute—

""consent order" means—

(a) in matrimonial proceedings, an order under Article 35A of the Order of 1978, and

(b) in civil partnership proceedings, an order under paragraph 59 of Schedule 15 to the Act of 2004;";

(viii) in the definition of "Contracting State", for sub-paragraph (a) substitute—

"(a) one of the parties to the Council Regulation, that is to say, Belgium, Cyprus, Czech Republic, Germany, Greece, Spain, Estonia, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Poland, Portugal, Slovakia, Slovenia, Finland, Sweden and the United Kingdom, and";

(ix) for the definition of "the Council Regulation" substitute—

""the Council Regulation" means the Council Regulation (EC) No. 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility;";

(x) after the definition of "Department" insert—

""designated county court" means a court designated as—

(a) a divorce county court, or

(b) a civil partnership proceedings county court, or

(c) both a divorce county court and a civil partnership proceedings county court;";

(xi) for the definition of "financial provision order" substitute—

""financial provision order" means—

(a) in matrimonial proceedings, any of the orders mentioned in Article 23(1) of the Order of 1978 except an order under Article 29(6) of that Order, and

(b) in civil partnership proceedings, any of the orders mentioned in paragraph 2(1) of Schedule 15 to the Act of 2004, made under Part I of Schedule 15 to that Act;";

(xii) for the definition of "financial relief" substitute—

""financial relief" has—

(a) in matrimonial proceedings, the meaning assigned to it by Article 39 of the Order of 1978, and