1971. No. 35 [C]

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 1971

RULES, DATED 3RD FEBRUARY 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, Major the Right Honourable James Dawson Chichester-Clark, D.L., Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959(a) on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, do hereby make the Rules hereinafter set forth.

Citation and commencement

1. These Rules shall be cited as the County Court (Amendment) Rules (Northern Ireland) 1971 and shall come into operation on 15th February 1971.

Amendment of Rules of 1965

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

(2) The amendments made by these Rules to Appendix ZL and to so much of Appendix ZM as requires a court fee to be paid on a decree or dismiss shall apply to the amount entered on a decree or dismiss lodged in the County Court Office on or after the 15th February 1971.

References in statutory provisions to monetary sums to be converted to decimal currency

3. Without prejudice to any amendment made by these Rules or by any other enactment as to decimal currency, in any statutory provision relating to county court costs or fees a reference to a sum of money in shillings and pence shall be construed as a reference to the equivalent to that sum in decimal currency calculated in accordance with Schedule 1 to the Decimal Currency Act 1969.

Dated this 3rd day of February 1971.

J. D. Chichester-Clark,
Minister of Home Affairs.

The Ministry of Finance concurs in so much of the Schedule as amends Appendix ZM to the County Court Rules (Northern Ireland) 1965 (prescribing the Court fees for documents in proceedings in the County Court).

Sealed with the Official Seal of the Ministry of Finance this 3rd day of February 1971.

(L.S.)

C. F. Darling,
Assistant Secretary.

(a) 1959. c. 25.

(b) S.R. & O. (N.I.) 1965, No. 261.

SCHEDULE

Amendment of the County Court Rules (Northern Ireland) 1965

Provision amended	Amendment
Order 5: Rule 2	After paragraph (8) of the Rule there shall be added the following paragraph:— "(9) Where reference to a sum of money is made in a civil bill or in the particulars the sum must be stated in decimal currency."
Order 6: Rule 1	After paragraph (*c*) of the Rule there shall be added the following words:— "; or (*d*) where service is by post, as soon as it has been posted".
Order 6: Rule 3	For paragraph (2) of the Rule there shall be substituted the following paragraph:— "(2) Except where otherwise directed under this Rule or Rules 6, 7, 9 and 11, a civil bill may be served either— (*a*) by a process server appointed for the division of the court in which proceedings are brought or that specified by paragraph (3), or (*b*) where service is not required by paragraph (6) or Rule 5 of Order 35 or Rule 23(1) of Order 36 to be made on the defendant in person, by a solicitor or member of his staff over the age of 16 years, sending, by registered post or by first class post using the recorded delivery service, a copy of the civil bill and any other document required to be attached thereto in an envelope addressed to the person to be served as stated in the civil bill." In paragraph (3) of the Rule after the words "the civil bill shall" there shall be inserted the words ", unless served under paragraph (2)(*b*),".
Order 6: Rule 6	In paragraph (1) of the Rule after the words "serving the civil bill" there shall be inserted the words "upon anyone in person".
Order 6: Rule 10	At the end of paragraph (2) of the Rule there shall be added the words "or, where service was by post, by production of the solicitor's certificate of posting".
Order 6: Rule 11	In paragraph (1) of the Rule the words from "and where service" to the end are revoked.
Order 6: Rule 12	After Rule 11 there shall be added the following Rule:— *"Proof of service by post* **12.**—(1) Where service of a civil bill or other document has been made by post under these Rules, the person posting the copy civil bill or document shall endorse on the original his name, the date on which it was posted and the serial number on the envelope and on the post office certificate of posting.

Provision amended	Amendment
	(2) Evidence of such service shall be given by the production of a certificate of the solicitor personally in charge of the proceedings on behalf of his client and such certificate shall be in Form 3 in Appendix D; and— (i) refer to the original civil bill or document and any other document attached thereto and the serial number on the post office receipt for posting and on the envelope containing the copy thereof; (ii) state the contents of the envelope and by whom it was posted; (iii) exhibit the post office receipt for posting; (iv) state that, to the best of the knowledge and belief of the solicitor, the address on the envelope was that of the last known place of abode of the person to be served; (v) state affirmatively that the envelope has not been returned by the post office as undelivered; (vi) exhibit the relevant post office advice of delivery. (3) Every document proved to have been posted and delivered as aforesaid shall, unless the contrary is shown, be deemed to have been served on the person to whom the envelope containing it was addressed at the time stated in the advice of delivery."
Order 12: Rule 5	At the end of paragraph (*a*) of the Rule there shall be added the words "or, where Order 6: Rule 3(2)(*b*) or Rule 3(7) applies the solicitor's certificate referred to in Rule 12 of Order 6.".
Order 12: Rule 11	At the end of paragraph (*a*) of the Rule there shall be added the words "or, where Order 6: Rule 3(2)(*b*) or Rule 3(7) applies the solicitor's certificate referred to in Rule 12 of Order 6.".
Order 24: Rule 4	In paragraph (1) of the Rule after the words "an affidavit of service" there shall be inserted "or, where Order 6: Rule 3(2)(*b*) or Rule 3(7) applies the solicitor's certificate referred to in Rule 12 of Order 6".
Order 24: Rule 30	In paragraph (1) of the Rule after the words "or other irregularity" there shall be inserted the words "or because the civil bill or other initiating process did not come to the knowledge of the defendant in time". In paragraph (2) after the words "under this Rule shall" there be inserted the words ", subject to paragraph (2A)," After paragraph (2) there shall be inserted the following paragraph:— "(2A) Where the notice alleges that the unsuccessful party did not have knowledge of the initiating process or that the process which was sought to be served by post in accordance with the provisions of Order 6 did not come to his knowledge in time to defend the action or to appeal in the matter, then if the clerk of the Crown and peace is satisfied that the successful party consents to a hearing or re-hearing of the case, he may grant the application without the motion being made to the court and in so doing, unless the parties are agreed as to incidence and amount of the costs in the application, may make such order as to costs as he thinks fit.". In paragraph (6) of the Rule after the words "under paragraph (1)" there shall be inserted the words "or (2A)"

Provision amended	Amendment
Order 29: Rule 2A	After Rule 2 there shall be inserted the following Rule:— *"Amounts for which decree issued to be in decimal currency* **2A.** A decree for the payment of a sum of money must where lodged in the Office after 15th February 1971 state the sum in decimal currency.".
Order 44: Rule 12	For the reference to 2s. 6d. there shall be substituted a reference to 13p.
Order 44: Rule 15A	After Rule 15 there shall be inserted the following Rule:— *"Service fees for postal service* **15A.** Where service of a civil bill or other document has been effected by post under Rule 3(2)(*b*) of Order 6, the solicitor shall be entitled to a fee of 30p inclusive of outlay in lieu of the fees payable to process servers.".
Order 48: Rule 1	After paragraph (2) of the Rule there shall be added the following paragraph:— "(3) In these Rules "decimal currency" means the new currency provided for by the Decimal Currency Act 1967 and where it is necessary for the purposes of these Rules to calculate the amount in decimal currency corresponding to an amount in shillings and pence, the calculation shall be made in accordance with Schedule 1 to the Decimal Currency Act 1969."
Appendix D	After Form 2 there shall be added the following Form:— "FORM 3 **Solicitor's Certificate as to Service by Post** ORDER 6: RULE 12 [*Title as in Appendix A Form 1*] I, , the solicitor personally in charge of the above proceedings on behalf of the plaintiff/petitioner/applicant/appellant hereby certify that a copy of [the civil bill in the said action] [the petition [*or* notice] in the said matter] the original of which is attached hereto together with the following enclosures, namely— were posted and contained in an envelope bearing the serial number and date shown on the attached post office receipt by [a member of my office staff over the age of 16 years] and state as follows:—

Provision amended	Amendment
	(*a*) the address on the envelope is, to the best of my knowledge and belief, that of the last known place of abode of the person to be served; (*b*) that the envelope has not been returned to me or to my staff as undelivered; and (*c*) that the post office advice of delivery exhibited hereto relates to that envelope. Solicitor. Address Date " For Appendix E there shall be substituted the following Appendix:—
Appendix E	"APPENDIX E ORDER 6 RULE 2(3) PART 1 **Fees payable to Process Servers appointed to act for any district within the county borough of Belfast** 1. For each service— (*a*) of an ordinary, default or summary civil bill where the amount claimed—

	Fee
does not exceed £50	30p
exceeds £50 but does not exceed £100	40p
exceeds £100 but does not exceed £200	55p
exceeds £200	65p
(*b*) of an equity or probate civil bill	50p
(*c*) of an ejectment civil bill	30p

2. In proceedings under the Adoption Act (Northern Ireland) 1967 for each service (however effected) of the petition, notice of hearing or application, including completion of affidavit of service (other than commissioner's fee) and the amount of postage where used 30p

3. For each service of any other petition or summons initiating any proceedings 30p

4. For each service of any notice of application to the court in relation to a licence for the sale of intoxicating liquor 25p

5. (*a*) Where in any case personal service of any document is requisite the appropriate fee as above prescribed shall be increased by two-fifths.