

2010 No. 49

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

**The Rules of the Court of Judicature (Northern Ireland)
(Amendment) 2010**

Made - - - - - *24th February 2010*

Coming into operation - *1st April 2010*

To be laid before Parliament

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) and section 10 of the Defamation Act 1996^(c).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment) 2010 and shall come into operation on 1st April 2010.

(2) In these Rules “the principal Rules” means the Rules of the Court of Judicature (Northern Ireland) 1980^(d).

Amendments to the Rules of the Court of Judicature (Northern Ireland) 1980

2. In the Arrangement of Orders, after the entry relating to Order 60A, insert the following new entry—

“60B. Appeals to the Court of Appeal from Industrial Tribunals and the Fair Employment Tribunal.”.

3. In Order 1, rule 12(b), after sub-paragraph (xvi), insert—

“(xvii) Article 32L of the Child Support (Northern Ireland) Order 1991^(e);

(xviii) The Hague Convention of 19th October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children;”.

4. After Order 60A, insert new Order 60B as set out in the Schedule to these Rules.

(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.4).

(c) 1996 c.31.

(d) S.R. 1980 No. 346 to which the most recent amendments were made by S.R. 2009 No. 264 and S.R. 2009 No. 345.

(e) S.I. 1991/2628 (N.I. 23); Article 32L was inserted by the Child Maintenance Act (Northern Ireland) 2008 (c.10).

5. In Order 61, after rule 18, insert—

“Application for suspension of a foreign driving disqualification under the Crime (International Co-operation) Act 2003

19.—(1) In this rule and rule 20 —

“the Department” means the Department of the Environment for Northern Ireland; and

“the 2003 Act” means the Crime (International Co-operation) Act 2003(a).

(2) An application to the Court of Appeal under section 62(3) of the 2003 Act to suspend a driving disqualification shall be made by way of notice of motion and shall be accompanied by a copy of the application to state a case lodged with the clerk of petty sessions under Article 146 of the Magistrates’ Courts (Northern Ireland) Order 1981(b).

(3) The applicant shall serve a copy of the application made under paragraph (2) on the clerk of petty sessions for the magistrates’ court which heard the appeal against the disqualification under section 59 of the 2003 Act.

(4) The proper officer shall as soon as practicable after the Court of Appeal has made a decision in respect of an application under paragraph (2) notify—

(a) the clerk of petty sessions for the magistrates’ court which heard the appeal against the disqualification under section 59 of the 2003 Act ; and

(b) each of the parties to the proceedings,

of that decision.

20. An application to the Court of Appeal under section 62(4) of the 2003 Act to suspend a driving disqualification shall be by way of notice of motion and shall be accompanied by —

(a) a copy of the application made under the Act for leave to appeal to the Supreme Court or a copy of the order granting leave to appeal as appropriate; and

(b) an affidavit setting out the grounds on which the applicant seeks to have the driving disqualification suspended.

21. The provisions of Order 8 shall apply to applications brought under rules 19 and 20.”.

6. In Order 82 —

(a) after rule 3(6), insert—

“(6A) Where the defendant relies on an offer to make amends made under section 2 of the Defamation Act 1996(c), (referred to in this Order as “the 1996 Act”), by way of defence, the defence must—

(a) state that the defendant is relying on the offer in accordance with section 4(2) of the 1996 Act;

(b) state that the offer has not been withdrawn or accepted; and

(c) have a copy of the offer attached to it.”;

(b) in the heading of rule 8, omit “under s. 4 of Defamation Act (Northern Ireland) 1955”;

(c) in rule 8(1), for “section 4 of the Defamation Act (Northern Ireland) 1955”, substitute “section 3 of the Defamation Act 1996”;

(d) after rule 8(2), insert—

“(3) The application must include—

(a) a copy of the offer to make amends;

(a) 2003 c.32.

(b) 1981 No. 1675 (N.I. 26).

(c) 1996 c.31.

- (b) details of the steps taken to fulfil the offer to make amends;
 - (c) a copy of the text of any correction and apology;
 - (d) details of the publication of the correction and apology;
 - (e) a statement of the amount of any sum paid as compensation;
 - (f) a statement of the amount of any sum paid as costs; and
 - (g) why the offer to make amends is unsatisfactory.
- (4) Where any step specified in section 2(4) of the 1996 Act has not been taken, the application must state—
- (a) what steps are proposed by the party to fulfil the offer to make amends and the date or dates on which each step will be fulfilled; or
 - (b) that no proposal has been made to take that step to fulfil the offer to make amends.”; and
- (e) after rule 8, insert—

“Summary disposal under the Defamation Act 1996

9.—(1) This rule applies to proceedings for summary disposal under sections 8 and 9 of the 1996 Act.

- (2) The Court may, at any stage of the proceedings—
- (a) treat any application, pleading or other step in the proceedings as an application for summary disposal; or
 - (b) make an order for summary disposal without any such application.
- (3) The Court may, on any application for summary disposal, direct the defendant to elect whether or not to make an offer to make amends under section 2 of the 1996 Act.
- (4) When it makes a direction under paragraph (3), the Court will specify the time by which and the manner in which—
- (a) the election is to be made; and
 - (b) notification of the election is to be given to the Court and other parties.
- (5) An application for summary disposal must be supported by an affidavit which—
- (a) states that it is an application under section 8 of the 1996 Act;
 - (b) verifies the facts on which the application is based;
 - (c) identifies concisely any point of law on which the application relies;
 - (d) states that in the deponent’s belief the claim or the defence has no realistic prospect of success and that there is no reason why the claim should be tried; and
 - (e) states whether or not the defendant has made an offer to make amends and whether or not the offer has been withdrawn.
- (6) An application for summary disposal may be made at any time after the service of the statement of claim.
- (7) Where the Court makes an order for summary disposal, the order will specify the date by which the parties should reach agreement about the content, time, manner, form and place of publication of the correction and apology.
- (8) Where the parties cannot agree on the content of any correction and apology within the time specified in the order of the Court, the plaintiff must—
- (a) prepare a summary of the judgment by the Court; and
 - (b) serve it on all the other parties within 3 days of the date specified in the order.
- (9) Where the parties cannot agree the summary of the judgment prepared by the plaintiff, they must within 3 days of receiving the summary—

- (a) lodge with the Court and serve on all the other parties a copy of the summary showing amendments they wish to make to it; and
- (b) apply to the Court for the Court to settle the summary.

(10) An application to settle the summary will be heard by the judge who gave the judgment.”.

7. In Order 94, rule 2—

- (a) in paragraph (1), for “paragraph (2)”, substitute “paragraphs (2) to (5)”;
- (b) in paragraph (1)(i), for “Article 31 of the Industrial Training (Northern Ireland) Order 1984”, substitute “Article 22 of the Industrial Tribunals (Northern Ireland) Order 1996(a)”;
- (c) in paragraph (1)(vi), for “section 27 of the Fair Employment (Northern Ireland) Act 1976”, substitute “Article 90 of the Fair Employment and Treatment (Northern Ireland) Order 1998(b)”;
- (d) omit paragraph (1)(vii); and
- (e) after paragraph (2), insert—

“(3) An appeal under paragraph (1)(i) or (1)(vi) may only be brought with the leave of the Court of Appeal.

(4) The application for leave under paragraph (3) must—

- (a) state the grounds for the appeal to be brought by way of case stated rather than the appeal procedure prescribed in Order 60B; and
- (b) be lodged together with a certified copy of the tribunal’s decision in the Central Office within 14 days of the date of the tribunal’s decision.

(5) Where under paragraph (3) leave is granted, the time limit specified in Order 61 rule 1(2)(a) for lodging the requisition to state the case shall be calculated from the date leave was so granted.”.

Savings

8.—(1) Order 82, rule 8 of the principal Rules, as it applied before these Rules came into operation, shall continue to have effect where a statement of claim was served on the defendant before 6th January 2010.

(2) Order 94, rule 2 of the principal Rules, as it applied before these Rules came into operation, shall continue to have effect in relation to any appeal lodged with the Court before these Rules come into operation.

(a) 1996 N.I. 18
(b) 1998 N.I. 21

*Declan Morgan
John Gillen
Paul Girvan
Paul Maguire
Tony Caher*

Dated 18th February 2010

Signed by the authority of the Lord Chancellor

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

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 24th February 2010

“ORDER 60B

APPEALS TO THE COURT OF APPEAL FROM INDUSTRIAL
TRIBUNALS AND THE FAIR EMPLOYMENT TRIBUNAL*Appeal to be brought by notice of appeal*

1.—(1) Except where the Court of Appeal has given leave to appeal under Order 94 rule 2(3), an appeal to the Court of Appeal from an Industrial Tribunal under Article 22 of the Industrial Tribunals (Northern Ireland) Order 1996(a) or the Fair Employment Tribunal under Article 90 of the Fair Employment and Treatment (Northern Ireland) Order 1998(b) shall be brought by notice of appeal which must state the questions of law on which the appeal is brought.

(2) Within 6 weeks of the appellant receiving a copy of the tribunal’s decision the appellant must serve the notice of appeal on all parties to the proceedings and the tribunal.

Setting down appeal

2.—(1) The appellant must, within 7 days after service of the notice of appeal enter the appeal for hearing by lodging in the Central Office—

- (a) 2 copies of the notice of appeal;
- (b) a certified copy of the tribunal’s decision;
- (c) any other documents which may be relevant to the appeal.

(2) Upon the appeal being entered it shall be listed for hearing not earlier than the expiration of 21 days from the date of entry unless an earlier date is fixed at the request and with the written consent of both the appellant and the respondent.

(3) The proper officer shall send a copy of any final order made under this Order to all parties to the proceedings and the tribunal concerned in the decision.”

(a) 1996 N.I. 18
(b) 1998 N.I. 21

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Rules of the Court of Judicature (Northern Ireland) 1980 [S.R. 1980 No. 346] to:

- assign to the Family Division of the High Court proceedings under Article 32L of the Child Support (Northern Ireland) Order 1991 and proceedings under the Hague Convention of 19th October 1996;
- prescribe the procedure for appeals from Industrial Tribunals and the Fair Employment Tribunal to the Court of Appeal;
- prescribe the procedure for an application under section 62 of the Crime (International Co-operation) Act 2003 to the Court of Appeal to suspend a foreign driving licence disqualification;
- prescribe certain procedures under the Defamation Act 1996; and
- make savings provisions in relation to certain defamation actions and appeals from Industrial Tribunals and the Fair Employment Tribunal.

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