1983 No. 164

COUNTY COURTS

County Court (Amendment No. 3) Rules (Northern Ireland) 1983

Made	*29th June 1983*
Coming into operation . . .	*1st September 1983*

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. 3) Rules (Northern Ireland) 1983.

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**).

Amendment of the County Court Rules (Northern Ireland) 1981

3.—(1) Order 3 shall be amended as follows:—

(*a*) by re-entitling Rule 9 "Administration of Estates (Northern Ireland) Order 1979";

(*b*) by substituting, for paragraph (3) of Rule 9, the following paragraph:—

"(3) An action purporting to have been commenced against a person shall be treated, if he was dead at its commencement, as having been commenced against his estate in accordance with paragraph (1), whether or not a grant of probate or administration was made before its commencement.";

(*c*) by deleting, in sub-paragraph (*a*) of paragraph (4) of Rule 9, the words "since the issue of the civil bill".

(2) Order 6 shall be amended by substituting, for Rule 12, the following Rule:—

"*Proof of service by post*

12.—(1) Where service of a civil bill or other document has been made by post under these Rules, evidence of such service shall be given by the production of a certificate of the solicitor personally in charge of the proceedings on behalf of his client and such certificate shall be in Form 40, and—

(i) refer to the original civil bill or document and any other document attached thereto and the serial number on the post office receipt for posting and on the envelope containing the copy thereof;

(ii) state the contents of the envelope and by whom it was posted;

(iii) exhibit the post office receipt for posting;

(iv) state that, to the best of the knowledge and belief of the solicitor, the address on the envelope was that of the last known place of abode of the person to be served;

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

(v) state affirmatively that the envelope has not been returned by the post office as undelivered;

(vi) exhibit the relevant post office advice of delivery.

(2) Every document proved to have been posted and delivered as aforesaid shall, unless the contrary is shown, be deemed to have been served on the person to whom the envelope containing it was addressed at the time stated in the advice of delivery.''.

(3) Order 12 shall be amended as follows:—

(*a*) by substituting, for Rule 3, the following Rule:—

''*Notices to be annexed to default civil bills*

3. There shall be annexed to the copy of a default civil bill served on the defendant two notices in Form 51A addressed to the plaintiff's solicitor (or, where the plaintiff is suing in person, to the plaintiff) and to the appropriate chief clerk.'';

(*b*) by substituting, for sub-paragraph (*a*) of Rule 5(1), the following sub-paragraph:—

''(*a*) the original default civil bill and original notice together with the solicitor's certificate referred to in Rule 12 of Order 6 or, where Order 6 Rule 3(3) applies, an affidavit of service;'';

(*c*) by substituting, for Rule 9, the following Rule:—

''*Notices to be annexed to summary civil bills*

9. There shall be annexed to the copy of a summary civil bill served on the defendant two notices in Form 51A addressed to the plaintiff's solicitor (or, where the plaintiff is suing in person, to the plaintiff) and to the appropriate chief clerk.''; and

(*d*) by substituting, for sub-paragraph (*a*) of Rule 11(1), the following sub-paragraph:—

''(*a*) the original summary civil bill and original notice together with the solicitor's certificate referred to in Rule 12 of Order 6 or, where Order 6 Rule 3(3) applies, an affidavit of service;''.

(4) Order 15 shall be amended by inserting, after Rule 11, the Rules set out at Part A of the Schedule.

(5) Order 24 shall be amended by inserting, after the word ''identify'' in Rule 27, the words ''or find''.

(6) Order 43 shall be amended by substituting, for paragraph (2) of Rule 18, the following paragraph:—

''(2) Unless the chief clerk in any particular case otherwise determines, all decrees shall be written on judicature paper of a size not less than A4 ISO being the size of paper so referred to in the specifications of the International Standards Organisation.''.

(7) For Forms 51 and 52 in Appendix 1 there shall be substituted Form 51A as set out at Part B of the Schedule.

(8) In Appendix 1, Form 59 shall be amended by substituting for lines ''(*a*)'', ''(*b*)'' and ''(*c*)'', where they first appear, the following:—

''(*a*) notices (in Form 51A) to be posted to—

(1) the chief clerk, and

(2) the plaintiff or his solicitor; and

*(*b*) copy particulars of plaintiff's claim,''.

(9) Following Form 69 in Appendix 1 there shall be inserted Form 69A as set out at Part B of the Schedule.

(10) Part VIII of Appendix 2 shall be amended by inserting, after regulation 12, the following new regulations:—

"13. Counsel travelling to attend Court—

(*a*) 20 to 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £5;

(*b*) more than 50 miles from the Head Post Office, Belfast, is entitled to an additional sum of £10.

14. For each day or part of a day on which a trial or hearing is continued after the first day, counsel is entitled to an additional sum equivalent to one third of the scale fee.".

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.

J. P. Higgins
J. J. Curran
John McKee
Timothy T. Ferriss
B. F. Walker
T. F. Glass

After consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 1st September 1983.

Dated 29th June 1983.

Hailsham of St. Marylebone, C.