1995 No. 2

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 1995

Made	*9th January 1995*
Coming into operation	*2nd February 1995*
To be laid before Parliament	

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(**a**) 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) 1995 and shall come into operation on 2nd February 1995.

(2) In these Rules "the principal rules" means the Rules of the Supreme Court (Northern Ireland) 1980(**b**) and an Order referred to by number means the Order so numbered in the principal rules.

Business of the Supreme Court

2. Order 1 shall be amended as follows:—

(*a*) in rule 11 by the addition of the following new paragraphs—

"(*g*) appeals under rule 14 or 15 of the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992(**c**);

(*h*) appeals under section 28(2D) or (2E) of the Criminal Appeal (Northern Ireland) Act 1980(**d**).".

(**a**) 1978 c. 23 as extended by section 28(2C) of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47); sub-section (2C) was inserted by section 53 of the Criminal Justice and Public Order Act 1994 (c. 33)

(**b**) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1981 No. 224; S.R. 1983 No. 407; S.R. 1986 No. 203; S.R. 1988 No. 71; S.R. 1989 No. 287; S.R. 1991 No. 232; S.R. 1992 No. 399

(**c**) S.R. 1992 No. 314 as amended by S.R. 1994 No. 209

(**d**) 1980 c. 47; sub-sections (2D) and (2E) were inserted into section 28 by section 53 of the Criminal Justice and Public Order Act 1994 (c. 33)

(*b*) in rule 12 by the addition of the following new paragraph—

"(*d*) proceedings under the Human Fertilisation and Embryology Act 1990(**a**) and the Adoption (Northern Ireland) Order 1987(**b**) as applied with modifications by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994(**c**);".

Contents of affidavit

3. Order 41 of rule 5(1) shall be amended by the addition of the following sub-paragraph—

"(*f*) Order 88, rule 5 (2A);".

Mortgage actions

4. Order 88 shall be amended as follows—

(*a*) in rule 4

(i) paragraphs (4), (5), (6) and (7) shall be renumbered (3), (4), (5) and (6) respectively;

(ii) in paragraphs (4) and (5) (as renumbered) for each reference to paragraph "(4)" there shall be substituted a reference to paragraph "(3)";

(iii) in paragraph (6) (as renumbered) for the reference to paragraph "(5)" there shall be substituted a reference to paragraph "(4)";

(*b*) in rule 5—

(i) the following paragraph shall be inserted after paragraph (2)—

"(2A) Unless the court otherwise directs the affidavit may contain statements of information or belief with the sources and grounds thereof";

(ii) the following paragraph shall be substituted for paragraph (4)—

"(4) Where the plaintiff claims delivery of possession, the affidavit must—

(*a*) give particulars of every person who to the best of the plaintiff's knowledge is in possession of the mortgaged property; and

(*b*) state, in the case of a dwelling house, whether a charge has been registered pursuant to Article 6 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984(**d**) and if so, on whose behalf, and whether he has served notice of the proceedings on the person on whose behalf the charge is registered.";

(*c*) in rule 5A(1) after the words "Chancery Division" there shall be inserted the words "for possession";

(**a**) 1990 c. 37
(**b**) S.I. 1987/2203 (N.I. 22)
(**c**) S.I. 1994/2767
(**d**) S.I. 1984/1984 (N.I. 14)

(*d*) in rule 6—

(i) in paragraph (3) for the words ''rule 5(2) to (7)'' there shall be substituted the words ''rule 4(2) to (6)'';

(ii) in paragraph (4) for the reference to ''rule 6'' there shall be substituted a reference to ''rule 5'';

(*e*) in rule 7—

(i) in paragraph (6) for the word ''shall'' where it first appears there shall be substituted the word ''may'';

(ii) for paragraph (7) there shall be substituted the following paragraph—

''(7) If the court, on directing such an account, shall be of the opinion that extending it to mortgages subsequent to the demand of the plaintiff will improperly delay the plaintiff in recovering his demand, the account may be confined to the rights of the plaintiff and of mortgagees prior to and contemporaneous with him.''.

Proceedings relating to minors

5. Order 90 shall be amended as follows—

(*a*) in rule 20—

(i) in paragraph (2) after the words ''section 20(2) of the Act'' there shall be inserted the words ''or section 42(2) of the Child Custody Act 1987 (an Act of Tynwald)'';

(ii) in paragraphs (4) and (5) for the words ''or the High Court in England and Wales'' wherever they appear there shall be inserted the words ''the High Court in England and Wales or the High Court of Justice of the Isle of Man'';

(iii) in paragraph (6) after the words ''a court of summary jurisdiction in Northern Ireland'' there shall be inserted the words ''the High Court of Justice of the Isle of Man, a court of summary jurisdiction in the Isle of Man'';

(*b*) in rule 21 for the words ''or the High Court in England and Wales'' wherever they appear there shall be substituted the words ''the High Court in England and Wales or the High Court of Justice of the Isle of Man'';

(*c*) in paragraph (1) of rule 26—

(i) in the definition of ''the appropriate court'' at the end there shall be added the words ''and in relation to a specified dependent territory, the corresponding court in that territory'';

(ii) after that definition there shall be inserted the following definition—

'' ''the appropriate officer'' means in relation to the High Court in England and Wales, the Secretary of the Principal Registry of the Family Division, in relation to the Court of Session, the Deputy Principal Clerk of Session and in relation to the appropriate court in a specified dependent territory, the corresponding officer of that court;'';

(iii) the definitions of "the Deputy Principal Clerk" and "the Secretary of the Principal Registry" shall be omitted;

(iv) after the definition of "registration" there shall be inserted the following definition—

" "specified dependent territory" means a dependent territory specified in column 1 of Schedule 1 to the Family Law Act 1986 (Dependent Territories) Order 1991(**a**)";

(*d*) in rule 27—

(i) for sub-paragraph (1)(*d*) there shall be substituted the following sub-paragraph—

"in which of the jurisdictions of England, Scotland, or a specified dependent territory the order is to be registered;"

(ii) in sub-paragraph (3)(*a*) for the words "the Secretary of the Principal Registry or to the Deputy Principal Clerk as the case may be" there shall be substituted the words "the appropriate officer";

(*e*) in rule 28 for the words "or Scotland" there shall be substituted the words ", Scotland, or a specified dependent territory";

(*f*) in sub-paragraph (1)(*a*) of rule 29 for the words "the Secretary of the Principal Registry or to the Deputy Principal Clerk as the case may be," there shall be substituted the words "the appropriate officer";

(*g*) in paragraph (1) of rule 30 for the words "or Scotland" there shall be substituted the words ", Scotland, or a specified dependent territory".

Further amendments to the principal rules

6.—(1) The Orders set out in Schedules 1, 2 and 3 hereto shall be inserted into the principal rules in the places appropriate to their number.

(2) The Appendix set out in Schedule 4 hereto shall be inserted into the principal rules in the place appropriate to its letter.

Dated 13th December 1994

Brian Hutton
John MacDermott
J. M. Nicholson
Anthony Campbell
Hugh P. Kennedy
Aidan A. Canavan

I concur, *Mackay of Clashfern*, C.

Dated 9th January 1995

(**a**) S.I. 1991/1723 as amended by S.I. 1994/2800

SCHEDULE 1 Rule 6(1)

ORDER 84A

Parental Orders

Interpretation

1. In this Order, unless the context otherwise requires—

"the 1990 Act" means the Human Fertilisation and Embryology Act 1990(**a**) and expressions which are defined in the 1990 Act have the same meaning as in that Act;

"the 1987 Order" means the Adoption (Northern Ireland) Order 1987(**b**) as applied with modifications by the Parental Orders Regulations and expressions which are defined in the 1987 Order have the same meaning as in that Order;

"the Parental Orders Regulations" means the Parental Orders (Human Fertilisation and Embryology) Regulations 1994(**c**);

reference to a Form by number is a reference to the Form as numbered in Appendix H;

"the birth father" means the father of the child, including a person who is treated as being the father of the child by section 28 of the 1990 Act, where he is not the husband within the meaning of section 30 of the 1990 Act;

"the birth mother" means the woman who carried the child;

"the birth parents" means the birth mother and the birth father;

"the Office" means the Office of Care and Protection and "the Master" means the Master (Care and Protection).

Proceedings

2. Any hearing of an application under the 1990 Act or the 1987 Order shall be dealt with in chambers unless the court otherwise directs.

Commencement of proceedings

3.—(1) An application for a parental order shall be made by originating summons in Form 1 issued out of the Office.

(2) The applicants shall be the husband and wife and the respondents shall be the birth parents (except where the applicants seek to dispense with their consent) and any other persons or body in whom the parental rights and duties relating to the child are vested at the time of the application.

(3) The court may at any time direct that any other person or body be made a respondent to the summons.

(4) On filing the originating summons the applicants shall pay the appropriate fee and supply three copies of the originating summons together with any other documents required to be supplied.

(**a**) 1990 c. 37
(**b**) S.I. 1987/2203 (N.I. 22)
(**c**) S.I. 1994/2767