

2013 No. 202

COURT OF JUDICATURE NORTHERN IRELAND

PROCEDURE

**The Rules of the Court of Judicature (Northern Ireland)
(Amendment No. 2) 2013**

Made - - - -

29th July 2013

Coming into operation -

5th September 2013

The Northern Ireland Court of Judicature Rules Committee^(a) makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978^(b).

Citation and Commencement

1.—(1) These Rules may be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment No. 2) 2013 and shall come into operation on 5th September 2013.

(2) In these Rules “the principal Rules” means the Rules of the Court of Judicature (Northern Ireland) 1980^(c) and an Order or a rule referred to by number means the Order or rule so numbered in the principal Rules.

Amendments

2. The principal Rules shall be amended as follows—

(1) In the Arrangement of Orders, in the entry for Order 60B, for “FROM INDUSTRIAL TRIBUNALS AND THE FAIR EMPLOYMENT TRIBUNAL”, substitute “ON A POINT OF LAW”.

(2) In Order 1, rule 3, in the appropriate place insert—

““European lawyer” has the meaning set out in Article 2 of the European Communities (Services of Lawyers) Order 1978;”^(d)

(3) In Order 6—

(a) in rule 4(1)(a), after “within the jurisdiction”, insert “or another part of the United Kingdom”;

(a) The Northern Ireland Supreme Court Rules Committee was renamed the Northern Ireland Court of Judicature Rules Committee in accordance with Section 59(3) of the Constitutional Reform Act 2005 (c.4).

(b) 1978 c.23 to which the most recent relevant amendments were made by paragraphs 29 and 30 of Schedule 5 to the Constitutional Reform Act 2005.

(c) S.R. 1980 No. 346. The Rules of the Supreme Court (Northern Ireland) 1980 were renamed in accordance with paragraph 3 of Schedule 11 to the Constitutional Reform Act 2005 (c.4). The most recent relevant amendments were made by SR 2009 No. 345, SR 2010 No. 49 and SR 2011 No.208.

(d) S.I. 1978 No. 1910 to which the most recent relevant amendments were made by S.I. 2008 No. 81.

- (b) after rule 4(1)(a), insert “(aa) where the plaintiff has nominated a European lawyer to accept service of documents, with the plaintiff’s address and the European lawyer’s name or firm and a business address within any EEA state;”;
 - (c) in rule 4(1)(b), after “within the jurisdiction”, where first occurring, insert “or another part of the United Kingdom or any other EEA state”;
 - (d) in rule 4(2)(a), after “solicitor”, insert “or European lawyer nominated to accept service”;
 - (e) in rule 4(2)(b), after “within the jurisdiction”, insert “or another part of the United Kingdom or any other EEA state”.
- (4) In Order 12—
- (a) in rule 3(3)(a), after “within the jurisdiction”, where first occurring, insert “or another part of the United Kingdom or any other EEA state”;
 - (b) in rule 3(3)(b)—
 - (i) after “within the jurisdiction”, where first occurring, insert “or another part of the United Kingdom or any other EEA state”;
 - (ii) after “no” insert “such”;
 - (iii) omit “within the jurisdiction”, where second occurring;
 - (c) in rule 3(3)(c)—
 - (i) after “within the jurisdiction”, insert “or another part of the United Kingdom”;
 - (ii) after “EEA state”, insert “or where the defendant has nominated a European lawyer to accept service of documents, the European lawyer’s business address in any EEA state”;
 - (d) in the words after rule 3(3)(c)—
 - (i) omit “within the jurisdiction”;
 - (ii) after “solicitor”, insert “or nominated European lawyer”.
- (5) In Order 60B—
- (a) in the heading for “FROM INDUSTRIAL TRIBUNALS AND THE FAIR EMPLOYMENT TRIBUNAL”, substitute “ON A POINT OF LAW”;
 - (b) for the heading to rule 1, substitute “Appeals from the Industrial Tribunals and Fair Employment Tribunal”;
 - (c) after rule 2, add the following new rule—

“Appeals from the Upper Tribunal

3.—(1) An application for leave to appeal from the Upper Tribunal under section 13 of the Tribunals Courts and Enforcement Act 2007^(a) must be made within 21 days of the Tribunal refusing leave to appeal.

(2) The application for leave to appeal under paragraph (1) should be lodged in the Central Office and must state the point of law on which the appeal is based and, in accordance with the Appeals from the Upper Tribunal to the Court of Appeal Order 2008^(b), the important point of principle or practice or other compelling reason why leave should be granted, and must be accompanied by—

- (a) the decision of the Upper Tribunal refusing leave to appeal and any document giving reasons for the decision;
- (b) the decision of the Upper Tribunal to which the application relates and any document giving reasons for the decision;

(a) 2007 c.15.
 (b) S.I. 2008 No. 2834

- (c) the decision of the First-Tier Tribunal and any document giving reasons for the decision and the notice of appeal against that decision;
 - (d) any other document relevant to the application.
- (3) A copy of the documents referred to in paragraph (2) must, at the same time as being lodged in the Central Office, be served on the other parties to the proceedings and on the Upper Tribunal.
- (4) The application for leave to appeal must be listed for hearing no earlier than 21 days from the date the application is lodged and the Central Office must notify the parties of the hearing date.
- (5) The Court may direct that in the event leave is granted, the appeal hearing must follow on the same date as the leave hearing.
- (6) A copy of the final order made under this Order must be sent by the proper officer to the parties and to the Upper Tribunal.”.
- (6) In Order 93A, rule 3, omit “the Crown Solicitor on behalf of”.
- (7) In Order 94, rule 2(1), omit sub-paragraph (xvi).
- (8) In Order 109, rule 5, for “£5,000,” substitute “£20,000”.
- (9) In Order 109A, rule 18(4), for “Article 19(4)(c)”, substitute “Article 10(4)(c)”.
- (10) In Order 116—
- (a) in rule 15A(2), for “Director of the Public Prosecution Service”, substitute “Director of Public Prosecutions for Northern Ireland”; and
 - (b) in rule 15D, after “Director of Public Prosecutions”, insert “for Northern Ireland”.
- (11) In Appendix A—
- (a) in note 3(d) of Form 8A, after “jurisdiction”, insert “or another part of the United Kingdom or any other EEA state”;
 - (b) in note 8 of Form 12—
 - (i) after “reside in”, insert “Northern Ireland”;
 - (ii) after “place in”, insert “the United Kingdom or any other EEA state”;
 - (c) in note Part 3 of Form 12A, after “Northern Ireland”, insert “or another part of the United Kingdom or any other EEA state”.

*Declan Morgan
Gerald McAlinden
Ian Wimpres
Anthony Caher*

Dated 18th July 2013

In the exercise of the power conferred by section 55A(3) of the Judicature (Northern Ireland) Act 1978, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 29th July 2013.



David Ford
Minister for Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Rules of the Court of Judicature (Northern Ireland) 1980 to—

- amend provisions in Orders 6 and 12 on the addresses for service of documents on parties who are outside the jurisdiction;
- provide that appeals from the Upper Tribunal to the Court of Appeal on a point of law under section 13 of the Tribunals Courts and Enforcement Act 2007 are not to be brought by way of case stated under Order 61 but in accordance with the procedure in new rule 3 inserted in Order 60B;
- make a minor amendment to Order 93A so that a copy of an application for presumed death must be served directly on the Attorney General;
- amend Order 109 rule 5 to allow for the making of a Short Procedure Order where a mentally incapable patient's assets do not exceed £20,000 (increased from £5,000);
- amend an incorrect reference to a statutory provision in Order 109A, rule 18;
- amend incorrect references to the Director of Public Prosecutions for Northern Ireland in Order 116.

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STATUTORY RULES OF NORTHERN IRELAND

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