1979 No. 111

JUDICATURE, NORTHERN IRELAND
COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 1979

Made . . . . . 28*th March* 1979

Coming into operation . . . 18*th April* 1979

We, the County Court Rules Committee, appointed by the Lord Chancellor under section 146 of the County Courts Act (Northern Ireland) 1959(a) hereby, in accordance with that section, make the following rules:

Citation

1. These rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 1979.

Interpretation

2. In these rules any reference to an Order by number or to Appendix by letter is a reference to that Order or Appendix as numbered or lettered in the County Court Rules (Northern Ireland) 1976(b).

Amendment of the rules of 1976

3.—(1) For Part II of Order 25 there shall be substituted the Part II set out in Schedule 1 and Parts III and IV of that Order are hereby revoked.

(2) After Order 25 there shall be inserted the Order 25A set out in Schedule 2.

(3) After Appendix U there shall be inserted the Appendix UA 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.

James A. Brown
J. P. Higgins
Harold McKee
Harry Coll

After consultation with the Lord Chief Justice I allow these rules which shall come into operation on 18th April 1979.

Dated 28th March 1979.

Elwyn-Jones, C.

(a) 1959 c. 25 (N.I.) as amended by 1978 c. 23
(b) S.R. 1976 No. 374 (II, p. 1774) as amended by S.R. 1978 No. 56

SCHEDULE 1

Part II to be substituted for Part II of Order 25

PART II

Hearing by Circuit Registrar

General

14. In the hearing of any action to which this Part applies, the circuit registrar shall have and may exercise all the powers vested in the judge other than committal for contempt or default.

Proceedings to be heard by the circuit registrar

15.—(1) Subject to Part III of Order 12 and to Order 25A the circuit registrar shall hear and determine any action in which the amount claimed, or the value of specific chattels claimed, does not exceed £300 save and except proceedings (in these Rules referred to as 'excepted proceedings')—

(*a*) in which damages are claimed for libel or slander; or

(*b*) brought under section 11 of the Act; or

(*c*) in which the title to any land comes into question; or

(*d*) brought under section 17 of the Married Women's Property Act 1882; or

(*e*) remitted by the High Court.

(2) The circuit registrar shall hear and determine any action (other than a summary action under Part III of Order 12 but including a default action under Part II of Order 12) in which no defence is entered in accordance with the provisions of Rule 4 of Order 8 and the defendant—

(i) fails to appear at the hearing; or

(ii) appears at the hearing (whether personally or by a solicitor) for the purpose only of requesting that time be allowed for payment; or

(iii) appears and consents to the jurisdiction of the circuit registrar.

(3) Any action listed for hearing by the circuit registrar in which no defence is entered in accordance with the provisions of Rule 4 of Order 8, where the defendant appears at the hearing to dispute the claim and where the claim exceeds £300 or is the subject of excepted proceedings shall be transferred by the circuit registrar for hearing by the judge.

(4) Any action listed for hearing by the judge in which the defendant fails to appear at the hearing may be directed by the judge to be heard by the circuit registrar.

Hearing by circuit registrar

16. Any action intended for hearing by the circuit registrar shall, subject to the provisions of Order 25A, be heard and determined in like manner as actions are heard and determined by the judge.

17. Where by reason of death or unavoidable absence the circuit registrar is not present at the hearing of any action to which this part applies the chief clerk or other officer of the court present shall open and adjourn or as the case may be, adjourn the hearing to such day as he thinks convenient.

Decree where defendant does not appear

18.—(1) If the defendant (not being the Crown) does not appear, the circuit registrar, upon proof of service and of facts entitling the plaintiff to relief, may, subject to paragraphs (2) to (4), give such decree or make such order as he considers just.

(2) If the Crown does not appear on the hearing of any civil bill in which it is a defendant, the civil bill shall be adjourned to a date fixed by the circuit registrar, on such terms as to him may seem just.

(3) Notice of the date fixed shall be served upon the Crown in a manner to be directed by the circuit registrar and shall set out that the case will be heard on the date named and such decree given or order made as may seem just, the Crown's absence notwithstanding.

(4) If the Crown does not appear on the adjourned hearing the circuit registrar may, upon proof of service of such notice, proceed to hear and determine the case and may give such judgment or make such other order as to him may seem just.

Records, costs and court fees

19. Subject to Order 25A proceedings heard before the circuit registrar shall for all purposes, including records, costs and court fees, be treated in like manner as if they had been heard before the judge.

SCHEDULE 2

ORDER 25A

Arbitration under section 61A(3) (Appendix UA)

Interpretation

1. In this Order "arbitration" means arbitration under section 61A(3) of the Act and not under section 60 of the Act nor Order 20.

Proceedings to which this Order applies

2. Subject to Rule 4 any action in which the amount claimed, or the value of specific chattels claimed, does not exceed £200 shall be known as a small claim and shall be commenced and heard in accordance with the provisions of this Order.

Commencement of proceedings under section 61A(3)

3. A small claim shall be commenced by an application for arbitration in accordance with Form 1.

Proceedings to which this Order does not apply

4.—(1) No application for arbitration under this Order shall be made in respect of any claim—

(*a*) for damages for personal injuries;

(*b*) made in excepted proceedings within the meaning of Order 25 Rule 15(1).

(2) The provisions of this Order shall not apply to default actions and summary actions under Order 12, except where the amount claimed or the value of the specific chattels claimed does not exceed £200 and the defendant serves notice, in accordance with Order 12, Rule 3 or 9, that he disputes liability or intends to make a counterclaim against the plaintiff and requests the chief clerk to treat the notice to him as an application under Rule 3, in which event the claim and counterclaim shall be dealt with under the provisions of this Order.

Where proceedings may be heard

5.—(1) 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.

Application of the Arbitration Act (Northern Ireland) 1937

6.—(1) Subject to the modifications set out in paragraphs (2)-(5) the following provisions of the Arbitration Act (Northern Ireland) 1937 shall apply to arbitrations under this Order, that is to say:—

Sections 7(2), 13, 19(1) and 22 and paragraphs 4, 5, 6, 7 and 8 of the First Schedule to that Act.

(2) The strict rules of evidence shall not apply in relation to the arbitration, and the circuit registrar may adopt any method of procedure which he may consider to be convenient and to afford a fair and equal opportunity to each party to present his case. Without prejudice to the generality of the foregoing, the circuit registrar, with the consent of the parties, may decide the case on the basis of statements and documents submitted by the parties.

(3) Any arbitration hearing shall be informal and may be held in private.

(4) Any party to the proceedings who desires a person to be summoned as a witness at the hearing may apply to the court in which the proceedings are to be heard for a witness summons and the provisions of Order 24 Rule 9 shall apply, but the summons may be served not merely as specified in Rule 9(5) of that Order but also by the delivery of a copy thereof to the witness personally by the party issuing the summons.

(5) At any time before giving his decision and either before or after the hearing, the circuit registrar may, at the request of any party or of his own volition, inspect any property or thing concerning which any question may arise or consult any expert or call for an expert report on any matter in dispute or invite an expert to attend the hearing as assessor.

(6) If any party does not appear at the arbitration, the circuit registrar may make an award on hearing any other party to the proceedings who may be present.

Issue of application

7.—(1) The application for arbitration and 3 copies thereof shall be delivered to a court office where, upon payment of the prescribed 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 on all the copies a notice in Form 2 and (subject to paragraph (2)) shall file the application with one copy and return to the applicant one of the endorsed copies and cause another endorsed copy to be served on the respondent by means of the recorded delivery service.

(2) 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 application to the designated office and shall retain the third copy.

(3) The office at which the application is issued shall cause a record of issue and of such service to be kept in a recorded delivery postage book and, if other than the designated office, shall transmit to the designated office a copy of such record certified by the designated officer and this copy or the entry in the recorded delivery postage book shall be accepted as evidence of such service.

(4) If, on the expiration of 14 days from the service of the copy of the application and notice, the designated office has not received notice from the respondent that he intends to appear before the circuit registrar on the date fixed in the notice 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 the application submitted and make such award as he thinks proper or require the applicant to attend before him on the date fixed.

(5) 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.

Award

8.—(1) The parties to the arbitration shall be notified of any award made by the circuit registrar, which award shall be drawn up by the registrar in form of a certificate signed by him and entered in a book kept for that purpose.

(2) Subject to paragraph 7 of the First Schedule to the Arbitration Act (Northern Ireland) 1937, any award made by the circuit registrar under this Order shall have the like effect as a decree pronounced by the judge.