STATUTORY RULES OF NORTHERN IRELAND

2002 No. 255

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 2002

Made - - - -	*23rd July 2002*
Coming into operation	*4th November 2002*

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. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2002.

2. In these Rules –

(a) "the principal Rules" means the County Court Rules (Northern Ireland) 1981(**2**); and

(b) a reference to an Order, Rule, Form or Appendix by number is a reference to that Order, Rule, Form or Appendix so numbered in the principal Rules.

Arrangement of Rules

3. The Arrangement of Rules at the beginning of the principal Rules shall be amended as follows –

(a) in the entry for Order 26, for the words "Arbitration under Article 30" there shall be substituted the words "Small Claims"; and

(b) in the entry for Order 58 for the word "Interpretation" there shall be substituted the words "Overriding objective, interpretation".

Where proceedings may be commenced

4. In Order 1, Rule 1(1) for the words "Rule 5" there shall be substituted the words "Rule 29".

(**1**) S.I.1980/397 (N.I. 3)

(**2**) S.R. 1981 No. 225 to which the most recent relevant amendments were effected by S.R.1982 No. 287, S.R. 1983 No. 102, S.R. 1985 No. 31, S.R. 1985 No. 102, S.R. 1989 No. 306, S.R. 1993 No. 322, S.R.1995 No. 151 and S.R. 1997 No. 17

Service outside the jurisdiction

5. In Order 6A –

(a) in the definition of "originating process" in Rule 1, the words "but excludes an application for arbitration under Article 30 of the Order" shall be omitted; and

(b) in Rule 5(1) for the figure of "£3000" there shall be substituted the figure of "£5000".

Proceedings to be heard by the district judge

6. Paragraph (1) of Order 25, Rule 15 is hereby revoked.

Small Claims

7. For Order 26 there shall be substituted the new Order set out in Schedule 1 to these Rules.

Stay of execution and removal thereof

8. In Order 33, Rule 10, the following new sub-paragraph shall be added after paragraph (6) –

"(7) In the application of this rule to decrees issued under Order 26, references to "affidavit" shall be construed as references to a "statement of truth" and paragraph (6) shall be read as if the words from "but with" to the end were omitted.".

Declarations as to Legitimacy or Legitimation

9. In Order 53 –

(a) Part II and Rule 13(1) are hereby revoked; and

(b) in Rule 6 the words "Part II" shall be omitted.

Costs

10. For Order 55, Rule 19 there shall be substituted the following new Rule –

"**19.**—(1) In any proceedings before a Judge, other than an appeal under the 1977 Order, the 1988 Order, the 1978 Act or the 1991 Act, if the award by the Judge does not exceed –

(a) £5,000, only two-thirds of the amount of the scale costs shall be allowed, unless the Judge otherwise orders; or

(b) £2,000, no costs, save those which would be awarded under Order 26, Rules 43 to 46, shall be allowed if the Judge is satisfied that the proceedings should have been brought under Article 30(3) of the Order.

(2) In any proceedings before a district judge, if the award by the district judge does not exceed £2,000, no costs, save those which would be awarded under Order 26, Rules 43 to 46 shall be allowed if the district judge is satisfied that the proceedings should have been brought under Article 30(3) of the Order.".

The overriding objective

11. Order 58 shall be amended as follows –

(a) in the heading, for the word "Interpretation" there shall be substituted the words "Overriding objective, interpretation"; and

(b) Rules 1 to 6 shall be re-numbered Rules 2 to 7 and the following new Rule 1 shall be inserted –

"**The overriding objective**

1.—(1) The overriding objective of these Rules is to enable the Court to deal with cases justly.

(2) Dealing with a case justly includes, so far as is practicable –

(a) ensuring that the parties are on an equal footing;

(b) saving expense;

(c) dealing with the case in ways which are proportionate to –

(i) the amount of money involved;

(ii) the importance of the case;

(iii) the complexity of the issues; and

(iv) the financial position of each party;

(d) ensuring that it is dealt with expeditiously and fairly; and

(e) allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases.

(3) The Court must seek to give effect to the overriding objective when it –

(a) exercises any power given to it by the Rules; or

(b) interprets any Rule.".

Forms

12. For Forms 10A, 125, 126A and 126B there shall be substituted the new Forms 10A, 125, 126A and 126B set out in Schedule 2 to these Rules.

13. After Form 126B there shall be inserted the new Forms 127 to 129 set out in Schedule 2 to these Rules.

14. Forms 308 and 312 are hereby revoked.

Saving

15. Nothing in these Rules shall affect any proceedings which are pending immediately before these Rules come into operation and the Rules in operation before that date shall continue to apply to those proceedings.

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
T. A. Burgess
J. J. Curran
H. Keegan
Barry Valentine
Dated 25th June 2002 *Brian Kennedy*

After consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 4th November 2002.

Dated 23rd July 2002. *Irvine of Lairg,* C.

SCHEDULE 1 Rule 7

"ORDER 26

SMALL CLAIMS

Definitions

1. In this Order –

"the applicant" means the person who makes the initial claim;

"the respondent" means the person against whom the initial claim is made;

"a counterclaim" means a claim which is made by the respondent against the applicant;

"the judge" means the district judge;

"a small claim" means an action to which Article 30(3) of the Order applies;

"small claims court" means a court which processes small claims;

"the small claims office" means the office of the small claims court which will process the small claim;

"the officer" means the person in the court office who processes the application for a small claim; and

"party" means the applicant or the respondent.

Excluded claims

2. No small claims application shall be made with regard to any claim which –

(a) is for damages for personal injuries;

(b) is for damages in respect of a road traffic accident;

(c) is for damages for libel or slander;

(d) is made under Article 11 (Recovery of legacies, annuities, etc.) of the Order;

(e) concerns the title to land;

(f) is made under section 17 of the Married Women's Property Act 1882;

(g) has been remitted by the High Court.

3.—(1) Subject to paragraph (2), where the claim is for a debt or other liquidated amount which does not exceed £2000, the applicant may proceed by ordinary civil bill provided he includes, immediately after the Warning in the civil bill, the statement in Form 10A.

(2) If the respondent's notice of intention to defend includes a request that the claim and any counterclaim be dealt with as a small claim, his request shall be granted.

Starting Proceedings

4. An application for a small claim must be made in Form 125.

5. The applicant must complete Part A of Form 125, setting out details of his claim, including any claim for interest under Article 45A of the Order or otherwise.

6. After completing Part A of Form 125, the applicant must bring or send the original Form, together with two copies and the appropriate fee, to any court office and that office will then forward the application on to the small claims office.