1989 No. 211

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 1989

Made	*5th June 1989*
Coming into operation—	
rules 1, 3 and 4	*1st July 1989*
rule 2	*1st September 1989*

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 and interpretation

1.—(1) These rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 1989.

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

Proceedings under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984(**c**)

2.—(1) Order 1 shall be amended by the addition of the following new rule:—

"*Proceedings under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984*

16. Proceedings under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 shall, subject to Order 29 Rule 3(4), be commenced in a court for the division in which the dwelling house (or any part thereof) which is the subject-matter of the proceedings is situate.".

(2) Order 29 shall be amended as follows:

(*a*) by substituting for the title of the Order the title "Matrimonial Property Proceedings";

(*b*) by dividing the Order into parts, of which Part I shall consist of Rules 1 and 2 under the heading "PROCEEDINGS UNDER MARRIED WOMEN'S PROPERTY ACT 1882";

(a) S.I. 1980/397 (N.I. 3)
(b) S.R. 1981 No. 225; to which the most recent relevant amendments were made by S.R. 1988 No. 112
(c) S.I. 1984/1984 (N.I. 14)

(*c*) by adding after Rule 2 the new Part set out in Schedule 1.

(3) The new Form set out in Schedule 2 shall be inserted in Appendix 1 as Form 136.

Costs where solicitor attends trial or hearing without counsel

3. Order 55 shall be amended by inserting, after Rule 2, the following new Rule 2A:—

"*Enhanced costs where solicitor conducts trial or hearing*

2A.—(1) Where a solicitor conducts a trial or hearing without counsel he shall, if the judge so allows, be entitled to an enhancement of his costs in addition to the scale costs set out in Appendix 2.

(2) The amount of any enhancement allowed under this rule shall be in the discretion of the judge, but shall not exceed 50 per cent. of the scale fee in Appendix 2 to which counsel, if conducting the trial or hearing, would have been entitled.".

Costs

4.—(1) Order 19 shall be amended at Rule 5 by deleting the figure "£18·13" and substituting the figure "£19·38".

(2) Order 24 shall be amended, at paragraph 7(*a*) of Rule 9, by deleting the figure "£7·10", and substituting the figure "£7·59" and by deleting the figure "£10·03" and substituting the figure "£10·72".

(3) Order 33 shall be amended, at paragraph (6) of Rule 10, by deleting the figure "£4·13" and substituting the figure "£4·41".

(4) Order 55 shall be amended as follows:

(*a*) by deleting, at paragraph (1) of Rule 2, the words "1st May 1988" and substituting the words "1st July 1989";

(*b*) by deleting, in Rule 13, the figure "63p" and substituting the figure "67p";

(*c*) by deleting, in Rule 17, the figure "£1·46" and substituting the figure "£1·56".

(5) For Appendix 2 there shall be substituted the new Appendix set out in Schedule 3.

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
J. F. B. Russell
S. D. Massey
Barry Valentine
Brian F. Walker
Kenneth G. Nixon

Dated 10th May 1989

After consultation with the Lord Chief Justice, I allow these rules of which rules 1, 3 and 4 shall come into operation on 1st July 1989 and rule 2 shall come into operation on 1st September 1989.

Dated 5th June 1989 *Mackay of Clashfern*, C.

SCHEDULE 1 Rule 2(2)(*c*)

Rules to be inserted in Order 29

PART II

FAMILY LAW (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1984

3.—(1) Every application under Article 4 or 13 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 shall be dealt with in chambers unless the judge otherwise directs.

(2) Subject to paragraph (4), notice of an application under the said Article 4 or 13 shall be given in Form 136 and shall be filed in the office and (subject to paragraph (3)) shall be served on the respondent before the beginning of a period of 28 days ending on the entry day.

(3) Where the application is for an order terminating the respondent's rights of occupation and it appears to the judge on the ex parte application of the applicant that the respondent is not in occupation of the dwelling house to which the application relates and his whereabouts cannot after reasonable inquiries be ascertained, the judge may dispense with service of the summons or make such other order as to service as he considers appropriate.

(4) Where any matrimonial cause (within the meaning of Article 48(11) of the Matrimonial Causes (Northern Ireland) Order 1978(**a**)) or proceedings under section 17 of the Married Women's Property Act 1882(**b**) concerning the matrimonial home are pending between the parties in a county court an application under the said Article 4 or 13 shall be made on notice to the judge in those proceedings in accordance with Order 14 Rule 1.

(5) All proceedings subsequent to the issue of the notice of application shall be had as if the proceeding had been commenced by an equity civil bill.

4. The costs of an application under Article 4 or 13 shall be in the discretion of the judge.

(**a**) S.I. 1978/1045 (N.I. 15)
(**b**) 1882 c. 75

SCHEDULE 2 Rule 2(3)

Form to be inserted in Appendix 1

FORM 136

Notice of Application

FAMILY LAW (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1984

BY THE COUNTY COURT JUDGE/RECORDER

In the County Court for the division of

BETWEEN

of

Applicant

AND

of

Respondent

TAKE NOTICE that at the equity sitting of the Court for the above-named Division to be held at
on the day of 19 an application will be made to the Court under the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984, Article 4 [*or* 13 *delete as applicable*] on behalf of the Applicant for an order [*specify remedy applied for, giving sufficient particulars including the grounds on which the Applicant claims to be entitled to the order*].

Dated this day of 19 .

Signed Applicant/Solicitor for Applicant

To the above-named Respondent and the Chief Clerk at (Courthouse).