STATUTORY RULES AND ORDERS OF A GENERAL CHARACTER ISSUED IN 1966

1966. No. 1 [NC]

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 1) 1966

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 exercise those powers and all other powers enabling us in that behalf as follows:—

1. In Order LIV of the Rules of the Supreme Court (Northern Ireland) 1936(b), which relates to applications and proceedings at Chambers, paragraph (23) of rule 13 shall be amended by substituting for the words "rules 52 and 59" the words "rules 44 and 51".

2. In rule 21 of Order LVI, which relates to proceedings and applications under the Arbitration Act (Northern Ireland) 1937(c), for the words "Rule 60" there shall be substituted the words "rule 34".

3. For Order LIX, which relates to appeals and cases stated in inferior court proceedings, there shall be substituted the Order set out in Schedule 1 hereto.

4. In rule 2(4) of Order LIXC, which relates to proceedings under The War Damage Act 1943(d) and The War Damage (Valuation) Appeals Act 1945(e), for the words "Rule 60" there shall be substituted the words "rule 34".

5. In Order LXV, which relates to costs, for Parts X, XI, XII, XIIA, and XIII there shall be substituted the following Part:—

"X. COSTS IN APPEALS FROM COUNTY COURTS AND IN CASES STATED

64. Part II of Appendix S shall apply to the taxation of all costs of and incidental to:—

(*a*) appeals from a decree of a county court to a Judge of Assize or to the High Court under the County Court Appeals Act (Northern Ireland) 1964;

(*b*) a case stated under the County Court Appeals Act (Northern Ireland) 1964;

(*c*) a case stated to which rule 34 of Order LIX applies;

(*d*) appeals to the Court of Appeal under section 11(1)(*b*) of the Town Tenants (Ireland) Act 1906; and

(*e*) a case stated by a magistrates' court under section 146 of the Magistrates' Courts Act (Northern Ireland) 1964."

(a) 10 & 11 Eliz. 2. c. 30.
(b) S.R. & O. 1936 (No. 70) II, p. 2559.
(c) 1 Edw. 8 & 1 Geo. 6. c. 8 (N.I.).
(d) 6 & 7 Geo. 6. c. 21.
(e) 9 & 10 Geo. 6. c. 8.

6. Order LXXIII, which relates to proceedings under The Guardianship of Infants Act 1886(**a**) and The Adoption of Children Act (Northern Ireland) 1950(**b**), shall be amended as follows:—

(1) In rule 13 the words "to the Lord Chief Justice" shall be deleted; and

(2) rule 35 shall be revoked.

7. In Order XCI, which relates to interpretation, the definition of "Judge of Assize" shall be deleted.

8. For Part II of Appendix S of the Rules of the Supreme Court there shall be substituted the Part set out in Schedule II hereto.

9. The Forms in Schedule III hereto shall be substituted for Forms Nos. 30 to 38 in Appendix B of the Rules of the Supreme Court.

10. In Appendix X of the Rules of the Supreme Court for the reference to "OLIX R.60" there shall be substituted the words "Order LIX rule 34".

11. The new Part II of Appendix S of the Rules of the Supreme Court, contained in Schedule II hereto, and the amendments made by rule 5 to Order LXV shall not apply to any appeal from a county court (including an appeal by way of case stated) where the proceedings, which are the subject of an appeal, were instituted in the county court before these rules came into force and the costs of any such appeal shall be ascertained as if these rules had not been made.

12. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1966 and shall come into force on the 1st day of February, 1966.

Dated the 3rd day of January, 1966.

Signed:

MacDermott
L. E. Curran
Charles L. Sheil
Robert Lowry
Ambrose McGonigal
Leonard I. G. Fox
James J. Napier

(**a**) 49 & 50 Vict. c. 27. (**b**) 1950. c. 6.

SCHEDULE I Rule 3

ORDER TO BE SUBSTITUTED FOR ORDER LIX OF THE RULES OF THE SUPREME COURT

ORDER LIX

APPEALS AND CASES STATED

PART I

APPEALS UNDER THE COUNTY COURT APPEALS ACT (NORTHERN IRELAND) 1964 (including appeals under section 5 of the Local Government (Ireland) Act 1898, and in Remitted Actions) and Cases Stated under the Magistrates' Courts Act (Northern Ireland) 1964.

Interpretation

1. In this Part, unless the context otherwise requires:—

"the Act" means the County Court Appeals Act (Northern Ireland) 1964(a);

"Clerk" means the Clerk of the Crown and Peace or clerk of petty sessions, as the case may be;

"Judge" means the Judge of Assize or Judge of the High Court, as the case may be, to whom an appeal lies under subsection (3) or subsection (4) of section 1 of the Act;

"party having carriage" includes an applicant to state a case; and

"respondents notice" means a notice given by a respondent in a criminal injury appeal under rule 7.

A. CIVIL BILL APPEALS

Notice of appeal

2.—(1) The appellant shall, within a period of ten days commencing on the date on which the decree was pronounced in the county court, lodge with the Clerk a notice of appeal in Form 30 in Appendix B or in a form to the like effect.

(2) The notice of appeal may be given either in respect of the whole or in respect of any specified part of the decree.

Service of notice of appeal

3.—(1) The appellant shall, within the period of ten days mentioned in rule 2(1), serve the notice of appeal upon all the parties who appeared at the hearing before the county court who are, or are likely to be, affected by the appeal.

(2) Where no party other than the appellant appeared at the hearing, then the appellant shall serve the notice of appeal on all parties directly affected by the appeal and, subject to the provisions of rule 6, it shall not be necessary to serve the notice on parties not so affected.

Application to state case treated as notice of appeal

4.—(1) Where:—

(*a*) any party has applied to the county court judge to state a case under section 2 of the Act; and

(*b*) any other party lodges a notice of appeal under section 1 of the Act against the decree;

(a) 1964, c. 3 (N.I.).

then, unless the parties otherwise agree, the application to state a case under section 2 of the Act shall have effect as if it were a notice of appeal lodged under rule 2 against the decree.

(2) Subject to any direction by the Judge, service of the application to state a case under section 2(2) of the Act shall be deemed to be service for the purposes of rule 3.

(3) The Clerk on the lodgment of a notice of appeal, to which this rule applies, shall inform the applicant that:—

(*a*) a notice of appeal has been lodged under section 1 of the Act; and

(*b*) unless the parties otherwise agree, his application to state a case shall have effect as if it were a notice of appeal against the decree under section 1 of the Act.

(4) The parties shall inform the Clerk, not later than fourteen days from the date of the lodgment of the notice of appeal, of any agreement reached between the parties concerning the manner of questioning the decision of the county court judge.

Co-appellants

5.—(1) Where two or more parties each lodge a notice of appeal against the same decree the appeals shall be listed and heard together, unless the Judge otherwise directs.

(2) The Judge may declare any one or more of the parties appealing to be separately entitled or liable to the costs of such appeal or any part thereof.

Directions as to service

6.—(1) The Judge may in any case direct that the notice of appeal be served upon any party to the proceedings in the county court on whom it has not been served, or upon any person not a party to those proceedings.

(2) In any case in which the Judge directs the notice of appeal to be served on any party or person, the Judge may also direct that any respondent's notice by which that party or person is directly affected shall be served upon him.

(3) In any case where a direction is given under this rule the Judge may:—

(*a*) postpone or adjourn the hearing of the appeal for such period and upon such terms as may be just; and

(*b*) give such judgment and make such order on the appeal as might have been given or made if the persons served in pursuance of the direction had originally been parties.

Respondent's notice in criminal injury cases

7.—(1) A respondent in an appeal under section 5 of the Local Government (Ireland) Act 1898(**a**) who, not having appealed from the decree of the county court, desires to contend on the appeal that the decision of the county court should be varied, either in any event or in the event of the appeal being allowed in whole or in part, shall give notice to that effect.

(**a**) 61 & 62 Vict, c, 37.

(2) A respondent who desires to contend on the appeal that the decision of the county court should be affirmed on grounds other than those relied upon by that court shall give notice to that effect.

(3) Any notice given by the respondent under this rule shall be served on the appellant, the Clerk, and all parties to the proceedings in the county court who are directly affected by the contentions of the respondent and shall be served within twenty-one days after the service of the notice of appeal on the respondent.

(4) Failure by the respondent to give any notice under this rule shall not diminish the powers of the Court, but may, in the discretion of the Judge be treated as a ground for the adjournment of the appeal or for making a special order as to costs or for granting both such adjournment and order.

Entering of appeal for hearing

8.—(1) Where notice of appeal is lodged under rule 2, the Clerk shall:—

(*a*) in the case of an appeal under section 1(3) of the Act, enter the appeal for hearing at the Assize for the county or county borough in which the decree was pronounced which are next held after the lodgment of the notice of appeal and shall send particulars of the appeal to the Judge and his registrar; or

(*b*) in the case of an appeal under section 1(4) of the Act, send to the Registrar forthwith particulars of the appeal.

(2) Particulars of appeals given under this rule shall be in Form 31 in Appendix B and shall not contain any reference to any order for costs or to any payment of money into or out of Court.

(3) Where a county court judge gives his certificate under section 1(5) of the Act the Clerk shall, on the appellant giving such security for costs as may be required, send to the Registrar forthwith particulars of the appeal and paragraph (2) of rule 10 shall apply to every such appeal.

Withdrawal of appeal

9.—(1) An appellant may withdraw his appeal by:—

(*a*) lodging a notice of withdrawal with the Clerk six clear days before the day fixed for the hearing of the appeal;

(*b*) serving the notice of withdrawal within such period on every party who was served with a notice of the appeal; and

(*c*) paying the costs appropriate to such withdrawal.

(2) A party who has given a respondent's notice under rule 7 and who is served with the notice of withdrawal may, within six days from the receipt thereof serve on the appellant notice of his intention to proceed with the appeal and shall serve a copy of that notice on every other interested party and upon the Clerk.

(3) Where notice of withdrawal is lodged in an appeal which lies to the High Court the Clerk shall forward the notice to the Registrar forthwith.

Appeals to the High Court

10.—(1) Where the appeal is from a decree of the Belfast Recorder's Court or a county court for a division which is included in the County of Antrim or in the County of Down the appeal shall be heard by a Judge of the High Court sitting in Belfast.