STATUTORY RULES OF NORTHERN IRELAND

1999 No. 333

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1999

Made - - - -	*21st July 1999*
To be laid before Parliament	
Coming into operation	*6th September 1999*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(**1**) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:

Citation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1999.

(2) These Rules shall come into operation on 6th September 1999.

Interpretation

2. In these Rules any reference to an Order by number or an Appendix by letter means the Order so numbered or the Appendix so lettered in the Rules of the Supreme Court (Northern Ireland) 1980(**2**).

Statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998

3. Order 6(**3**) shall be amended by inserting after rule 2C the following new rule—

(**1**) 1978 c. 23
(**2**) S.R. 1980 No. 346; relevant amendments are set out in subsequent footnotes to these Rules
(**3**) There are relevant amendments in S.R. 1983 No. 114

"**Claim for statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998**

2D. Where a plaintiff claims statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998(**4**), the endorsement on the writ must give particulars of the contract relied on and, in particular, must show:

(a) that it is a claim for statutory interest under the Act;

(b) the date from which the interest is payable;

(c) the rate of statutory interest applicable to the claim;

(d) the amount of interest due at a date not later than the date of the issue of the writ; and

(e) any claim for further statutory interest from the date to which interest is already claimed to judgment or sooner payment.".

Summary judgment in fraud cases

4. Order 14 shall be amended by the revocation of rule 1(2)(b).

Third party directions

5. Order 16, rule 4 shall be amended by substituting for paragraphs (1) and (2) the following paragraphs—

"(1) Subject to paragraphs (1A) and (2), if the third party enters an appearance the following provisions of this paragraph shall apply in relation to the conduct of the third party proceedings—

(a) the defendant who issued the third party notice shall within 14 days of the entry of the third party's appearance deliver a statement of claim to the third party;

(b) the third party shall enter a defence to the statement of claim delivered by the defendent within 14 days of its delivery;

(c) the defendent and the third party shall furnish to each other their respective lists of documents within 14 days of the third party serving his defence; and

(d) the third party may appear in the trial of the action between the plaintiff and the defendant and shall be bound by any judgment or decision in the action in respect of liability, damages or costs.

(1A) Paragraph (1) shall not apply where the defendant who issued the third party notice at the same time—

(a) applies to the Court by summons (to be served on all the other parties to the action) for directions; or

(b) applies to the Court ex parte to receive and make a rule of Court (having the effect of an order) a consent of all parties providing for the conduct or disposal of the third party proceedings.

(2) If no summons is served on the third party and no ex parte application is made under paragraph (1A), the third party may, not earlier than 7 days after entering an appearance, apply to the Court by summons (to be served on all the other parties to the action) for directions or for an order to set aside the third party notice in place of the directions set out in paragraph (1).".

(**4**) 1998 c. 20

Payments into court and out of court: the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997

6.—(1) Order 22, rule 1(**5**) shall be amended by substituting for paragraph (2A) the following paragraph—

"(2A) Where a payment into Court is made which would following acceptance by a plaintiff be a compensation payment as defined in Article 3 of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(**6**) (in this Order referred to as "the 1997 Order"), the defendant must state in the notice he gives under paragraph (2) the gross amount of the compensation, the name and amount of any benefit by which the gross amount is reduced in accordance with Article 10 of and Schedule 2 to the 1997 Order and the net sum paid into Court, and a copy of the notice must at the same time be lodged in the appropriate office.".

(2) For Form No. 20 in Appendix A there shall be substituted the new Form No. 20 set out in Schedule 1 to these Rules.

Hearsay evidence

7. Order 38 shall be amended as follows—

(a) in rule 1, for "the Civil Evidence Act (Northern 1971"(**7**) there shall be substituted "the Civil Evidence (Northern Ireland) Order 1997"(**8**);

(b) for Part III there shall be substituted the following Part—

"III.

HERESAY EVIDENCE ADMISSABLE UNDER THE CIVIL EVIDENCE (NORTHERN IRELAND) ORDER 1997

Interpretation and application

18.—(1) In this Part of this Order "hearsay evidence" means evidence consisting of hearsay within the meaning of Article 3(3) of the Civil Evidence (Northern Ireland) Order 1997 (in this rule referred to as "the 1997 Order").

(2) Expressions used in this Part of this Order and in the 1997 Order have the same meaning in this Part as they have in that Order.

(3) This Part of this Order applies in relation to the trial or hearing of an issue or question arising in a cause or matter, and to a reference, inquiry or assessment of damages, as it applies to the trial or hearing of a cause or matter.

Power to call witness for cross-examination on hearsay evidence

19.—(1) Where a party to civil proceedings adduces hearsay evidence of a statement made by a person but does not call the person who made the statement to give evidence, the Court may, on the application of another party, allow that other party to call and cross-examine the person on the statement as if he had been called by the first-mentioned party and as if the hearsay statement were his evidence in chief.

(**5**) There is a relevant amendment in S.R. 1990 No. 267
(**6**) S.I. 1997/1183 (N.I. 12)
(**7**) 1971 c. 36 (N.I.)
(**8**) S.I. 1997/2983 (N.I. 21)

(2) Where the Court allows another party to call and cross-examine the person who made the statement, it may give such directions as it thinks fit to secure the attendance of that person as a witness and as to the procedure to be followed.

Credibility

20. If—

(a) a party has indicated an intention to adduce hearsay evidence of a statement made by a person who will not be called to give evidence;

(b) another party wishes to attack the credibility of the person who made the statement,

that other party shall, so far as is reasonable in the circumstances, notify the party tendering the hearsay evidence of his intention.

Powers exercisable in chambers

21. The jurisdiction of the court under this Part of this Order may be exercised in chambers.".

Appeals by way of case stated to the Court of Appeal

8. Order 61(**9**) shall be amended by adding at the end the following rules—

"**Application for leave to appeal to the Court of Appeal from the Special Immigration Appeals Commission**

13.—(1) An application for leave to appeal to the Court of Appeal under section 7 of the Special Immigration Appeals Commission Act 1997(**10**) shall be made within 28 days of the date of the Special Immigration Appeals Commission's decision to refuse leave to appeal.

(2) Such an application shall be made ex parte by lodging the following documents in the Central Office, namely:

(a) a certified copy of the Commission's decision to refuse to grant leave to appeal; and

(b) a statement of the grounds of the application.

(3) The proper officer shall notify the parties of the determination of the Court of Appeal.

(4) Where leave to appeal has been granted the applicant shall notify the Chairman of the Commission.

Appeal from the Special Immigration Appeals Commission

14.—(1) Where leave to appeal to the Court of Appeal under section 7 of the Special Immigration Appeals Commission Act 1997 has been granted by the Special Immigration Appeals Commission, or by the Court of Appeal, the time limit specified in rule 1(2)(a) for lodging the requisition to state the case shall be calculated from the date leave was so granted.

(**9**) There is a relevant amendment in S.R. 1994 No. 286
(**10**) 1997 c. 68

(2) On entering the appeal for hearing a copy of the order granting leave to appeal by the Commission or by the Court of Appeal must be lodged in the Central Office together with the case stated and the requisition for hearing.".

Mortgage actions

9.—(1) Order 88 shall be amended as follows—

(a) after rule 4 there shall be inserted the following new rule—

"**Claim for possession of dwelling: notice to defendant in default of payment**

4A.—(1) Where the plaintiff—

(a) claims in a mortgage action delivery of possession of land comprising or including a dwelling-house because of failure to pay moneys secured by the mortgage; or

(b) applies for the removal or variation of a stay or suspension contained in an order for delivery of possession made as a result of such a claim in a mortgage action,

he shall, when serving a copy of the notice of appointment or when serving any summons (not being an originating summons) for such a claim or application, also serve on the defendant a notice in Form 10A in Appendix A.

(2) Paragraph (4) of rule 4 shall apply to service of a notice under this rule as it applies to service under paragraph (2) or (3) of that rule.";

(b) in rule 5, for paragraph (6) there shall be substituted the following new paragraph—

"(6) Where the plaintiff claims payment of moneys secured by a mortgage, the affidavit must show how the payment is calculated, including—

(a) the amount of the advance and the amounts and dates of any periodic payments and any interest claimed;

(b) the amount which would have been paid (after taking into account any adjustment for early settlement) in order to redeem the mortgage at the date of commencement of the proceedings and at a stated date not more than 14 days after the date of commencement of the proceedings, specifying the amount of the solicitor's costs and administrative charges which would be payable;

(c) the dates between which a particular rate of interest applied, the number of days in that period and the capital on which the interest was calculated.".

(2) In Appendix A there shall be inserted after Form 10 new Form 10A as set out in Schedule 2 to these Rules.

Minor amendment

10. Order 94(**11**) shall be amended by adding at the end of rule 2(1)(**12**) the following new sub-paragraph—

"(xii) section 7 of the Special Immigration Appeals Commission Act 1997(**13**).".

(**11**) Order 94 was inserted by S.R. 1980 No. 433
(**12**) There are amendments of Order 94, rule 2 in S.R. 1983 No. 183, S.R. 1983 No. 407, S.R. 1990 No. 267, S.R. 1993 No. 143 and S.R. 1994 No. 286
(**13**) 1997 c. 68