STATUTORY RULES OF NORTHERN IRELAND

1997 No. 70

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 1997

Made - - - -	*19th February 1997*
To be laid before Parliament	
Coming into operation	*17th March 1997*

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, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 1997 and shall come into operation on 17th March 1997.

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

Arrangement of Orders

2. The Arrangement of Orders at the beginning of the Rules of the Supreme Court (Northern Ireland) 1980 shall be amended, by substituting—

(a) for the title to Order 36, the title "Trials before masters and referees"; and

(b) for the title to Order 73, the title "Applications relating to Arbitration".

(**1**) 1978 c. 23

(**2**) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1980 No. 433; S.R. 1982 No. 217; S.R. 1984 No. 110 and S.R. 1994 No. 286

Service of process etc. outside of the jurisdiction

3. Order 11, rule 9, paragraphs (1) and (4) shall each be amended by omitting the words "Subject to Order 73, rule 5".

Trials before Masters and Referees

4. Order 36 shall be amended as follows—

(a) by substituting for the title to the Order the title "TRIALS BEFORE MASTERS AND REFEREES"; and

(b) in rule 1 the words "pursuant to section 20 of the Arbitration Act (Northern Ireland) 1937(a)" are deleted.

Appeals from arbitrations under section 30 of the County Courts (Northern Ireland) Order 1980

5. Order 94, rule 1 shall be amended by inserting after head (ii) the following head—

"(iii) Article 30(4)(*b*) of the County Courts (Northern Ireland) Order 1980 (appeals from small claims arbitrations)"

6. For Order 73 there shall be substituted the following—

"ORDER 73

APPLICATIONS RELATING TO ARBITRATION

Introduction

This Order is divided into three Parts. Part I is concerned with applications to the Court relating to arbitration to which Part I of the Arbitration Act 1996 applies. Part II restates with some necessary adjustments provisions of the existing Order which are to be preserved. Part III is concerned with applications for enforcement under the earlier Arbitration Acts and under the 1996 Act.

The application of the Order to particular proceedings may be determined by reference to the following table. Column 1 shows the date on which arbitral proceedings (if any) were commenced. Column 2 shows the date of the application to the Court. Column 3 shows the appropriate Part of the Order for the application.

Column 1 *Date of arbitral proceedings*	Column 2 *Date of application to the Court*	Column 3 *Appropriate Part of Order 73*
not commenced	before 31st January 1997	Part II
before 31st January 1997	before 31st January 1997	Part II
not commenced	on or after 31st January 1997	Part I
before 31st January 1997	on or after 31st January 1997	Part II
on or after 31st January 1997	on or after 31st January 1997	Part I
on or after 31st January 1997	before 31st January 1997	Part II

The other provisions of these Rules apply to applications relating to arbitration subject to the provisions of this Order and only to the extent that they do not conflict with it.

See, for example, the following provisions of these Rules for the following matters—

Order 10 — service of originating process

Order 12 — entry of appearance

Order 29 — injunctions

Order 32 — proceedings in chambers

Order 41 — affidavits

Order 65 — service of documents.

Part I

The overriding objective

1. This part of this Order is founded on the general principles in section 1 of the Arbitration Act and shall be construed accordingly.

Meaning of arbitration application

2.—(1) Subject to paragraph (2), "arbitration application" means the following—

(a) an application to the Court under the Arbitration Act;

(b) proceedings to determine—

(i) whether there is a valid arbitration agreement;

(ii) whether an arbitral tribunal is properly constituted;

(iii) what matters have been submitted to arbitration in accordance with an arbitration agreement;

(c) proceedings to declare than an award made by an arbitral tribunal is not binding on a party;

(d) any other application affecting arbitration proceedings (whether instituted or anticipated) or to construe or affecting an arbitration agreement,

and includes the originating process by which an arbitration application is begun.

(2) In this Part of this Order, an arbitration application does not include proceedings to enforce an award—

(a) to which Part III of this Order applies; or

(b) by an action on the award.

Interpretation

3. In this Part—

"applicant" means the party making an arbitration application and references to respondent shall be construed accordingly;

"the Arbitration Act" means the Arbitration Act 1996 and any expressions used in this Order and in Part I of the Arbitration Act have the same meanings in this Order as they have in that Part of the Arbitration Act.

Form and content of arbitration application

4.—(1) An arbitration application must be in Form No. 8A in Appendix A.

(2) Every arbitration application must—

(a) include a concise statement of—

(i) the remedy or relief claimed, and

(ii) (where appropriate) the questions on which the applicant seeks the determination or direction of the Court;

(b) give details of any arbitration award that is challenged by the applicant, showing the grounds for any such challenge;

(c) where the applicant claims an order for costs, identify the respondent against whom the claim is made;

(d) (where appropriate) specify the section of the Arbitration Act under which the application is brought; and

(e) show that any statutory requirements have been satisfied including those set out, by way of example, in the Table below.

Application made	*Statutory requirements*
section 9 (stay of legal proceedings)	see section 9(3)
section 12 (extensions of time for beginning arbitral proceedings)	see section 12(2)
section 18 (failure of appointment procedure)	see section 18(2)
section 21 (umpires)	see section 21(5)
section 24 (removal of arbitrators)	see section 24(2)
section 32 (preliminary point of jurisdiction)	see section 32(3)
section 42 (enforcement of peremptory orders)	see section 42(3)
section 44 (powers in support of arbitral proceedings)	see section 44(4), (5)
section 45 (preliminary point of law)	see section 45(3)
section 50 (extension of time for making award)	see section 50(2)
section 56 (power to withhold award)	see section 56(4)
sections 67, 68 (challenging the award)	see section 70(2), (3)
section 69 (appeal on point of law)	see sections 69(2), (4), 70(2), (3)
section 77 (service of documents)	see section 77(3)

(3) The arbitration application must also state

(a) whether it is made *ex parte* or on notice and, if made on notice, must give the names and addresses of the persons to whom notice is to be given, stating their role in the arbitration and whether they are made respondents to the application;

(b) whether (having regard to rule 15) the application will be heard in open Court or in chambers; and

(c) the date and time when the application will be heard or that such date has not yet been fixed.

(4) Every arbitration application which is used as an originating process shall be indorsed with the applicant's address for service in accordance with Order 6, rule 4.

Assignment of arbitration proceedings among Divisions of High Court

5. An arbitration application or appeal to the High Court under the Arbitration Act, other than an application under section 9 or 10 of that Act or Part II of the Arbitration Act 1950(**3**) made in proceedings assigned to the Chancery Division, shall be assigned to the Queen's Bench Division.

Stay of legal proceedings

6.—(1) An application under section 9 of the Arbitration Act to stay legal proceedings shall be served—

(a) in accordance with Order 65, rule 5, on the party bringing the relevant legal proceedings and on any other party to those proceedings who has given an address for service; and

(b) on any party to those legal proceedings who has not given an address for service, by sending to him (whether or not he is within the jurisdiction) at his last known address or at a place where it is likely to come to his attention, a copy of the application for his information.

(2) Where a question arises as to whether an arbitration agreement has been concluded or as to whether the dispute which is the subject-matter of the proceedings falls within the terms of such an agreement, the Court may determine that question or give directions for its determination, in which case it may order the proceedings to be stayed pending the determination of that question.

Service of arbitration application

7.—(1) Subject to paragraphs (2) and (4) below and to rules 6(1) and 8, an arbitration application shall be served in accordance with Order 10.

(2) Where the Court is satisfied on an *ex parte* application that

(a) arbitral proceedings are taking place, or an arbitration award has been made, within the jurisdiction; and

(b) an arbitration application is being made in connection with those arbitral proceedings or being brought to challenge the award or to appeal on a question of law arising out of the award; and

(c) the respondent to the arbitration application (not being an individual residing or carrying on business within the jurisdiction or a body corporate having a registered office or a place of business within the jurisdiction)

(i) is or was represented in the arbitral proceedings by a solicitor or other agent within the jurisdiction who was authorised to receive service of any notice or other document served for the purposes of those proceedings; and

(ii) has not (at the time when the arbitration application is made) determined the authority of that solicitor or agent,

(**3**) 1950 c. 27