1976 No. 407

SUPREME COURT, NORTHERN IRELAND PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 4) 1976

Made . . . . . *3rd December* 1976

Coming into operation . . *as provided in rule* 12

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland exercise those powers and all other powers enabling us in that behalf as follows:

1. In Order 3 of the Rules of the Supreme Court (Northern Ireland) 1936(b) rule 11 shall be revoked.

2. For Order 3A there shall be substituted the Order set out in Schedule 1 to these rules.

3. Order 13 shall be amended as follows:

(*a*) in rules 3 and 4 for the words "rules 19 and" there shall be substituted the word "rule";

(*b*) in rule 7 the words "and rule 19" shall be omitted;

(*c*) rule 19 shall be revoked.

4. Order 27 shall be amended as follows:

(*a*) in rules 2 and 3 for the words "rules 20 and" there shall be substituted the word "rule";

(*b*) in rule 6 the words "and rule 20" shall be omitted;

(*c*) rule 20 shall be revoked.

5. In Order 52 in rule 5 for the words "and the day on which the same is heard" there shall be substituted the words "and the day named in the notice for hearing whether or not the defendant has entered an appearance in the action".

6. Order 54F shall be amended as follows:

(*a*) in rule 11—

(i) in paragraph (1)(*a*) after the words "to every party to the proceedings" there shall be inserted the words "and to the Accountant General";

(ii) in paragraph (1)(*b*) for the words "send copies of the order of remittal and of all documents filed in the proceedings" there shall be substituted the words "send a copy of the order of remittal and send the original documents other than the affidavit referred to in rule 3";

(a) 1962 c. 30
(b) S.R. & O. 1936 No. 70 (II, p. 2559)

(iii) in paragraph (2) sub-paragraph (*a*) shall be omitted;

(iv) in paragraph (2)(*b*) the words from "who shall send" to the end shall be omitted.

(*b*) after rule 11 there shall be added the following rule:

"Transfer of moneys paid into Court

12. Upon receipt of the notice of remittal the Accountant General shall thereupon transfer to the county court to which the proceedings are to be remitted any sum of money paid into court under Order 22 in satisfaction of a claim or cause of action."

7. In Order 60A in rule 1(1)—

(*a*) for item (*a*) there shall be substituted the following item:

"(*a*) Order 3A, rule 3(1) (leave to enter default judgment in proceedings where credit agreement sought to be re-opened),";

(*b*) for item (*k*) there shall be substituted the following item:

"(*k*) Order 28, rule 1 and the power to amend a writ of summons or originating summons under rule 12 (amendment of writ of summons, etc., endorsements or pleadings),".

8. In Order 65 for rule 48 there shall be substituted the following rule:

"**48.**—(1) An application under Article 66(1) of the Solicitors (Northern Ireland) Order 1976 or, subject to paragraph (2), an application under the Solicitors (Ireland) Act 1849 may be made by motion on notice; and the Court or Judge may on such application, if the Court or Judge think fit, refer any bill of costs (the subject of such application) for taxation, with such directions and subject to such conditions as the Court or Judge may think proper.

(2) An application for an order under Article 66(2) of the Solicitors (Northern Ireland) Order 1976 or, subject to paragraph (3), an application for an order for delivery of a bill of costs and for the taxation thereof or for the taxation of a bill of costs already delivered under the Solicitors (Ireland) Act 1849 shall be made to the Taxing Master in accordance with the provisions of this rule.

(3) No application under the provisions of the Solicitors (Ireland) Act 1849 shall be made pursuant to paragraph (2) where—

(*a*) the retainer of the solicitor is disputed; or

(*b*) the bill of costs has been paid by the party chargeable therewith; or

(*c*) in any other case where special circumstances must be shown before an order for delivery of a bill of costs or for taxation of that bill or of any bill already delivered can be made.

(4) An application under paragraph (2) shall be in Form No. 36 in Appendix K and shall be served, together with an affidavit of facts, at least four clear days prior to the time specified therein for the hearing of the application.

(5) Where the bill of costs to which the application relates has already been delivered a copy of that bill with the particulars of delivery to the person chargeable therewith endorsed thereon shall be lodged in the Taxing Office at the time the notice of the application is issued.

(6) An order made pursuant to paragraph (2) shall be in Form No. 37 in Appendix K.

(7) Subject to any statutory provision, to any order or direction of the Court or a Judge and to review under rule 62 the costs of all proceedings before the Taxing Master under this rule shall be in his discretion.

(8) The same proceedings as nearly as possible shall be had in relation to an appeal under Article 68(6) of the Solicitors (Northern Ireland) Order 1976 as on a review of a taxation pursuant to an order of the Court and, accordingly, the provisions of rule 62 shall apply."

9. In Order 88 in rule 58 (5) for the figures "£50" there shall be substituted the figures "£100".

10. In Appendix K Form No. 1A shall be deleted and at the end there shall be added the forms set out in Schedule 2 to these rules.

11. For paragraph 10 in Scale III (Miscellaneous) of Part VI of Appendix S there shall be substituted the following paragraph:

"**10.** Where judgment in default of appearance or in default of defence is entered in accordance with Order 3A (judgment after service of notice of application to re-open consumer credit agreement) the following costs shall be allowed in addition:—

Where the amount recovered is less than £300	£3.45
Where the amount is £300 or more	£4.20
Where there is more than one defendant for each additional defendant	18p."

12.—(1) Rules 1, 2, 3, 4 and 11, together with so much of rule 7 as amends rule 1(1)(*a*) of Order 60A and Schedule 1 to these rules, shall come into operation on the day appointed for the coming into operation of sections 137 to 140 of the Consumer Credit Act 1974 and nothing in those rules shall apply in relation to any agreement entered into before that day which is not a personal credit agreement within the meaning of section 8(1) of that Act.

(2) These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 4) 1976 and the rules other than those referred to in paragraph (1) shall come into operation on 14th February 1977.

DATED this 3rd day of December 1976.

Signed: *Robert Lowry*
Maurice W. Gibson
Donald Murray
J. B. E. Hutton
R. D. Carswell
I. Montgomery