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STATUTORY RULES OF NORTHERN IRELAND

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2000 No. 243

**SUPREME COURT, NORTHERN IRELAND**

**PROCEDURE**

**The Rules of the Supreme Court (Northern Ireland)  
(Amendment No. 2) 2000**

*Made* . . . . . 24th July 2000

*Coming into operation* . . . . . 2nd October 2000

*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) This Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 2000 and shall come into operation on 2nd October 2000.

(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.

*Arrangement of Orders*

**2.** The Arrangement of Orders at the beginning of the principal rules shall be amended by adding after the entry relating to Order 120 the following—

“**121.** The Human Rights Act 1998”.

*Amendment of the principal rules*

**3.** Order 15, rule 6 shall be amended by adding after paragraph (6), the following new paragraph—

“(7) This rule shall not apply to any joinder of parties to which Order 121 applies.”.

**4.** Order 32, rule 11 shall be amended by adding after sub-paragraph (n) of paragraph (1), the following new sub-paragraphs—

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(a) 1978 c. 28  
(b) S.R. 1980 No. 346; to which the most recent relevant amendment was made by S.R. 1999 No. 493

- “(o) proceedings under section 7(1)(a) of the Human Rights Act 1998 in respect of a judicial act, as defined in section 9(5) of that Act;
- (p) proceedings in which there is an issue which may lead to the Court considering whether to make a declaration of incompatibility under section 4 of the Human Rights Act 1998.”.

**5.** Order 42 shall be amended by inserting after rule 3 the following new rule—

“3A. Where on an application or appeal in respect of—

- (a) an order of committal;
- (b) a refusal to order release on an application for Writ of Habeas Corpus;
- (c) a refusal to grant bail;
- (d) a secure accommodation order made under Article 44 of the Children (Northern Ireland) Order 1995(a),

the Court determines that a Convention right, as defined in section 1 of the Human Rights Act 1998, of the applicant or appellant have been infringed by the making of the order to which the application or appeal relates, the Court shall so specify in its judgment.”.

**6.** Order 78 shall be amended as follows—

(a) in rule 2,

- (i) by deleting the word “and” at the end of sub-paragraph (g);
- (ii) by adding the word “and” at the end of sub-paragraph (h); and
- (iii) by adding after sub-paragraph (h), the following new sub-paragraph—

“(i) whether the making of a declaration of incompatibility under section 4 of the Human Rights Act 1998 has arisen or may arise in the proceedings.”;

(b) in rule 3,

- (i) by deleting the word “and” at the end of sub-paragraph (c);
- (ii) by adding the word “and” at the end of sub-paragraph (d); and
- (iii) by adding after sub-paragraph (d), the following new sub-paragraph—

“(e) whether the making of a declaration of incompatibility has arisen or may arise in the proceedings.”.

**7.** After Order 120 there shall be added the Order set out in the Schedule to these Rules.

Dated 14th July 2000

*J. M. Nicholson*  
*R. Weatherup*  
*Tony Caher*  
*Caroline McGonagle*  
*R. D. Carswell*

I concur

*Irvine of Lairg, C.*

Dated 24th July 2000

## THE HUMAN RIGHTS ACT 1998

*Interpretation*

1. In this Order—

“the Act” means the Human Rights Act 1998(a);

“appropriate person” has the same meaning as in section 9(5) of the Act;

“Convention rights” has the same meaning as in section 1 of the Act;

“the Court” means the High Court or the Court of Appeal as appropriate;

“declaration of incompatibility” means a declaration of incompatibility under section 4 of the Act;

“judicial act” has the same meaning as in section 9(5) of the Act;

“originating process” means a writ, originating summons, originating motion or any other method of bringing civil proceedings in the High Court;

“public authority” has the same meaning as in section 6(3) of the Act.

*Declaration of incompatibility: Notice to the Crown*

2.—(1) Where at any time in proceedings before the High Court or the Court of Appeal, the Court is considering whether to make a declaration of incompatibility it shall give notice—

(a) to the Crown; and

(b) to each of the parties to the proceedings as soon as practicable thereafter.

(2) Notice to the Crown under paragraph (1) shall be given by the Court having had regard to the list of authorised Northern Ireland Departments or authorised Departments of the Government of the United Kingdom published in pursuance of section 17 of the Crown Proceedings Act 1947(b).

(3) The notice referred to in paragraph (1) shall contain such information and be in such form as the Court considers necessary.

*Declaration of incompatibility: Notice of intention to be joined as a party*

3.—(1) In any case to which section 5(1) of the Act applies, a Minister, Northern Ireland Department or other person entitled under section 5(2) of the Act to be joined as a party to the proceedings shall be so joined on giving notice in accordance with paragraph (2).

(2) The notice referred to in paragraph (1)—

(a) shall be in writing and shall be filed in the Central Office and a copy shall be served as soon as practicable thereafter on each of the parties to the proceedings;

(b) where a Minister has nominated a person under section 5(2)(a) of the Act, shall be accompanied by a copy of that nomination in writing.

(3) Where a party has been joined to the proceedings under paragraph (1), the Court may give such directions as it considers necessary for the further conduct of the proceedings.

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(a) 1998 c. 42

(b) 1947 c. 44 (as applied to Northern Ireland by S.I. 1981/233)

### *Commencement of proceedings*

4.—(1) Subject to paragraph (2), proceedings under section 7(1)(a) of the Act may be brought in the High Court in accordance with such provisions of these rules as relate to the application or other type of proceeding which it is sought to bring.

(2) Proceedings under section 7(1)(a) of the Act in respect of a judicial act, other than proceedings referred to in section 9(1)(a) and (b) of the Act, shall be brought in the High Court and may be commenced by writ or originating summons.

### *Proceedings*

5.—(1) A party who intends to rely on a Convention right or rights in proceedings before the High Court or the Court of Appeal shall state that fact and shall specify such details as are referred to in paragraph (2)—

- (a) if he is a plaintiff or petitioner, in the originating process or in the case of an action begun by writ, the statement of claim;
- (b) if he is a defendant or a respondent to a petition, in the defence, counterclaim or answer;
- (c) if he is an applicant for leave to apply for judicial review, in the statement required under Order 53, rule 3(2)(a);
- (d) subject to paragraph (3), if he is an appellant under Order 59 or an appellant from the Country Court, in the notice of appeal;
- (e) subject to paragraph (3), if he is an appellant under Order 55 Part II or Order 60, in the notice of motion;
- (f) in any other case, in a notice filed in the Central Office and served on each of the other parties to the proceedings.

(2) The following shall be specified in accordance with paragraph (1)—

- (a) details of the Convention right or rights which it is alleged have been (or would be) infringed and details of the alleged infringement;
- (b) the relief sought;
- (c) whether the relief sought includes—
  - (i) a declaration of incompatibility; or
  - (ii) damages in respect of a judicial act to which section 9(3) of the Act applies;
- (d) where the relief sought includes a declaration of incompatibility, details of the legislative provision (or provisions) alleged to be incompatible and the grounds on which it is (or they are) alleged to be incompatible;
- (e) where the proceedings are brought following a finding by another court or tribunal that a public authority has acted in a way which is made unlawful by section 6(1) of the Act, details of that finding;
- (f) where the proceedings relate to a judicial act which is alleged to have infringed a Convention right or rights of a party as provided by section 9 of the Act, details of the judicial act complained of and of the court or tribunal which is alleged to have performed that act.

(3) Paragraph (1) shall not apply to an appellant in any appeal brought to the Court of Appeal or the High Court, except where such an appellant intends to rely on a Convention right or rights or grounds of incompatibility not relied upon by him before the court or tribunal from whose decision the appeal is brought.

*Proceedings in respect of judicial act: Notice to appropriate person*

6.—(1) Where proceedings under section 7(1)(a) of the Act in respect of a judicial act are brought in accordance with section 9(1)(a) or (b) of the Act or rule 4(2), the Court shall give notice to those proceedings to the appropriate person.

(2) The notice referred to in paragraph (1) shall be given by the Court having had regard to the list of authorised Northern Ireland Departments or authorised Departments of the Government of United Kingdom published in pursuance of section 17 of the Crown Proceedings Act 1947.

(3) The notice referred to in paragraph (1) shall contain such information and be in such form as the Court considers necessary.

*Proceedings in respect of judicial act: joinder of appropriate person*

7.—(1) Subject to paragraph (3), where notice has been given under rule 6, the appropriate person shall be joined as a party on giving notice in accordance with paragraph (2).

(2) The notice referred to in paragraph (1) shall be in writing and shall be filed—

(a) in the Central Office, not later than 21 days, or such other period as the Court may specify, after the date of service of notice under rule 6; and

(b) a copy shall be served on each of the parties to the proceedings as soon as practicable thereafter.

(3) Where the appropriate person does not give notice within the time allowed by paragraph (2), the Court may direct that the appropriate person be joined as a party to the proceedings.

(4) Where the appropriate person is joined as a party to the proceedings under paragraphs (2) or (3), the Court may give such directions as it considers necessary for the future conduct of the proceedings.

## EXPLANATORY NOTE

*(This note is not part of the Rules.)*

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 so as to:

- insert a new Order 121 into the principal Rules which prescribes the practice and procedure to be used in proceedings in the High Court or Court of Appeal under the Human Rights Act 1998.
- make consequential amendments to the principal Rules.

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