

1986 No. 218

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 1986

Made 2nd July 1986

Coming into operation—

rules 1-5 1st August 1986

rules 6, 7 1st September 1986

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 by sections 10 and 24 of the Child Abduction and Custody Act 1985(b) 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. 2) Rules (Northern Ireland) 1986.

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(c).

Amendment of references to “committee”

3. Rule 12 of Order 3, Rule 5(2) of Order 6 and Rule 1(1)(b) of Order 44 shall be amended by substituting for the word “committee” the word “controller”.

Forms of decree in consumer credit proceedings

4. Order 30 shall be amended by inserting a new Rule 17 as follows:—

“Forms of decree and orders

17. A decree or order made in proceedings under this Order shall be in such of Forms 286 to 291 as the circumstances of a particular case shall allow.”.

Child Abduction and Custody Act 1985

5. The new Rules set out in Schedule 1 shall be inserted as Order 51.

Road Traffic (Northern Ireland) Order 1981(d)

6. The new Rules set out in Schedule 2 shall be inserted as Order 52.

Forms

7. The new Forms set out in Schedule 3 shall be inserted in Appendix 1.

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

(b) 1985 c. 60

(c) S.R. 1981 No. 225

(d) S.I. 1981/154 (N.I. 1)

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.

John K. Pringle
John J. Curran
B. J. A. C. Valentine
T. F. Glass
K. G. Nixon
W. Hanna

After consultation with the Lord Chief Justice, I allow these rules of which rules 1-5 shall come into operation on 1st August 1986 and rules 6 and 7 shall come into operation on 1st September 1986.

Dated 2nd July 1986

Hailsham of St. Marylebone, C.

SCHEDULE 1

Rule 5

Rules to be inserted as Order 51

ORDER 51

Child Abduction and Custody Act 1985*Interpretation*

1. In this Order—

- (a) a section referred to by number means the section so numbered in the Child Abduction and Custody Act 1985; and
- (b) “the Hague Convention” means the Convention defined in section 1(1);
“the High Court” includes the High Court of Justice in England and Wales.

Stay of pending custody proceedings

2.—(1) Where proceedings relating to the merits of the rights of custody (as construed in section 9) are pending before a court and that court receives notification from the High Court or the Court of Session of proceedings under the Hague Convention in respect of the child concerned, those pending proceedings shall be stayed and the chief clerk shall notify the parties to the pending proceedings accordingly.

(2) Where a court in which pending proceedings have been stayed under paragraph (1) receives notification from the High Court or the Court of Session that an order has been made under Article 12 of the Hague Convention for the return of the child concerned, those pending proceedings shall be dismissed and the chief clerk shall notify the parties to those proceedings accordingly.

(3) Where a court in which pending proceedings have been stayed under paragraph (1) receives notification from the High Court or the Court of Session that the application under the Hague Convention has been dismissed, the stay on the pending proceedings shall be removed and the chief clerk shall notify the parties to those proceedings accordingly.

Notification of registration under section 16

3. Where any proceedings such as are mentioned in section 20(2) are pending before a court and that court receives notification from the High Court or the Court of Session—

- (a) that an application has been made under section 16 for registration of a decision relating to custody (other than a decision mentioned in section 20(3)) in respect of the child concerned; or
- (b) that such a decision is registered under section 16;

and the condition specified in section 20(1)(b) is satisfied, the chief clerk shall notify the parties to the pending proceedings accordingly.

Application for copy court order

4.—(1) Any person who intends to make an application under the Hague Convention in a Contracting State (as defined in section 2) other than the United Kingdom may apply in writing to the chief clerk of a court for a copy of any order of that court relating to the child concerned.

(2) An application under paragraph (1) shall specify—

- (a) the name and date of birth of the child concerned;
- (b) the date (or approximate date) of the proceedings to which the court order relates and the nature of those proceedings;
- (c) the Contracting State in which the application under the Hague Convention is to be made; and
- (d) the relationship of the applicant to the child concerned.

(3) On receipt of an application under paragraph (1), and upon being satisfied as to the applicant’s intention to make an application under the Hague Convention relating to the child concerned, the chief clerk shall send to the applicant a copy of any such order.

(4) The court seal, duly authenticated as provided by Rule 3(2) of Order 56, shall be affixed to a copy order provided under this Rule.

Application for declaration under section 23(2)

5. An application under section 23(2) in custody proceedings (as defined in section 27(1)), for a declaration that the removal from the United Kingdom of the child concerned was unlawful, shall be made by notice in those proceedings under Rule 1 of Order 14.

SCHEDULE 2

Rules to be inserted as Order 52

ORDER 52

Miscellaneous Enactments

Part I

ROAD TRAFFIC (NORTHERN IRELAND) ORDER, 1981

Notice to insurer

1. The notice of proceedings to be given by a claimant to an insurer (or the giver of a security) under Article 98 of the Road Traffic (Northern Ireland) Order 1981 shall be in Form 292, with such variations as the circumstances may require.

Application for order against insurer

2.—(1) An application for an order against the insurer (or giver of security) under the said Article 98 shall be made by notice in Form 293 and any order made by the court shall be in Form 294.

(2) Every such application shall be brought within 6 months from the date on which the claimant obtained the decree against the owner or driver of the motor vehicle and shall be brought in a court for the division in which that decree was obtained.

(3) The notice of application shall be served on the insurer (or giver of security) and upon the person against whom the decree was obtained not less than 14 days before the entry day for the sitting at which the application is to be heard.

(4) A copy of the notice of application shall be filed in the Office, together with a copy of the notice given under Rule 1, not less than 10 days before the entry day for the sitting at which the application is to be heard.

(5) Upon receipt of the papers duly filed under paragraph (4), the chief clerk shall enter the application for hearing at the appropriate sitting of the court without the need for production of an entry sheet.

Forms to be inserted in Appendix 1

FORM 292

Notice to Insurer

Road Traffic (Northern Ireland) Order 1981, Article 98

Order 52, Rule 1

[Title of proceedings in respect of which Notice is to be served]

TAKE NOTICE that the above-named Plaintiff [or Defendant], on the _____ day of _____ 19____ caused a civil bill [or a writ of summons] to be issued against the above-named Defendant [or Plaintiff] [or delivered a counterclaim in the above action] claiming against the above-named Defendant [or Plaintiff]

[here set out the substance of the claim as appearing in the endorsement on the civil bill, or writ of summons or counterclaim].

The Accident in respect of which the proceedings are brought occurred on the _____ day of _____ 19____

A motor vehicle numbered [give motor vehicle registration number] in respect of which the above-named Defendant [or Plaintiff] holds a policy of insurance issued by you [or as the case may be], was involved in the accident.

Dated this _____ day of _____ 19____

Plaintiff/Solicitor for the Plaintiff

To:

Application for order against insurer/giver of security

Road Traffic (Northern Ireland) Order 1981, Article 98

Order 52, Rule 2(1)

[Title of proceedings in which decree obtained]

In the matter of an application against [here insert name of insurer/giver of security]

TAKE NOTICE that at the sitting of the court for the above-named Division to be held at commencing on the day of 19 an application will be made to the court on behalf of the above-named Plaintiff [or Defendant] (hereinafter called "the claimant") for an order under Article 98 of the Road Traffic (Northern Ireland) Order 1981 that [here insert name and address of insurer/giver of security] do pay to the claimant the sum of £ , being the amount [or balance of the amount] of a decree for £ damages and £ for costs and expenses obtained by the claimant against the above-named Defendant [or Plaintiff] at court on [here insert date on which decree obtained] which sum the claimant has not recovered, and in respect of the liability for which the Defendant [or Plaintiff] was at all material times insured by a policy issued [or secured by a security given] by the said insurer [or giver of security] for the purposes of Part VIII of the Road Traffic Order.

The claimant gave notice dated to the said insurer [or giver of security] pursuant to Article 98 of the Road Traffic Order.

Dated this day of 19

Signed

Claimant/Solicitor for Claimant

To the Defendant [or Plaintiff] and the Secretary of the insurer [or the giver of security]

Order pursuant to Article 98 of the Road Traffic (Northern Ireland) Order 1981

Order 52, Rule 2(1)

[Title of Application]

UPON AN APPLICATION made [date] under Article 98 of the
Road Traffic (Northern Ireland) Order 1981;

AND UPON READING the notice of application;

AND UPON HEARING ;

AND IT APPEARING to the court that [name and address of insurer or giver of security]
was duly given notice dated pursuant to Article 98 of the Road Traffic Order;

IT IS ORDERED THAT [name of claimant] (hereinafter referred to as "the claimant") do
recover from [name and address of insurer or giver of security] the sum of £ being the
amount (or balance of the amount) outstanding on a decree dated which the
claimant obtained against the above-named Defendant [or Plaintiff] at court
and in respect of the liability for which the Defendant [or Plaintiff] was at all material times
insured by a policy issued [or secured by a security given] by the said insurer [or giver of
security] for the purposes of Part VIII of the Road Traffic Order.

AND IT IS ORDERED that the do pay to the claimant the sum of £ for
costs and the sum of £ for witnesses' expenses.

Dated at this day of 19

(Seal)

Signed

Chief Clerk

EXPLANATORY NOTE

(This note is not part of the Rules.)

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

- (a) substitute the term "controller" for "committee" in proceedings involving persons suffering from mental disorder (rule 3);
- (b) insert a new Order 51 to take account of proceedings under the Child Abduction and Custody Act 1985 (rule 5);
- (c) insert a new Order 52 prescribing the form of notice to be given to insurers in road traffic accident cases and the procedure for making an application under Article 98 (Rights of third-parties against insurers) of the Road Traffic (Northern Ireland) Order 1981 (rules 6 and 7);
- (d) make other minor amendments.