

1986 No. 347

COUNTY COURTS

County Court (Amendment No. 3) Rules (Northern Ireland) 1986

Made 2nd December 1986

Coming into operation 1st January 1987

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) 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(b).

Amendment of the County Court Rules (Northern Ireland) 1981

3.—(1) Order 4 Rule 1 shall be amended, at paragraph (1), by deleting the words “the Inferior Courts Judgments Extension Act 1882(c)” and substituting the words “the Foreign Judgments (Reciprocal Enforcement) Act 1933(d) or the Civil Jurisdiction and Judgments Act 1982(e)”.

(2) Order 5 shall be amended, at Rule 2, by inserting the following new paragraph:—

“(9) Where a claim made in the proceedings is one which the court has power to hear and determine by virtue of the Civil Jurisdiction and Judgments Act 1982 and the civil bill is to be served out of Northern Ireland, the particulars of claim shall contain a statement that the court has power under that Act to hear and determine the claim and that no proceedings involving the same cause of action are pending between the parties in England and Wales, Scotland or another Convention territory.

For the purpose of this paragraph, “Convention territory” means the territory or territories of any Contracting State, as defined by Section 1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the Conventions as defined in section 1(1) of that Act apply.”.

(3) Order 6A shall be amended as set out in Schedule 1.

(4) Order 39 shall be amended at Rule 4 by inserting after the word “business” the words “in Northern Ireland” and after the word “may” the words “(whether or not he is within the jurisdiction)”.

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

(b) S.R. 1981 No. 225

(c) 1882 c. 31

(d) 1933 c. 13

(e) 1982 c. 27

(5) Order 40 shall be amended by revoking Part V (Inferior Courts Judgments Extension Act 1882) and inserting the new Part V (Enforcement of County Court Decrees outside Northern Ireland) set out in Schedule 2.

(6) Appendix 1 shall be amended as follows—

(a) by revoking Forms 177 and 178;

(b) by inserting in Form 280, at the end of item 1, the words “[or, where appropriate, state the grounds on which the process may be served out of Northern Ireland without the leave of the court]”;

(c) by inserting the new Forms 295-298 as set out in Schedule 3.

(7) Appendix 2 shall be amended by deleting, at Part IX, the entry headed “INFERIOR COURTS JUDGMENTS EXTENSION ACT 1882” and substituting the following new entry:—

“ENFORCEMENT OF COUNTY COURT DECREES IN OTHER PARTS
OF THE UNITED KINGDOM

Applicant’s costs of obtaining a certificate in respect of a money
provision contained in a decree ... £6·45

And in addition £1·30 in respect of the affidavit together with the
commissioner’s fee (if any).”.

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
J. F. B. Russell
C. N. F. Rountree
B. J. A. C. Valentine
T. T. Ferris
B. F. Walker
K. G. Nixon

After consultation with the Lord Chief Justice, I allow these rules which shall come into operation on 1st January 1987.

Dated 2nd December 1986

Hailsham of St. Marylebone, C.

Amendments to Order 6A

Order 6A shall be amended as follows:—

1. Rule 1 shall be amended as follows:—

- (a) by inserting, after the definition of “convention country”, the following new definition:—
- “ “convention territory” means the territory or territories of any Contracting State, as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the conventions as defined in section 1(1) of that Act apply;”;
- (b) by inserting in the definition of “applicant”, after the words “Northern Ireland”, the words “or, where leave is not required, the party serving a process out of Northern Ireland”;
- (c) by inserting in the definition of “respondent”, after the word “process”, the words “or, where leave is not required, the party on whom a process is served out of Northern Ireland”.

2. By substituting for Rule 2 the following new Rule:—

“Cases in which service of originating process out of Northern Ireland is permissible

2.—(1) Except in proceedings to which paragraph (2) or (3) apply, service of an originating process out of Northern Ireland is permissible with the leave of the court where—

- (a) relief is sought against a person domiciled in Northern Ireland;
- (b) an injunction is sought ordering the defendant to do or refrain from doing anything within Northern Ireland (whether or not damages are also claimed in respect of a failure to do or the doing of that thing);
- (c) the claim is brought against any person duly served within or out of Northern Ireland and a person out of Northern Ireland is a necessary or proper party thereto;
- (d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract being (in either case) a contract which—
- (i) was made within Northern Ireland, or
- (ii) was made by or through an agent trading or residing within Northern Ireland on behalf of a principal trading or residing out of Northern Ireland, or
- (iii) is by its terms, or by implication, governed by the law of Northern Ireland;
- (e) the claim is brought in respect of a breach committed within Northern Ireland of a contract made within or out of Northern Ireland, and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of Northern Ireland that rendered impossible the performance of so much of the contract as ought to have been performed within Northern Ireland;
- (f) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, within Northern Ireland;
- (g) the whole subject-matter of the proceedings is land situate within Northern Ireland (with or without rent or profits);
- (h) the proceedings are brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting land situate within Northern Ireland;
- (i) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights or rights of security in or over movable property, or to obtain authority to dispose of movable property, situate within Northern Ireland;
- (j) the claim is brought to execute the trusts of a written instrument, being trusts that ought to be executed according to the law of Northern Ireland and of which the person to be served with the originating process is a trustee, or for any relief or remedy which might be obtained when such a claim is brought;

- (k) the claim is made for the administration of the estate of a person who died domiciled in Northern Ireland or for any relief or remedy which might be obtained in any such action;
- (l) the claim is brought to enforce any judgment or arbitral award;
- (m) the claim is brought against a defendant not domiciled in England and Wales or Scotland in respect of a claim by the Commissioners of Inland Revenue for or in relation to any of the duties or taxes which have been, or are for the time being, placed under their care and management;
- (n) the claim is brought in respect of contributions under the Social Security (Northern Ireland) Act 1975;
- (o) the claim is made for a sum to which the Directive of the Council of the European Communities dated 15th March 1976 No. 76/308/EEC applies, and service is to be effected in a country which is a member state of the European Economic Community.

(2) Service of originating process out of Northern Ireland is permissible without the leave of the court where each claim made is one which the court has power to hear and determine by virtue of the Civil Jurisdiction and Judgments Act 1982 made in proceedings to which the following conditions apply—

- (a) no proceedings between the parties concerning the same cause of action are pending in the courts of any part of the United Kingdom or of any other Convention territory, and
- (b) (i) the defendant is domiciled in any part of the United Kingdom or of any other Convention territory, or
 - (ii) the proceedings begun by the originating process are proceedings to which Article 16 of Schedule 1 or Article 16 of Schedule 4 to that Act refers, or
 - (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1 or Article 17 of Schedule 4 to that Act applies.

(3) Service of originating process out of Northern Ireland is permissible without the leave of the court where each claim made is one which by virtue of any other enactment the court has power to hear and determine notwithstanding that the person against whom the claim is made is not within Northern Ireland or that the wrongful act, neglect or default giving rise to the claim did not take place within Northern Ireland.

(4) For the purposes of this Rule domicile is to be determined in accordance with the provisions of sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982.”

3. By substituting for Rule 3 the following new Rule:—

“Service of interlocutory process out of Northern Ireland

3. Service of an interlocutory process out of Northern Ireland is permissible with the leave of the court on a person who is already a party to the proceedings and, in the case of a defendant, respondent or third party, has been served with the originating process but leave shall not be required for such service in any proceedings in which the originating process may by these Rules or under any enactment be served out of Northern Ireland without leave.”

4. Rule 4 shall be amended by substituting for the words “(1) Subject to paragraph (2), where leave is asked”, the words “Where leave is asked” and by revoking paragraph (2).

5. Rule 5 shall be amended as follows:—

- (a) by substituting, in paragraph (1)(b)(iii), for the word “made” the words “made; and”;
- (b) by inserting the following new paragraph:—

“(iv) Where the application is made under Rule 2(1)(c), the grounds for the deponent’s belief that there is between the applicant and the person on whom an originating process has been served a real issue which the applicant may reasonably ask the court to try.”

6. Rule 6 shall be amended by inserting the following new paragraph:—

“(3) Where a process may be served out of Northern Ireland without leave, the date of the hearing to be shown on that process shall be fixed by the Chief Clerk having regard to the distance of the country of service.”.

7. Rule 7 shall be amended, at paragraph (1), by substituting for the words “Where leave has been given to serve a process” the words “Where a process is to be served”.

8. Rule 9 shall be amended by inserting, after paragraph (4), the following new paragraph:—

“(4A) Where the leave of the court is required to serve a process out of Northern Ireland, the applicant shall file with the request a copy of the order of the court granting such leave.”.

Rules to be inserted in Order 40

PART V

ENFORCEMENT OF COUNTY COURT DECREES
OUTSIDE NORTHERN IRELAND

SECTION 1 — ENFORCEMENT OUTSIDE THE UNITED KINGDOM

Interpretation of Section 1

11. In this Section “the Act of 1933” means the Foreign Judgments (Reciprocal Enforcement) Act 1933, “the Act of 1982” means the Civil Jurisdiction and Judgments Act 1982 and expressions which are defined in those Acts have the same meaning in this Section as they have in those Acts.

Application under s. 10 of the Act of 1933 for certified copy of county court decree

12.—(1) An application under section 10 of the Act of 1933 for a certified copy of a county court decree may be made by producing to the chief clerk either the original decree or a copy thereof, and filing an affidavit, made by the solicitor of the party entitled to enforce the decree, or by the party himself, if he is acting in person.

- (2) An affidavit by which an application under section 10 of the Act of 1933 is made must—
- (a) give particulars of the proceedings in which the decree was obtained,
 - (b) have annexed to it evidence of service on the defendant of the civil bill or other process by which the proceedings were begun and a statement of the grounds on which the decree was based,
 - (c) state whether the defendant did or did not object to the jurisdiction, and, if so, on what grounds,
 - (d) show that the decree is not subject to any stay of enforcement,
 - (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the decree has been given or an application for a re-hearing has been made,
 - (f) state whether interest is recoverable on the decree or part thereof and, if so, the rate and period in respect of which it is recoverable, and
 - (g) exhibit, where application for enforcement of the decree has previously been made to the Enforcement of Judgments Office, a certificate signed by the Chief Enforcement Officer, or his deputy stating the amount remaining unsatisfied under the decree.

(3) The certified copy of the decree shall be a sealed copy endorsed with a certificate signed by the chief clerk certifying that the copy is a true copy of a decree obtained in the county court and that it is issued in accordance with section 10 of the Act of 1933.

(4) There shall also be issued a sealed certificate in Form 295 signed by the chief clerk and having annexed to it a copy of the civil bill or other process by which the proceedings were begun and stating—

- (a) the manner in which the civil bill or other process was served on the defendant, or that the case was defended or the defendant gave notice of counterclaim,
- (b) what objections, if any, were made to the jurisdiction,
- (c) what notices or other papers, if any, were lodged,
- (d) the grounds on which the decree was based,
- (e) that the time for appealing has expired or, as the case may be, the date on which it will expire,
- (f) whether notice of appeal against the decree has been given or an application for a re-hearing has been made,
- (g) whether interest is recoverable on the decree or part thereof and, if such be the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue, and

- (h) such other particulars as it may be necessary to give to the court in the foreign country in which it is sought to obtain enforcement of the decree.

Application under s. 12 of the Act of 1982 for certified copy of county court decree

13.—(1) An application under section 12 of the Act of 1982 for a certified copy of a county court decree may be made by producing to the chief clerk either the original decree or a copy thereof, and filing an affidavit made by the solicitor of the party entitled to enforce the decree, or by the party himself, if he is acting in person.

(2) An affidavit by which an application under section 12 of the Act of 1982 is made must—

- (a) give particulars of the proceedings in which the decree was obtained,
- (b) have annexed to it evidence of service on the defendant of the civil bill or other process by which the proceedings were begun and a statement of the grounds on which the decree was based together with, where appropriate, any document under which the applicant is entitled to legal aid or assistance by way of representation for the purposes of the proceedings,
- (c) state whether the defendant did or did not object to the jurisdiction, and, if so, on what grounds,
- (d) show that the decree is not subject to any stay of enforcement, and that a copy of the decree has been served on the party against whom it was given in accordance with section 24(2) of the Interpretation Act (Northern Ireland) 1954 or in such other manner as the court may have directed,
- (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the decree has been given or an application for a re-hearing has been made,
- (f) state—
 - (i) whether the decree provides for the payment of a sum or sums of money,
 - (ii) whether interest is recoverable on the decree or part thereof and, if such be the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue, and
- (g) exhibit, where application for enforcement of the decree has previously been made to the Enforcement of Judgments Office, a certificate signed by the Chief Enforcement Officer or his deputy certifying that the decree has not been enforced or, where appropriate, the amount remaining unsatisfied under the decree.

(3) The certified copy of the decree shall be a sealed copy and there shall be issued with the copy of the decree a sealed certificate in Form 296 signed by the chief clerk and having annexed to it a copy of the civil bill or other process by which the proceedings were begun.

SECTION 2 — ENFORCEMENT IN OTHER PARTS OF THE UNITED KINGDOM

Interpretation of Section 2

14. In this Section—

“the Act of 1982” means the Civil Jurisdiction and Judgments Act 1982,

“money provision” means a provision in any decree to which section 18 of the Act applies for the payment of one or more sums of money,

“non-money provision” means a provision in any decree to which section 18 of the Act of 1982 applies for any relief or remedy not requiring payment of a sum of money.

Application for certificate of money provision

15.—(1) A certificate in respect of any money provision contained in a county court decree may be obtained by producing to the chief clerk either the original decree or a copy thereof, and filing an affidavit made by the solicitor of the party entitled to enforce the decree, or by the party himself if he is acting in person, together with a certificate in Form 297.

(2) An affidavit by which an application under paragraph (1) is made shall—

- (a) give particulars of the decree, stating the sum or aggregate of the sums (including any costs or expenses) payable and unsatisfied under the money provision, the rate of interest, if any, applicable and the date or time from which any such interest began to accrue,

- (b) exhibit, where application for enforcement of the decree has previously been made to the Enforcement of Judgments Office, a certificate signed by the Chief Enforcement Officer or his deputy stating the amount remaining unsatisfied under the money provision,
 - (c) verify that the time for appealing against the decree has expired, or that any appeal brought or application for re-hearing has been finally disposed of and that enforcement of the decree is not stayed, and
 - (d) state to the best of the information or belief of the deponent the usual or last known address of the party entitled to enforce the judgment and of the party against whom the judgment is enforceable.
- (3) The chief clerk shall endorse on the certificate—
- (a) the number of the civil bill,
 - (b) the amount remaining due on the decree according to the books of the court and, where appropriate, the certificate referred to in paragraph (2)(b),
 - (c) the rate of interest payable on the judgment debt, and the date or time from which any such interest began to accrue,
 - (d) a note of the costs, if any, allowed for obtaining the certificate, and
 - (e) the date on which the certificate is issued.

Application for certified copy of decree containing non-money provision

16.—(1) A certified copy of a county court decree which contains any non-money provision may be obtained by producing to the chief clerk either the original decree or a copy thereof, and filing an affidavit made by the solicitor of the party entitled to enforce the decree, or by the party himself, if he is acting in person.

(2) The requirements in paragraph (2) of rule 15 shall apply with the necessary modifications to an affidavit made in an application under paragraph (1) of this rule.

(3) The certified copy of the decree shall be a sealed copy to which shall be annexed a certificate in Form 298 signed by the chief clerk and stating that the conditions specified in paragraph 3(a) and (b) of Schedule 7 to the Act of 1982 are satisfied in relation to the decree.

Record and effect of issuing a copy decree or a certificate

17. Where a certified copy of a decree or a certificate is issued by a chief clerk under this Part, he shall make on the minute of the decree a memorandum of having issued the copy decree or certificate, and thenceforth no further proceeding shall be taken or had upon such decree in the court issuing the copy decree or certificate until the judge or chief clerk, upon being satisfied by affidavit or otherwise that no further proceedings are pending or can be taken on the copy decree or certificate in any other court and that the decree is still unsatisfied in whole or in part, orders that the decree may be acted on as if the copy decree or certificate had not been issued.

Forms to be inserted in Appendix 1

FORM 295

Certificate under section 10 of the Foreign Judgments (Reciprocal Enforcement) Act 1933

ORDER 40, RULE 12(4)

*[Title of proceedings in which decree was obtained]*I, _____ Chief Clerk of the _____ County Court
HEREBY CERTIFY as follows:—

1. That Civil Bill No. _____ [*or as the case may be*], a copy of which is annexed, was issued for the sittings of the County Court for the Division of _____ held at _____ on the _____ day of _____ 19 _____ by _____ the above-named plaintiff against the above-named defendant.
2. That the said Civil Bill [*or other originating process as the case may be*] was duly served on the _____ day of _____ 19 _____ upon the said defendant [*insert name of defendant*] by [*state mode of service*].
3. That the proceedings were defended by the defendant [*insert name of defendant*] [*or, that the defendant gave notice of counterclaim dated 19 _____*].
4. That [no] objection has been made to the jurisdiction of the court [*on the grounds that state ground of objection* _____].
5. That [the following] [no other] notices or other papers were lodged with the court.
6. The said [*insert name of person obtaining decree*] obtained judgment against the said [*insert name of unsuccessful party*] for payment of the sum of £ _____ [*or state any other relief ordered*], together with the sum of £ _____ for costs.
7. That the time for giving notice of appeal has expired [*or, will expire on give date*].
8. That no notice of appeal has been given and no application for a re-hearing has been made.
9. That the decree carries interest at the rate of _____ per cent per annum calculated on the judgment debt and costs from the date of the decree until payment.
10. That enforcement of the decree is not for the time being stayed and that the time available for its enforcement has not expired.
11. This certificate is issued under section 10 of the Foreign Judgments (Reciprocal Enforcement) Act 1933.

Signed

Chief Clerk

Dated the _____ day of _____

19 _____

(Seal)

Certificate under section 12 of the Civil Jurisdiction and Judgments Act 1982

ORDER 40, RULE 13(3)

[Title of proceedings in which decree was obtained]

I, _____ Chief Clerk of the _____ County Court
 HEREBY CERTIFY as follows:—

1. That Civil Bill No. _____ [or as the case may be], a copy of which is annexed, was issued for the sittings of the County Court for the Division of _____ held at _____ on the _____ day of _____ 19____, by _____ the above-named plaintiff against the above-named defendant.
2. That the said Civil Bill [or other originating process as the case may be] was duly served on the _____ day of _____ 19____ upon the said defendant [insert name of defendant] by [state mode of service].
3. That the proceedings were defended by the defendant [insert name of defendant] [or, that the defendant gave notice of counterclaim dated _____ 19____].
4. The said [insert name of person obtaining decree] obtained judgment against the said [insert name of unsuccessful party] for payment of the sum of £ _____ [or state any other relief ordered], together with the sum of £ _____ for costs.
5. That [no] objection has been made to the jurisdiction of the court [on the grounds that state ground of objection].
6. That the decree carries interest at the rate of _____ per cent per annum calculated on the judgment debt and costs from the date of the decree until payment.
7. That a copy of the decree has been served on the defendant in accordance with Order 40 Rule 13(2)(d).
8. [That no application to set the decree aside] [or no notice of appeal] has been lodged.
9. [That an application to set the decree aside] [or an appeal] [has been finally disposed of].
10. That enforcement of the decree is not for the time being stayed and that the time available for its enforcement has not expired.
11. This certificate is issued under section 12 of the Civil Jurisdiction and Judgments Act 1982.

Signed _____ Chief Clerk

Dated the _____ day of _____ 19____

(Seal)

FORM 297

**Certificate of Money Provisions contained in a Decree for Registration under
Schedule 6 to the Civil Jurisdiction and Judgments Act 1982**

ORDER 40, RULE 15

I, _____ Chief Clerk of the _____ County Court
HEREBY CERTIFY as follows:—

1. That [*state name, address and description of plaintiff*] obtained a decree against [*state name, address and description of defendant*] on the _____ day of _____ 19____ in the County Court for the Division of _____ held at _____ for the payment of the sum of £ _____ for [*state shortly nature of claim*] together with £ _____ for costs.
2. That the decree carries interest at the rate of _____ per cent per annum calculated on the judgment debt and costs from the date of the decree until payment.
3. That the conditions specified in paragraph 3(a) and (b) of Schedule 6 to the Civil Jurisdiction and Judgments Act 1982 are satisfied in relation to the decree.
4. That enforcement of the decree is not for the time being stayed and that the time available for its enforcement has not expired.
5. This certificate is issued under Schedule 6 of the Civil Jurisdiction and Judgments Act 1982.

Signed _____ Chief Clerk

Dated the _____ day of _____ 19____

ENDORSEMENT TO BE MADE ON CERTIFICATE BY CHIEF CLERK

- (a) Number of Civil Bill
- (b) Amount remaining due on the decree £
- (c) Rate of interest payable on the judgment debt and the date or time from which interest began to accrue
- (d) Fee and costs for obtaining this certificate £

FORM 298

**Certificate issued under Schedule 7 to the Civil Jurisdiction and Judgments Act
1982 in respect of Non-Money Provisions**

ORDER 40, RULE 16(3)

I, _____ Chief Clerk of the _____ County Court certify that the annexed copy decree is a true copy of a decree obtained in the County Court for the Division of _____, that it is issued in accordance with section 18 of the Civil Jurisdiction and Judgments Act 1982 and that the conditions specified in paragraph 3(a) and (b) of Schedule 7 to that Act are satisfied in relation to the decree.

This certificate is issued under paragraph 4(1)(b) of Schedule 7 to the Civil Jurisdiction and Judgments Act 1982.

Signed _____ Chief Clerk

Dated the _____ day of _____ 19____

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend the County Court Rules (Northern Ireland) 1981 to take account of the commencement of the Civil Jurisdiction and Judgments Act 1982 on 1st January 1987. The following changes are made:—

- (a) where a claim is one which the court has power to hear and determine by virtue of the Civil Jurisdiction and Judgments Act, and the civil bill is to be served out of Northern Ireland, the particulars of claim must contain a statement to that effect (Rule 3(2));
- (b) fresh provision is made for service of civil bills and other process out of Northern Ireland (Rule 3(3) and Schedule 1);
- (c) where a person is sued in a business name, service may be effected at his place of business notwithstanding he may be outside Northern Ireland (Rule 3(4));
- (d) a new Part V is inserted in Order 40 to provide for the issuing of copy decrees and certificates for purposes of enforcement outside Northern Ireland (Rule 3(5) and Schedule 2);
- (e) other minor amendments.

The Civil Jurisdiction and Judgments Act 1982 introduces important changes in the civil jurisdiction of courts in the United Kingdom and in the recognition and enforcement of judgments within the United Kingdom and abroad.