1969. No. 345 [C]

COUNTY COURTS

County Court (Electoral Registration Appeal) Rules (Northern Ireland) 1969

RULES, DATED 22ND DECEMBER 1969, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, the Right Honourable Robert Wilson Porter, Q.C., 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.

Dated this 22nd day of December 1969.

R. W. Porter,
Minister of Home Affairs
for Northern Ireland.

PART I

APPEALS TO THE COUNTY COURT FROM THE REVISING OFFICER

County Court to which appeals from the revising officer shall lie

1.—(1) An appeal from the revising officer to the county court under section 45 of the Representation of the People Act 1949(b) (in these Rules called "the Act of 1949") or under Rule 17(1) of the Registration Rules contained in Schedule 3 to the Electoral Law Act (Northern Ireland) 1962(c) (in these Rules called "the Registration Rules" and "the Act of 1962" respectively) shall be heard by the county court judge for the Division in which the qualifying premises are situate (in these Rules referred to as "the appropriate court").

(2) For the purposes of paragraph (1) "the qualifying premises" means the premises in which the person whose right to be correctly registered as an elector is in issue resides or is deemed or is alleged to reside.

Notice of Appeal and request for fixing date and place of hearing

2.—(1) A party desirous of appealing under the provisions referred to in Rule 1 from any determination of his claim or objection (in these Rules referred to as an "appellant") shall within 14 days from the making of the relevant determination serve by registered post or by the recorded delivery service—

(*a*) on the electoral registration officer concerned;

(*b*) on the party in whose favour the determination was made;

(a) 1959. c. 25.
(b) 12, 13 & 14 Geo. 6. c. 68.
(c) 1962. c. 14.

(*c*) on the clerk of the Crown and peace of the appropriate court; and

(*d*) if the revising officer was a person other than the said clerk of the Crown and peace, the revising officer;

a notice in writing (in these Rules referred to as "notice of appeal") signed by or on behalf of the appellant and stating—

(i) whether the whole or part only, and if part only, what part, of the determination is impugned; and

(ii) the grounds of the appeal.

(2) With the notice of appeal referred to in paragraph (*c*) of paragraph (1) the appellant shall transmit a notice in Form 1 requesting the fixing of a time and place for the hearing of the appeal and giving an address for the service of notices and other documents.

Documents to be sent by electoral registration officer to court

3. The electoral registration officer shall, as soon as practicable after the receipt of the notice of appeal, forward to the office of the appropriate court—

(*a*) the said notice;

(*b*) any claim or notice of objection furnished in accordance with Rules 13 to 15 of the Registration Rules;

(*c*) the revising officer's statement of the material facts which in his opinion have been established in the case and of his decisions upon the whole case and on any point which may be specified as a ground of appeal.

Notices of appeal based on similar grounds

4. Where the electoral registration officer is of opinion that two or more notices of appeal are based on similar grounds, he shall, when complying with Rule 3, also transmit to the said office a declaration in Form 2 setting forth that opinion.

Records of particulars and fixing date of hearing

5.—(1) The clerk of the Crown and peace of each county court—

(*a*) shall maintain a book in the Form 10 (which may be known as the Registration Appeals Book);

(*b*) shall consecutively number and enter in that book particulars of all notices of appeal duly served on him;

(*c*) shall mark with the relevant number all notices and other documents subsequently received by him in relation to any appeal;

(*d*) shall notify the judge of the lodgment of each appeal.

(2) The judge on being notified as aforesaid shall, as soon as may be, fix for the hearing of the appeal—

(*a*) a time, which may be either any day on which the ordinary business of the court is to dealt with, or a day specially fixed for such hearing, but not in any event being earlier than six clear days after the lodgment of the appeal;

(*b*) a place, which may be the court-house where the appropriate court is held or such other court-house or place as the judge may deem convenient.

Notice to a party of all appeals in which he is interested

6. The clerk of the Crown and peace shall not less than three days before the hearing of the appeal notify in Form 3 any officer or other party named in a notice of appeal of the time and place fixed for the hearing, and may send to any officer or other party named in more than one notice of appeal one only such notification which shall set forth all the appeals in which that officer or party is interested and the date and place of hearing.

Supply of copies of documents and use at hearing

7.—(1) The clerk of the Crown and peace shall, on the application and at the cost of any party to an appeal, furnish him with a copy of any document transmitted to his office under Rule 3.

(2) Any document transmitted as aforesaid may be used on the hearing of the appeal and if used shall be received as prima facie evidence of the facts therein stated; but any party to the appeal may, by leave of the judge, bring in such further or other evidence as he may be advised.

(3) If in the opinion of the judge the material before the Court is insufficient to enable him to give judgment, he may require the revising officer to furnish him with further particulars; and it shall be the duty of such officer to comply so far as is practicable with such a requirement.

Representation and appearance at hearing

8.—(1) Any party to an appeal may appear or act thereon in person or by solicitor or counsel, or by any other person nominated by him in writing signed by him, provided that the judge may allow any party to appear or act by a person not nominated in writing if he is satisfied that such person is in fact authorised to appear or act for such party, and that the failure to obtain a nomination in writing is due to mistake or other reasonable cause.

(2) A person who is not a solicitor or of counsel shall not be entitled to have or recover any sum by way of fee or reward for appearing or acting on behalf of any party to an appeal.

Directions by Judge as to service, amendment of documents, etc.

9. Subject to Rule 19, the judge may at any stage of the proceedings on an appeal—

(*a*) direct or allow the service of the notice of appeal on any officer or person on whom it has not been served but who in the opinion of the judge ought to or might properly have been served therewith;

(*b*) direct or allow the amendment of the notice of appeal;

(*c*) make such other order as he may think proper for the determination on the merits of any question at issue; and

(*d*) exercise any of the above-mentioned powers on such terms as he may think just.

Judge's note and copies where case stated required

10. The judge shall make a note of any question of law raised at the hearing of an appeal and of the facts put in evidence in relation thereto and of his decision thereon and of his decision on the appeal and where notice is served requiring a case to be stated under section 45 of the Act of 1949 or Rule 17(2) of the Registration Rules he shall, at the request and expense of any party thereto, sign and furnish him with a copy of the note so taken.

Costs of appeal

11. The costs of and incidental to any appeal shall be in the discretion of the judge; and an order directing payment of any such costs shall be enforceable in like manner as an order to the like effect made in proceedings commenced by ordinary civil bill.

Orders of Judge to be transmitted to electoral officer

12.—(1) The order determining an appeal shall be in Form 4.

(2) The clerk of the Crown and peace shall, as soon as practicable after the making of any order on any appeal, transmit a copy thereof to the electoral registration officer and each other party thereto; and, subject to paragraph (3), the electoral registration officer shall, on receiving such copy, act in accordance with Rule 18 of the Registration Rules and make any necessary entry in or amendment of the Register.

(3) Where a notice requiring a case to be stated is lodged in respect of any appeal—

(*a*) the clerk of the Crown and peace shall transmit a copy thereof to the electoral registration officer with the copy of the order transmitted as aforesaid;

(*b*) the electoral registration officer shall not make any such entry or amendment as aforesaid until he has been notified of the decision given on the case stated.

Consolidation of appeals

13.—(1) Where it appears to the judge, whether from a declaration transmitted under Rule 4 of these Rules, or otherwise, that the determination impugned in two or more notices of appeal depend for their validity on the same point or points of law, the judge may declare in Form 5 that such appeals ought to be consolidated or that one appeal should be selected for hearing as a test case, and thereupon the following provisions shall apply and the time and place for the hearing thereof shall be fixed.

(2) The time and place fixed for the hearing of such selected appeal under paragraph (1) shall be notified in Form 6 by the clerk of the Crown and peace to the electoral registration officer and any other party named in the relevant notice of appeal and, subject to the provisions of Rule 6, to the electoral registration officer and any other party named in the notices of appeal relating to the said other appeals.

(3) The notification sent in respect of such other appeals as aforesaid shall require each party thereby notified to give notice in Form 7A (or 7B) to the clerk of the Crown and peace and to the parties named in the relevant notice of appeal within three days of the receipt by him of such notification that either—

(*a*) he consents to be bound (without prejudice to any right conferred by section 45(11)(*a*) of the Act of 1949 or Rule 17(2) of the Registration Rules) by the decision on the selected appeal directed to be heard as aforesaid; or

(*b*) he requires the appeal to be heard in which he is interested;

and a notice of consent or otherwise given by a party under this paragraph may relate to (and if it so relates shall give particulars of) more than one appeal in which the electoral registration officer or party is interested by whom that notice is so given.

(4) Where in relation to any appeal no notice whether of consent or otherwise is given under paragraph (3), the parties named in the relevant notice of appeal shall (without prejudice to any right conferred by the provisions referred to in paragraph (3)(*a*)) be deemed to have consented to be bound as aforesaid.

(5) After the determination of the selected appeal and the making of the order thereon, the clerk of the Crown and peace shall, as soon as practicable, draw up in respect of each of the other appeals consolidated as aforesaid an order similar to the order made on the selected appeal but no costs shall be allowed to either side other than the court fees and the costs of and incidental to the notice of appeal and the request for the entry of the appeal for hearing and the notice sent by the clerk of the Crown and peace and any notice sent in reply thereto and the costs of and incidental to the order.

(6) Any party who consents or is deemed to consent to be bound as aforesaid and who has the same interest as the unsuccessful party to the appeal heard under this Rule shall be liable for the costs of such selected appeal in like manner and to the like extent as that party, and an order for the payment of such costs may be made and enforced against him accordingly.

(7) Where under paragraph (3) a notice is given requiring an appeal to be heard, that appeal shall be heard and determined after the determination of the appeal heard under paragraph (1).

(8) The party who has required such hearing shall, if unsuccessful, be liable to pay the costs thereof to the opposite party or parties appearing thereon, and, unless the judge otherwise orders, shall not, if successful, be entitled to receive any costs of or in such appeal other than the court fees and the costs of and incidental to the notice of appeal and the request for the entry of the appeal for hearing and the notice sent by the clerk of the Crown and peace and any notice sent in reply thereto and the costs of and incidental to the order.

PART II

CASES STATED BY THE COUNTY COURT ON APPEALS FROM THE REVISING OFFICER

Requisition and transmission of case stated

14.—(1) Any party desirous of appealing by way of case stated under section 45(11)(*a*) of the Act of 1949 or Rule 17(2) of the Registration Rules shall within six days from the giving of the decision whereby he is aggrieved serve on the clerk of the Crown and peace a notice in the Form 8 requiring a case to be stated, and shall forthwith serve a copy of that notice on each other party affected by that decision.

(2) Part II of Order 28 of the County Court Rules (Northern Ireland) **1965(d)** shall apply to a case stated under these provisions.

Consolidation of cases stated

15.—(1) Where notices requiring a case to be stated have been served in respect of two or more decisions which in the opinion of the judge depend for their validity on the same point or points of law, the judge may, subject to any order which may be made by the Court of Appeal, direct that both or all such

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