

1989 No. 217

MATRIMONIAL CAUSES

**The Matrimonial Causes (Costs) (Amendment) Rules
(Northern Ireland) 1989***Made* 5th June 1989*Coming into operation* 10th July 1989*To be laid before Parliament*

We, the Matrimonial Causes Rules Committee, in exercise of the powers conferred upon us by Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978(a), hereby, with the concurrence of the Lord Chancellor and the Treasury, make the following Rules:—

Citation and commencement

1.—(1) These Rules may be cited as the Matrimonial Causes (Costs) (Amendment) Rules (Northern Ireland) 1989 and shall come into operation on 10th July 1989.

(2) These Rules shall apply to all bills of costs in respect of matrimonial proceedings lodged on or after 10th July 1989.

Amendment of the Matrimonial Causes (Costs) Rules (Northern Ireland) 1981

2. For rule 9 of the Matrimonial Causes (Costs) Rules (Northern Ireland) 1981(b) there shall be substituted the new rule set out in the Schedule.

Brian Hutton
Basil Kelly
J. F. B. Russell
Mary Connelly
D. Kennedy
R. T. Millar

Dated 19th May 1989

I concur,

Dated 5th June 1989

Mackay of Clashfern, C.

We concur,

Dated 12th June 1989

Stephen Dorrell
Kenneth Carlisle
Two of the Lords Commissioners
of Her Majesty's Treasury

(a) S.I. 1978/1045 (N.I. 15)

(b) S.R. 1981 No. 196

**Amendment of the Matrimonial Causes (Costs) Rules
(Northern Ireland) 1981**

Fixed Costs

9.—(1) In this rule—

“assisted person” means a person in respect of whom a certificate is in force under Part I of the Order of 1981 entitling him to legal aid in a cause or, as the case may be, an ancillary application from its commencement.

(2) Where in an undefended cause for divorce, nullity of marriage or judicial separation the petitioner is granted a decree with costs, whether as between party and party or not the costs shall, if his solicitor so elects, be fixed in accordance with the provisions of this rule instead of being taxed.

Provided that where the petitioner is an assisted person for whom counsel has acted, counsel’s fees shall not be fixed if counsel elects that the sums payable to him under Article 13(1) of the Order of 1981 shall be taxed.

(3) Where costs are fixed there shall be allowed as between party and party such of the following items as are applicable:—

(a) in respect of solicitors’ charges—

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| (i) if counsel was briefed at hearing, | £159·00. |
| (ii) if counsel was not briefed at hearing, | £187·00. |
| (iii) where an order has been made for substituted service or to dispense with service, | £ 13·00. |
| (iv) for any statement as to the arrangements for the children filed under rule 7(2) of the principal rules, | £ 3·50. |

(b) in respect of counsel’s fees—

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| (i) for settling the petition,
or where particulars of unreasonable behaviour are given under Article 3(2)(b) of the Order, | £ 16·00.
£ 20·00. |
| (ii) for directing proofs, | £ 14·00. |
| (iii) with brief on hearing,
and where counsel travels to attend a court more than 25 miles from the Head Post Office, Belfast, a further sum of
and | £ 40·00.
£ 5·00. |
| (iv) on consultation | £ 16·00. |

(c) in respect of other disbursements, such amounts as would have been allowed if the costs had been taxed, not exceeding in respect of an inquiry agent’s fees the sum of £27 or, where oral evidence is necessary, £40·00 and in respect of their travelling expenses a vouched sum not exceeding £14·00.

(4) If a petitioner whose costs are to be fixed is an assisted person, then notwithstanding that the costs have been ordered to be taxed for the purposes of Schedule 2 to the Order of 1981—

- (a) the sums payable under Article 13(1) of that Order to the solicitor acting for him shall be such of the fixed amounts specified in paragraph 3(a) and (c) as are applicable;
- (b) the sums payable under the said Article 13(1) to counsel acting for the assisted person shall be such of the fixed amounts specified in paragraph 3(b) as are applicable.

(5) A petitioner's solicitor who elects to have his costs fixed under paragraph (2) shall give notice to that effect to the taxing master, within the time specified in rule 4 of these Rules, stating the sums which he claims should be allowed, and he shall at the same time lodge all necessary papers and vouchers including counsel's initialled brief or fee docket.

(6) Where an ancillary application is granted or refused with costs, whether as between party and party or not, in the circumstances mentioned in any of the following items, then the costs shall, if the applicant's solicitor elects, be fixed at the sum mentioned in that item instead of being taxed:—

(a) in respect of solicitor's charges—

- (i) where a consent order for ancillary relief has been made, £15;
- (ii) where any other consent order has been made and no affidavit has been filed by either party, £15;
- (iii) where an order has been made after a hearing at which the respondent has not appeared, £22·00;
- (iv) where an order has been made after a hearing at which the respondent has appeared, £37·00, or, if counsel is allowed, £33·00;

(b) in respect of counsel's fees where counsel is allowed—

- (i) in the circumstances mentioned in item (a) (ii) or (iii), £15·00;
- (ii) in the circumstances mentioned in item (a) (iv), £27·00, with brief and, in addition, £8·00 for any consultation;

(c) in respect of other disbursements,

such of the items mentioned in paragraph 3(c) as are appropriate.

(7)—

(a) The proviso to paragraph (2), paragraph (4) and paragraph (5) shall apply, with the necessary modifications, in relation to the costs mentioned in paragraph (6) as they apply in relation to the costs mentioned in paragraph (2).

(b) Where a party is an assisted person, sub-paragraph (a) shall apply whether costs have been awarded or not.

(8) Except as provided in paragraph (6), nothing in this rule shall apply to the costs of an ancillary application and accordingly the costs of any such application may be taxed notwithstanding anything done under paragraph (2).

(9) In addition to the amount of costs allowed under the foregoing paragraphs in respect of the supply of goods or services on which value added tax is chargeable there may be allowed as a disbursement a sum equivalent to value added tax at the appropriate rate on that amount.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Matrimonial Causes (Costs) Rules (Northern Ireland) 1981 to substitute a new rule 9 to increase fixed costs by approximately 35·17%.