STATUTORY RULES OF NORTHERN IRELAND

2002 No. 412

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 2002

Made - - - -	*30th December 2002*
Coming into operation	*3rd March 2003*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**1**), 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 and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules (Northern Ireland) 2002.

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

Costs

2.—(1) Order 55 shall be amended as follows–

(a) by revoking paragraph (1) in rule 9;

(b) by the insertion of the following new rule–

"**11.**—(1) This rule only applies where the plaintiff's cause of action (or if there is more than one cause of action the principal cause of action):

(a) related to contracts for works of building or engineering construction, contracts of engagement of architects, engineers or quantity surveyors, the sale of goods, insurance, banking, the export or import of merchandise, shipping or other mercantile matters, agency, bailment, carriage of goods, professional or clinical negligence or title to land;

(**1**) S.I.1980/397 (N.I. 3)
(**2**) S.R. 1981 No. 225 to which the most recent relevant amendments were made by, S.R. 1995 No. 151, S.R. 1995 No. 282 and S.R. 1999 No. 464

(b) claimed assault, battery, wrongful arrest or false imprisonment and where a named defendant is the Ministry of Defence, Chief Constable of the Police Service of Northern Ireland or Head of the Northern Ireland Prison Service; or

(c) was brought under:

(i) Part IV of the Sex Discrimination (Northern Ireland) Order 1976(**3**);

(ii) Part III of the Race Relations (Northern Ireland) Order 1997(**4**);

(iii) Part IV of the Fair Employment and Treatment (Northern Ireland) Order 1998(**5**);

(iv) Part III of the Disability Discrimination Act 1995(**6**); or

(v) section 76 of the Northern Ireland Act 1998(**7**);

(2) Subject to paragraph (4) where, at the conclusion of a cause of action to which this rule applies, the judge is satisfied that the issues in the case were of particular complexity, he may order that the parties receive an enhancement of their costs in addition to the scale costs set out in Appendix 2.

(3) The amount of any enhancement under this rule shall be one-third of the scale fee in Appendix 2 to which the parties are entitled.

(4) No enhancement shall be permitted under this rule unless:

(a) prior to service of the civil bill or counterclaim, the plaintiff or the defendant has endorsed upon the civil bill or counterclaim that a cause of action between the parties falls within the provisions of this rule; or

(b) where the proceedings were commenced in the High Court by writ of summons and remitted to the county court–

(i) the plaintiff within 14 days of the order for remittal serves a notice on the defendant that a cause of action falls within the provision of this rule; or

(ii) the defendant within 14 days of the service of the order for remittal upon the plaintiff serves a notice on the plaintiff that a cause of action in his counterclaim falls within the provision of this rule.

(5) Notice under paragraph (4) shall be copied to the chief clerk."

(c) in rule 14 by substituting for paragraphs (3) and (4) the following new paragraphs–

"(3) Subject to paragraphs (4), (5) and (6) where judgment is entered on behalf of a plaintiff in accordance with Order 12, Rule 2 and damages are assessed under Order 12, Rule 13 or 16 the costs awarded to a solicitor or counsel shall be 50% of the scale fee payable under the relevant Table (as determined by the cause of action) in Appendix 2.

(4) Costs shall only be awarded to counsel in accordance with paragraph (3) if the judge has certified that it was necessary to instruct counsel in that case.

(5) Notwithstanding paragraph (3), the amount of 50% of the scale fee prescribed by paragraph (3) (being the costs payable to a solicitor and, if allowed, to counsel where judgment is entered on behalf of a plaintiff in accordance with Order 12, Rule 2 and damages are assessed under Order 12, Rules 13 or 16) may be increased at the discretion of the judge or district judge.

(**3**) S.I. 1976/1042 (N.I. 5)
(**4**) S.I. 1997/869 (N.I. 6)
(**5**) S.I. 1998/3162 (N.I. 21)
(**6**) 1995 c. 50
(**7**) 1998 c. 47

(6) Notwithstanding paragraphs (3) to (5), in any case whether commenced by civil bill or on petition, where the approval of the judge is required under Order 44, Rule 1(1)(a), the costs payable to a solicitor and counsel shall be the full scale fee allowable under Appendix 2, Part 1"; and

(d) in rule 17 by deleting the figure "£2·27" and substituting the figure "£2·37".

(2) For Appendix 2 there shall be substituted the new Appendix 2 set out in the Schedule.

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.

A. R. Hart
J. J. Curran
H. Keegan
Barry Valentine
Brian F. Walker
James A. Agnew
Brian J. Stewart
Brian Kennedy
P. J. Kelly

Dated 13th June 2002

After consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 3rd March 2003.

Dated 30th December 2002 *Irvine of Lairg,* C.

SCHEDULE Rule 2(2)

APPENDIX 2

PART I

Ordinary civil bills

(other than those provided for in Table 3)

TABLE 1: PLAINTIFF'S AND DEFENDANT'S COSTS

In actions where amount decreed (in the case of the plaintiff) and where amount claimed (in the case of the defendant) (1)		*Solicitor's costs* (2)
i	does not exceed £1,000	£450
ii	exceeds £1,000 but does not exceed £2,500	£950
iii	exceeds £2,500 but does not exceed £5,000	£1,350
iv	exceeds £5,000 but does not exceed £7,500	£1,750
v	exceeds £7,500 but does not exceed £10,000	£2,000
vi	exceeds £10,000 but does not exceed £12,500	£2,200
vii	exceeds £12,500 but does not exceed £15,000	£2,400

In actions where amount decreed (in the case of the plaintiff) and where amount claimed (in the case of the defendant) (1)		*Counsel's fee* (3)
i	does not exceed £1,000	£150
ii	exceeds £1,000 but does not exceed £2,500	£220
iii	exceeds £2,500 but does not exceed £5,000	£320
iv	exceeds £5,000 but does not exceed £7,500	£400
v	exceeds £7,500 but does not exceed £10,000	£470
vi	exceeds £10,000 but does not exceed £12,500	£535
vii	exceeds £12,500 but does not exceed £15,000	£600

1. This Table does not apply to actions for defamation.

2. Counsel travelling to attend a court–
   (a) 20 to 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £20·00;
   (b) more than 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £40·00.

   Solicitor travelling to attend a court–
   (a) 20 to 50 miles from the solicitor's office or, where the solicitor's firm practises from more than one office, from the office which dealt with the proceedings is entitled to an additional sum of £20·00;
   (b) more than 50 miles from the solicitor's office or, where the solicitor's firm practises from more than one office, from the office which dealt with the proceedings is entitled to an additional sum of £40·00.

   Where a solicitor or counsel has conducted more than one case on the same day at the same venue, this fee may be claimed once only and the fee shall be divided proportionately over the number of cases conducted by the solicitor or counsel.
3. Where the judge is satisfied that the issues in the case were of particular complexity he may certify that the solicitor or counsel, as the case may be, is entitled to an additional sum of £35·00 for drafting a notice for further particulars.
4. For drafting a reply to a notice for further particulars, the solicitor or counsel, as the case may be, is entitled to an additional sum of £35·00.
5. For each day or part of a day on which a trial or hearing is continued after the first day both counsel and a solicitor in attendance are each entitled to an additional sum equivalent to one third of counsel's scale fee.
6. Where in any action or application under the Consumer Credit Act 1974 the amount decreed exceeds £15,000, the costs may be increased by such amounts as the Judge thinks proper having regard to the amount involved or the importance or difficulty of the case.

Costs where no notice of intention to defend is served and judgment is marked under Order 12

TABLE 2: PLAINTIFF'S COSTS

In actions where amount decreed –		*Where sum claimed and costs specified in civil bill not paid within 21 days of service*
(1)		(2)
i	does not exceed £500	£66
ii	exceeds £500 but does not exceed £1,000	£104
iii	exceeds £1,000 but does not exceed £2,000	£130
iv	exceeds £2,000 but does not exceed £3,000	£149
v	exceeds £3,000 but does not exceed £4,000	£163
vi	exceeds £4,000 but does not exceed £5,000	£181
vii	exceeds £5,000 but does not exceed £6,000	£202
viii	exceeds £6,000 but does not exceed £7,000	£220