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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 559**

**The Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2005**

**PART III**

**AMENDMENT TO THE MAGISTRATES' COURTS (DOMESTIC PROCEEDINGS) RULES (NORTHERN IRELAND) 1996**

**10.** The Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996<sup>(1)</sup> (“the Domestic Proceedings Rules 1996”) are amended as follows.

**11.** In rule 1 (Citation, commencement and interpretation), in paragraph (2)—

(a) for “(aaa)” substitute “(ab)”; and

(b) after that sub-paragraph insert—

“(ac) “the Act of 2004” means the Civil Partnership Act 2004;”.

**12.** In rule 3 (Application under Article 4)—

(a) in the heading, after “Article 4” insert “of the Order or Part 1 of Schedule 16 to the Act of 2004”;

(b) in paragraph (1), after “Article 4” insert “of the Order or Part 1 of Schedule 16 to the Act of 2004”;

(c) after paragraph (2) insert—

“(2A) Where an application under paragraph 1(c) of Schedule 16 to the Act of 2004 alleges such behaviour by the respondent that the applicant cannot reasonably be expected to live with the respondent, particulars of the alleged behaviour shall not be stated in the summons, but, where the respondent or his solicitor, in writing, requests any such particulars, the applicant shall forthwith furnish particulars, in writing to the respondent or his solicitor and to the clerk of petty sessions.”; and

(d) in paragraph (3), after “Form D1” insert “or Form D1A, as the case may be,”.

**13.** In rule 4 (Application for order under Article 8 (orders for payments agreed by parties))—

(a) in the heading, after “Article 8” insert “of the Order or Part 2 of Schedule 16 to the Act of 2004”;

(b) in paragraph (1), after “Article 8” insert “of the Order or Part 2 of Schedule 16 to the Act of 2004”;

(c) in paragraph (3), after “Article 8(9)(a) and (b)” insert “of the Order or paragraph 11(2)(a) and (b) of Schedule 16 to the Act of 2004”;

(d) in paragraph (4), after “Article 8(9)(c)” insert “of the Order or paragraph 11(2)(c) of Schedule 16 to the Act of 2004; and

- (e) in paragraph (6), after “Article 8(9)” insert “of the Order or paragraph 11 of Schedule 16 to the Act of 2004”.
- 14.** In rule 5 (Application for order under Article 9 (orders for payments where parties are living apart by agreement))—
- (a) in the heading, after “Article 9” insert “of the Order or Part 3 of Schedule 16 to the Act of 2004”;
  - (b) in paragraph (1), after “Article 9” insert “of the Order or Part 3 of Schedule 16 to the Act of 2004”; and
  - (c) after paragraph (3) insert—
    - “(3A) Where under paragraph 18 of Schedule 16 to the Act of 2004 the court decides to treat such an application as if it were an application under Part 1 of that Schedule the court shall state which of grounds (a) or (b) of sub-paragraph (1) of that paragraph is considered applicable and a note of the decision and the grounds therefore shall be entered in the Order Book.”.
- 15.** In rule 6 (Lodgement of birth certificate)—
- (a) after “Articles 4, 8 or 9” insert “of the Order or under Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”;
  - (b) omit “such”;
  - (c) after “Article 22” insert “of the Order or paragraph 30 of Schedule 16 to the Act of 2004”;
  - (d) for “review” substitute “revival”; and
  - (e) after “Article 22B” insert “of the Order or paragraph 30 of Schedule 16 to the Act of 2004”.
- 16.** In rule 8 (Form of Order), in paragraph (1), after “Articles 4, 8 or 9” insert “of the Order or Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”.
- 17.** In rule 8A (Variation of means of payment order), after “Article 86(4) of the 1981 Order” insert “or paragraph 36(1) of Schedule 16 to the Act of 2004”.
- 18.** In rule 9 (Notice of court’s powers under the Children (Northern Ireland) Order 1995)—
- (a) after “Articles 4, 8 or 9” insert “of the Order or Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”; and
  - (b) after “marriage” insert “or civil partnership”.
- 19.** In rule 15 (Transfer of proceedings for order under Article 4, 8, 9 or 18)—
- (a) in the heading, after “Articles 4, 8, 9 or 18” insert “of the Order or Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”;
  - (b) after paragraph (1) insert—
    - “(1A) Where an application is made for an order under Parts 1, 2 or 3 of Schedule 16 to the Act of 2004 and as a consequence a summons is issued, then, on an application made by the respondent in accordance with paragraph (2) the court may, if it appears that the case could more conveniently be heard in another court of summary jurisdiction having jurisdiction to hear it by virtue of Article 32(1) of the Order, as applied to those proceedings by paragraph 46 of Schedule 16 to the Act of 2004, determine that the proceedings shall be removed to that other court.”;
  - (c) in paragraph (2), after “paragraph (1)” insert “or (1A)”; and
  - (d) in paragraph (4), after “paragraph (1)” insert “or (1A)”.
- 20.** In rule 16 (Entries in the Order Book)—

- (a) in paragraph (1), after “Article 24” insert “of the Order or paragraph 41 of Schedule 16 to the Act of 2004”; and
- (b) in paragraph (2), after “Article 30(1)” insert “of the Order or a civil partnership proceedings county court under Article 30(1) of the Order as applied by paragraph 46 of Schedule 16 to the Act of 2004”.

**21.** In Schedule 1 (Forms)—

- (a) after Form D1 insert the new Form D1A set out in Schedule 3 to these Rules;
- (b) in Form D2 (Summons to Respondent on application for order for payments agreed by parties)—
  - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8: Rule 4(2))” substitute—

“[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8: Rule 4(2))]  
[CIVIL PARTNERSHIP ACT 2004 (Part 2 of Schedule 16: Rule 4(2))]”; and
  - (ii) for “Article 8 of the above-mentioned Order” substitute “[Article 8 of the above-mentioned Order] [Part 2 of Schedule 16 to the above-mentioned Act]”;
- (c) In Form D3 (Respondent’s consent to Article 8 order and statement of financial resources)—
  - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8(9): Rule 4(3))” substitute—

“[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8(9): Rule 4(3))]  
[CIVIL PARTNERSHIP ACT 2004 (Part 2 of Schedule 16: Rule 4(3))]”; and
  - (ii) in the title, for “**Article 8 order**” substitute “[**Article 8 order**] [**Part 2 order**]”; and
  - (iii) for “Article 8 of the above-mentioned Order” substitute “[Article 8 of the above-mentioned Order] [Part 2 of Schedule 16 to the above-mentioned Act]”;
- (d) in Form D3A (Declaration of Financial Resources of Child), for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8(9): Rule 4(4))” substitute—

“[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8(9): Rule 4(4))]  
[CIVIL PARTNERSHIP ACT 2004 (Paragraph 11 of Schedule 16: Rule 4(4))]”; and
- (e) in Form D4 (Summons to Respondent on application for order for payments where parties are living apart by agreement)—
  - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 9: Rule 5(2))” substitute—

“[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 9: Rule 5(2))]  
[CIVIL PARTNERSHIP ACT 2004 (Part 3 of Schedule 16: Rule 5(2))]”; and

- (ii) for “Article 9 of the above Order” substitute “[Article 9 of the above Order] [Part 3 of Schedule 16 to the above Act]\*”;
- (f) in Form D5 (Notice to Respondent of decision to treat application for order under Article 9 as application for order under Article 4)—
  - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 9: Rule 5(4))” substitute—
    - “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 9: Rule 5(4))]
    - [CIVIL PARTNERSHIP ACT 2004 (Paragraph 18 of Schedule 16: Rule 5(4))]\*”;
  - (ii) in the title, for “**Article 9 as application for order under Article 4**” substitute “**[Article 9 as application for order under Article 4] [Part 3 of Schedule 16 to the Act of 2004 as application for order under Part 1 of Schedule 16]\***”;
  - (iii) for “Article 9 of the above-mentioned Order” substitute “[Article 9 of the above-mentioned Order] [Part 3 of Schedule 16 to the above-mentioned Act]\*”;
  - (iv) for “Article 9(4)” substitute “[Article 9(4)] [Paragraph 18 of Schedule 16 to the Act of 2004]\*”;
  - (v) for “Article 4” substitute “[Article 4] [Part 1 of Schedule 16 to the Act of 2004]\*”;
  - and
  - (vi) for “Article 9” substitute “[Article 9] [Paragraph 18 of Schedule 16 to the Act of 2004]\*”;
- (g) in Form D6 (Order for financial provision)—
  - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Articles 4, 8 and 9: Rule 8(1))” substitute—
    - “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Articles 4, 8 and 9: Rule 8(1))]
    - [CIVIL PARTNERSHIP ACT 2004 (Parts 1, 2 and 3 of Schedule 16: Rule 8(1))]\*”;
  - (ii) for “Article [4] [8] [9] of the above-mentioned Order” substitute “[Article [4] [8] [9] of the above-mentioned Order] [Part [1] [2] [3] of Schedule 16 to the above-mentioned Act]\*”;
- (h) in Form D7 (Notice of courts powers with respect to children under the Children (Northern Ireland) Order 1995)—
  - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 10: Rule 9)” substitute—
    - “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 10: Rule 9)]
    - [CIVIL PARTNERSHIP ACT 2004 (Paragraph 45 of Schedule 16: Rule 9)]\*”;
  - (ii) for “Domestic Proceedings (Northern Ireland) Order 1980 substitute “[Domestic Proceedings (Northern Ireland) Order 1980] [Civil Partnership Act 2004]\*”;
  - (iii) at the end insert “\*Delete whichever is inappropriate”.

- (i) for Form F1 (Application for a non-molestation order/an occupation order) substitute the new Form F1 set out in Schedule 4 to these Rules;
- (j) in Form F2 (Summons to Respondent on an application under the Family Homes and Domestic Violence (Northern Ireland) Order 1998), in note 4—
  - (i) for “**box 1, 4 or 5**” substitute “**box 1, 4, 5 or 6**”;
  - (ii) for “the length of time that has elapsed since the marriage was dissolved or annulled” substitute—
    - “where you and the applicant were married, the length of time that has elapsed since the marriage was dissolved or annulled
    - where you and the applicant were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership”;
  - (iii) after “divorce proceedings etc.” insert “or under Part 2 of Schedule 15 to the Civil Partnership Act 2004 (Property adjustment on or after dissolution, nullity or separation)”;
  - (iv) after “husband and wife” insert “or civil partners”; and
- (k) in Form F3 (Notice to Mortgagees and Landlords), omit “**matrimonial**” in each place it appears.