

1983 No. 164

COUNTY COURTS

County Court (Amendment No. 3) Rules (Northern Ireland) 1983

Made 29th June 1983

Coming into operation 1st September 1983

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(a), in exercise of the powers conferred on us by Article 47 of that Order and all other powers enabling us in that behalf, hereby make the following rules:—

Citation

1. These rules may be cited as the County Court (Amendment No. 3) Rules (Northern Ireland) 1983.

Interpretation

2. In these rules a reference to an Order, Rule, Appendix or Form is a reference to that Order, Rule, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(b).

Amendment of the County Court Rules (Northern Ireland) 1981

3.—(1) Order 3 shall be amended as follows:—

(a) by re-entitling Rule 9 “Administration of Estates (Northern Ireland) Order 1979”;

(b) by substituting, for paragraph (3) of Rule 9, the following paragraph:—

“(3) An action purporting to have been commenced against a person shall be treated, if he was dead at its commencement, as having been commenced against his estate in accordance with paragraph (1), whether or not a grant of probate or administration was made before its commencement.”;

(c) by deleting, in sub-paragraph (a) of paragraph (4) of Rule 9, the words “since the issue of the civil bill”.

(2) Order 6 shall be amended by substituting, for Rule 12, the following Rule:—

“Proof of service by post

12.—(1) Where service of a civil bill or other document has been made by post under these Rules, evidence of such service shall be given by the production of a certificate of the solicitor personally in charge of the proceedings on behalf of his client and such certificate shall be in Form 40, and—

- (i) refer to the original civil bill or document and any other document attached thereto and the serial number on the post office receipt for posting and on the envelope containing the copy thereof;
- (ii) state the contents of the envelope and by whom it was posted;
- (iii) exhibit the post office receipt for posting;
- (iv) state that, to the best of the knowledge and belief of the solicitor, the address on the envelope was that of the last known place of abode of the person to be served;

(a) S.I. 1980/397 (N.I. 3)

(b) S.R. 1981 No. 225

- (v) state affirmatively that the envelope has not been returned by the post office as undelivered;
- (vi) exhibit the relevant post office advice of delivery.

(2) Every document proved to have been posted and delivered as aforesaid shall, unless the contrary is shown, be deemed to have been served on the person to whom the envelope containing it was addressed at the time stated in the advice of delivery.”.

(3) Order 12 shall be amended as follows:—

(a) by substituting, for Rule 3, the following Rule:—

“Notices to be annexed to default civil bills

3. There shall be annexed to the copy of a default civil bill served on the defendant two notices in Form 51A addressed to the plaintiff’s solicitor (or, where the plaintiff is suing in person, to the plaintiff) and to the appropriate chief clerk.”;

(b) by substituting, for sub-paragraph (a) of Rule 5(1), the following sub-paragraph:—

“(a) the original default civil bill and original notice together with the solicitor’s certificate referred to in Rule 12 of Order 6 or, where Order 6 Rule 3(3) applies, an affidavit of service;”;

(c) by substituting, for Rule 9, the following Rule:—

“Notices to be annexed to summary civil bills

9. There shall be annexed to the copy of a summary civil bill served on the defendant two notices in Form 51A addressed to the plaintiff’s solicitor (or, where the plaintiff is suing in person, to the plaintiff) and to the appropriate chief clerk.”; and

(d) by substituting, for sub-paragraph (a) of Rule 11(1), the following sub-paragraph:—

“(a) the original summary civil bill and original notice together with the solicitor’s certificate referred to in Rule 12 of Order 6 or, where Order 6 Rule 3(3) applies, an affidavit of service;”.

(4) Order 15 shall be amended by inserting, after Rule 11, the Rules set out at Part A of the Schedule.

(5) Order 24 shall be amended by inserting, after the word “identify” in Rule 27, the words “or find”.

(6) Order 43 shall be amended by substituting, for paragraph (2) of Rule 18, the following paragraph:—

“(2) Unless the chief clerk in any particular case otherwise determines, all decrees shall be written on judicature paper of a size not less than A4 ISO being the size of paper so referred to in the specifications of the International Standards Organisation.”.

(7) For Forms 51 and 52 in Appendix 1 there shall be substituted Form 51A as set out at Part B of the Schedule.

(8) In Appendix 1, Form 59 shall be amended by substituting for lines “(a)”, “(b)” and “(c)”, where they first appear, the following:—

“(a) notices (in Form 51A) to be posted to—

- (1) the chief clerk, and
- (2) the plaintiff or his solicitor; and

* (b) copy particulars of plaintiff’s claim.”.

(9) Following Form 69 in Appendix 1 there shall be inserted Form 69A as set out at Part B of the Schedule.

(10) Part VIII of Appendix 2 shall be amended by inserting, after regulation 12, the following new regulations:—

“13. Counsel travelling to attend Court—

(a) 20 to 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £5;

(b) more than 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £10.

14. For each day or part of a day on which a trial or hearing is continued after the first day, counsel is entitled to an additional sum equivalent to one third of the scale fee.”

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

J. P. Higgins

J. J. Curran

John McKee

Timothy T. Ferriss

B. F. Walker

T. F. Glass

After consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 1st September 1983.

Dated 29th June 1983.

Hailsham of St. Marylebone, C.

SCHEDULE

Rule 3(4)

PART A

Rules to be inserted after Rule 11 of Order 15

PART II

Interrogatories*Discovery by interrogatories*

12.—(1) Any party to any proceedings may apply to the judge on notice for an order—

- (a) giving him leave to serve on any other party interrogatories relating to any matter in question between the applicant and that other party in the proceedings; and
- (b) requiring that other party to answer the interrogatories on affidavit within such period as may be specified in the order.

(2) A copy of the proposed interrogatories shall be served with the notice of application and filed in the Office before the beginning of a period of two days ending on the day of hearing of the application.

(3) On the hearing of an application under this Rule, the judge shall give leave as to such only of the interrogatories as he considers necessary either for disposing fairly of the proceedings or for saving costs; and in deciding whether to give leave the judge shall take into account any offer made by the party to be interrogated to give particulars or to make admissions or to produce documents relating to any matter in question.

(4) A proposed interrogatory which does not relate to such a matter as is mentioned in paragraph (1) shall be disallowed notwithstanding that it might be admissible in oral cross-examination of a witness.

(5) If an order is made granting leave to serve interrogatories it shall be drawn up by the applicant in Form 69A, and shall be signed and sealed by the chief clerk who shall file the order and issue a certified copy to the applicant or his solicitor for service.

(6) Interrogatories shall be answered on affidavit, and the affidavit shall be filed and a copy delivered to the applicant within the time specified in the order.

Interrogatories where party is a body of persons

13. Where a party to any proceedings is a body of persons, whether corporate or unincorporate, being a body which is empowered by law to sue or be sued whether in its own name or in the name of an officer or other person, the judge may, on the application of any other party, make an order allowing him to serve interrogatories on such officer or member of the body as may be specified in the order.

Statement as to party, etc., required to answer

14. Where interrogatories are to be served on two or more parties or are required to be answered by an agent or servant of a party, a note at the end of the interrogatories shall state which of the interrogatories each party or, as the case may be, an agent or servant is required to answer, and which agent or servant.

Objection to answer on ground of privilege

15. Where a person objects to answering any interrogatory on the ground of privilege he may take the objection in his affidavit in answer.

Insufficient answer

16. If any person on whom interrogatories have been served answers any of them insufficiently, the judge may on application make an order requiring him to make a further answer, and either by affidavit or on oral examination as the judge may direct.

Failure to comply with order

17. If a party against whom an order is made under Rule 12 or 16 fails to comply with it, the judge may make such order as he thinks just including, in particular, an order that the action be dismissed or, as the case may be, an order that the party be debarred from defending the action, and the judge may make such order as to costs as he considers just.

Use of answers to interrogatories at trial

18. A party may put in evidence at the trial of the proceedings, or of any issue therein, some only of the answers to interrogatories, or part only of such an answer, without putting in evidence the other answers or, as the case may be, the whole of that answer, but the judge may look at the whole of the answers and if of the opinion that any other answer or other part of an answer is so connected with an answer or part thereof used in evidence that the one ought not to be so used without the other, the judge may direct that that other answer or part shall be put in evidence.

PART B

New Forms to be inserted in Appendix 1 of the County Court Rules (Northern Ireland)
1981

FORM 51A

Notice to be posted by defendant to Chief Clerk and to plaintiff or his solicitor

SUMMARY/DEFAULT*

ORDER 12, RULES 3 and 9

[Title as in Form 1]

To:

(1) The Chief Clerk

[address**]

of

(2)

[name]

of

[address]

Plaintiff/Solicitor for the Plaintiff.

TAKE NOTICE that I [name] the defendant herein [*strike out whichever of the following lines do not apply to your case*]

1. Dispute liability for the plaintiff's claim in whole or in part.
2. Have a counterclaim against the plaintiff for [*state particulars of amount and circumstances*].
3. Wish the action to be dealt with by way of arbitration under Order 26.

Signed

Address

Dated

Defendant/Defendant's Solicitor

*Delete whichever is inapplicable.

**To be completed by the plaintiff or his solicitor.

NOTE:

- (1) The name and address of the plaintiff's solicitor must be stamped on this Form before it is served on the defendant together with the civil bill.
- (2) Item 3 only applies to actions where the amount claimed does not exceed £300.

ORDER FOR INTERROGATORIES

ORDER 15, RULE 12(5)

[Title as in Form 1]

To all Parties

IT IS ORDERED that the liberty to serve on the and that the such answer to the court for filing and deliver a copy to the days after service of the interrogatories upon him. interrogatories in writing as approved by the judge do answer the interrogatories by affidavit, and return within be at

AND IT IS ORDERED that the costs of the application be

Dated

Signed

Chief Clerk

(Seal)

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend the County Court Rules (Northern Ireland) 1981 so as—

- (a) to take account of Article 42(b) of the Administration of Estates (Northern Ireland) Order 1979 (which enables an action commenced against a deceased person to be treated as having been brought against his estate irrespective of whether a grant of probate or administration has already been made);
- (b) to simplify proof of service by post;
- (c) to amalgamate into one document the notices to be annexed to a copy default or summary civil bill;
- (d) to provide for interrogatories;
- (e) to make other minor amendments.