1969. No. 187 **[NC]**

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 3) 1969

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 hereby, with the concurrence of the Ministry of Finance for Northern Ireland, so far as is required by subsection (4) of that section, exercise those powers and all other powers enabling us in that behalf as follows:—

1. Order LXV of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended as follows:—

(1) For rules 20 and 21 there shall be substituted the following rules—

"**20.**—(1) On the taxation of a solicitor's bill to his own client (except a bill to be paid out of the legal aid fund under the Legal Aid and Advice Act (Northern Ireland) 1965(c)) all costs shall be allowed, except in so far as they are of an unreasonable amount or have been unreasonably incurred.

(2) For the purposes of paragraph (1), all costs incurred with the express or implied approval of the client shall, subject to paragraph (3), be conclusively presumed to have been reasonably incurred and, where the amount thereof has been expressly or impliedly approved by the client, to have been reasonable in amount.

(3) For the purposes of paragraph (1), any costs which in the circumstances of the case are of an unusual nature and such that they would not be allowed on a party and party taxation shall, unless the solicitor expressly informed his client before they were incurred that they might not be so allowed, be presumed, until the contrary is shown, to have been unreasonably incurred.

21.—(1) Subject to the rules of this Order, the scale of costs contained in Appendix S, Part I, together with the notes and regulations contained in that Part, shall apply to the taxation of all costs incurred in relation to all causes and matters commenced on or after the 1st September 1969.

(2) On a taxation in relation to which rule 20 or rule 61(29A) has effect and in other special cases costs may at the discretion of the Taxing Master be allowed—

(*a*) in relation to items not mentioned in the said Part; or

(*b*) of an amount higher than that prescribed by the said scale.

(3) Notwithstanding the provisions of paragraph (1) costs shall, unless the Court otherwise orders, be allowed in the cases to which Parts II to VI of Appendix S apply in accordance with the provisions of those Parts."

(a) 10 & 11 Eliz. 2. c. 30.
(b) S.R. & O. 1936, No. 70 (II, p. 2559).
(c) 1965. c. 8 (N.I.).

(2) Rule 61 shall be amended as follows—

(*a*) paragraphs (1), (12), (14), (21), (28), (37), (44), (47) and (55) shall be deleted; and

(*b*) the following paragraphs shall be inserted in rule 61 in the places appropriate to their numbers:—

"(28) On a taxation between party and party there shall be allowed all such costs as were necessary or proper for the attainment of justice or for enforcing or defending the rights of the party whose costs are being taxed.

(29) On a taxation between solicitor and client where the costs are payable out of a fund in which other parties have an interest, being a taxation on a more generous basis than that provided for by paragraph (28), there shall be allowed a reasonable amount in respect of all costs reasonably incurred, and the provisions of this paragraph shall apply whether or not the costs are in fact to be paid out of such a fund as aforesaid.

(29A) On every taxation of the costs which a person who is or has been a party to any proceedings in the capacity of trustee or personal representative is entitled to be paid out of any fund which he holds in that capacity, no costs shall be disallowed, except in so far as those costs or any part of their amount should not, in accordance with the duty of the trustee or personal representative as such, have been incurred or paid, and should for that reason be borne by him personally."

2. Order LXXXVIII shall be amended as follows:—

(*a*) rules 102, 103 and 104 shall be deleted;

(*b*) the following rules shall be inserted in Order LXXXVIII in the places appropriate to their numbers:—

"**102.** Subject to this Order, Order LXV and the scale of costs contained in Appendix S, Part V, together with the notes and regulations contained in that Part, shall apply to the taxation of all costs incurred in relation to proceedings in the Queen's Bench Division (In Bankruptcy) in all matters commenced on or after 1st September 1969.

103. Where the costs of the petitioner, the assignees or trustee are payable out of the estate of the bankrupt, deceased insolvent or arranging debtor, they shall be taxed in accordance with the provisions of Order LXV, rule 61(29).

104. Upon a taxation to which rule 103 applies, costs which are not beneficial to the administration of the estate shall not be allowed.

105.—(1) If it appears to the Registrar that the distribution of any estate is being or may be delayed by the failure of any person to lodge his bill for taxation, he may, on the application of the Official Assignee, trustee or any creditor or without any such application, report such failure to the Taxing Master, who shall make an order for the lodgment of the bill within such time and subject to such conditions as he may think fit.

(2) If such person fails or neglects to comply with any such order, the Taxing Master may certify such failure or neglect and allow such sum as he thinks appropriate for such person's costs, charges or expenses or may assess them at a nominal figure."

3. For Parts I and V of Appendix S of the Rules of the Supreme Court there shall be substituted the Parts set out in Schedules I and II of these rules.

4. Without prejudice to the powers conferred by Order LXXXVIII, rule 105, the costs in any cause or matter commenced on a date before these rules came into force, shall be taxed in accordance with the Rules and scales of costs in force on that date without reference to the amendments made by these rules.

5. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 3) 1969 and shall come into force on 1st September 1969.

Dated 27th June 1969.

Signed *MacDermott*

Robert Lowry

E. W. Jones

A. McGonigal

Donald Murray

Leonard I. G. Fox

James J. Napier

The Ministry of Finance hereby concurs.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 30th day of June 1969, in the presence of

(L.S.) *C. J. Bateman,*
Secretary.

SCHEDULE I Rule 3

Part I to be substituted for Part I of Appendix S of the Rules of the Supreme Court

APPENDIX S

PART I

Costs and Fees in Supreme Court Proceedings

No. of item	Item	Fee £ s. d.
	Writs, Summonses, etc.	
1	Writ of summons, originating motion, originating summons or petition	8 0 0
	Note to item 1: Where the statement of claim is indorsed on the writ such further allowance may be made as the Taxing Master may think just.	
2	Writ of subpoena	1 5 0
3	Writs other than writs of summons and subpoena	4 10 0
4	Concurrent writ of summons, concurrent originating summons or renewal of a writ of summons .	15 0
5	Summons to attend at Judges' Chambers or interlocutory summons	2 10 0
6	Citation, probate or matrimonial	2 5 0
	Notices	
7	Notice of appeal	2 10 0
8	Notice of motion	3 0 0
9	Notice to produce or admit on trial or hearing .	1 10 0
10	Notice to creditors or contributories in proceedings to wind up companies or like notice in any other cause or matter . . . . . each	10 0
11	Any other proper or necessary notice . . from	10 0
	Note to item 11: Where notice of filing affidavits is required only one notice is to be allowed for a set of affidavits filed or which ought to be filed together. Service of a notice of the adjournment or next appointment is not to be allowed.	
	Appearances	
12	Entering	1 10 0
	Where more than one appearance is entered at one time or where the appearance to any writ of summons is in any way limited, or where it is necessary to make search in the Queen's Bench Division (Probate) for appearance when the time limited therefor has expired, such further allowance may be made as the Taxing Master may think just.	
13	Undertaking to appear	1 10 0
	Pleadings	
14	Statement of claim when not endorsed on writ, statement of defence with or without counterclaim or answer to a petition	10 0 0
15	Preliminary act in Admiralty	5 0 0
16	Any other pleading or amendment of pleading .	3 0 0

No. of item	Item	Fee £ s. d.
	Affidavits	
17	Affidavit of service	2 0 0
18	Any other affidavit . . . . . per page	2 10 0
	Note to items 17 and 18: Where an affidavit is annexed to or lodged with a document merely to verify it or to identify the parties to such document the entire is to be considered as one document and no separate allowance shall be made for such affidavit.	
	Interrogatories	
19	Interrogatories or answers thereto . . per page	2 10 0
	Special Case, Case for Motion and Cases for Counsel	
20	Special case	Discretionary
21	Case for motion in probate and matrimonial actions, causes and matters	5 0 0
22	Case for counsel to advise on evidence per page	2 0 0
23	Other cases for counsel . . . per page	2 0 0
	Note to item 23: This item is not to be allowed as between party and party.	
	Briefs	
24	Brief on trial or hearing . . . per page	2 0 0
	Note to item 24: The cost of copying documents which ought to be incorporated in the brief is not included in this item. If the cost of copying any such documents has already been allowed no further allowance is to be made.	
	Certificates	
25	Any proper and necessary certificate . . .	15 0
	Accounts and Advertisements	
26	Accounts, charges, discharges, inventories and statements for Judge's Chambers or Registrar's Office when required or to lodge in Chambers, and reports in Admiralty—	
	In the case of accounts . . . per item	1 0
	In all other cases . . . . per page	3 0 0
27	Advertisements, including attendances to settle and insert	3 0 0
	Judgments, Orders, etc.	
28	Decree absolute, including outlay	7 0 0
29	Assignment of judgment . . . per page	2 10 0
30	Judgment search, including requisition therefor .	1 0 0
31	Registration of a judgment, order, crown bond, lis pendens, recognizances, or to enrol or register any deed	3 10 0
32	Recognizance or undertaking in lieu thereof . .	2 15 0
33	Vacating recognizance, including outlay . .	3 0 0
34	Common bond and warrant	2 0 0