1982 No. 287

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 1982

Made . . . . . *1st September 1982*

Coming into operation . . . *11th October 1982*

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. 2) Rules (Northern Ireland) 1982.

Amendment of the Rules of 1981

2. The provisions of the County Court Rules (Northern Ireland) 1981(**b**) specified in the first column of the Schedule are hereby amended to the extent specified in the second column.

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
T. F. Glass
D. W. R. McAlister
Harry Coll
Harold McKee
H. Collen

After consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 11th October 1982.

Dated 1st September 1982.

Hailsham of St. Marylebone, C.

(**a**) S.I. 1980/397 (N.I. 3)
(**b**) S.R. 1981 No. 225 amended by S.R. 1982 No. 120

SCHEDULE

Amendment of the County Court Rules (Northern Ireland) 1981

Provision amended	*Extent of amendment*
Order 17	In Rule 12(1) for the figure "80" there shall be substituted the figure "82".
Order 22	In Rule 8(1), after the word "process" there shall be inserted the words "and all other pleadings".
Order 26	In Rule 4(1)— in sub-paragraph (*b*) for the full-stop there shall be substituted a semi-colon; after sub-paragraph (*b*) there shall be inserted the following sub-paragraph— "(*c*) for damages in respect of a road traffic accident.". For Rule 7 there shall be substituted the following rule— "*Issue of application* 7.—(1) Subject to paragraph (3), the application for arbitration and 2 copies thereof shall be delivered to a court office where, upon payment of the appropriate fee for issue being made by or on behalf of the applicant, a designated officer shall issue the same by endorsing on the application and the copies thereof the date, time and place of the hearing. (2) Subject to paragraph (4), the designated officer shall file the endorsed application, return an endorsed copy thereof to the applicant and cause an endorsed copy thereof together with Forms 126A and 126B to be served on the respondent by means of the first-class postal recorded delivery service (using the advice of delivery form). (3) Where there is more than one respondent, the applicant shall deliver to the court office an additional copy or copies of the application for service on each additional respondent. (4) Where the court office at which the application is issued is an office other than the designated office for the division (hereinafter in this Rule referred to as "the designated office") in which, in accordance with Rule 5, the hearing is to take place, the issuing office shall transmit the endorsed application to the designated office. (5) The office at which the application is issued shall cause a record of issue and of such service to be kept and, if other than the designated office, shall transmit to the designated office the certificate of posting for recorded delivery and this certificate together with the Post Office advice of delivery shall be accepted as evidence of such service. (6) If, on the expiration of 14 days from the service of the copy of the application, the designated office has not received notice from the respondent that he intends to appear before the circuit registrar on the date fixed to dispute his liability for the claim in whole or in part or to allege a counterclaim the office shall refer the application to the circuit registrar as an undisputed application and the circuit registrar may, if he thinks fit, decide the case on the basis of

Provision amended	*Extent of amendment*
Order 26 (contd.)	such evidence as he considers sufficient and make such award as he thinks proper or require the applicant to attend before him on the date fixed. (7) If the designated office receives notice from the respondent that he disputes his liability for the claim or relies upon a counterclaim, the designated officer shall send a copy of such notice to the applicant. (8) Where in the opinion of the chief clerk it is impracticable to serve the application on the respondent in accordance with paragraph (2), the chief clerk may direct the application to be served by— (*a*) sending a copy of it by ordinary first-class post to the respondent at his usual or last known address and in such event the chief clerk's certificate of posting shall be accepted as evidence of service; or (*b*) in such other manner as he may direct.'' After Rule 7 there shall be inserted the following rule— ''*Transfer of proceedings* 7A.—(1) If the circuit registrar of the court in which an application for arbitration is made is satisfied that such application could be more conveniently or fairly heard and determined in some other court, he may order the application to be transferred to that court. (2) Where a transfer is ordered under paragraph (1), the chief clerk of the court in which the application is pending shall give notice of the transfer to all parties to the application and shall send the chief clerk of the court to which the application has been transferred a certified copy of all the relevant entries in the records of the first-mentioned court together with all the documents in his custody relating to the application. (3) On receipt of the certified copy and any documents sent under paragraph (2), the chief clerk of the court to which the application has been transferred shall fix a day for the hearing and send notice thereof to the parties to the application.'' In Rule 8— in paragraph (1) for the words ''by the registrar in form of a certificate signed by him and entered in a book kept for that purpose'' there shall be substituted the words ''in the form of a certificate signed by the circuit registrar or chief clerk''; after paragraph (2) there shall be inserted the following paragraph— ''(3) Without prejudice to section 7(2) of the Arbitration Act (Northern Ireland) 1937 (power of the High Court to set aside award), where a respondent does not appear at the hearing and an award is made against him in his absence, the circuit registrar may, if within 14 days from notification of the award it is shown to his satisfaction that there was good reason for such absence, set aside the award.''. In Rule 9— after the word ''costs'' where it first occurs there shall be inserted the words ''(except the appropriate court fee)''';