STATUTORY RULES OF NORTHERN IRELAND

1999 No. 490

COUNTY COURTS

The County Court (Amendment No. 4) Rules (Northern Ireland) 1999

Made - - - -	*10th December 1999*
Coming into operation	*17th January 2000*

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, paragraph 38 of Schedule 10 to the Northern Ireland Act 1998(**2**) 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. 4) Rules (Northern Ireland) 1999.

Devolution issues

2.—(1) The County Court Rules (Northern Ireland) 1981(**3**) shall be amended in accordance with the following provisions of this Rule.

(2) In the Arrangement of Orders after the entry relating to Order 23 there shall be inserted the following—

"**23A.** Devolution issues under Schedule 10 to the Northern Ireland Act 1998.".

(3) After Order 23 there shall be inserted the following new Order—

(**1**) S.I.1980/397 (N.I. 3)
(**2**) 1998 c. 47
(**3**) S.R. 1981 No. 225 to which there are no relevant amendments

"ORDER 23A

Devolution issues under Schedule 10 to the Northern Ireland Act 1998

Interpretation

1. In this Order—

"the appropriate Minister or department" means—

(a) the First Minister and the deputy First Minister acting jointly; or

(b) where they, acting jointly, determine under paragraph 36 of Schedule 10 that any power conferred on them by that Schedule in relation to any specified proceedings may be exercised by a specified Minister or Northern Ireland department, that Minister or department; and for this purpose "specified" means specified in a determination under that paragraph;

"devolution issue" has the same meaning as in Schedule 10;

"the Judicial Committee" means the Judicial Committee of the Privy Council;

"originating process" means a civil bill, petition, notice of application or any other method of commencing proceedings in a county court;

"Schedule 10" means Schedule 10 to the Northern Ireland Act 1998.

Specification of devolution issue

2.—(1) A party raising a devolution issue shall specify—

(a) if he is a plaintiff, petitioner or applicant, in the originating process;

(b) if he is an appellant, in the notice of appeal;

(c) if he is a defendant or a respondent to a petition, application or appeal, or in any other case, on a notice in Form 109A,

the facts and circumstances and points of law on the basis of which it is alleged that the devolution issue arises in sufficient detail to enable the court to determine whether a devolution issue arises in the proceedings.

(2) A notice in Form 109A shall be delivered to the chief clerk and served on each of the other parties to the proceedings—

(a) at the same time as any notice of intention to defend is so delivered and served; or

(b) in a case where there is no notice of intention to defend, as soon as practicable after notice of the proceedings has been received.

Notice of devolution issue

3.—(1) Where a devolution issue has been raised in accordance with Rule 2, the chief clerk shall as soon as is practicable cause the matter to be drawn to the attention of the court for the making of an order under paragraph 5 of Schedule 10 requiring notice of the devolution issue to be given to the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department.

(2) The notice to the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department shall be in Form 109B and specify 14 days, or such longer period as the Court may direct, as the periods within which he or it shall give notice of his or its intention to appear as a party in the proceedings so far as it relates to the devolution issue as mentioned in paragraph 6 of Schedule 10.

Response to notice of devolution issue

4. Where the Attorney General, the Attorney General for Northern Ireland and the appropriate Minister or department intends to appear as a party to the proceedings he or it shall give notice by lodging Form 109C with the chief clerk and serving a copy on each of the other parties.

Reference of devolution issue to Court of Appeal

5.—(1) The court may, of its own motion at any stage in the proceedings or on application by a party before or at the trial or hearing thereof, make an order in Form 109D referring a devolution issue to the Court of Appeal in accordance with paragraph 7 of Schedule 10.

(2) Notwithstanding anything in Order 14, Rule 1, no order under this Rule shall be made except by the Judge personally.

(3) An order referring a devolution issue to the Court of Appeal shall set out in a schedule the devolution issue,which shall be settled by the Judge after such directions to the parties as he may think desirable as to its manner and form.

(4) The chief clerk shall send the order to the Master (Queen's Bench and Appeals).

Reference of devolution issue to the Judicial Committee

6.—(1) Where the court in accordance with paragraph 33 of Schedule 10 is required by the Attorney General, the Attorney General for Northern Ireland or the appropriate Minister or department to refer a devolution issue to the Judicial Committee it shall make an order in Form 109E referring the issue to the Judicial Committee.

(2) Notwithstanding anything in Order 14, Rule 1, no order made under this Rule shall be made except by the Judge personally.

(3) An order referring a devolution issue to the Judicial Committee shall set out in a schedule the devolution issue, which shall be settled by the Judge after such directions to the parties as he may think desirable as to its manner and form.

(4) The chief clerk shall send the order to the Registrar of the Judicial Committee.

Stay of proceedings pending reference

7. The proceedings in which a reference is made shall, unless the court otherwise orders, be stayed until the Court of Appeal or, as the case may be, the Judicial Committee has determined the devolution issue.".

(4) In Appendix 1 there shall be inserted at the appropriate places the forms set out in the Schedule.