

1976 No. 407

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

Rules of the Supreme Court (Northern Ireland) (No. 4) 1976

Made 3rd December 1976

Coming into operation as provided in rule 12

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland exercise those powers and all other powers enabling us in that behalf as follows:

1. In Order 3 of the Rules of the Supreme Court (Northern Ireland) 1936(b) rule 11 shall be revoked.

2. For Order 3A there shall be substituted the Order set out in Schedule 1 to these rules.

3. Order 13 shall be amended as follows:

(a) in rules 3 and 4 for the words "rules 19 and" there shall be substituted the word "rule";

(b) in rule 7 the words "and rule 19" shall be omitted;

(c) rule 19 shall be revoked.

4. Order 27 shall be amended as follows:

(a) in rules 2 and 3 for the words "rules 20 and" there shall be substituted the word "rule";

(b) in rule 6 the words "and rule 20" shall be omitted;

(c) rule 20 shall be revoked.

5. In Order 52 in rule 5 for the words "and the day on which the same is heard" there shall be substituted the words "and the day named in the notice for hearing whether or not the defendant has entered an appearance in the action".

6. Order 54F shall be amended as follows:

(a) in rule 11—

(i) in paragraph (1)(a) after the words "to every party to the proceedings" there shall be inserted the words "and to the Accountant General";

(ii) in paragraph (1)(b) for the words "send copies of the order of remittal and of all documents filed in the proceedings" there shall be substituted the words "send a copy of the order of remittal and send the original documents other than the affidavit referred to in rule 3";

(a) 1962 c. 30

(b) S.R. & O. 1936 No. 70 (II, p. 2559)

(iii) in paragraph (2) sub-paragraph (a) shall be omitted;

(iv) in paragraph (2)(b) the words from "who shall send" to the end shall be omitted.

(b) after rule 11 there shall be added the following rule:

"Transfer of moneys paid into Court

12. Upon receipt of the notice of remittal the Accountant General shall thereupon transfer to the county court to which the proceedings are to be remitted any sum of money paid into court under Order 22 in satisfaction of a claim or cause of action."

7. In Order 60A in rule 1(1)—

(a) for item (a) there shall be substituted the following item:

"(a) Order 3A, rule 3(1) (leave to enter default judgment in proceedings where credit agreement sought to be re-opened).";

(b) for item (k) there shall be substituted the following item:

"(k) Order 28, rule 1 and the power to amend a writ of summons or originating summons under rule 12 (amendment of writ of summons, etc., endorsements or pleadings).";

8. In Order 65 for rule 48 there shall be substituted the following rule:

"48.—(1) An application under Article 66(1) of the Solicitors (Northern Ireland) Order 1976 or, subject to paragraph (2), an application under the Solicitors (Ireland) Act 1849 may be made by motion on notice; and the Court or Judge may on such application, if the Court or Judge think fit, refer any bill of costs (the subject of such application) for taxation, with such directions and subject to such conditions as the Court or Judge may think proper.

(2) An application for an order under Article 66(2) of the Solicitors (Northern Ireland) Order 1976 or, subject to paragraph (3), an application for an order for delivery of a bill of costs and for the taxation thereof or for the taxation of a bill of costs already delivered under the Solicitors (Ireland) Act 1849 shall be made to the Taxing Master in accordance with the provisions of this rule.

(3) No application under the provisions of the Solicitors (Ireland) Act 1849 shall be made pursuant to paragraph (2) where—

(a) the retainer of the solicitor is disputed; or

(b) the bill of costs has been paid by the party chargeable therewith; or

(c) in any other case where special circumstances must be shown before an order for delivery of a bill of costs or for taxation of that bill or of any bill already delivered can be made.

(4) An application under paragraph (2) shall be in Form No. 36 in Appendix K and shall be served, together with an affidavit of facts, at least four clear days prior to the time specified therein for the hearing of the application.

(5) Where the bill of costs to which the application relates has already been delivered a copy of that bill with the particulars of delivery to the person chargeable therewith endorsed thereon shall be lodged in the Taxing Office at the time the notice of the application is issued.

(6) An order made pursuant to paragraph (2) shall be in Form No. 37 in Appendix K.

(7) Subject to any statutory provision, to any order or direction of the Court or a Judge and to review under rule 62 the costs of all proceedings before the Taxing Master under this rule shall be in his discretion.

(8) The same proceedings as nearly as possible shall be had in relation to an appeal under Article 68(6) of the Solicitors (Northern Ireland) Order 1976 as on a review of a taxation pursuant to an order of the Court and, accordingly, the provisions of rule 62 shall apply."

9. In Order 88 in rule 58 (5) for the figures "£50" there shall be substituted the figures "£100".

10. In Appendix K Form No. 1A shall be deleted and at the end there shall be added the forms set out in Schedule 2 to these rules.

11. For paragraph 10 in Scale III (Miscellaneous) of Part VI of Appendix S there shall be substituted the following paragraph:

"10. Where judgment in default of appearance or in default of defence is entered in accordance with Order 3A (judgment after service of notice of application to re-open consumer credit agreement) the following costs shall be allowed in addition:—

Where the amount recovered is less than £300	£3.45
Where the amount is £300 or more	£4.20
Where there is more than one defendant for each additional defendant	18p."

12.—(1) Rules 1, 2, 3, 4 and 11, together with so much of rule 7 as amends rule 1(1)(a) of Order 60A and Schedule 1 to these rules, shall come into operation on the day appointed for the coming into operation of sections 137 to 140 of the Consumer Credit Act 1974 and nothing in those rules shall apply in relation to any agreement entered into before that day which is not a personal credit agreement within the meaning of section 8(1) of that Act.

(2) These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 4) 1976 and the rules other than those referred to in paragraph (1) shall come into operation on 14th February 1977.

DATED this 3rd day of December 1976.

*Signed: Robert Lowry
Maurice W. Gibson
Donald Murray
J. B. E. Hutton
R. D. Carswell
I. Montgomery*

SCHEDULE 1

Order to be substituted for Order 3A of the Rules of the Supreme Court

ORDER 3A

Re-opening of Agreements under the Consumer Credit Act 1974

Interpretation

1. In this Order a section referred to by number means the section as so numbered in the Consumer Credit Act 1974.

Notice to re-open agreement

2.—(1) Where in such proceedings as are mentioned in section 139(1)(b) the debtor or a surety desires to have a credit agreement re-opened, he shall serve notice to that effect on every other party to the proceedings and file a copy of the notice.

(2) If at the time of serving a notice under paragraph (1) the debtor or a surety has not entered an appearance to the proceedings, the notice must specify an address for service.

No default judgment without leave

3.—(1) After notice under rule 2 has been served in an action begun by writ, judgment in default of appearance or in default of defence shall not be entered except with the leave of the Court.

(2) An application for the grant of leave under paragraph (1) must be made by summons supported by affidavit and, notwithstanding anything in Order 67, rule 5, the summons and a copy of the affidavit must be served on every other party to the proceedings and, in the case of a party who has not entered an appearance, such service shall be personal or by recorded delivery using the advice of delivery form addressed to him at his last known address.

(3) If the application is for leave to enter judgment in default of appearance, the summons shall not be issued until after the time limited for appearing.

Court's powers on hearing of application

4. On the hearing of an application under rule 3(2) or of any proceedings in which a notice under rule 2 has been filed, the Court may, whether or not the debtor or a surety has entered an appearance or appears at the hearing, exercise the powers of the Court under sections 137 to 140 and where, on an application under rule 3(2), the Court refuses leave to enter judgment on a claim or any part of a claim, it may make or give any such order or direction as might have been made or given if the application had been an application under Order 14, rule 1, for judgment on the claim.

SCHEDULE 2

Forms to be inserted in Appendix K (Application and Order under rule 48(2) of Order 65)

FORM No. 36

Form of application for an order for delivery of a bill of costs and/or for taxation of a bill of costs so delivered or already delivered

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
IN THE MATTER OF THE SOLICITORS (IRELAND) ACT 1849
AND IN THE MATTER OF A.B., a solicitor of the Supreme Court(a)
OR
IN THE MATTER OF THE SOLICITORS (NORTHERN IRELAND)
ORDER 1976

C.D., Applicant;
v.
E.F., Respondent.

TAKE NOTICE that the above-named C.D., the applicant, will apply to the Taxing Master on the day of 19 at the hour of a.m./p.m. for an order pursuant to Order 65 rule 48(2)—

1. Delete this paragraph if bill already delivered. Otherwise state shortly the nature of the work in respect of which a bill of costs is required to be delivered.

1. For the delivery of a bill of costs in respect of 1,

2. Delete this paragraph if paragraph 1 is deleted.

2. For the taxation of the said bill of costs when delivered.2

3. Delete this paragraph if no bill has been delivered.

3. For the taxation of the bill of costs delivered to the above-named C.D. a copy whereof endorsed with particulars of delivery is hereto annexed.3

4. The application is grounded on the affidavit of

Dated day of 19

Signed Applicant or Solicitor for applicant.

(a) See s. 8 of the Solicitors (Ireland) Act 1849

FORM No. 37

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

Form of order for delivery of a bill of costs and/or for taxation of a bill of costs so delivered or already delivered

[Title as in application]

UPON hearing and upon reading the affidavit of lodged the day of

19

IT IS ORDERED as follows:

1. That (solicitor) do within two months after service of this order upon him deliver to (applicant) a bill of costs in respect of the following matters and work:

1. Omit this paragraph where the application is for taxation of a bill of costs already delivered.

1.

2. That a copy of the said bill of costs with particulars of delivery endorsed thereon be lodged for taxation in the Taxing Master's Office not later than seven days after the delivery of said bill of costs to (party chargeable).¹

2. Omit where the application is for delivery of a bill of costs.

3. That the bill of costs lodged with the application herein be taxed.²

4. That (solicitor) do give credit for all sums of money by him received of or on account of (client) and be at liberty to charge all sums of money paid by him to or on account of (client).

5. That the amount certified on taxation as payable be paid forthwith upon service of this order and of the certificate of taxation to be made in pursuance thereof, by the party from whom to the party to whom the same shall be certified to be payable.

6. That no proceedings be commenced against (party chargeable) in respect of the said bill of costs pending the taxation of same.

EXPLANATORY NOTE

(This note is not part of the rules, but is intended to indicate their general purport.)

These rules amend the Rules of the Supreme Court (Northern Ireland) 1936 by substituting for Order 3A (moneylenders' actions) a new Order governing the procedure in such proceedings as are mentioned in section 139(1)(b) of the Consumer Credit Act 1974 where the debtor or a surety desires to have a credit agreement re-opened on the ground that a credit bargain is extortionate. The new Order 3A and other relevant amending rules are operative from the day to be appointed for the coming into operation of sections 137 to 140 of the 1974 Act.

Other amendments to the 1936 rules relate to Order 52 (time for service of notice of motion), Order 54F (remittal and removal of actions), Order 60A (jurisdiction of registrars), Order 65 (taxations under Article 66 of the Solicitors (Northern Ireland) Order 1976 or the Solicitors (Ireland) Act 1849, and Order 88 (deposit on debtor's bankruptcy petition) and come into force on 14th February 1977.

1976 No. 408**Medicines (Pharmacies) (Applications for Registration and Fees)
Amendment (No. 2) Regulations 1976**

This Order has been made by the Secretaries of State respectively concerned with health in England, in Wales and in Scotland and the Department of Health and Social Services for Northern Ireland, acting jointly, in exercise of powers conferred by sections 75(1), 76(1)(2)(6) of the Medicines Act 1968.

In pursuance of paragraph 11 of Schedule 4 of that Act this Order has been registered as a Northern Ireland statutory rule under the Statutory Rules Act (Northern Ireland) 1958. It is printed in full in the volume of United Kingdom Statutory Instruments for 1976 and has been numbered 1961 in that series.