# 1995 No. 282

## COUNTY COURTS

## County Court (Amendment No. 3) Rules (Northern Ireland) 1995

*Made* . . . . . *11th July 1995*

*Coming into operation* . . *1st September 1995*

*except Rule 12 which comes into operation on 31st August 1995*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**a**), in exercise of the powers conferred on us by Article 47 of that Order, hereby make the following Rules:—

*Citation and interpretation*

**1.**—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules (Northern Ireland) 1995.

(2) In these Rules "the principal Rules" means the County Court Rules (Northern Ireland) 1981(**b**).

(3) In these Rules a reference to an Order, Rule, Appendix or Form is a reference to that Order, Rule, Appendix or Form as numbered in the principal Rules.

*Service of civil bills*

**2.**—(1) In Order 6, Rule 2(7) for the words "On or before the day following the last day for service" substitute the words "As soon as practicable after service".

(2) In Order 6, Rule 3(2) for the words "directed under this Rule or Rule 6, 7, 9 and 11" substitute the words "required by any statutory provision or direction of the court".

*New arrangements for entry and listing of civil bills*

**3.**—(1) In Order 8 for Rules 1 to 4 there shall be substituted the following new Rules:—

"*Entry of civil bills for hearing*

**1.** In each division for any court held in that division defended civil bills shall be entered for hearing in accordance with the following Rules.

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(**a**) S.I. 1980/397 (N.I. 3)
(**b**) S.R. 1981 No. 225 most recently amended by S.R. 1995 No. 151

*Notice of intention to defend*

**2.**—(1) Without prejudice to paragraph (2), in any proceedings commenced by civil bill which a defendant intends to defend he shall, within a period of 21 days from the date of service upon him of the civil bill, serve on the other party or parties to the proceedings a notice of intention to defend in Form 42.

(2) A defendant shall not serve a notice of intention to defend after the expiration of a period of 21 days after service upon him of the civil bill except with the consent in writing of the other party or parties or with the leave of the judge or the district judge as the case may be.

(3) Service by a defendant of a notice of intention to defend shall not prevent a defendant from raising any issue or defence which he would otherwise be entitled to raise concerning the civil bill, or issue or service of the civil bill, or the jurisdiction of the court.

*Lodging of certificate of readiness*

**3.**—(1) In any proceedings commenced by civil bill in which a notice of intention to defend has been served the plaintiff shall after the conclusion of all interlocutory matters request the chief clerk to enter the proceedings for hearing by delivery to the chief clerk at his office of a certificate of readiness in Form 43 and shall, at the same time, cause to be served on the other party or parties to the proceedings a copy of the certificate of readiness.

(2) In any proceedings in which a notice of intention to defend has been served the chief clerk shall, if no certificate of readiness has been delivered to him within a period of 6 months immediately following the date of service of the notice of intention to defend, list the proceedings before the judge and notify the parties accordingly and the judge may issue such directions concerning the future conduct of any such proceedings as he considers appropriate.

*Documents to be delivered to the chief clerk*

**4.** In every proceedings commenced by civil bill in which the defendant serves a notice of intention to defend the defendant shall also at the same time as he serves the notice of intention to defend on the other party or parties to the proceedings deliver to the chief clerk a copy of the civil bill and of the notice of intention to defend.".

*Applications for dismisses in remitted actions*

**4.** In Order 8, Rule 6(1) for the words "at any time during the sittings named in the order or the next succeeding sittings" substitute the words "at any time after a period of 4 months has elapsed from the date of the order for remittal".

*Third Party Procedure*

**5.**—(1) In Order 11, Rule 1(2) the words "and shall be entered in the same manner as a civil bill" are revoked.

(2) In Order 11, after Rule 2 there shall be inserted the following new Rules:

"*Notice of intention to defend*

**2A.**—(1) Without prejudice to paragraph (2), in any proceedings commenced by a third party notice which the third party intends to defend he shall, within a period of 21 days from the date of service upon him of the third party notice serve on the other party or parties to the proceedings and deliver to the chief clerk a notice of intention to defend in Form 42A.

(2) A third party shall not serve a notice of intention to defend after the expiration of a period of 21 days after service upon him of the third party notice except with the consent in writing of the other party or parties or with the leave of the judge or the district judge as the case may be.

*Application for directions*

**2B.**—(1) In any proceedings in which a third party notice has been served under Rule 1 and a notice of intention to defend that third party notice has been served any party to the proceedings may at any time apply to the district judge for directions in respect of the conduct or disposal of the third party proceedings.

(2) On an application for directions under paragraph (1) the district judge may make such orders and give such directions as he considers appropriate".

*Payments into court*

**6.** In Order 21, Rule 2(2) for the words "subject to paragraphs (3) and (4)" substitute the words "subject to paragraph (4)".

*Medical evidence*

**7.** In Order 24 there shall be inserted after Part II the following new Part III:—

"PART III

MEDICAL EVIDENCE

*Application*

**35.** This Part applies to all proceedings for damages in respect of personal injury or death except (while liability remains an issue) actions grounded on an allegation of medical or surgical negligence.

*Medical evidence to be served on the defendant*

**36.** The plaintiff shall serve on the defendant medical evidence substantiating the personal injuries alleged in the civil bill within 14 days after service upon him of the defendant's notice of intention to defend.

*Medical examination of another party: disclosure of report*

**37.** Any party who has been afforded medical examination of another party shall disclose to that other party any medical evidence resulting from such examination within 21 days of receiving it and in any case before the first day of the hearing.

*Disclosure of medical evidence*

**38.** Subject to Rule 36, where a party proposes to adduce medical evidence at the hearing he shall disclose it to the other parties in accordance with Rule 36 or within 21 days of receiving it and in any case before the first day of the hearing.

*Evidence received during hearing*

**39.** Where a party obtains on or after the first day of the hearing any report or evidence of the kind mentioned in Rule 36 or Rule 37, he shall disclose that report or evidence to the relevant party or parties immediately.

*Restrictions on medical evidence*

**40.** No party shall, except with the leave of the judge or on consent, adduce medical evidence at the hearing the contents of which he has not disclosed to the other parties in accordance with Rule 38 or Rule 39.

*Party to furnish name and address of doctor etc.*

**41.** Any party to an action shall furnish to any other party on demand the name and address of any medical practitioner or the name of any hospital from whom or at which he received any medical or surgical treatment material to the action.

*Failure to comply with Rules*

**42.** Where any party fails to comply with any of the provisions of Rules 36 to 39 or 41, the judge may stay the proceedings or order that the party be debarred from defending the proceedings, as the case may be, or make such other order as to the judge may seem appropriate.

*Mode of disclosure*

**43.**—(1) A party serving or disclosing medical evidence under this Part shall do so by furnishing any relevant medical report or reports, together with any documents emanating from the maker thereof which are intended by him to accompany or supplement any such report. All such reports or other documents shall be signed and dated by the maker thereof and shall specify his professional qualifications. A photostat copy of any such report or document shall be sufficient for this purpose.

(2) On the ex parte application of any party bound to serve or disclose any medical report under this Order the judge may give him leave—

(i) to adduce at the trial the evidence contained in any report without serving or disclosing the report; or

(ii) to omit or amend any part of any report when serving or disclosing the report.

*Variation between evidence disclosed and evidence at trial*

**44.** Where a party's medical evidence at the hearing varies from the evidence which that party has disclosed to another party, the judge may on the application of any party adjourn the hearing or make any such order, on such terms as to costs and otherwise, as to the judge may seem appropriate.

*Definition of "medical evidence"*

**45.** For the purposes of this Part "medical evidence" means the evidence contained in any report or other accompanying or supplemental document as specified in Rule 43 and includes surgical and radiological evidence and any ancillary expert or technical evidence, and the expression "medical examination" shall be construed accordingly.".

*Consumer Credit Act applications*

**8.** In Order 30, Rule 11:

(*a*) in paragraph (4) for the words from "Rule 17 of Order 12" to the end substitute the words "paragraph (5).";

(*b*) after paragraph (4) there shall be inserted the following new paragraph:

"(5) Where a defendant in accordance with section 139(1)(*b*) or (*c*) of the Consumer Credit Act 1974 desires to have a credit agreement re-opened he shall serve notice that he so desires on the chief clerk and on the plaintiff's solicitor or, where the plaintiff is suing in person, on the plaintiff within 21 days from the date of service upon him of the civil bill.".

*Service by post and by FAX*

**9.**—(1) In Order 43, after Rule 19, there shall be inserted the following new Rule:

"*Date when documents served by post deemed to be served*

**19A.**—(1) Where a civil bill or any other document is served by ordinary first class post under these Rules, unless the contrary is proved, the document shall be deemed to have been served on the second business day after posting (excluding the day of posting).

(2) In this Rule "business day" has the same meaning as in Rule 27.".

(2) In Order 43 after Rule 26 there shall be inserted the following new Rule:

"*Service by FAX*

**27.**—(1) In this Rule:

(*a*) "FAX" means the making of a facsimile copy of a document by the transmission of electronic signals;