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## STATUTORY INSTRUMENTS

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# 1980 No. 397

## County Courts (Northern Ireland) Order 1980

### PART V

#### SUPPLEMENTAL PROVISIONS RESPECTING JURISDICTION OF COUNTY COURTS

##### (iii)

##### PROVISIONS SUPPLEMENTAL TO BOTH CIVIL AND CRIMINAL JURISDICTION

##### *Practice and Procedure*

#### **County court rules committee**

**46.**—(1) There shall be a committee known as the County Court Rules Committee (in this Order referred to as “the Rules Committee”) which shall be appointed by the<sup>[F1]</sup>Lord Chief Justice] and shall consist of—

- (a) three county court judges (of whom one shall be the chairman);
- (b) two barristers-at-law;
- (c) two solicitors;
- (d) one circuit registrar;
- (e) one chief clerk; and
- (f) one other person.

<sup>[F2]</sup>(1A) The Lord Chief Justice must consult the Lord Chancellor before making an appointment under paragraph (1)(b), (c), (e) or (f).]

(2) Nothing done by the Rules Committee shall be invalid by reason only of a vacancy among the members thereof.

(3) The Rules Committee shall have power to regulate its own quorum and procedure.

(4) The secretary of the Rules Committee shall be such person as the Lord Chancellor shall from time to time designate.

(5) The Rules Committee for the purpose of performing its functions may incur such expenses as may be approved by the Lord Chancellor.

**F1** Words in art. 46(1) substituted (temporary from (3.4.2006) to the fully coming into force date of the amendment by s. 73(2) Justice (Northern Ireland) Act of 2002 (c. 26) (N.I.)) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 134\(2\)\(4\) \(with Sch. 5 para. 131\); S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 12\(k\)](#)

**F2** Art. 46(1A) inserted (temporary from (3.4.2006) to the fully coming into force date of the amendment by s. 73(2) of [Justice \(Northern Ireland\) Act 2002 \(c. 26\) \(N.I.\)](#)) by [Constitutional Reform Act 2005](#)

**Status:** Point in time view as at 13/05/2014.

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(c. 4), ss. 15(2), 148(1), Sch. 5 para. 134(3)(4) (with Sch. 5 para. 131); S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(k)

### Making of county court rules

**47.—**(1) For the purposes of or in relation to any jurisdiction exercisable by county courts, any such rules as are referred to in section 21(1) and (2) of the Interpretation Act (Northern Ireland) 1954 or Article 48 may—

- (a) be made by the Rules Committee in accordance with Article 46 and the following provisions of this Article; and
- (b) be known as “county court rules”.

[<sup>F3</sup>(1A) For the purposes of this Article, “relevant authority” means—

- (a) in relation to county court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and
- (b) otherwise, the Department of Justice;

and for the purposes of this paragraph “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.]

[<sup>F4</sup>(2) County court rules must be certified under the hand of the members of the Rule Committee, or any three or more of them.

(3) After making and certifying county court rules the Rules Committee must submit them to the [<sup>F5</sup>relevant authority].

(4) The [<sup>F5</sup>relevant authority] must, after consultation with the Lord Chief Justice, allow or disallow county court rules submitted to [<sup>F6</sup>it].

(5) County court rules have effect only if the [<sup>F5</sup>relevant authority] allows them.

(6) If the [<sup>F5</sup>relevant authority] disallows county court rules, the [<sup>F5</sup>relevant authority] must give the Rules Committee written reasons why [<sup>F7</sup>it] has disallowed them.

(7) County court rules allowed by the [<sup>F5</sup>relevant authority] shall come into operation on such day as the [<sup>F5</sup>relevant authority] shall direct.

(8) Paragraph (9) applies if the [<sup>F5</sup>relevant authority] gives the Rules Committee written notice that [<sup>F8</sup>it] thinks it is expedient for county court rules to include provision that would achieve a purpose specified in the notice.

(9) The Rules Committee must make such county court rules as it considers necessary to achieve the specified purpose.

(10) Those rules must be—

- (a) made within a reasonable period after the [<sup>F5</sup>relevant authority] gives notice under paragraph (8);
- (b) made in accordance with this Article.]

**F3** Art. 47(1A) inserted (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. 118(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F4** Art. 47(2)-(10) substituted (3.4.2006) for art. 47(2)(3) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 57; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)

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- F5** Words in art. 47 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. 118(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F6** Word in art. 47(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. 118(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F7** Word in art. 47(6) 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. 118(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F8** Word in art. 47(8) 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. 118(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

### [<sup>F9</sup>Control of county court rules

**47A.**—(1) County court rules that are required under Article 47 to be submitted to the Lord Chancellor are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 applies accordingly.

(2) County court rules that are required under Article 47 to be submitted to the Department of Justice are subject to negative resolution.]

- F9** Art. 47A inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), s. 28(4), **Sch. para. 3**

### Powers of Rules Committee

**48.** Without prejudice to the generality of section 21 of the Interpretation Act (Northern Ireland) 1954, the Rules Committee may, notwithstanding anything in any statutory provision, make county court rules with respect—

- (a) to all matters of procedure or practice, or matters relating to or concerning the effect or operation in law of any procedure or practice, in any civil proceedings within the jurisdiction of county courts as to which rules of court have been or might lawfully be made for proceedings within the cognizance of the High Court;
- (b) without prejudice to the generality of paragraph (a)—
  - (i) to prescribing the circumstances in which civil proceedings may be transferred from one court to another, and the procedure preliminary to and consequent upon such transfer;
  - (ii) to authorising any civil actions in which the defendant fails to appear at the hearing or admits the claim to be heard and determined by the prescribed officer or by a circuit registrar;
  - (iii) to authorising a decree to be obtained through the Office in any action in which, if it had been brought in the High Court, the plaintiff could have obtained judgment by default;
  - (iv) to providing that in such cases or classes of case as may be prescribed the costs are to be in the discretion of the judge;
- (c) to regulating matters of practice, procedure and costs in cases within the appellate jurisdiction of county courts;

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- (d) to regulating or providing for any matter which immediately before 1st April 1960 was regulated or provided for or authorised by any statutory provision to be regulated or provided for by county court rules or county court orders;
- (e) to the amendment or repeal of any statutory provision relating to or affecting practice or procedure in the county court.
- [<sup>F10</sup>(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.]

**F10** 1982 c. 27

### Application of High Court practice

**49.** In any case not expressly provided for by or under this Order the practice and procedure of the High Court in like matters shall be followed by a county court with such modifications as the judge may in any particular case permit or direct.

### Right of audience

**50.**—(1) In any proceedings in a county court the right of audience shall extend only to—

- (a) any party to the proceedings;
- (b) a barrister-at-law retained by or on behalf of any party;
- (c) a solicitor acting generally in the proceedings for a party thereto, or a solicitor employed by one so acting, but not a solicitor retained as an advocate by a solicitor so acting;
- (d) any other person (including another solicitor) allowed by leave of the court in special circumstances to appear instead or on behalf of any party.

(2) Paragraph (1) shall be construed subject to Article 5 of the European Communities (Services of Lawyers) Order 1978 .

### Powers as respects solicitors

**51.** A county court shall have the like power to enforce an undertaking given by a solicitor in relation to any proceedings in that court as the High Court has to enforce an undertaking so given in relation to any proceedings in the High Court.

*Art. 52 rep. by SR 1982/192*

### Interpreters and shorthand-writers

**53.**—(1) Where a judge is satisfied that the services of an interpreter or a shorthand-writer are necessary or expedient for the doing of justice between the parties to any proceedings before him, he may, subject to directions given by the Lord Chancellor, appoint as interpreter or as shorthand-writer in those proceedings any person appearing to him to be properly qualified.

(2) The remuneration and expenses of any person appointed as aforesaid shall be in accordance with such scale as may be fixed by the Lord Chancellor with the approval of the Minister for the Civil Service.

#### Modifications etc. (not altering text)

- C1** Art. 53: functions of Treasury or Minister for the Civil Service transferred to Department of Finance and Personnel (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice](#)

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Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(4)(c)** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

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