1972. No. 331 **[C]**

COUNTY COURT RULES

Amendment of County Court Rules (Northern Ireland) 1965

RULES, DATED 4TH 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) and section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972(b) and all other powers me enabling in that behalf, on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, do hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 1972 and shall come into operation on 28th December 1972.

Amendment of Rules of 1965

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

Dated this 4th day of December 1972.

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

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

SCHEDULE

Amendments to the County Court Rules (Northern Ireland) 1965

Provision amended	Amendment
Order 3:	In Order 3 after Rule 8 there shall be added the following Rule:— "*Proceedings Against Estates Act (N.I.)* 1971 **8A.**—(1) Where any person against whom an action would have lain has died but the cause of action survives, the action may, if no grant of probate or administration has been made, be brought against the estate of the deceased. (2) Without prejudice to the generality of paragraph (1), an action brought against "the personal representatives of AB deceased" shall be treated for the purposes of that paragraph, as having been brought against his estate. (3) An action purporting to have been commenced against a defendant who has died shall, if the cause of action survives and no grant of probate or administration has been made, be treated as having been brought against his estate in accordance with paragraph (1). (4) In any such action as is referred to in paragraph (1) or (3)— (*a*) the plaintiff shall apply to the judge for an order appointing a person to represent the deceased's estate for the purpose of the proceedings or, if a grant of probate or administration has been made since the issue of the civil bill, for an order that the personal representative of the deceased be made a party to the proceedings, and in either case for an order that the proceedings be carried on against the person so appointed, or as the case may be against the personal representative, as if he had been substituted for the estate; (*b*) the judge at any stage of the proceedings and on such terms as he thinks just and either on his own motion or on application may make any such order as is mentioned in sub-paragraph (*a*) and allow such amendments (if any) to be made and make such other order as he thinks necessary in order to ensure that all matters in dispute in the proceedings may be effectually and completely determined and adjudicated upon. (5) Before making an order under paragraph (4) the judge may require notice to be given to any insurer of the deceased who has an interest in the proceedings and to such (if any) of the persons having an interest in the estate as he thinks fit.