

2019 No. 235

FAMILY PROCEEDINGS

COURT OF JUDICATURE

COUNTY COURTS

**The Family Proceedings (Amendment) Rules (Northern Ireland)
2019**

Made - - - - 16th December 2019

Coming into operation in accordance with rule 1

The Family Proceedings Rules Committee makes the following Rules in exercise of the powers conferred by Article 12 of the Family Law (Northern Ireland) Order 1993(a).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Family Proceedings (Amendment) Rules (Northern Ireland) 2019 and shall come into operation on exit day.

(2) In these Rules a reference to a rule, Appendix or Form is a reference to that rule, Appendix or Form so numbered in the Family Proceedings Rules (Northern Ireland) 1996(b).

Amendments to the Family Proceedings Rules (Northern Ireland) 1996

2. The Family Proceedings Rules (Northern Ireland) 1996 are amended as follows—

(1) In the Arrangement of Rules—

- (a) omit the entry for rule 2.29A;
- (b) in the heading for rules 4.28 to 4.39, omit “The Council Regulation and”;
- (c) in the heading for rules 8.33 to 8.63, omit “The Council Regulation and”;
- (d) omit the entries for rules 8.37 to 8.38; 8.42 to 8.43, 8.46, 8.57 to 8.58 and 8.60 to 8.62;
- (e) omit the heading and entries relating to rules 8.64 to 8.68.

(2) In rule 1.3(1) omit the definitions of “the Council Regulation” and “Member State”.

(3) Omit rule 2.29(A).

(4) In rule 4.28—

- (a) in paragraph (1)—
 - (i) omit the definition of “judgment”;

(a) S.I. 1993/1576 (N.I. 6); Article 12 was amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/ 976).

(b) S.R. 1996 No. 322 to which the most recent relevant amendments were made by S.R. 2011 No. 64.

- (ii) in the definition of “parental responsibility”, omit paragraph (a);
 - (iii) omit the definition of “seised” and the “and” preceding it.
- (b) in paragraph (2), for from “Member State or” to “Council Regulation and” insert “Contracting State include”.
- (5) In rule 4.29—
 - (a) in the heading, omit “under Article 15 of the Council Regulation or”;
 - (b) in paragraph (1), omit “Member State or”;
 - (c) in paragraph (3)—
 - (i) omit “Member State or”;
 - (ii) omit “the Council Regulation or”;
 - (iii) omit “(as appropriate)”;
 - (d) in paragraph (5), omit “Member State or”.
- (6) In rule 4.30—
 - (a) in paragraph (1), omit “under Article 15(1) of the Council Regulation or”;
 - (b) in paragraph (1)(a), omit “Member State or”;
 - (c) in paragraph (1)(b), omit “another Member State or”;
 - (d) for paragraph (3), insert—
 - “(3) The applicant must file the application and serve it on the respondent not less than 6 weeks before the hearing of the application.”.
- (7) In rule 4.31, in paragraph (1)—
 - (a) omit “another Member State or”;
 - (b) omit “under Article 15(2) of the Council Regulation or”.
- (8) In rule 4.32(1), omit “Article 15 of the Council Regulation or”.
- (9) In rule 4.33—
 - (a) in the heading, omit “under Article 15 of the Council Regulation”;
 - (b) in paragraph (1)—
 - (i) omit “another Member State or”;
 - (ii) omit “under Article 15 of the Council Regulation”;
 - (iii) omit “(as the case may be)”;
 - (c) in paragraph (4), omit “Member State or”.
- (10) In rule 4.34—
 - (a) in the heading, omit “Member State or”;
 - (b) in paragraph (1), omit “Member State or”;
 - (c) in paragraph (2), omit “Member State or”;
 - (d) in paragraph (4), omit “Member State or”.
- (11) In rule 4.35—
 - (a) in the heading, omit “the Council Regulation or”;
 - (b) omit “Member State or”.
- (12) In rule 4.36(1) omit “under any of Articles 16 to 18 of the Council Regulation it does not or may not have jurisdiction to hear the application, or that under Article 19 of the Council Regulation or”.
- (13) In rule 4.37—
 - (a) in paragraph (1), omit sub-paragraph (a) and the “or” preceding sub-paragraph (b);
 - (b) in paragraphs (2) and (3), omit “Member State or”.

- (14) In rule 4.38—
- (a) in the heading, omit “Member State or”;
 - (b) in paragraph (1), omit “another Member State under Article 56 of the Council Regulation or”;
 - (c) in paragraph (4), omit “Member”.
- (15) In rule 8.33—
- (a) in the heading before rule 8.33, omit “the Council Regulation and”;
 - (b) omit sub-paragraphs (a) and (c) and the “and” preceding sub-paragraph (c).
- (16) In rule 8.34—
- (a) in sub-paragraph (b), omit “, other than a Member State,”;
 - (b) in sub-paragraph (c)—
 - (i) omit heads (i) and (ii) and the “or” preceding head (iii);
 - (ii) in head (iii), omit “where that Convention applies”;
 - (c) omit sub-paragraphs (d) and (e);
 - (d) in sub-paragraph (f), omit head (i) and the “and” preceding head (ii);
 - (e) omit sub-paragraph (g).
- (17) In rule 8.35—
- (a) in paragraph (1), omit “or under rule 8.61, for rectification of a certificate issued under Articles 41 or 42 of the Council Regulation,”;
 - (b) in paragraph (2)—
 - (i) omit “Council Regulation,”;
 - (ii) omit “or the Jurisdiction and Recognition of Judgments Regulations”.
- (18) In rule 8.36(3), omit “the Jurisdiction and Recognition of Judgments Regulations or”.
- (19) Omit rules 8.37 and 8.38.
- (20) In rule 8.39(1), for sub-paragraph (f) insert—
- “(f) stating—
 - (i) whether the judgment provides for the payment of a sum or sums of money;
 - (ii) whether interest is recoverable on the judgment or part of it in accordance with the law of the Convention State in which the judgment was given, and if so, the rate of interest, the date from which the interest is recoverable, and the date on which interest ceases to accrue;
 - (g) giving an address within the jurisdiction of the court for service of process on the party making the application and stating, so far as is known to the witness, the name and the usual or last known address or place of business of the person against whom judgment was given.”.
- (21) Omit rules 8.42 and 8.43.
- (22) In rule 8.44(1), omit “Except as regards a copy of a judgment required by Article 37(1)(a) of the Council Regulation,”.
- (23) In rule 8.45(1), omit “(subject to the requirements of the Council Regulation)”.
- (24) Omit rule 8.46.
- (25) In rule 8.47—
- (a) in paragraph (1)—
 - (i) omit “Member State, or a”;
 - (ii) omit “, except where rule 8.46 applies”;
 - (b) in paragraph (3)(b)(ii), for “Member” insert “Contracting”;

- (c) in paragraph (4), omit from “In cases” to “not apply,”;
 - (d) omit paragraph (6);
 - (e) in paragraph (7), omit from “, in a case” to “does not,”;
 - (f) omit paragraph (8).
- (26) In rule 8.48, omit “Member State or”.
- (27) In rule 8.50(4)—
- (a) omit “under Article 28(2) of the Council Regulation or”;
 - (b) omit “, as the case may be,”.
- (28) In rule 8.51—
- (a) omit “Article 21(3) of the Council Regulation,”;
 - (b) omit “, or regulation 7 of the Jurisdiction and Recognition of Judgments Regulations (as the case may be)”.
- (29) In rule 8.52(3)—
- (a) omit “Article 21(3) of the Council Regulation,”;
 - (b) omit “or regulation 7 of the Jurisdiction and Recognition of Judgments Regulations as the case may be”.
- (30) In rule 8.53—
- (a) in paragraph (1)(b), omit “Member State, or a”;
 - (b) omit paragraph (2);
 - (c) in paragraph (3), omit from “, in a case” to “does not,”.
- (31) In rule 8.54(1)(a), omit “Member State or”.
- (32) In rule 8.56(1), omit “, or for a certificate under Articles 39, 41 or 42 of the Council Regulation,”.
- (33) Omit rules 8.57 and 8.58.
- (34) For rule 8.59(a)(i), insert—
- “(i) a copy of the application by which the pleadings were begun and a copy of all pleadings filed in the proceedings;”.
- (35) Omit rules 8.60, 8.61 and 8.62.
- (36) In rule 8.63, omit “Article 20 of the Council Regulation or”.
- (37) Omit rules 8.64 to 8.68.
- (38) In Appendix 1—
- (a) in Form M5 (Notice of Proceedings), in paragraph 2A(b) omit “, under Articles 16, 17 and 19 of Council Regulation (EC) 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility,”;
 - (b) in Form M6 (Acknowledgement of Service), in paragraph 1A omit sub-paragraph (e).
- (39) In Appendix 2 (Contents of Petition)—
- (a) for paragraph 1(bb)(i), insert—
 - “(i) under Article 49(2) of the Matrimonial Causes (Northern Ireland) Order 1978, the grounds of jurisdiction;”;
 - (b) in paragraph 1(c), omit from “, other than under the Council Regulation” to “as the case may be”;
 - (c) in paragraph 1(d), omit “, other than under the Council Regulation,”.

Saving and transitional provisions

3.—(1) Where in relation to any proceedings the relevant saving provision applies, the Family Proceedings Rules (Northern Ireland) 1996 continue to apply on and after exit day for the purposes of those proceedings as if the amendments made to the Family Proceedings Rules (Northern Ireland) 1996 by these Rules had not been made.

(2) In paragraph (1) “the relevant savings provision” means, as applicable—

- (a) regulation 8 of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019(a); or
- (b) regulation 7 of the Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019(b).

(3) Where an application under rule 8.65(1) as then in operation was made before exit day, rule 8.65(1) continues to apply for the purposes of that application on and after exit day as if the amendments made by these Rules had not been made.

(4) in relation to a mediation to which the Cross-Border Mediation Regulations (Northern Ireland) 2011(c) applied before exit day, rules 8.64 and 8.66 continue to apply on and after exit day so far as relevant in relation to mediation evidence relating to that mediation, as if the amendments made to the Family Proceedings Rules (Northern Ireland) 1996 by these Rules had not been made.

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Dated 16th December 2019

In the exercise of the power conferred by Article 12A(2) of the Family Law (Northern Ireland) Order 1993, the Department of Justice allows these Rules.

Sealed with the Official Seal of the Department of Justice on 20th December 2019



Peter May
A senior officer of the
Department of Justice

(a) S.I. 2019/519.
(b) S.I. 2019/495.
(c) S.R. 2011 No. 157.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules (Northern Ireland) 1996 (S.R. 1996 No. 322) to address deficiencies arising from the United Kingdom's withdrawal from the European Union.

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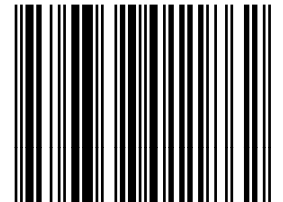
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£6.90

NI201912201002 12/2019 19585

<http://www.legislation.gov.uk/id/nisr/2019/235>

ISBN 978-0-33-801186-2



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