1985 No. 31

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 1985

Made . . . . . *13th February 1985*

Coming into operation . . . . *25th March 1985*

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) Rules (Northern Ireland) 1985.

Interpretation

2. 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 County Court Rules (Northern Ireland) 1981(**b**).

Where proceedings may be commenced

3. Order 1 Rule 1 shall be amended by deleting, at paragraph (1), the words "Order 26 Rule 2" and substituting the words "Order 26 Rule 5".

Commencement of proceedings

4. Order 5 Rule 2 shall be amended by inserting in paragraph (1A), after the word "effect", the words "and shall specify the amount claimed as interest with the degree of particularity required by Rule 6A or 12A of Order 12 or by Rule 1A of Order 33, as the case may be".

5. Order 5 Rule 3 shall be amended by deleting, at paragraph (1), the words ", subject to paragraph (3)," and substituting for paragraph (3) the following new paragraph:—

"(3) Any costs occasioned by service of a notice under paragraph (1) shall be in the discretion of the judge."

Service

6. Order 6 Rule 12 shall be amended by inserting in paragraph (1), after the words "Form 40", the words "(or, in a case to which Rule 5(2) or 11(2) of Order 12 apply, in Form 59)".

7. Order 6 shall be further amended as follows—

(*a*) by deleting, at paragraph (2)(*b*) of Rule 3, the words "Rule 5 of Order 39 or";

(*b*) by inserting, at paragraph (1)(iv) of Rule 12, after the word "served" the words "(or, where service is effected under Order 39 Rule 5, that the address on the envelope is the principal place of the partnership business or firm in Northern Ireland)".

(**a**) S.I. 1980/397 (N.I. 3) (**b**) S.R. 1981 No. 225.

Third party procedure

8. Order 11 Rule 4 shall be amended by inserting, in sub-paragraph (*a*), after the words "civil bill" the words "(where, however, defendants are sued as tortfeasors liable in respect of the same damage, they shall be treated as opposite parties and no third party notice need be served under this rule, but any such defendant, if he intends in support of a claim for contribution or indemnity to rely on any contractual right, must furnish particulars thereof in writing to the other parties)".

Default and summary actions

9. Order 12 Rule 9 shall be amended by deleting the words "(or, where the plaintiff is suing in person, to the plaintiff)".

Arbitration under Article 30

10. For Order 26 Rule 5 there shall be substituted the following new Rule:—

"*Where the proceedings may be heard*

5. Subject to section 49(1) of the Hire-Purchase Act (Northern Ireland) 1966, a small claim may be heard—

(*a*) in a court within the division in which the applicant or one of the applicants resides or carries on business; or

(*b*) in a court within the division in which the respondent or one of the respondents resides or carries on business."

11. Order 26 Rule 6 shall be amended, at paragraph (1), by deleting the reference ", 19(1)".

12. Order 26 Rule 9 shall be amended, at sub-paragraph (*a*), by deleting the word "misconduct" and substituting the words "unreasonable conduct".

Decrees

13. Order 33 shall be amended as follows—

(*a*) by deleting, at sub-paragraph (*a*) of Rule 1A, the words "or application for arbitration" and substituting the words ", application for arbitration or other originating process";

(*b*) by deleting, at paragraph (2) of Rule 3, the words "summary or default decree or a decree in undefended or" and substituting the word "decree".

Actions by and against firms and persons carrying on business in firm names

14. Order 39 Rule 5 shall be amended by inserting, after sub-paragraph (*b*) of paragraph (1), the word "or" and the following new sub-paragraph:—

"(*c*) by post (as provided by Order 6 Rule 3(2)(*b*)) at the principal place of the partnership business in Northern Ireland;".

Practice generally

15. Order 43 Rule 12 shall be amended by substituting for the words "5 per centum per annum" the words "6 per centum per annum".

Costs

16. For Order 55 Rule 4 there shall be substituted the following new Rule:—

"*Value added tax*

4. In addition to the costs, fees and expenses referred to in Rule 2 a successful party may, as between party and party, recover a sum equivalent to the value added tax at the appropriate rate on so much of the amount of those costs, fees and expenses as were incurred in respect of any taxable supply of goods or services