1989 No. 480

COUNTY COURTS

County Court (Amendment No. 4) Rules (Northern Ireland) 1989

Made . . . . . *8th December 1989*

Coming into operation . . *1st January 1990*

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, 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) 1989.

Interpretation

2. In these Rules a reference to an Order or Appendix by number is a reference to that Order or Appendix as numbered in the County Court Rules (Northern Ireland) 1981(**b**).

Amendment of Order 52

3. The new Rules set out in Schedule 1 shall be inserted in Order 52.

Taxation of Costs

4. Order 55 shall be amended:—

(*a*) by inserting after Rule 5 the following new Rules—

"*Taxation of costs pursuant to an order under Part V of the Solicitors (Northern Ireland) Order 1976*

5A.—(1) Where the court or circuit registrar has made an order for taxation under Part V of the Solicitors (Northern Ireland) Order 1976(**c**) the solicitor whose bill of costs, or who was a party to the contentious business agreement to which the order relates, shall within two months of the service of the order lodge in the Office:—

(*a*) a copy of the order;

(*b*) his bill of costs or the contentious business agreement, as the case may be, together with copies for service;

(**a**) S.I. 1980/397 (N.I. 3)
(**b**) S.R. 1981 No. 225
(**c**) S.I. 1976/582 (N.I. 12) as amended by the Solicitors (Northern Ireland) Order 1989 [S.I. 1989/1343 (N.I. 14)]

(*c*) all necessary papers and vouchers.

(2) On receipt of the documents mentioned in paragraph (1) the chief clerk shall send a copy of the bill or agreement as the case may be to any other party entitled to be heard on the taxation and shall give to all parties not less than 14 days notice in Form 321 of the day and time fixed for the taxation.

(3) The circuit registrar shall tax the costs payable under the bill or agreement and at the conclusion of the taxation proceedings shall issue a certificate in Form 322 of the costs allowed by him.

(4) In this rule "other party entitled to be heard on the taxation" means—

(*a*) a person who was a party to the contentious business agreement or to whom the bill of costs was addressed;

(*b*) a person, or the representative of a person, liable to pay, or whose property will be chargeable with, the amount due on taxation.

5B.—(1) Any party to a taxation under Rule 5A who is dissatisfied with the decision of the circuit registrar may within 14 days after the taxation request the circuit registrar to review his decision.

(2) A request under paragraph (1) shall be made in writing specifying the item or items objected to and the nature and grounds of the objection and the party making the request shall serve a copy on each other party to the taxation.

(3) On the making of a request under paragraph (1) the circuit registrar shall review his decision as to the item or items objected to and shall notify each party of his decision on the review and of his reasons for it.

(4) Any party who is dissatisfied with the circuit registrar's decision on the review may within 14 days apply to the judge to review the taxation as to the item or items to which the decision relates.

(5) An application for a review under paragraph (4) shall be made on notice stating the nature and grounds of the applicant's objection to the circuit registrar's decision.

(6) Unless the judge otherwise directs, no further evidence shall be received on the hearing of an application under paragraph (4), and no ground of objection shall be raised which has not been raised in the applicant's notice.

(7) On an application under this rule the judge may make such order as the circumstances require and in particular may order the circuit registrar's certificate of the taxation to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the circuit registrar for re-taxation.";

(*b*) by substituting in Rule 6 for the words "Solicitors (Ireland) Act 1849" the words "Solicitors (Northern Ireland) Order 1976".

Forms

5. Appendix 1 shall be amended by inserting the new Forms 314-323 set out in Schedule 2.

Amendment of Appendix 2

6. Appendix 2 shall be amended as follows—

(*a*) In Table 7 of Part I:

(i) for the figure of "£33" (*Counsel's fee*) on band (ii) there shall be substituted the figure of "£83";

(ii) for the figure of "£207" (*Solicitor's costs*) on band (v) there shall be substituted the figure of "£267";

(*b*) In Table 1 of Part VII for the figure of "£22" (*Counsel's fee*) on band (iv) there shall be substituted the figure of "£21";

(*c*) In Part IX in the table of fees prescribed for STATUTORY APPEALS AND APPLICATIONS for the figure of "£17" there shall be substituted the figure of "£11".

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.

John K. Pringle
John Curran
Raymond Kerr
Barry Valentine
S. D. Massey
K. G. Nixon

After consultation with the Lord Chief Justice, I allow these rules which shall come into operation on 1st January 1990.

Dated 8th December 1989 *Mackay of Clashfern*, C.

SCHEDULE 1 Rule 3

Rules to be inserted in Order 52

PART III

SOLICITORS (NORTHERN IRELAND) ORDER 1976

Interpretation

10. In this Part—

"the Order" means the Solicitors (Northern Ireland) Order 1976(a).

Application in respect of contentious business agreement

11.—(1) An application to the court under Part V of the Order in respect of a contentious business agreement shall be made by notice in Form 314.

(2) An application to the circuit registrar under Part V of the Order in respect of a contentious business agreement shall be made by notice in Form 315.

(3) The notice under paragraph (1) or (2) shall be served on the respondent and a copy thereof on the chief clerk together with a copy of the contentious business agreement to which the application relates, not less than 10 days before entry day for the sitting at which the application is sought to be heard.

(4) Upon receipt of the copy notice the chief clerk shall enter the application for hearing at the appropriate sitting of the court without the need for production of an entry sheet.

(5) Unless otherwise directed, the application shall be heard and determined in chambers.

(6) An order or determination of the court pursuant to an application made under paragraph (1), or where an application was made under paragraph (2) and the circuit registrar has required the opinion of the court, shall be in Form 316.

Application for order for taxation under Article 71F of the Order

12.—(1) An application to the court under Article 71F(1) of the Order shall be made by notice in Form 317 and an order upon such application shall be in Form 318.

(2) An application to the circuit registrar for an order under Article 71F(2) shall be made by notice in Form 319 and an order upon such application shall be in Form 320.

(3) The notice under paragraph (1) or (2) shall be served on the respondent and a copy thereof on the chief clerk together with a copy, if available, of the bill of costs to which the application relates, not less than 10 days before entry day for the sitting at which the application is sought to be heard.

(4) Upon receipt of the copy notice the chief clerk shall enter the application for hearing at the appropriate sitting of the court without the need for production of an entry sheet.

(5) Unless otherwise directed, the application shall be heard and determined in chambers.

(a) S.I. 1976/582 (N.I. 12) as amended by S.I. 1989/1343 (N.I. 14)

PART IV

COPYRIGHT, DESIGNS AND PATENTS ACT 1988: FORFEITURE ORDERS

Application for forfeiture orders under the Copyright, Designs and Patents Act 1988

13.—(1) An application under section 114, 204, or 231 of the Copyright, Designs and Patents Act 1988(**a**) or an application under section 58C of the Trade Marks Act 1938(**b**) shall be made by Notice in Form 323.

(2) The applicant shall serve notice of the application on all persons, so far as reasonably ascertainable, having an interest in the copy or other article which is the subject of the application, including any person in whose favour an order could be made in respect of the copy or other article under any of the said sections of the Act of 1988 or under section 58C of the Trade Marks Act 1938, not less than 14 days before the entry day for the sitting at which the application is to be heard.

(3) The applicant shall file a copy of the Notice of Application in the Office not less than 10 days before the entry day for the sitting at which the application is to be heard.

(4) On receipt of the papers duly filed under paragraph (3), the chief clerk shall enter the application for hearing at the appropriate sitting of the court without the need for production of an entry sheet.

(a) 1988 c. 48
(b) 1938 c. 22; section 58C was inserted by section 300 of 1989 c. 48