1972. No. 332 **[C]**

COUNTY COURTS

County Court (Amendment) (No. 2) Rules

RULES, DATED 5TH DECEMBER 1972, MADE BY THE SECRETARY OF STATE UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, THE RIGHT HONOURABLE WILLIAM WHITELAW, M.C., M.P., one of Her Majesty's Principal Secretaries of State, in exercise of the powers conferred on me by Section 146 of the County Courts Act (Northern Ireland) 1959(**a**), Section 5 of the Civil Evidence Act (Northern Ireland) 1971(**b**), Section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972(**c**), and all other powers enabling me in that behalf, do hereby upon the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Citation and commencement

1. These Rules may be cited as the County Court (Amendment) (No. 2) Rules (Northern Ireland) 1972 and shall come into operation on 29th December 1972.

Amendments to the Rules of 1965

2. The provisions of the County Court Rules (Northern Ireland) 1965(**d**) specified in the first column of the Schedule are amended to the extent specified in the second column thereof.

Dated this 5th day of December 1972.

W. S. I. Whitelaw,
One of Her Majesty's
Principal Secretaries of State.

(a) 1959. c. 25.
(b) 1971. c. 36 (N.I.).
(c) 1972. c. 22.
(d) S.R. & O. (N.I.) 1965, No. 261.

SCHEDULE

Amendment of the County Court Rules (Northern Ireland) 1965

Provision Amended	Amendment
Order 15: Rule 2(2)	In Rule 2(2) of Order 15 the words "that it relates only to his own title, he being defendant in the proceedings, or" and the word "other" shall be omitted.
Order 23: Rule 7A	The following Rule shall be inserted in Order 23 after Rule 7:— *"Notice of conviction, etc.* **7A.**—(1) Any party to proceedings who intends in reliance on section 7 or 8 of the Civil Evidence Act (Northern Ireland) 1971 to adduce evidence of a conviction, finding of adultery or an adjudication of paternity shall serve on every party to the proceedings notice in Form 9 of such intention with particulars of:— (*a*) the conviction, finding or adjudication and the date thereof; (*b*) the court or court-martial which made the conviction, finding or adjudication; and (*c*) the issue in the proceedings to which the conviction finding or adjudication is relevant. (2) Where the plaintiff or any party initiating proceedings serves such notice he shall annex it to the civil bill or other process and to any copy served on any other party. (3) Where a defendant or party other than the plaintiff or a party initiating the proceedings serves such notice, it shall be served within ten days of service of the civil bill or other process upon him. (4) If a party upon whom notice is served under this Rule:— (*a*) denies the conviction, finding or adjudication; or (*b*) alleges that it was erroneous; or (*c*) denies that it is relevant to any issue in the action, he shall, within ten days of service of the notice, serve a counter-notice in Form 10 on the party by whom the notice was served and on any other party to the proceedings. (5) Nothing in this Rule shall apply to evidence intended solely to impeach the credit of a party or witness and which is not otherwise relevant to any issue in the proceedings.".

Provision Amended	Amendment
Order 23: Part II	Order 23 shall be amended by inserting immediately before Rule 1 the words "PART I—GENERALLY" and by adding at the end the following Part:—

"PART II

EVIDENCE ADMISSIBLE UNDER PART I OF THE CIVIL EVIDENCE ACT (NORTHERN IRELAND) 1971

Interpretation and application of this Part

22.—(1) In this Part "the Act" means the Civil Evidence Act (Northern Ireland) 1971.

(2) This part shall apply to proceedings referred to arbitration under section 60 of the County Courts Act (Northern Ireland) 1959 and to proceedings referred for inquiry and report under section 61 of the said Act of 1959 as it does to the hearing of any proceedings before the court.

Notice of intention to give in evidence statement under section 1 or 2 of Act

23.—(1) Subject to the provisions of this Rule, a party to proceedings who intends to give in evidence at the hearing any statement which is admissible in evidence by virtue of section 1 or 2 of the Act shall, within ten days of service of the civil bill or other process initiating the proceedings, give notice of his intention to the clerk of the Crown and peace and to every other party.

(2) Where, under these Rules or any order or direction of the court, the evidence in any proceedings is to be given by affidavit, then paragraph (1) shall not apply in relation to any statement which any party to the proceedings desires to have included in any affidavit to be used on his behalf in the proceedings.

Statement admissible under section 1 of the Act: contents of notice

24.—(1) If the statement is admissible under section 1 of the Act, the notice shall be in Form 11 and there shall be annexed to it a copy or transcript of the document containing the statement, or of the relevant part thereof, and the notice must contain:—

Provision Amended	Amendment
Order 23: Part II (contd.)	(*a*) particulars of:— (i) the person by whom the record containing the statement was compiled; (ii) the person who originally supplied the information from which the record was compiled; and (iii) any other person through whom that information was supplied to the compiler of that record; and, in the case of any such person as is referred to in sub-paragraph (i) or (iii) above, a description of the duty under which that person was acting when compiling that record or supplying information from which that record was compiled, as the case may be; (*b*) if not apparent on the face of the document annexed to the notice, a description of the nature of the record which, or part of which, contains the statement; and (*c*) particulars of the time, place and circumstances at or in which that record or part was compiled. (2) If the party giving the notice alleges that any person, particulars of whom are contained in the notice, cannot or should not be called as a witness at the hearing for any of the reasons specified in Rule 26, the notice must contain a statement to that effect specifying the reason relied on. *Statement admissible by virtue of section 2 of the Act: contents of notice* **25.**—(1) If the statement is contained in a document produced by a computer and is admissible by virtue of section 2 of the Act, the notice shall be in Form 12 and there shall be annexed to it a copy or transcript of the document containing the statement, or of the relevant part thereof, and must contain particulars of:— (*a*) a person who occupied a responsible position in relation to the management of the relevant activities for the purposes of which the computer was used regularly during the material period to store or process information; (*b*) a person who at the material time occupied such a position in relation to the supply of information to the computer, being information which is reproduced in the statement or information from which the information contained in the statement is derived; (*c*) a person who occupied such a position in relation to the operation of the computer during the material period;

Provision Amended	Amendment
Order 23: Part II (contd.)	(3) Where a statement to which a notice under Rule 23 relates is one to which Rule 29 applies, no party on whom the notice is served shall be entitled to serve a counter-notice under this Rule in relation to that statement, but the foregoing provision is without prejudice to the right of any party to apply to the court under Rule 29 for directions with respect to the admissibility of that statement. (4) If any party by whom a notice under Rule 23 is served fails to comply with a counter-notice duly served on him under this Rule, then, unless any of the reasons referred to in Rule 26 applies in relation to the person named in the counter-notice, and without prejudice to the powers of the court under Rule 30, the statement to which the notice under Rule 23 relates shall not be admissible at the hearing as evidence of any fact stated therein by virtue of section 1 or 2 of the Act, as the case may be. *Determination of question whether person can or should be called as a witness* **28.**—(1) Where a question arises whether any of the reasons specified in Rule 26 applies in relation to a person, particulars of whom are contained in a notice under Rule 23, the court may, on the application of any party to the proceedings, determine that question before the hearing in accordance with Order 14 or give directions for it to be determined before the hearing and for the manner in which it is to be determined. (2) Unless the court otherwise directs, notice in Form 14 of any application under paragraph (1) shall be served on every other party to the proceedings. (3) Where any such question as is referred to in paragraph (1) has been determined thereunder, no application to have it determined afresh at the hearing of the proceedings may be made unless the evidence which it is sought to adduce in support of the application could not with reasonable diligence have been adduced at the time of the disposal of the application under paragraph (1). *Directions with respect to statement made in previous proceedings* **29.** Where a party has given notice in accordance with Rule 23 that he desires to give in evidence at the hearing a statement falling within section 1(1) of the Act which is contained in a record of direct oral