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STATUTORY RULES OF NORTHERN IRELAND

2002 No. 15

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 2002

To be laid before Parliament

Made - - - -	*22nd January 2002*
Coming into operation	*15th February 2002*

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) 2002 and shall come into operation on 15th February 2002.

(2) In these Rules, the principal rules means the Rules of the Supreme Court (Northern Ireland) 1980(**2**) 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 substituting for the entry relating to Order 116, the following new entry—

> "**116.** Terrorism Act 2000 and Confiscation and Forfeiture in connection with criminal proceedings".

Amendment of the principal rules

3. Order 116 shall be amended as follows—

(**1**) 1978 c. 23
(**2**) S.R. 1980 No. 346

(a) by substituting for the title of the Order, the title "TERRORISM ACT 2000(**3**) AND CONFISCATION AND FORFEITURE IN CONNECTION WITH CRIMINAL PROCEEDINGS";

(b) by substituting for the title to Part I of the Order, the title "Terrorism Act 2000";

(c) by substituting for rule 1, the following new rule—

"**1.** In this Part of this Order—

"the Act" means the Terrorism Act 2000 and a section or Schedule referred to by a number means the section or Schedule so numbered in the Act;

"defendant" includes a person charged with an offence under any of sections 15 to 18 of the Act and a person who is the subject of a criminal investigation which is being conducted with a view to it being ascertained whether a person should be charged with such an offence;

expressions used have the same meanings as in Part III of and Schedule 4 to the Act;

"Master" means the Master (Queen's Bench and Appeals);

"prosecutor" means the person with conduct of proceedings which have been instituted in Northern Ireland for an offence under any of the sections 15 to 18 of the Act, or the person who the High Court is satisfied will have the conduct of any proceedings for such an offence.";

(d) by substituting for rule 3, the following new rule—

"**3.**—(1) An application for a restraint order under paragraphs 33 and 34 of Schedule 4 may be made by the prosecutor ex parte by originating summons in Form No. 8 in Appendix A.

(2) An application under paragraph (1) shall be supported by an affidavit, which shall:—

(a) state, as the case may be, either that—

(i) proceedings have been instituted against a person for an offence under any of sections 15 to 18 of the Act and that they have not been concluded; or

(ii) a criminal investigation has been started in Northern Ireland with regard to such an offence;

and, in either case, give details of the alleged or suspected offence and of the defendant's involvement;

(b) where proceedings have been instituted, state, as the case may be, that a forfeiture order has been made in the proceedings or the grounds for believing that such an order may be made;

(c) where proceedings have not been instituted—

(i) indicate the state of progress of the investigation and when it is anticipated that a decision will be taken on whether to institute proceedings against the defendant;

(ii) state the grounds for believing that a forfeiture order may be made in any proceedings against the defendant; and

(iii) verify that the prosecutor is to have conduct of any such proceedings;

(**3**) 2000 c. 11

(d) to the best of the deponent's ability, give full particulars of the property in respect of which the order is sought and specify the person or persons holding such property and any other persons having an interest in it.

(3) An originating summons under paragraph (1) 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.";

(e) in rule 4(3), after "the applicant shall", insert ", unless the court directs otherwise,";

(f) in rule 5, by revoking paragraph (3);

(g) by substituting for rule 7, the following new rule—

"**7.**—(1) An application for an order under paragraph 39 of Schedule 4 shall be made by summons, which shall be served, with any supporting evidence, on the person alleged to be in default (where known) and on the appropriate body mentioned in paragraph 39(6).

(2) An application for an order under paragraph 40 of Schedule 4 shall be made by summons, which shall be served, with any supporting evidence, on the Secretary of State.";

(h) by substituting for rule 8, the following new rule—

"**Exercise of powers under Schedule 4, paragraph 43**

8. Notwithstanding the provisions of Order 32, rule 11(1)(*a*), the powers conferred on the High Court by paragraph 43 of Schedule 4 may be exercised by a judge in chambers or the Master.";

(i) in rule 16, by substituting for the words "paragraph 30 of Schedule 4" in each of the places they appear, the words "paragraph 44 of Schedule 4".

4. Order 121 shall be amended as follows—

(a) in rule 1, by inserting after the definition of "public authority" the following definition:

""subordinate legislation" has the same meaning as in section 21 of the Act"; and

(b) by inserting after rule 3 the following new rule—

"**Subordinate Legislation: Notice to the Crown**

3A.—(1) Where at any time in proceedings before the High Court or the Court of Appeal the Court is considering the compatibility of subordinate legislation with the Convention rights 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 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(**4**).

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

(4) Where notice has been given under paragraph (1) the Court may on application or of its own motion order that the Crown be joined as a party and may give such directions as it considers necessary for the further conduct of the proceedings.".

(**4**) 1947 c. 44 (applied to Northern Ireland by S.I.1981/233)

R. Carswell
J. M. Nicholson
A. Campbell
B. Kerr
M. P. Girvan
R. Weatherup
Caroline McGonagle
Tony Caher

Dated 16th January 2002.

I concur,

Dated 22nd January 2002.

Irvine of Lairg, C.

EXPLANATORY NOTE

(This note is not part of the Rules.)

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

(a) to amend Order 116 in consequence of the Terrorism Act 2000 and the Anti-terrorism, Crime and Security Act 2001. In particular Order 116 is amended to:

— substitute any reference to the Prevention of Terrorism (Temporary Provisions) Act 1989 with the appropriate reference under the Terrorism Act 2000;

— provide for the procedure to be followed in relation to applications for an order under paragraph 40 of Schedule 4 to the Terrorism Act 2000; and

— take account of the extended circumstances in which a prosecutor may apply to the High Court for a restraint order, by providing that such an application may be made where a criminal investigation has been started in Northern Ireland with regard to a suspected offence under any of sections 15-18 of the 2000 Act;

(b) to amend Order 121 to provide for the Crown to be given notice where the High Court or Court of Appeal is considering the compatibility of subordinate legislation with Convention rights under the Human Rights Act 1998.