STATUTORY RULES OF NORTHERN IRELAND

2013 No. 19

COUNTY COURTS

The County Court (Amendment) Rules (Northern Ireland) 2013

Made - - - -	*31st January 2013*
Coming into operation	*25th February 2013*

The County Court Rules Committee makes the following Rules in exercise of the powers conferred by Article 47 of the County Courts (Northern Ireland) Order 1980(**1**).

Citation, commencement and interpretation

1. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2013 and shall come into operation on 25th February 2013.

2. In these Rules, a reference to an Order, rule, Appendix or Form is a reference to that Order, rule, Appendix or Form so numbered in the County Court Rules (Northern Ireland) 1981(**2**).

Amendments to the County Court Rules (Northern Ireland) 1981

3. In every place it occurs for "the Judge" substitute "the judge".

4. In the following Orders or rules as the case may be, after "the judge", or "the Judge" in each place it occurs insert "or district judge as the case may be"—

(a) Order 2,

(b) Order 3,

(c) Order 4,

(d) Order 5,

(e) Order 6,

(f) Order 7, rule 6, 7(4) and 8,

(g) Order 8, rule 3(2), 6 and 7,

(h) Order 9,

(i) Order 10,

(j) Order 11, rule 2 and 3,

(**1**) S.I. 1980/397 (N.I.3) to which the most recent relevant amendment was made by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No.976)

(**2**) S.R. 1981 No. 225 to which the most recent amendments were made by S.R. 2011 No.421

(k) Order 13,

(l) Order 14, rule 5(5), 7(1), 8, 10, and rule 11(1),

(m) Order 15,

(n) Order 16,

(o) Order 21, rule 1, 2(4), 3(1), 3(4), 3(5), 3A, 4 and 5,

(p) Order 22, Part I and rule 9,

(q) Order 24,

(r) Order 25, Part I and Part III,

(s) Order 30,

(t) Order 35,

(u) Order 39,

(v) Order 41,

(w) Order 42, rule 2(d) and rule 3(5),

(x) Order 43, rule 1, 2, 7, 9, 10, 14, 15, 16, 19, 20, 24 and 25,

(y) Order 44,

(z) Order 45,

(aa) Order 47,

(bb) Order 49,

(cc) Order 55, rule 3, 6, 7, 10, 11, 12, 14(4), 14(6), 18, and 20, and

(dd) Order 57 rule 1(1)(a).

5. In Order 5, rule 2(6) for "£15,000" substitute "£30,000".

6. In Order 5 for rule 3 substitute—

"**Notice for further particulars**

3.—(1) In any case to which Rule 2(4) does not apply, the defendant may require the plaintiff, by notice in writing served within 14 days after service of the notice of intention to defend, to furnish further particulars of claim within 14 days of service of the notice for particulars.

(2) In any case to which Rule 2(4) does not apply, the plaintiff may require the defendant by notice in writing served within 14 days after service of the particulars of claim or where no notice for further particulars of claim has been served, within 14 days of service of the notice of intention to defend, to furnish particulars of any defence, set off or counterclaim within 14 days of service of the notice for particulars.

(3) Where under paragraphs (1) and (2) particulars have been duly required and—

(a) have not been furnished within the time specified in the notice; or

(b) if furnished, are in the opinion of the judge or district judge insufficient;

the judge or district judge may make such order as he thinks just including, in particular, an order that the proceedings be dismissed or, as the case may be, an order that the notice of intention to defend be struck out and judgment be entered accordingly.

(4) Any costs occasioned by service of a notice under paragraph (1) or (2) shall be at the discretion of the judge or district judge as the case may be.

(5) Where a defendant has served a third party notice this Rule shall, with any necessary modifications, apply as if the third party were a defendant and a plaintiff.

(6) In this Rule the words "plaintiff" and "defendant" respectively shall include a plaintiff and defendant to a counterclaim.".

7. In Order 6A, rule 5(1) for "£5,000" substitute "£10,000".

8. In Order 8, rule 3—

(a) in paragraph (1A) before "A certificate" insert "Subject to paragraph (1B),";

(b) after paragraph (1A) insert—

"(1B) The plaintiff must notify the defendant in writing of his intention to lodge the certificate of readiness no later than 14 days prior to lodging the certificate.".

9. For Order 14 rule 1 substitute—

"**General procedure**

1.—(1) Where by any enactment or by direction of the court any application in the course of an action or matter is expressly or by implication authorised to be made to the court or to the judge or to the district judge or chief clerk, the following provisions shall apply—

(a) the application shall be made either in or out of court and either ex parte or on notice in accordance with the terms of the relevant enactment or direction;

(b) in the absence of any express provision to the contrary the application shall be determined by the judge (or district judge as the case may be) without a hearing, unless—

(i) either party requests a hearing; or

(ii) the judge (or district judge as the case may be) otherwise directs;

(c) where either party requests that the application be dealt with by way of hearing, the party shall specify the reasons;

(d) a party may within 14 days of service of the application, object to the application being determined without a hearing, by filing in court, a notice in writing specifying the reasons;

(e) an objection made under sub-paragraph (d) shall be served on the other party;

(f) unless an objection to the application being dealt with without a hearing is received within 14 days of service of the application on the other party, it will be assumed that the other party consents to the application being determined without a hearing (unless the judge or district judge otherwise directs);

(g) where a request for a hearing under sub-paragraph (b) or an objection under sub-paragraph (d) is received, the application or objection shall be placed before the judge or district judge for consideration who may—

(i) determine the application without a hearing and make such order as he considers just; or

(ii) direct that the matter be listed for a hearing;

(h) where an application is made on notice—

(i) the notice shall be in writing and shall be served on the other party and filed in the Office before the beginning of a period of two days ending on the day of hearing of the application unless the judge or district judge or chief clerk dispenses with notice or gives leave for shorter notice; and

(ii) the party serving the notice shall be responsible for ascertaining that the judge or district judge or, as the case may be, the chief clerk will be available to hear the application on the day, at the time and in the place for which notice is served;

(i) where a district judge or chief clerk has made an order to which this order applies, any party may make an application to the judge on notice to vary or rescind the order and on determination of the application the judge may—

(i) confirm;

(ii) vary;

(iii) rescind the order; or

(iv) make any other order as he thinks fit.

(2) The jurisdiction of the court to determine any application in the course of an action or matter—

(a) may, by direction or with the consent of the judge, be exercised by the district judge unless there is a provision to the contrary in any enactment;

(b) shall, in an action which is within the jurisdiction of the district judge, be exercised by the district judge.".

10. In Order 14 for rule 6 substitute—

"**Application for interim injunction, etc**

6.—(1) Where any party or intending party desires, before the hearing, an immediate order—

(a) in the nature of an injunction; or

(b) for the appointment of a receiver; or

(c) for taking any accounts; or

(d) for making any inquiries;

he may apply to the judge or district judge on affidavit setting forth the facts rendering the order immediately necessary and the judge or district judge may make such order as he thinks fit.

(2) Where a district judge makes an interim order under paragraph (1) above, the application must be brought before a judge within 7 days of that interim order being made.".

11. In Order 15—

(a) in rule 1—

(i) for paragraphs (1), (2) and (3) substitute—

"**1.**—(1) Within 14 days of further particulars being furnished in accordance with Order 5 rule 3(2) there shall, subject to and in accordance with the provisions of this Order, be discovery by any party to any proceedings of the documents which are or have been in their possession, custody or power relating to any matter in question in the proceedings.

(2) Nothing in this Order shall be taken as preventing the parties agreeing to dispense with or limit the discovery of documents which they would otherwise be required to make to each other.

(2A) Subject to the provisions of this rule, the parties to proceedings must make discovery by exchanging lists of documents in Form 68 which are or have been in his possession, custody or power relating to any matter in question between them in the proceedings.

(2B) Without prejudice to any directions given by the district judge under Order 11 rule 2B, paragraph (2A) shall not apply in third party proceedings, including proceedings under that Order involving fourth or subsequent parties.

(2C) Unless the chief clerk, judge or district judge otherwise orders, in any proceedings where liability is admitted or where the proceedings arise out of an accident on land due to a collision or apprehended collision involving a vehicle, discovery shall be limited to disclosure of any documents in relation to special damage.

(2D) Paragraph (2A) shall not be taken as requiring a defendant in proceedings for the recovery of any penalty recoverable by virtue of any enactment to make discovery of any documents.

(2E) Paragraphs (2C) and (2D) shall apply in relation to a counterclaim as they apply in relation to any proceedings.

(2F) On the application to the chief clerk of any party required by this rule to make discovery of documents, the chief clerk, or where the application has been referred to the judge or district judge in chambers, the judge or district judge may—

(a) order that the parties to the action or any of them shall make discovery under paragraph (2A) of such documents or classes of documents only, or as to such only of the matters in question, as may be specified in the order; or

(b) if satisfied that discovery by all or any of the parties is not necessary, or not necessary at that stage of the action, order that there shall be no discovery of documents by any or all of the parties either at all or at that stage;

and the chief clerk, judge or district judge shall make such an order and so far as he is of the opinion that discovery is not necessary either for disposing fairly of the proceedings or for saving costs.

(2G) An application for an order under paragraph (2F) may be made to the chief clerk ex parte without notice and before the expiration of the period within which, by virtue of this rule, discovery of documents in the action is required to be made.

(3) If any party fails to comply with paragraphs (1) and (2A) the other party may apply to the chief clerk ex parte without notice for an order directing the other party to make discovery.";

(ii) omit paragraph (4);

(iii) in paragraph (5) for "in Form 68B" substitute "under paragraph (3)";

(iv) omit paragraph (10);

(b) for rule 12 substitute—

"**Discovery by interrogatories**

12.—(1) Any party to any proceedings may in accordance with the following provisions of this Part serve on any other party interrogatories relating to any