1988 No. 70

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 1988

Made	*7th March 1988*
Coming into operation . .	*11th April 1988*

To be laid before Parliament

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(**a**) 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 and all other powers enabling us in that behalf as follows:

Citation, interpretation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 1988 and shall come into operation on 11th April 1988 and shall, subject to rule 5, apply to all proceedings for the taxation of costs, whether begun before or after that date.

(2) In these Rules an order referred to by number means the Order so numbered in the Rules of the Supreme Court (Northern Ireland) 1980(**b**).

Consolidation etc. of causes or matters

2. Order 4, rule 5, shall be amended by substituting the following rule:—

"*Consolidation etc. of causes or matters*

5.—(1) Where two or more causes or matters are pending in the same Division and it appears to the Court—

(*a*) that some common question of law or fact arises in both or all of them, or

(*b*) that rights to relief claimed therein are in respect of or arise out of the same transactions or series of transaction, or

(*c*) that for some other reason it is desirable to make an order under this rule

the Court may order those causes or matters to be consolidated on such terms as it thinks just or may order them to be tried at the same time or

(a) 1978 c. 23

(b) S.R. 1980 No. 346; the relevant amending instruments S.R. 1980 No. 433, S.R. 1981 No. 166, S.R. 1982 No. 138, S.R. 1982 No. 217, S.R. 1983 No. 183, S.R. 1985 No. 170 and S.R. 1986 No. 184

immediately after another or may order them to be stayed until after the determination of any other of them.

(2) Where the Court makes an order under paragraph (1) that two or more causes or matters are to be tried at the same time but no order is made for those causes or matters to be consolidated, then, a party to one of those causes or matters may be treated as if he were a party to any other of those causes or matters for the purpose of making an order for costs against him or in his favour.''.

Costs

3. For Order 62, there shall be substituted the Order set out in the Schedule hereto.

Amendment of Legal Aid, Advice and Assistance (N.I.) Order 1981

4. Paragraph 4 of Schedule 2 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a) shall be amended by substituting for the words from ''costs shall'' to ''interested'' the following words:—

''and to any statutory provision to the contrary, costs shall be taxed for the purposes of this Schedule on the standard basis within the meaning of the Rules of the Supreme Court (Northern Ireland) 1980.''.

Transitional provisions

5. Where the judgment or the event giving rise to a right to an immediate taxation of costs was given, made or occurred before the commencement of these Rules, rule 3(4), 7, 12, 13 and 17 of, and Appendix 2 to, Order 62 as substituted by these Rules shall not apply and in any such case the costs shall be taxed in accordance with rules 3(10), 9, 28 and 34 of, and Appendix 2 to, Order 62 as in force immediately before the commencement of these Rules.

Dated 16th December 1987.

Lowry
John MacDermott
Donald Murray
J. B. E. Hutton
R. D. Carswell
W. A. Campbell
Aidan A. Canavan

I concur, *Mackay of Clashfern, C.*

Dated 7th March 1988.

(a) S.I. 1981/228 (N.I. 8)

SCHEDULE

ORDER 62

Costs

PART I

PRELIMINARY

Interpretation

1.—(1) Except where it is otherwise expressly provided, or the context otherwise requires, the following provisions of this rule shall apply for the interpretation of this Order.

(2) ''Certificate'' includes allocatur;

''contentious business'' and ''non-contentious business'' have the same meanings respectively as in the Solicitors (Northern Ireland) Order 1976;

''party'' in relation to a cause or matter includes a party who is treated as being a party to that cause or matter by virtue of Order 4, rule 5;

''patient'' means a person who, by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986, is incapable of managing and administering his property and affairs;

''the standard basis'' and ''the indemnity basis'' have the meanings assigned to them by rule 12(1) and (2) respectively;

''taxed costs'' means costs taxed in accordance with this Order;

''taxing master'' means the Master (Taxing Office).

(3) References to a fund, being a fund out of which costs are to be paid or which is held by a trustee or personal representative, include references to any estate or property, whether real or personal, held for the benefit of any person or class of persons; and references to a fund held by a trustee or personal representative include references to any fund to which he is entitled (whether alone or together with any other person) in that capacity, whether the fund is for the time being in his possession or not.

(4) References to costs shall be construed as including references to fees, charges, disbursements, expenses and remuneration and, in relation to proceedings (including taxation proceedings), also include references to costs of or incidental to those proceedings.

[*E.r. 1*]

Application

2.—(1) In addition to the civil proceedings to which this Order applies by virtue of Order 1, rule 2(1) and (2), this Order applies to all criminal proceedings in the High Court and in the Court of Appeal.

(2) This Order shall have effect, with such modifications as may be necessary, where by virtue of any statutory provision the costs of any proceedings before an arbitrator or umpire or before a tribunal or other body constituted by or under any statutory provision not being proceedings in the Supreme Court, are taxable in the High Court.

(3) This Order shall have effect subject to the provisions of any statutory provision which limits the costs recoverable in proceedings to which that provision applies.

(4) The powers and discretion of the Court under section 59 of the Act (which provides that the costs of and incidental to proceedings in the Supreme Court shall be in the discretion of the Court and that the Court shall have full power to determine by whom and to what extent the costs are to be paid) and under the enactments relating to the costs of criminal proceedings to which this Order applies shall be exercised subject to and in accordance with this Order.

[*E.r. 2*]

PART II

ENTITLEMENT TO COSTS

General principles

3.—(1) This rule shall have effect subject only to the following provisions of this Order.

(2) No party to any proceedings shall be entitled to recover any of the costs of those proceedings from any other party to those proceedings except under an order of the Court.

(3) If the court in the exercise of its discretion sees fit to make any order as to the costs of any proceedings, the Court shall order the costs to follow the event, except when it appears to the Court that in the circumstances of the case some other order should be made as to the whole or any part of the costs.

(4) The amount of his costs which any party shall be entitled to recover is the amount allowed after taxation on the standard basis where—

(*a*) an order is made that the costs of one party to proceedings be paid by another party to those proceedings, or

(*b*) an order is made for the payment of costs out of any fund (including the legal aid fund), or

(*c*) no order for costs is required

unless it appears to the Court to be appropriate to order costs to be taxed on the indemnity basis.

(5) Subject to rule 8, a term mentioned in the first column of the table below, when used in an order for costs, shall have the effect indicated in the second column of that table.

Term	*Effect*
"Costs"	(*a*) Where this order is made in interlocutory proceedings, the party in whose favour it is made shall be entitled to his costs in respect of those proceedings whatever the outcome of the cause or matter in which the proceedings arise; and (*b*) where this order is made at the conclusion of a cause or matter, the party in whose favour it is made shall be entitled to have his costs taxed forthwith;

"Costs reserved"	(Except in proceedings in the Family Division) the party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise shall be entitled to his costs of the proceedings in respect of which this order is made unless the court orders otherwise;
"Costs in any event"	This order has the same effect as an order for "costs" made in interlocutory proceedings;
"Costs here and below"	The party in whose favour this order is made shall be entitled not only to his costs in respect of the proceedings in which it is made but also to his costs of the same proceedings in any lower court.
"Costs in the cause" or "costs in application"	The party in whose favour an order for costs is made at the conclusion of the cause or matter in which the proceedings arise shall be entitled to his costs of the proceedings in respect of which such an order is made;
"Plaintiff's costs in the cause" or "Defendant's costs in the cause"	The plaintiff or defendant, as the case may be, shall be entitled to his costs of the proceedings in respect of which such an order is made if judgment is given in his favour in the cause or matter in which the proceedings arise, but he shall not be liable to pay the costs of any other party in respect of those proceedings if judgment is given in favour of any other party or parties in the cause or matter in question;
"Costs thrown away"	Where proceedings or any part of them have been ineffective or have been subsequently set aside, the party in whose favour this order is made shall be entitled to his costs of those proceedings or that part of the proceedings in respect of which it is made.

[*E.r. 3*]

Cases where no order for costs is to be made

4.—(1) No order shall be made directing one party to pay to the other any costs of or incidental to an appeal or application for leave to appeal under section 6(2) of the Pensions Appeal Tribunals Act 1943.

(2) No order shall be made for costs to be paid by or to any person (other than the registration officer) who is respondent to an appeal to the Court of Appeal from the