STATUTORY RULES OF NORTHERN IRELAND

2003 No. 54

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 2003

Made - - - -	*3rd February 2003*
To be laid before Parliament	
Coming into operation	*28th February 2003*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(**1**) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows: –

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 2003 and subject to paragraph (2) shall come into operation on 28th February 2003.

(2) Rule 4(2) shall come into operation on the same day as section 190 of the Proceeds of Crime Act 2002(**2**) comes into force.

2. In these Rules, "the principal rules" means the Rules of the Supreme Court (Northern Ireland) 1980(**3**) and an Order referred to by a number or an Appendix referred to by a letter means the Order so numbered or the Appendix so lettered in the principal rules.

Arrangement of Orders

3. The Arrangement of Orders at the beginning of the principal rules shall be amended by adding after the entry relating to Order 122, the following –

"**123.** The Proceeds of Crime Act 2002 – Civil Recovery"

(**1**) 1978 c. 23
(**2**) 2002 c. 29
(**3**) S.R.1980 No. 346 to which the most recent relevant amendments have been S.R. 2000 No. 243 and S.R.2000 No. 393

Amendment of the principal Rules

4.—(1) After Order 122 there shall be added the Order set out in Schedule 1 to these Rules.

(2) Order 116 shall be amended by inserting, after rule 41, the Part set out in Schedule 2 to these Rules.

Amendment of Appendix A

5. In Appendix A after Form No. 71 there shall be inserted the Forms set out in Schedule 3 to these Rules.

R. D. Carswell
Antony Campbell
Brian Kerr
F. P. Girvan
Declan Morgan
Mark Horner
Caroline McGonagle
Dated 29th January 2003 *Tony Caher*

I concur,

Dated 3rd February 2003 *Irvine of Lairg,* C.

SCHEDULE 1 Rule 4(1)

"ORDER 123

PROCEEDS OF CRIME ACT 2002 – CIVIL RECOVERY

PART I

INTRODUCTORY

Interpretation

1. In this Order –

"the Act" means the Proceeds of Crime Act 2002(**4**) and a section referred to by number means the section so numbered in the Act; and

expressions used have the same meaning in this Order as in the Act.

Assignment of Proceedings

2. In this Order the jurisdiction of the High Court under the Act shall be assigned to the Queen's Bench Division and shall be exercised by a judge in chambers.

Agency staff: pseudonyms

3. Where a member of staff of the Assets Recovery Agency in relation to whom a direction under section 449 has effect, gives written or oral evidence under this Order, a copy of the certificate issued under section 449(3) shall be filed in the appropriate office.

PART II

PART 5 OF THE ACT

Title of proceedings

4.—(1) An originating summons under this Part of this Order shall be entitled in the matter of the defendant, naming him, and in the matter of the Act and all subsequent documents in the matter shall be so entitled.

(2) An originating summons shall be regarded as the claim form referred to in Part 5 of the Act, the plaintiff shall be regarded as the claimant referred to in that Part and the defendant shall be regarded as the respondent referred to in that Part.

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) The application shall be supported by an affidavit which shall contain the following:

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

(**4**) 2002 c. 29

(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 to act as the trustee for civil recovery.

(3) The application and affidavit in support shall be served in accordance with section 243(2) not less than seven days before the date fixed for the hearing of the application.

6. An application for an order dispensing with service under section 243(2)(b) may be made by an affidavit stating the facts on which the application is founded.

Application for an interim receiving order

7.—(1) An application by the Director for an interim receiving order under section 246 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;

(e) specify the person nominated by the Director under section 246 to act as interim receiver ("the nominee");

(f) 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;

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

(h) 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.

(3) Where 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 on the defendant and any other person of whom the Director is aware who may be affected by the order.

Interim Receivers

8.—(1) Subject to rules 9 to 11, the provisions of Order 30 rules 2 to 7 shall apply where an interim receiver is appointed by virtue of an interim receiving order.

(2) A receiver may apply for an order to discharge him from office by making an application, which shall be served, together with any evidence of support, on all persons affected by his appointment not less than seven days before the date fixed for the hearing of the application.

Application for directions

9.—(1) An application under section 251 for directions as to the exercise of an interim receiver's functions shall be made by way of summons.

(2) The summons and any affidavit in support shall, not less than two days before the date fixed for the hearing of the summons, be lodged with the Court and served on –

(a) the interim receiver, where he is not the applicant;

(b) the other party or parties to the proceedings; and

(c) any other person of whom the applicant is aware who may have an interest in the application.

Application for variation and discharge

10.—(1) An application to vary or discharge an interim receiving order under section 251 shall be made by way of summons.

(2) The summons and any affidavit in support shall, not less than two days before the date fixed for the hearing of the summons, be lodged with the Court and served on –

(a) the interim receiver, where he is not the applicant;

(b) the other party or parties to the proceedings; and

(c) any other person of whom the applicant is aware who may be affected by the court's decision.

Leave

11.—(1) An application for leave under section 253(3) shall be made by summons.

(2) The summons and any affidavit in support shall be served, not less than two days before date for the hearing of the application on:

(a) the tenant;

(b) the person against whom the interim receiving order has been made;

(c) the interim receiver (if appointed); and

(d) any other person of whom the applicant is aware who may be affected by the court's decision.

Compensation

12. An application for an order under section 283 shall be made by summons which shall be served, with any supporting evidence, on the Director not less than seven days before the date fixed for hearing.

PART III

PART 8 OF THE ACT

Title and service of proceedings

13.—(1) Subject to rules 20 and 22, an originating summons under this Part of this Order shall be entitled in the matter of the defendant, naming him, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(2) Any originating summons, or other document, required to be served under this Part of this Order may be served outside the jurisdiction with the leave of the Court.