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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 493**

**SUPREME COURT, NORTHERN IRELAND**

**PROCEDURE**

**The Rules of the Supreme Court (Northern Ireland)  
(Amendment No. 3) 1999**

*Made . . . . . 10th December 1999*

*Coming into operation . . . . . 17th January 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 and commencement*

**1.** These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 1999 and shall come into operation on 17th January 2000.

*Devolution issues*

**2.—(1)** The Rules of the Supreme Court (Northern Ireland) 1980(b) shall be amended in accordance with the following provisions of this rule.

(2) In the Arrangement of Orders after the entry relating to Order 119 there shall be added the following—

120. Devolution issues under Schedule 10 to the Northern Ireland Act 1998(c).”.

(3) After Order 119(d) there shall be added the following new Order—

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(a) 1978 c. 23  
(b) S.R. 1980 No. 346  
(c) 1998 c. 47  
(d) S.R. 1997 No. 265 added Order 118 and S.R. 1999 No. 19 added Order 119

“Order 120

DEVOLUTION ISSUES UNDER SCHEDULE 10  
TO THE NORTHERN IRELAND ACT 1998

PART I

INTRODUCTORY

*Interpretation*

1. In this Order—

“the appropriate Minister or department” means—

(a) the First Minister and the deputy First Minister acting jointly;  
or

(b) where they, acting jointly, determine under paragraph 36 of Schedule 10 that any power conferred on them by that Schedule in relation to any specified proceedings may be exercised by a specified Minister or Northern Ireland department, that Minister or department; and for this purpose “specified” means specified in a determination under that paragraph;

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

“devolution issue” has the same meaning as in Schedule 10;

“the Judicial Committee” means the Judicial Committee of the Privy Council;

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

“Schedule 10” means Schedule 10 to the Northern Ireland Act 1998(a).

PART II

DEVOLUTION ISSUES RAISED IN THE HIGH COURT  
AND THE COURT OF APPEAL

*Specification of devolution issue*

2.—(1) A party raising a devolution issue shall specify—

(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 appellant under Order 59 or an appellant from a county court, in the notice of appeal;

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(a) 1998 c. 47

(d) in any other case, in a notice filed in the Central Office and served on each of the other parties to the proceedings, the facts and circumstances and points of law on the basis of which it is alleged that the devolution issue arises in sufficient detail to enable the Court to determine whether a devolution issue arises in the proceedings.

*Notice of devolution issue*

**3.**—(1) Where a devolution issue has been raised in accordance with rule 2, the proper officer shall as soon as is practicable cause the matter to be drawn to the attention of the Court for the making of an order under paragraph 5 of Schedule 10 requiring notice of the devolution issue to be given to the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department.

(2) Notice of a devolution issue shall specify 14 days, or such longer period as the Court may direct, as the period within which the person receiving notice may enter an appearance as a party in the proceedings so far as relating to the devolution issue.

*Response to notice of devolution issue*

**4.** Where the Attorney General, the Attorney General for Northern Ireland or the appropriate Minister or department enters an appearance as a party in the proceedings, he or it shall, within 21 days after the date when he or it entered the appearance, or such longer period as the Court may direct, file a document summarising his or its legal arguments in respect of the issue.

PART III

REFERENCES TO THE COURT OF APPEAL

*Reference of devolution issue by High Court to Court of Appeal*

**5.**—(1) An Order paragraph 7 of Schedule 10 referring a devolution issue to the Court of Appeal shall set out in a schedule the devolution issue, which shall be settled by the judge after such directions to the parties as he may think desirable as to its manner and form.

(2) The proper officer shall transmit the order to the Court of Appeal.

(3) The proceedings in which a reference to the Court of Appeal is made shall, unless the High Court otherwise orders, be stayed until the issue has been determined.

*Signing of reference by tribunal*

**6.** A reference from a tribunal for the determination of a devolution issue by the Court of Appeal must be signed by the chairman or president of the tribunal.

*Copies of determinations of Court of Appeal*

**7.** The proper officer shall transmit a copy of the determination of the Court of Appeal to the court or tribunal which made the reference.

PART IV

REFERENCES OF DEVOLUTION ISSUE TO THE JUDICIAL COMMITTEE

*Reference of devolution issue to the Judicial Committee*

**8.**—(1) Where—

- (a) the Court of Appeal decides in accordance with paragraph 9 of Schedule 10 to refer a devolution issue to the Judicial Committee; or
- (b) the High Court or the Court of Appeal in accordance with paragraph 33 of Schedule 10 is required by the Attorney General, the Attorney General for Northern Ireland, the appropriate Minister or department to refer a devolution issue to the Judicial Committees;

the Court shall make an order, which shall include a schedule setting out the devolution issue, referring the issue to the Judicial Committee.

(2) The Court may give directions to the parties as to the manner and form in which the schedule to the order is to be drafted.

(3) When the schedule has been settled by the Court, the Master (Queen's Bench and Appeals) shall send the order for the reference to the Registrar of the Judicial Committee.

*Stay of proceedings pending reference to Judicial Committee*

**9.** The proceedings in which a reference is made shall, unless the Court otherwise orders, be stayed until the Judicial Committee has determined the devolution issue.”.

*R. D. Carswell*  
*Anthony Campbell*  
*Brian Kerr*  
*F. P. Girvan*  
*R. Weatherup*  
*Hugh P. Kennedy*  
*Tony Caher*

Dated 3rd December 1999.

I concur

*Irvine of Lairg, C.*

Dated 10th December 1999.

## EXPLANATORY NOTE

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

These Rules prescribe procedures in respect of the High Court and the Court of Appeal in its civil jurisdiction for the determination of devolution issues arising under Schedule 10 to the Northern Ireland Act 1998.

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