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STATUTORY INSTRUMENTS

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**1993 No. 1576**

**The Family Law (Northern Ireland) Order 1993**

Miscellaneous

**Family proceedings rules**

12.—(1) There shall be a committee known as the Northern Ireland Family Proceedings Rules Committee ( “the Committee”)<sup>[F1]</sup> which may make rules of court in accordance with Article 12A] for the purposes of family proceedings.

(2) Schedule 2 shall have effect with respect to the Committee.

(3) Without prejudice to the generality of paragraph (1),<sup>[F2]</sup> family proceedings rules]

(a) may, for the purposes mentioned in paragraph (1), make, in relation to both the High Court and county courts, any provision of a kind which could be made by rules of court as defined by section 21(4) of the Interpretation Act (Northern Ireland) 1954<sup>F3</sup> and, in relation to county courts, any provision of a kind which could be made by county court rules (and accordingly in any statutory provision empowering the making of rules of court as so defined, any reference to the <sup>[F4]</sup>Court of Judicature] or the High Court shall, for the purposes of this Article, include a reference to a county court);

(b) without prejudice to sub-paragraph (a), may provide that a decree pronounced by an officer of a class designated by the rules shall have the same effect as a decree pronounced by a county court judge;

(c) may apply, with or without modifications, any rules of court (as so defined) and any county court rules;

(d) may modify or exclude the application of any such rules or of any provision of the County Courts (Northern Ireland) Order 1980<sup>F5</sup>;

(e) without prejudice to sub-paragraph (a), may make with respect to proceedings in a county court any provision regarding the Official Solicitor or any solicitor of the <sup>[F6]</sup>Court of Judicature] which could be made by rules of court with respect to proceedings in the High Court;

(f) may provide for the enforcement of orders made in a county court as if they were orders of the High Court, and for that purpose apply any statutory provision, with or without modification;

<sup>F7</sup>(g) .....

(h) which relate to the costs of proceedings, may—

(i) amend or repeal any statutory provision relating to the practice and procedure of the <sup>[F8]</sup>Court of Judicature] or county courts so far as may be necessary in consequence of provision made by the rules; and

(ii) notwithstanding anything in the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981<sup>F9</sup>, make different provision according to whether each or any of the parties is entitled to legal aid under Part II of that Order in connection with the proceedings.

*Changes to legislation: The Family Law (Northern Ireland) Order 1993, Miscellaneous is up to date with all changes known to be in force on or before 21 November 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F10</sup>(4) Family proceedings rules shall be subject to negative resolution.]

(5) In this Article [<sup>F11</sup> and Article 12A]

“family business” means business of any description in the High Court assigned to the Family Division and to no other Division by rules of court except business—

- (a) in connection with the grant and revocation of probate and letters of administration of estates of deceased persons;
- (b) under Part VIII of the Mental Health (Northern Ireland) Order 1986<sup>F12</sup> and the Enduring Powers of Attorney (Northern Ireland) Order 1987<sup>F13</sup>;

“family proceedings” means proceedings which are family business and any corresponding proceedings in a county court.

[<sup>F14</sup>“family proceedings rules” means rules of court made under this Article.]

#### Annotations:

- F1** Words in art. 12(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 90(2); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)
- F2** Words in art. 12(3) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 90(3); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)
- F3** 1954 c. 33 (NI)
- F4** Words in art. 12(3)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**
- F5** 1980 NI 3
- F6** Words in art. 12(3)(e) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**
- F7** Art. 12(3)(g) repealed (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 49(2), **Sch. 5**; S.R. 2015/194, art. 2, Sch. (with art. 3)
- F8** Words in art. 12(3)(h)(i) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**
- F9** 1981 NI 8
- F10** Art. 12(4) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 150** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F11** Words in art. 12(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 90(5)(a); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)
- F12** 1986 NI 4
- F13** 1987 NI 16
- F14** Art. 12(5): definition of "family proceedings rules" inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 90(5)(b); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)

#### [<sup>F15</sup>Making of family proceedings rules

**12A.—**(1) After making family proceedings rules the Committee must submit them to the Lord Chancellor.

(2) The Lord Chancellor may allow or disallow family proceedings rules submitted to him.

(3) Family proceedings rules have effect only if allowed by the Lord Chancellor.

(4) If the Lord Chancellor disallows family proceedings rules, the Lord Chancellor must give the Committee written reasons why he has disallowed them.

(5) Paragraph (6) applies if the Lord Chancellor gives the Committee written notice that he thinks it is expedient for family proceedings rules to include provision that would achieve a purpose specified in the notice.

(6) The Committee must make such family proceedings rules as it considers necessary to achieve the specified purpose.

(7) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice under paragraph (5);

(b) made in accordance with this Article.]

**Annotations:**

**F15** Art. 12A inserted (3.4.2006) by *Constitutional Reform Act 2005* (c. 4), ss. 15(2), 148(1), Sch. 5 para. 91; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(b)

**Transfer of certain functions to the Lord Chancellor**

**13.**—(1) The functions which immediately before the transfer date are exercisable by the Secretary of State under the provisions specified in Schedule 3 (which confer miscellaneous functions) are hereby transferred to the Lord Chancellor.

(2) In the provisions specified in Schedule 3 for “Secretary of State” wherever it occurs, there shall be substituted “Lord Chancellor”.

(3) In the construction and for the purposes of any statutory provision, judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document passed or made before the transfer date, any reference to, or which is to be construed as a reference to, the Secretary of State shall, so far only as may be necessary for the purposes of this Article, be construed as a reference to the Lord Chancellor.

(4) The transfer of functions by this Article shall not affect any order, regulation, rule, appointment, direction, instruction, approval, requirement or authorisation made or given or other thing done by the Secretary of State before the transfer date, but any such matter shall, if in force immediately before that date, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the Lord Chancellor.

(5) Anything commenced before the transfer date by or under the authority of the Secretary of State may, so far as it relates to any function transferred by this Article, be carried on or completed by or under the authority of the Lord Chancellor.

(6) Where, at the transfer date, any legal proceeding is pending to which the Secretary of State is a party and the proceeding relates to any of the functions transferred by this Article, the Lord Chancellor shall be substituted in the proceeding for the Secretary of State, and the proceeding shall not abate by reason of the substitution.

(7) In this Article “the transfer date” means the date on which this Article comes into operation.  
*Art. 14 rep. by 1998 NI 6*

**Oral testimony in divorce**

**15.** In Article 3(4) of the Matrimonial Causes (Northern Ireland) Order 1978<sup>F16</sup> (oral testimony not required in certain divorce cases) for “in any” there shall be substituted—

in any case where the petitioner alleges two years' separation and the respondent consents to a decree being granted; or

(b) in any case where the petitioner alleges five years' separation; or

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(c) in any other” .

**Annotations:**

**F16** [1978 NI 15](#)

*Article 16—Amendments and Repeals*

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 12(3)(i) inserted by [2011 c. 24 \(N.I.\) s. 95\(2\)](#)