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*Status: Point in time view as at 01/01/2006.*

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## STATUTORY INSTRUMENTS

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# 1980 No. 397 (N.I. 3)

## County Courts (Northern Ireland) Order 1980

- - - - - [19th March 1980]

### Modifications etc. (not altering text)

- C1** Order: functions of Lord Chancellor transferred to Department of Justice (except for Article 47 so far as relating to the functions of the Lord Chancellor in relation to county court rules which deal (or would deal) with an excepted matter) (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(1), **Sch. 17 para. 33** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

## PART I

### INTRODUCTORY

#### Title and commencement

- 1.—(1) This Order may be cited as the County Courts (Northern Ireland) Order 1980.  
(2) *Commencement*

#### Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

- (2) In this Order—

“action” includes any proceedings which may be commenced as prescribed by civil bill or petition, or which have been remitted from the High Court to a county court;

“annual value” means the value ascertained in accordance with the Valuation Acts;

“chief clerk” means such officer of the Northern Ireland Court Service as may be designated for a county court division by the Lord Chancellor;

“costs” includes witnesses' expenses;

“court” means a county court held for a division under this Order;

“decree” includes a dismiss, a decree on a counter-claim and any order, decision or determination made by a county court in any civil proceedings instituted by virtue of any statutory provision, and any judgment registered under the Inferior Courts Judgments Extension Act 1882, and any decree or dismiss which is affirmed, reversed or varied on appeal;

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“defendant” includes a defendant in a counter-claim;

“division” means a division for which a court is to be held under this Order;

“judge” means, subject to paragraph (3)( d), a county court judge, that is to say a judge appointed under section 102 of the County Courts Act (Northern Ireland) 1959 ;

“matter” means any proceedings in a county court other than an action;

“order” includes any decree or other order whatsoever of a county court;

“Office” in relation to any proceedings, means the office of the chief clerk for the division in which those proceedings are taken;

“plaintiff” includes every person seeking any relief (otherwise than by way of counter-claim as defendant) by any form of civil proceeding;

“prescribed” means prescribed by county court rules or as the context may require by rules of court;

“proceedings” includes all actions, matters and proceedings whatsoever (whether civil or criminal);

“representative” includes any person to whom a grant of representation of the estate of a deceased person has been made;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 .

(3) In this Order—

- (a) a reference to a sum of money in relation to a decree, includes a reference to any costs or interest awarded by the decree, or any interest payable on foot of the decree;
- (b) a reference to a party to any proceedings includes a reference to any solicitor (or, as the case may require, any counsel) acting for that party in those proceedings;
- (c) a reference to a deceased person includes a reference to a person whose death may be presumed or has been presumed in accordance with law;
- (d) a reference to a county court judge shall, for the purposes of or in relation to any proceedings in a county court, be construed as including a reference to a deputy judge appointed under section 107 of the County Courts Act (Northern Ireland) 1959.

(4) In determining for the purposes of any provision of this Order whether an amount exceeds, or is less than, a sum specified in that provision, no account shall be taken of<sup>F1</sup> Article 45A or of anything done under it].

(5) Any power conferred by this Order<sup>F2F3</sup> on the Lord Chancellor to give directions includes power to vary or revoke any directions so given.

(6) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973 (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

**F1** 1982 c. 53

**F2** prosp. rep. by 2002 c. 26

**F3** prosp. rep. by 2005 c. 4

## PART II

### HOLDING OF COUNTY COURTS

#### County courts to be held for divisions

3.—(1) For the purposes of this Order, Northern Ireland shall be divided into such divisions as the Lord Chancellor may<sup>F4</sup> by order specify.

(2) A court shall be held for each such division at such place or places as may be specified in directions given under Article 4.

(3) A court held under paragraph (2) shall

- (a) subject to paragraph (4), be called a county court and be a court of record;
- (b) have, throughout the whole of the division for which it is held, the jurisdiction and powers conferred on a county court by this Order or any other statutory provision.

(4) The county court so held for the division which is or includes—

- (a) the area of the city of Belfast shall be called the Belfast Recorder's Court;
- (b) the area of the city of Londonderry shall be called the Londonderry Recorder's Court.

**F4** prosp. insertion by [2005 c. 4](#)

#### Directions as to holding of courts

4. The<sup>F5F6</sup> Lord Chancellor may give directions as to—

- (a) the places at which county courts are to be held;
- (b) the number of ordinary sittings of county courts which are to be held each year;
- (c) the ordinary hours of sitting of county courts;
- (d) the nature of the business to be transacted by any county court at any place;
- (e) the cancellation of any sitting of a county court for which provision has been made under this Order where there is no, or insufficient, business to be transacted at that sitting; and
- (f) such other incidental, consequential, transitional or supplementary matters as appear to the<sup>F6</sup> Lord Chancellor to be necessary or proper.

**F5** prosp. subst. by [2002 c. 26](#)

**F6** prosp. subst. by [2005 c. 4](#)

#### Courthouses

5. Subject to section 13 of the Administration of Justice Act (Northern Ireland) 1954 sittings of county courts shall, except where the<sup>F7F8</sup> Lord Chancellor otherwise directs, be held in courthouses provided or maintained under Part I of that Act.

**F7** prosp. subst. by [2002 c. 26](#)

**F8** prosp. subst. by [2005 c. 4](#)

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### Appointment of days for holding of ordinary sittings

6.—(1) Subject to any provision made by virtue of Article 4, in each year the<sup>F9F10</sup> Lord Chancellor shall—

- (a) on or before 1st May, appoint the days for the holding of the ordinary sittings of the county court for each division for the period of twelve months commencing on 1st September next following; and
- (b) on or before 1st July cause notice of the days so appointed to be published.

(2) Before appointing the days for the holding of the ordinary sittings of the county court for a division under this Article, the<sup>F9F10</sup> Lord Chancellor shall consult the Lord Chief Justice and the county court judge assigned to that division under section 102 of the County Courts Act (Northern Ireland) 1959 .

**F9** prosp. subst. by [2002 c. 26](#)

**F10** prosp. subst. by [2005 c. 4](#)

### Additional and extraordinary sittings

7.—(1) The<sup>F11F12</sup> Lord Chancellor may, where he considers it expedient to do so for the purpose of avoiding delay in the administration of justice, give directions for the holding of sittings of the county court in addition to the ordinary sittings fixed under this Order.

(2) Subject to county court rules and to any directions given by the<sup>F11F12</sup> Lord Chancellor under Article 4 or paragraph (1), a judge may, in addition to the ordinary sittings, sit at any other time or times for the hearing of any proceedings where he is satisfied that such additional sitting is necessary or expedient for the doing of justice between the parties.

**F11** prosp. subst. by [2002 c. 26](#)

**F12** prosp. subst. by [2005 c. 4](#)

### Adjournments

8.—(1) A judge may adjourn any court held by him.

(2) Where by reason of death or unavoidable absence the judge is not present at any ordinary or other sitting of a court, a circuit registrar or an officer of the court present shall, subject to paragraph (3), open and adjourn, or as the case may be, adjourn the court to such day as he thinks convenient.

(3) An adjournment under paragraph (2) shall not operate to prevent a prescribed officer or circuit registrar from hearing and determining any civil action which he is authorised by any statutory provision or by county court rules to hear and determine.

(4) A judge may adjourn any proceedings for such period as will in his opinion best meet the ends of justice.

(5) Where a judge is satisfied—

- (a) that any proceedings pending or to be brought before him can be more conveniently heard by him at another place in the same division or in any other division to which he is assigned under section 102 of the County Courts Act (Northern Ireland) 1959 other than that at which but for this paragraph they would be heard; or
- (b) during the hearing of any proceedings that it is desirable in the interests of justice to adjourn the further hearing thereof to another such place;

he may, notwithstanding anything in any statutory provision, direct that such proceedings be heard at or adjourned to that other place accordingly.

- (6) Where a direction is given under paragraph (5)—
- (a) any summons, bill or other document issued or recognizances entered into in connection with the proceedings shall be deemed to be varied accordingly;
  - (b) the judge may make an order as to the manner in which and the persons to whom notice is to be given with respect to the hearing, or the adjourned hearing, as the case may be, and it shall be the duty of each person concerned to comply with such order; and
  - (c) any decree or order made in any such proceedings shall have the like force and effect as if no such direction had been given.
- (7) A direction under paragraph (5) may relate to a particular case or may be given in general terms relating to any class or classes of proceedings or to proceedings at any place specified in the direction, and may be given subject to such conditions as may be so specified.
- (8) In paragraphs (5) and (6) “hearing” includes the giving of any judgment or sentence.

### **Order of hearing**

9. Subject to county court rules, the order in which proceedings are to be heard shall be determined by the judge.

## **PART III**

### **ORIGINAL CIVIL JURISDICTION**

#### *General Jurisdiction*

#### **General civil jurisdiction**

10.—(1) Subject to the provisions of this Part, a county court shall have jurisdiction to hear and determine any action in which the amount claimed, or the value of specific chattels claimed, does not exceed<sup>[F13]</sup> £15,000], including (but without prejudice to the generality of the foregoing provisions of this paragraph) any action in which a balance not exceeding<sup>[F13]</sup> £15,000] is claimed—

- (a) on foot of an account (including a partnership account);
- (b) after allowances made for any amount admitted by the plaintiff to be due by him to the defendant (whether by way of set-off or on foot of a counterclaim or otherwise); or
- (c) after the abandonment by the plaintiff of any sum by which the amount alleged to be due to him by the defendant exceeds<sup>[F13]</sup> £15,000], so, however, that a decree in respect of any cause of action to which this sub-paragraph applies shall be, and be expressed to be, in full discharge of all demands in respect of that cause of action.

(2) A county court shall not have jurisdiction to hear any action claiming damages exceeding<sup>[F13]</sup> £3,000] in respect of libel or slander.

(3) A county court which is not a divorce county court shall not have jurisdiction to hear any cause or matter to which the Matrimonial Causes (Northern Ireland) Order 1978 applies other than—

- (a) an application made under Article 35, 38 or 40 of that Order which is required or, as the case may be, allowed by Article 35(4), 38(3) or 40(3) of that Order to be made to a county court;

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(b) an application under section 17 of the Married Women's Property Act 1882 to which Article 55 of that Order applies; ...

<sup>F14</sup>Sub#para. (c) rep. by 1980 NI 5

[<sup>F15</sup>(3A) Except as provided by the Civil Partnership Act 2004, a county court which is not a civil partnership proceedings county court shall not have jurisdiction to hear any cause or matter to which that Act applies.]

(4) A county court shall not have jurisdiction to hear any Admiralty cause or matter.

(5) A county court shall not have jurisdiction to hear any action in which the title to any toll, fair, market or franchise is in question.

(6) A claim for the recovery of any rent or other sum not exceeding<sup>F13</sup> £15,000 due in respect of the use and occupation of any land may be joined with, and heard and determined together with, a claim under this Part for the recovery of that land.

**F13** SR 1993/282

**F14** 1980 NI 5

**F15** 2004 c. 33

#### *Recovery of Legacies, Annuities, etc.*

#### **Recovery of legacies, annuities, etc.**

**11.**—(1) Without prejudice to Article 10, a county court shall have jurisdiction to hear and determine any such action as is referred to in paragraph (2) or (3).

(2) This paragraph refers to actions—

(a) where the gross value of the estate of a deceased person does not exceed<sup>F16</sup> £45,000, brought against the representative of that person by or on behalf of any person claiming to be entitled to any specific or other legacy or gift of residue out of, or a distributive share of, that estate; or

(b) brought against the representative of a deceased person (irrespective of the value of his estate) by any person—

(i) as legatee of a pecuniary legacy not exceeding<sup>F16</sup> £15,000; or

(ii) claiming to be entitled to arrears not exceeding<sup>F16</sup> £15,000 of any annuity payable out of that estate; or

(c) brought by—

(i) any person claiming as legatee of a pecuniary legacy not exceeding<sup>F16</sup> £15,000 charged on or payable out of any land; or

(ii) any person claiming to be entitled to arrears not exceeding<sup>F16</sup> £15,000 in respect of any rent-charge or annuity so charged as aforesaid;

against the person entitled to the land so charged, irrespective of the value of the estate or fund or the annual value of any land affected.

(3) In an action brought on foot of any charitable donation or bequest, a county court may award a sum not exceeding<sup>F16</sup> £45,000 for principal or £2,000 for any annual sum, interest or rent-charge.

(4) In an action against representatives of a deceased person under this Article it shall lie with the plaintiff to prove that the defendants have received or but for their wilful default might have received

assets of the deceased person sufficient for the satisfaction wholly or partly in the due course of administration of the plaintiff's claim.

**F16** SR 1993/282

*Actions for Recovery of, or involving title to, Land*

**Actions for recovery of, or involving title to, land**

**12.**—(1) A county court shall, subject to paragraphs (2) to (4) have jurisdiction to hear and determine any action—

- (a) for recovery of land; or
- (b) in which the title to any land comes in question;

[<sup>F17</sup>where the annual value of the land does not exceed—]

[<sup>F17</sup>(i) in the case where it comprises or includes a specified hereditament,<sup>F18</sup> £4,060]; and

(ii) in any other case, £500.]

[<sup>F17</sup>(1A) In this Article and in Articles 13, 14 and 16 “specified hereditament” has the meaning assigned to it by Article 39A(3) of the Rates (Northern Ireland) Order 1977.]

(2) An action for the recovery of land for non-payment of rent (not being an action for overholding) shall not be commenced unless at least one year's rent of the land sought to be recovered remains unpaid immediately before such commencement.

(3) A county court shall have jurisdiction to hear and determine an action for the recovery of any land (irrespective of the amount of the annual value) where—

- (a) at least six months' rent of that land remains unpaid; and
- (b) the tenant has deserted or otherwise abandoned the land leaving any premises thereon unoccupied or the land not farmed in accordance with the rules of good husbandry.

(4) A county court shall have jurisdiction to hear and determine an action by or on behalf of the owner of any land (irrespective of the amount of the annual value) where—

- (a) any person has, by or on behalf of such owner, been put into possession or occupation thereof by permission or as a servant or caretaker or as a tenant strictly at will or on sufferance; and
- (b) that person (or any other person claiming through or under him) neglects or refuses to quit and deliver up possession on demand made by or on behalf of such owner;

but this paragraph shall not prejudice or affect any other remedy available to such owner.

**F17** SR 1997/144

**F18** SR 2003/73

*Injunctions*

**Jurisdiction as respects injunctions**

**13.**—(1) Without prejudice to Article 14, a county court shall have the like jurisdiction as the High Court to grant an injunction with respect or in relation to any property (whether real or personal) or right with respect or in relation to which any proceedings might be brought in a county court.

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(2) Proceedings under this Article in respect of any easement, profit or other right may be brought only where the annual value of the servient tenement<sup>[F19]</sup> does not exceed—]

- <sup>[F19]</sup>(a) in the case where it comprises or includes a specified hereditament,<sup>[F20]</sup> £4,060]; and
- (b) in any other case, £500.]

**F19** SR 1997/144

**F20** SR 2003/73

### *Equity Jurisdiction*

#### **Jurisdiction in equity matters**

**14.** Without prejudice to any other provision of this Order, a county court shall have the like jurisdiction as the High Court to hear and determine any of the following proceedings, that is to say—

- (a) any suit for the administration of the estate of a deceased person where the estate so far as it consists of property other than land does not exceed<sup>[F21]</sup> £45,000] in amount or value and so far as it consists of land does not exceed<sup>[F22]</sup> the appropriate sum] in annual value;
- (b) any suit for the administration of any trust (including a charitable trust) where the trust estate or fund so far as it consists of property other than land does not exceed<sup>[F21]</sup> £45,000] in amount or value and so far as it consists of land does not exceed<sup>[F22]</sup> the appropriate sum] in annual value;
- (c) any suit for possession, sale or redemption of, or for enforcing any mortgage, charge or lien whatsoever upon, lands not exceeding<sup>[F22]</sup> the appropriate sum] in annual value;
- (d) any suit for the specific performance of an agreement for the sale, purchase or letting of any lands, or for the rectification, delivering up or cancelling of any such agreement, where as respects a sale the purchase money does not exceed<sup>[F21]</sup> £45,000] or as respects a letting the annual value of the land does not exceed<sup>[F22]</sup> the appropriate sum];
- (e) any suit for relief against fraud or mistake, where the damage sustained or the value of the subject matter of the suit so far as it consists of property other than land does not exceed<sup>[F21]</sup> £45,000] or the annual value of such subject matter so far as it consists of land does not exceed<sup>[F22]</sup> the appropriate sum];
- (f) any suit for the taking of any partnership account or for the dissolution or winding up of any partnership (whether or not the existence of the partnership is in dispute) where the whole assets of the partnership do not exceed<sup>[F21]</sup> £45,000] in amount or value;
- (g) any proceedings for the partition of land not exceeding<sup>[F22]</sup> the appropriate sum] in annual value;
- (h) any proceedings by a landlord against a tenant to restrain waste (whether or not an account is sought) where the holding does not exceed<sup>[F22]</sup> the appropriate sum] in annual value;
- (i) any proceedings under the Settled Land Acts 1882 to 1890, where the property the subject thereof does not exceed in capital value<sup>[F21]</sup> £45,000] or in annual value<sup>[F22]</sup> the appropriate sum];
- (j) applications under section 17 of the Married Women's Property Act 1882 <sup>[F23]</sup> or section 191 of the Civil Partnership Act 2004], irrespective of the value of the property in dispute;
- (k) any proceedings under the Trustee Act (Northern Ireland) 1958 , where the trust property to which the proceedings relate so far as it consists of property other than land does not



exceed<sup>[F21]</sup> £45,000] in amount or value and so far as it consists of land does not exceed<sup>[F22]</sup> the appropriate sum] in annual value;

- (l) any proceedings relating to the maintenance or advancement or for the protection of the property of an infant where such property so far as it consists of property other than land does not exceed<sup>[F21]</sup> £45,000] in amount or value and so far as it consists of land does not exceed<sup>[F22]</sup> the appropriate sum] in annual value;
- (m) any application by a person claiming to be interested under a deed, will or other written instrument, for the determination of any question of construction arising thereunder, and for a declaration of the rights of the persons interested, where the property to which the application relates so far as it consists of property other than land does not exceed<sup>[F21]</sup> £45,000] in amount or value and so far as it consists of land does not exceed<sup>[F22]</sup> the appropriate sum] in annual value;
- (n) any such application or proceeding as is referred to in section 43(2) of the Administration of Estates Act (Northern Ireland) 1955 .

<sup>[F22]</sup>and for the purposes of this Article the appropriate sum in relation to the annual value of land means—]

<sup>[F22]</sup>(i) in the case where the land comprises or includes a specified hereditament,<sup>[F24]</sup> £4,060]; and

(ii) in any other case, £500.]

<b>F21</b>	SR 1993/282
<b>F22</b>	SR 1997/144
<b>F23</b>	2004 c. 33
<b>F24</b>	SR 2003/73

### *Probate Jurisdiction*

#### **Jurisdiction in contentious probate matters**

**15.** A county court shall, subject to and in accordance with the provisions of Article 12 of the Administration of Estates (Northern Ireland) Order 1979 , have the jurisdiction of the High Court in respect of any contentious matter arising in connection with the grant or revocation of probate or administration.

#### **Power to grant limited administration**

**16.—(1)** Where—

- (a) a person dies concerning whose property any proceedings are pending in a county court; and
- (b) the gross value of his property (exclusive of property to which he was entitled as a trustee and not beneficially) so far as it consists of property other than land does not exceed<sup>[F25]</sup> £45,000] in value and so far as it consists of land<sup>[F26]</sup> does not exceed—]

<sup>[F26]</sup>(i) in the case where the land comprises or includes a specified hereditament,<sup>[F27]</sup> £4,060]; and

(ii) in any other case, £500,]

<sup>[F26]</sup>in annual value] ; and

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- (c) the judge is satisfied that representation has not been raised to him or that no representative is available for the purpose of the proceedings;

the judge may by order in writing under his hand appoint as executor for the purpose only of such proceedings such person as the judge may think fit; and such order shall be made subject to such conditions as to the giving of security and otherwise as the judge may think proper.

(2) A person appointed under paragraph (1) shall for such purpose as aforesaid represent the deceased person as fully and effectually as if that person had died intestate and administration of his estate had been duly granted to the person so appointed.

**F25** SR 1993/282  
**F26** SR 1997/144  
**F27** SR 2003/73

### **Representatives to lodge accounts if required**

17.—(1) The representatives of a deceased person the value of whose estate does not exceed<sup>F28</sup> £45,000] shall, if so required in writing at any time after the expiration of twelve months from the death of that person, by a legatee, devisee, next-of-kin, heir, creditor or other person interested in the estate, make up and lodge in accordance with county court rules a duly verified account setting forth such particulars of the estate as shall be prescribed; and any representative failing to comply with such a requisition shall be guilty of contempt of court.

(2) Every such account shall be preserved among the records of the chief clerk and shall, as against the representative signing it, be evidence of the matters therein set forth.

**F28** SR 1993/282

### *Funds in Court*

#### **Lodgment in court of legacies, etc., of infants and absentees**

18. Where—

- (a) a person who under a decree becomes entitled to a legacy or any sum of money or securities, is an infant or is out of the United Kingdom; or  
 (b) the court is satisfied that the address of any person so entitled cannot be ascertained without undue expense or delay;

the court may order that the legacy, sum or securities be lodged, in accordance with rules made under section 82 of the Judicature (Northern Ireland) Act 1978 , either in the High Court or in the county court.

#### **Payment into court under Trustee Act**

19. Subject to rules made under section 82 of the Judicature (Northern Ireland) Act 1978 , a county court shall have the like jurisdiction as the High Court under section 63 of the Trustee Act (Northern Ireland) 1958 , to receive lodgments of money or securities in the hands or under the control of trustees where the amount or value thereof does not exceed<sup>F29</sup> £45,000], and the said section 63 shall have effect accordingly.

**F29** SR 1993/282

### **Payment into court in administration suits, etc.**

**20.**—(1) In any proceedings for the administration of or otherwise relating to the estate of a deceased person, or relating to any money or securities, in the hands or under the control of trustees, the court may at any time order money or securities to be lodged in court in accordance with rules made under section 82 of the Judicature (Northern Ireland) Act 1978.

(2) Paragraph (1) shall not prejudice or affect the operation of sections 38(5) and 43(2) of the Administration of Estates Act (Northern Ireland) 1955, or any other statutory provision authorising the lodgment of any moneys in a county court.

### **Transfer to county court of money recovered in High Court by infants, etc.**

**21.**—(1) Where in any cause or matter in the High Court money is in any manner recovered by or on behalf of, or adjudged or ordered to be paid to or for the benefit of, a person who is an infant or of unsound mind, the High Court may order the money or any part thereof to be paid into or transferred to the county court of the division in which that person resides or such other county court as the High Court may order.

(2) On the making of any such order, the money or the part thereof to which the order relates shall be paid or transferred according to the order, and shall, subject to any special order or direction of the High Court and to rules made under section 82 of the Judicature (Northern Ireland) Act 1978 be invested, applied or otherwise dealt with for the benefit of the person to whom the order relates in such manner as the county court in its discretion thinks fit.

### *Power to increase Jurisdiction*

#### **Power to increase civil jurisdiction of county courts**

**22.**—(1) If it appears to the Lord Chancellor, after consultation with the Lord Chief Justice, that—

- (a) a sum specified in any of the foregoing provisions of this Part or in Article 30(1) or (3) should be increased, or
- (b) where any other statutory provision limits the jurisdiction of county courts by reference (howsoever expressed) to a sum of money, that sum should be increased,

the Lord Chancellor may<sup>F30</sup> by order, specifying the provision and the sum in question, direct that the provision shall be amended so as to substitute for that sum such larger sum as may be specified in the order.

(2) An order under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

**F30** prosp. insertion by 2005 c. 4

### *Jurisdiction by Agreement in, and Transfer of, Civil Proceedings*

#### **Agreement conferring original civil jurisdiction**

**23.**—(1) Where by any provision of this Order or any other statutory provision the jurisdiction of county courts is limited by reference to any amount of money or value, or annual value, a county court shall, notwithstanding any such limitation but subject to paragraph (3), have jurisdiction to hear and determine any proceedings to which this Article applies.

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(2) This Article does not apply to proceedings under section 57 of the Trustee Act (Northern Ireland) 1958 but, save as aforesaid, this Article applies to proceedings on foot of any contract or agreement being proceedings for a liquidated amount and—

- (a) which but for such limitation as aforesaid would be within the jurisdiction of a county court; and
- (b) as respects which the parties and their respective solicitors have entered into, signed and lodged in the Office before the commencement of the proceedings an agreement that a county court therein specified is to have jurisdiction.

(3) Where an agreement is lodged under paragraph (2) the county court judge may refuse to determine the proceedings to which it relates if in his opinion they involve an important question of law or fact properly triable in the High Court, and where he so refuses shall on the application of any party certify the reason for such refusal.

(4) In any action heard in a county court under this Article the county court shall have the like jurisdiction as the High Court as to the giving of any relief claimed, including (but without prejudice to the generality of this paragraph) the amount of damages that may be awarded.

#### **Procedure in proceedings beyond jurisdiction commenced in county court**

**24.** Where in the course of any proceedings in a county court it appears to the judge that by reason of any statutory provision the proceedings are not within the jurisdiction of that court and ought to have been commenced in the High Court then—

- (a) on the application of any party, or of his own motion, the judge may so certify to the Master (Queen's Bench and Appeals); or
- (b) if the proceedings might have been heard by him by virtue of such an agreement as is referred to in Article 23(2), the judge may if the parties so consent hear and determine those proceedings; or
- (c) if on the application of the defendant it appears to the judge that any plaintiff knew or ought to have known that the proceedings were not within the jurisdiction of the court, he may order the proceedings to be struck out and may in his discretion make such an order as to costs as he might have made if the proceedings had been heard and determined in favour of the defendant.

#### **Transfer from one county court to another**

**25.—(1)** Where in the course of any proceedings in a county court it appears to the judge that by reason of any statutory provision the proceedings are not within the jurisdiction of that court and ought to have been commenced in another county court, he may order the proceedings to be transferred to that other court, and such proceedings shall be heard and determined accordingly by that other court.

(2) If the judge of any court is satisfied that any proceedings in that court can be more conveniently or fairly tried at some other place in the same division or in any other division, he may order those proceedings to be transferred to a court sitting at such other place, and they shall be heard and determined by that court accordingly.

(3) Where any proceedings in which the costs are by virtue of any statutory provision in the discretion of the court are transferred from one county court to another, that discretion shall, subject to any order made by the court which ordered the transfer, or to any relevant agreement between the parties, be exercised by the court by which the proceedings are heard and determined.

### **Actions transferred from courts of summary jurisdiction**

**26.** Any terms imposed by a court of summary jurisdiction in ordering an action to be transferred to a county court under<sup>[F31]</sup> Article 75 of the Magistrates' Courts (Northern Ireland) Order 1981] shall be enforceable in like manner as terms imposed by an order of a county court.

**F31** 1981 NI 26

### *Remittal and Removal*

### **Saving for powers of remittal and removal**

**27.** Nothing in the foregoing provisions of this Part shall prejudice the operation of section 31 of the Judicature (Northern Ireland) Act 1978 (remittal and removal of proceedings).

## **PART IV**

### **APPEALS AND APPLICATIONS TO COUNTY COURTS**

#### **Appeals and applications to county courts**

**28.—**(1) A county court shall have jurisdiction to hear and determine in accordance with county court rules—

- (a) any appeal from an order of a magistrates' court;
- (b) any appeal from or application in respect of an order or determination of any other tribunal, authority, body or person whatsoever;

duly brought under any statutory provision and the decision of the county court shall, except as provided by Article 61, be final and conclusive.

(2) A county court may refuse to allow any appeal grounded solely on any error or omission in a summons, charge, information or other document or in any order or determination, or grounded solely on any other technical defect, not affecting the merits of the case, and may in any case, upon such terms as to costs or otherwise as it may think proper,—

- (a) amend such summons, charge, information or other document for the purpose of making the order or determination conformable with it or of raising the real question at issue and deciding the matter as justice may require; or
- (b) amend the order or other determination and adjudicate thereon as if the error, omission or defect had not happened.

(3) Without prejudice to the powers conferred by section 22 of the Interpretation Act (Northern Ireland) 1954 <sup>[F32]</sup> but subject to section 12(6) of the Criminal Appeal Act 1995], a county court may on an appeal against a conviction or sentence award any punishment, whether more or less severe, than that awarded by the magistrates' court, which that court might have awarded.

<sup>[F33]</sup>(3A) The fact that an appeal is pending against an interim hospital order under the Mental Health (Northern Ireland) Order 1986 shall not affect the power of the magistrates' court that made it to renew or terminate the order or to deal with the appellant on its termination; and where the county court quashes such an order but does not pass any sentence or make any other order in its place the county court may direct the appellant to be kept in custody or released on bail pending his being dealt with by that magistrates' court.

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(3B) Where the county court makes an interim hospital order under the powers referred to in paragraph (3)—

- (a) the power of renewing or terminating the order and of dealing with the appellant on its termination shall be exercisable by the magistrates' court whose decision is appealed against and not by the county court; and
- (b) that magistrates' court shall be treated for the purposes of Article 45(6) of the said Order of 1986 as the court that made the order.]

(4) In this Article “order” includes any conviction, sentence or other order whatsoever of a magistrates' court.

**F32** 1995 c. 35

**F33** 1986 NI 4

## PART V

### SUPPLEMENTAL PROVISIONS RESPECTING JURISDICTION OF COUNTY COURTS

(i)

#### EXERCISE OF JURISDICTION OF COUNTY COURTS

##### **Exercise of jurisdiction of county court**

**29.** Subject to Articles 30 to 33, the jurisdiction and powers conferred on a county court by this Order or any other statutory provision shall be exercised by any judge of the court sitting alone or, to the extent authorised by this Order, any other statutory provision or county court rules, by any officer of the court or by a circuit registrar.

(ii)

#### PROVISIONS SUPPLEMENTAL TO CIVIL JURISDICTION

##### *Exercise of Civil Jurisdiction*

##### **Civil jurisdiction exercisable by circuit registrars**

**30.**—(1) Subject to paragraph (3), any action in which the amount claimed, or the value of specific chattels claimed, does not exceed<sup>[F34]</sup> £5,000 shall, save as otherwise provided by county court rules, be heard and determined by a circuit registrar in accordance with those rules.

<sup>[F35]</sup>(2) Any order, decision or determination made by a district judge under this Article (other than one made in dealing with a claim by way of arbitration under paragraph (3)) shall be embodied in a decree which for all purposes (including the right of appeal under Part VI) shall have the like effect as a decree pronounced by a county court judge.]

(3) Where in any action to which paragraph (1) applies the amount claimed, or the value of specific chattels claimed, does not exceed<sup>[F34]</sup> £2,000 the circuit registrar shall, save as otherwise provided by county court rules, deal with the claim by way of arbitration in accordance with those rules.

<sup>[F35]</sup>(4) Where in any action to which paragraph (1) applies the claim is dealt with by way of arbitration under paragraph (3)—

- (a) any award made by the district judge in dealing with the claim shall be embodied in a decree which for all purposes (except the right of appeal under Part VI) shall have the like effect as a decree pronounced by a county court judge;
  - [ any party may appeal on a question of law to a judge (not being a deputy judge) against
  - <sup>F36</sup>(ab) any order, decision or determination;]
  - (b) the district judge may, and shall if so required<sup>[F36]</sup> by the Court of Appeal, state for the determination of the Court of Appeal any question of law arising out of an award made by the district judge in dealing with the claim unless an appeal on the question has been brought under sub-paragraph (ab);]
  - (c) except as provided by<sup>[F36]</sup> sub-paragraphs (ab) and (b)], any award so made shall be final; and
  - (d) except as otherwise provided by county court rules, no costs shall be awarded in connection with the action.
- [
- <sup>F36</sup>(4A) An appeal under paragraph (4)(ab) shall be brought within the period of twenty-one days commencing with the date on which the order, decision or determination was made; and on such an appeal the judge—
- (a) has the same powers as the district judge; but
  - (b) is not required to hold a hearing;
- and his decision shall be final.]
- (5) Subject to paragraph (4), county court rules may—
- (a) apply any of the provisions of Part I of the Arbitration Act 1996 to arbitrations under paragraph (3) with such modifications as may be prescribed;
  - (b) prescribe the rules of evidence to be followed on any arbitration under paragraph (3) and, in particular, make provision with respect to the manner of taking and questioning evidence.
- (5A) Except as provided by virtue of paragraph (5)(a), Part I of the Arbitration Act 1996 shall not apply to an arbitration under paragraph (3).]
- (6) References in paragraphs (1) and (3) to an amount claimed include references to a balance claimed in the circumstances mentioned in Article 10(1)( a)( b) and ( c).

**F34** SR 2001/67

**F35** 1996 c. 23

**F36** 2002 c. 26

## Arbitration

**31.**—(1) The judge may, with the consent of the parties to any civil proceedings, order the proceedings to be referred to arbitration (whether with or without other matters within the jurisdiction of the court in dispute between the parties) to such person or persons and in such manner and on such terms as he thinks just and reasonable.

- (2) Where any proceedings are referred to arbitration as aforesaid—
  - (a) the arbitrator shall be deemed to be an officer of the court;
  - (b) subject to the order, the arbitrator shall conduct the references in the prescribed manner;
  - (c) the award shall, unless set aside by the judge, have the like effect as a decree pronounced by the judge and shall be embodied in a decree accordingly;

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(d) the remuneration to be paid to the arbitrator shall be determined by the judge, and, subject to any agreement between the parties or order of the judge, be costs in the proceedings.  
*Para. (3) rep. by 1996 c. 23*

### Reference to officer

**32.**—(1) Subject to county court rules the judge may refer to a circuit registrar or an officer of the court for inquiry and report—

- (a) any proceedings requiring any prolonged examination of documents or any scientific or local examination which cannot, in the opinion of the judge, conveniently be made before him;
- (b) any proceedings where the question in dispute consists wholly or partly of matters of account;
- (c) with the consent of the parties, any other proceedings;
- (d) any question arising in any proceedings.

(2) Subject to county court rules, every such reference shall be conducted in accordance with the directions of the judge.

(3) The judge may remit any report for further inquiry and report, and on the consideration of any report or further report may give such judgment or make such order as may seem just.

(4) The judge may, after deciding or reserving any question of liability, refer to a circuit registrar or an officer of the court any mere matter of account which is in dispute between the parties and, after deciding the question of liability, may give judgment on the circuit registrar's or officer's report.

### Assessors

**33.**—<sup>F37</sup>(1) In any proceedings the judge may, if he thinks fit on the application of any party, appoint, in such manner as may be prescribed, a person or persons of skill and experience in the matter to which the proceedings relate who may be willing to sit with the judge and act as assessor or assessors.

(2) The remuneration of persons for acting as assessors shall be at such rate as may be prescribed and unless otherwise ordered by the judge shall be costs in the proceedings.

(3) Where any person is proposed to be appointed as an assessor, objection to him, either personally or in respect of his qualification, may be taken by any party in the prescribed manner.

**F37** mod. by [1984 c. 12](#)

#### Modifications etc. (not altering text)

**C2** [Art. 33\(1\)](#) applied (with modifications) (1.1.2007) by [Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), [reg. 36\(7\)\(a\)](#) (with [regs. 5\(4\)](#), [16\(3\)\(4\)](#), [26](#), [53](#))

### *Extent of Powers of County Court*

#### County court to have powers of High Court

**34.**—(1) A county court in relation to any proceedings within its jurisdiction shall have the like powers as the High Court, and in particular (but without prejudice to the generality of the foregoing words of this paragraph) may—



- (a) grant such relief, redress or remedy or combination of remedies, either absolute or conditional; and
- (b) give such and the like effect to every ground of defence or counterclaim equitable or legal; as ought to be granted or given in the like case by the High Court and in as full and ample a manner.

(2) A judge shall, whether within his division or not, have jurisdiction in any proceedings pending in any court in his division to make any order or to exercise on an ex-parte application any authority or jurisdiction which, if it related to an action or proceeding pending in the High Court, might be made or exercised by a judge of that court in chambers.

(3) In any proceedings in or in relation to which a county court may under any statutory provision exercise the like powers as the High Court, a circuit registrar or his deputy may, subject to county court rules and to any direction of the judge, perform any functions which, if the proceedings had been brought in (or as the case may be had been retained in or removed to) the High Court might have been performed by an officer of the<sup>F38</sup> Supreme Court.

**F38** prosp. subst. by [2005 c. 4](#)

### **Power of High Court to grant injunctions**

**35.** Without prejudice to the powers conferred on county courts by this Order, a party to any proceedings in a county court may during any interval between the sittings of that court apply for an injunction to such judge of the High Court as may be designated by rules of court; and—

- (a) such judge shall have the like power to hear and determine the application as if the proceedings were an action commenced in the High Court; and
- (b) the granting of such an injunction shall not operate to remove the proceedings from the county court to the High Court unless such judge so directs.

### *Institution of Civil Proceedings*

#### **Division of causes of action**

**36.** It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in any one or more than one county court.

#### **No action on judgment of other courts**

**37.** It shall not be lawful for any person to sue in a county court upon a judgment or order of any other court in Northern Ireland but nothing in this Article shall apply to proceedings under [<sup>F39</sup> Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 ].

**F39** [1981 NI 6](#)

### *Parties*

#### **Civil proceedings by and against the Crown**

**38.** Civil proceedings may be instituted in a county court by or against the Crown (whether in right of Her Majesty's Government in the United Kingdom or of Her Majesty's Government in Northern Ireland) in accordance with the relevant provisions of the Crown Proceedings Act 1947 .

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### Capacity of parties

**39.**—(1) Subject to this Order and to county court rules, the capacity of persons or classes of persons to institute or continue proceedings, and the liability of persons or classes of persons to be sued, in a county court shall be the same as in the High Court.

(2) Without prejudice to the generality of paragraph (1)—

- (a) a representative of a deceased person may sue or be sued in like manner as if he were a party in his own right;
- (b) a person rendering himself an executor de son tort may be sued as if he were a rightful executor but shall not be liable beyond the amount of the assets actually received by him;
- (c) a minor may sue as if he were of full age for money due to him under a contract of service or for work done by him;
- (d) no proceedings shall abate by reason of the marriage, death or bankruptcy of<sup>F40</sup>, or the formation of a civil partnership by,] any party, where the cause of action survives or continues, nor by reason of the assignment, creation or devolution of any estate or title *pendente lite*.

**F40** 2004 c. 33

### Third and subsequent parties

**40.**—(1) In any action where—

- (a) a defendant claims to be entitled to contribution or indemnity from or other relief over against another defendant or any person not a party to the action (in this Article referred to as a “third party”);
- (b) a third party makes a like claim against any other person, whether a party to the action or not (in this Article referred to as a “fourth party”),

a county court shall have jurisdiction to grant, subject to county court rules, any such relief as may be granted in the like case by the High Court to a defendant or third party.

(2) Subject to county court rules, the practice and procedure as between a defendant and a third party and as between a third party and a fourth party shall be the same as the practice and procedure as between a plaintiff and defendant.

(3) County court rules shall apply the foregoing provisions of this Article to—

- (a) any action wherein a fourth party makes, as such, a claim against another person not a party to the action; and
- (b) any action wherein any subsequent like claims are made successively.

(4) A party shall not be prejudiced or unnecessarily delayed in the prosecution of his claim by reason of questions between other parties in which he is not concerned.

### *Process*

#### Service of process

**41.** Service of civil bills and other process and documents shall be effected and may be proved in such manner as shall be prescribed.

## Offences in relation to civil process

**42.**—(1) Any person wilfully and corruptly endorsing on a civil bill, or other process or document initiating or relating to any civil proceedings in a county court, any false statement in relation to the service thereof shall be guilty of an offence.

(2) Any person who—

- (a) delivers or causes to be delivered to any other person any paper falsely purporting to be, or to be a copy of, any civil bill or other process of a county court, knowing it to be false; or
- (b) acts or professes to act under any false colour or pretence of the process or authority of a county court;

shall be guilty of an offence.

(3) Any person guilty of an offence under paragraph (1) or (2) shall be liable—

- (a) on conviction on indictment, to imprisonment for any term not exceeding two years;
- (b) on summary conviction, to imprisonment for any term not exceeding six months or to a fine not exceeding<sup>[F41]</sup> level 3 on the standard scale] or to both such imprisonment and such fine.

(4) Without prejudice to paragraph (2), any person who delivers or causes to be delivered to any other person any document which, not having been issued under the authority of a county court, has by reason of its form (including its colour) or contents or both the appearance of having been issued under such authority shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F41]</sup> level 3 on the standard scale].

**F41** 1984 NI 3

<sup>[F42]</sup>Discovery and related procedures

**F42** 1996 NI 3

## Powers of court exercisable before commencement of action

**42A.**—(1) On the application of any person in accordance with county court rules, a county court shall, in such circumstances as may be prescribed, have power to make an order providing for any one or more of the following matters, that is to say—

- (a) the inspection, photographing, preservation, custody and detention of property which appears to the court to be property which may become the subject-matter of subsequent proceedings in the court, or as to which any question may arise in any such proceedings; and
- (b) the taking of samples of any such property as is mentioned in sub-paragraph (a), and the carrying out of any experiment on or with any such property.

(2) On the application, in accordance with county court rules, of a person who appears to a county court to be likely to be a party to subsequent proceedings in that court in which a claim in respect of personal injuries to a person, or in respect of a person's death, is likely to be made, the county court shall, in such circumstances as may be prescribed, have power to order a person who appears to the court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to rise out of that claim—

- (a) to disclose whether those documents are in his possession, custody or power; and

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- (b) to produce to the applicant such of those documents as are in his possession, custody or power.

### **Power of court to order disclosure of documents, inspection of property etc. in proceedings for personal injuries or death**

**42B.**—(1) This Article applies to any proceedings in a county court in which a claim is made in respect of personal injuries to a person, or in respect of a person's death.

(2) On the application, in accordance with county court rules, of a party to any proceedings to which this Article applies, a county court shall, in such circumstances as may be prescribed, have power to order a person who is not a party to the proceedings and who appears to the court to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising out of the said claim—

- (a) to disclose whether those documents are in his possession, custody or power; and
- (b) to produce to the applicant such of those documents as are in his possession, custody or power.

(3) On the application, in accordance with county court rules, of a party to any proceedings to which this Article applies, a county court shall, in such circumstances as may be prescribed, have power to make an order providing for any one or more of the following matters, that is to say—

- (a) the inspection, photographing, preservation, custody and detention of property which is not the property of, or in the possession of, any party to the proceedings but which is the subject-matter of the proceedings or as to which any question arises in the proceedings;
- (b) the taking of samples of any such property as is mentioned in sub-paragraph (a) and the carrying out of any experiment on or with any such property.

(4) The preceding provisions of this Article are without prejudice to the exercise by a county court of any power to make orders which is exercisable apart from those provisions.

### **Provisions supplementary to Articles 42A and 42B**

**42C.**—(1) A county court shall not make an order under Article 42A or 42B if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.

(2) County court rules may make provision as to the circumstances in which an order under Article 42A or 42B can be made.

(3) Without prejudice to the generality of paragraph (2), county court rules shall be made for the purpose of ensuring that the costs of and incidental to proceedings for an order under Article 42A(2) or 42B incurred by the person against whom the order is sought, shall be awarded to that person unless the court otherwise directs.

(4) Articles 42A(2) and 42B and this Article bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland: and Article 42A(1) binds the Crown to the same extent so far as it relates to property as to which it appears to the court that it may become the subject-matter of subsequent proceedings involving a claim in respect of personal injuries to a person or in respect of a person's death.

(5) In Articles 42A and 42B and this Article—

- “property” includes any land, chattel or other corporeal property of any description;
- “personal injuries” includes any disease and any impairment of a person's physical or mental condition.]

## Witnesses

### Subpoenas and commissions for examination of witnesses

43.—(1) For the purpose of any proceedings in a county court the High Court shall have the like power—

- (a) to issue a subpoena;
- (b) to issue a commission, request or order for the examination of witnesses;

as the High Court has for the purpose of any proceedings in that court.

(2) Paragraph (1) shall operate without prejudice to any jurisdiction exercisable by a county court by virtue of Article 14 or any other provision of this Order.

### Evidence of prisoners

44.—(1) Without prejudice to section 16 of the Prison Act (Northern Ireland) 1953, the judge in any proceedings pending in a county court may, if he thinks fit, upon the application of any party in accordance with county court rules, issue an order under his hand for bringing up before the court any person (in this Article referred to as a “prisoner”) confined in any prison or place under any sentence or under commitment for trial or otherwise to be examined as a witness in the proceedings.

(2) Subject to paragraph (3), a prisoner shall be brought before the court in the like custody and be dealt with in all respects in the like manner as a prisoner brought before and examined as a witness in the High Court by virtue of a writ of habeas corpus.

(3) A prison governor shall not be bound to obey the order unless there is tendered to him a reasonable sum for the conveyance and maintenance of any proper officers and of the prisoner in going to, remaining at and returning from the court.

## Decrees

### Decrees

45.—(1) Every decree of a county court shall, except as provided by Part VI or any other statutory provision or county court rules, be final and conclusive between the parties.

(2) If at any time before the creditor has applied to the Enforcement of Judgments Office under [F43 Article 22 or Article 23 of the Judgments Enforcement (Northern Ireland) Order 1981 ] to enforce the decree it appears to the satisfaction of the judge that any party to any proceedings is unable from any cause to pay any sum decreed against him, the judge may in his discretion stay the execution of the decree for such time and on such terms as the judge thinks fit.

F43 1981 NI 6

### [F44] Interest on debts and damages

45A.—(1) Subject to county court rules, in proceedings (whenever instituted) before a county court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as county court rules may provide, on all or any part of the debt or damages in respect of which judgment is given, or payment is in respect of which judgment is given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—

- (i) in the case of any sum paid before judgment, the date of the payment; and

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- (ii) in the case of the sum for which judgment is given, the date of the judgment.
- (2) Subject to the rules of court, where—
- (a) there are proceedings (whenever instituted) before the High Court for the recovery of a debt; and
  - (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),
- the defendant shall be liable to pay the plaintiff simple interest at such rate as the court thinks fit or as rules of court may provide on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.
- (3) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.
- (4) Without prejudice to the generality of section 55, rules of court may provide for a rate of interest by reference to a rate for which any other enactment provides.
- (5) Interest under this section may be calculated at different rates in respect of different periods.
- (6) In this section “plaintiff” means the person seeking the debt or damages and “defendant” means the person from whom the plaintiff seeks the debt or damages.
- (7) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.]

F44 1982 c. 53

(iii)

## PROVISIONS SUPPLEMENTAL TO BOTH CIVIL AND CRIMINAL JURISDICTION

### *Practice and Procedure*

#### **County court rules committee**

**46.**—(1) There shall be a committee known as the County Court Rules Committee (in this Order referred to as “the Rules Committee”) which shall<sup>F45F45F46</sup> be appointed by the<sup>F46</sup> Lord Chancellor and shall consist of—

- (a) three county court judges (of whom one shall be the chairman);
- (b) two barristers-at-law;
- (c) two solicitors;
- (d) one circuit registrar;
- (e) one chief clerk; and
- (f) one other person.

<sup>F47</sup>(2) Nothing done by the Rules Committee shall be invalid by reason only of a vacancy among the members thereof.

(3) The Rules Committee shall have power to regulate its own quorum and procedure.

(4) The secretary of the Rules Committee shall be such person as the Lord Chancellor shall from time to time designate.

(5) The Rules Committee for the purpose of performing its functions may incur such expenses as may be approved by the Lord Chancellor.

- F45 prosp. subst. by 2002 c. 26
- F46 prosp. subst. by 2005 c. 4
- F47 prosp. insertion by 2005 c. 4

### **Making of county court rules**

47.—(1) For the purposes of or in relation to any jurisdiction exercisable by county courts, any such rules as are referred to in section 21(1) and (2) of the Interpretation Act (Northern Ireland) 1954 or Article 48 may—

- (a) be made by the Rules Committee in accordance with Article 46 and the following provisions of this Article; and
- (b) be known as “county court rules”.

<sup>F48</sup>(2) County court rules made by the Rules Committee shall—

- (a) be certified under the hand of the members of the Rules Committee, or any three or more of them; and
- (b) when certified under sub-paragraph ( a ), be submitted to the Lord Chancellor who, after consultation with the Lord Chief Justice, may allow, disallow or alter them.

<sup>F48</sup>(3) County court rules made by the Rules Committee, as allowed or altered by the Lord Chancellor, shall come into operation on such date as the Lord Chancellor may direct.

- F48 prosp. subst. by 2005 c. 4

### **Powers of Rules Committee**

48. Without prejudice to the generality of section 21 of the Interpretation Act (Northern Ireland) 1954, the Rules Committee may, notwithstanding anything in any statutory provision, make county court rules with respect—

- (a) to all matters of procedure or practice, or matters relating to or concerning the effect or operation in law of any procedure or practice, in any civil proceedings within the jurisdiction of county courts as to which rules of court have been or might lawfully be made for proceedings within the cognizance of the High Court;
- (b) without prejudice to the generality of paragraph ( a )—
  - (i) to prescribing the circumstances in which civil proceedings may be transferred from one court to another, and the procedure preliminary to and consequent upon such transfer;
  - (ii) to authorising any civil actions in which the defendant fails to appear at the hearing or admits the claim to be heard and determined by the prescribed officer or by a circuit registrar;
  - (iii) to authorising a decree to be obtained through the Office in any action in which, if it had been brought in the High Court, the plaintiff could have obtained judgment by default;
  - (iv) to providing that in such cases or classes of case as may be prescribed the costs are to be in the discretion of the judge;
- (c) to regulating matters of practice, procedure and costs in cases within the appellate jurisdiction of county courts;

*Status: Point in time view as at 01/01/2006.*

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- (d) to regulating or providing for any matter which immediately before 1st April 1960 was regulated or provided for or authorised by any statutory provision to be regulated or provided for by county court rules or county court orders;
- (e) to the amendment or repeal of any statutory provision relating to or affecting practice or procedure in the county court.
- [<sup>F49</sup>(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.]

**F49** 1982 c. 27

### Application of High Court practice

**49.** In any case not expressly provided for by or under this Order the practice and procedure of the High Court in like matters shall be followed by a county court with such modifications as the judge may in any particular case permit or direct.

### Right of audience

**50.**—(1) In any proceedings in a county court the right of audience shall extend only to—

- (a) any party to the proceedings;
- (b) a barrister-at-law retained by or on behalf of any party;
- (c) a solicitor acting generally in the proceedings for a party thereto, or a solicitor employed by one so acting, but not a solicitor retained as an advocate by a solicitor so acting;
- (d) any other person (including another solicitor) allowed by leave of the court in special circumstances to appear instead or on behalf of any party.

(2) Paragraph (1) shall be construed subject to Article 5 of the European Communities (Services of Lawyers) Order 1978 .

### Powers as respects solicitors

**51.** A county court shall have the like power to enforce an undertaking given by a solicitor in relation to any proceedings in that court as the High Court has to enforce an undertaking so given in relation to any proceedings in the High Court.

*Art. 52 rep. by SR 1982/192*

### Interpreters and shorthand-writers

**53.**—(1) Where a judge is satisfied that the services of an interpreter or a shorthand-writer are necessary or expedient for the doing of justice between the parties to any proceedings before him, he may, subject to directions given by the Lord Chancellor, appoint as interpreter or as shorthand-writer in those proceedings any person appearing to him to be properly qualified.

(2) The remuneration and expenses of any person appointed as aforesaid shall be in accordance with such scale as may be fixed by the Lord Chancellor with the approval of the Minister for the Civil Service.

#### Modifications etc. (not altering text)

- C3** [Art. 53](#): functions of Treasury or Minister for the Civil Service transferred to Department of Finance and Personnel (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice](#)



Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(4)(c)** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

### *Contempt of Court, etc.*

#### **Refusal to appear, be sworn or give evidence**

**54.**—(1) Any person summoned in accordance with county court rules as a witness in a civil action or matter in a county court to whom at the time of the service of the summons there is paid or tendered such sum as may be prescribed in respect of his expenses (including in such cases as may be prescribed compensation for loss of time)—

- (a) who refuses or neglects without sufficient cause to appear or to produce any documents required by the summons to be produced; or
- (b) refuses to be sworn or give evidence;

shall be guilty of a contempt of the court.

(2) Any person present in court who being required to give evidence refuses to be sworn or give evidence shall be guilty of a contempt of the court.

(3) A person guilty of contempt of court under this Article shall, without prejudice to paragraph (4), be liable to the penalties provided by Article 55(2).

(4) The judge imposing a fine for any contempt under this Article may, notwithstanding anything in any statutory provision, order the whole or part of the amount thereof to be applied towards indemnifying the party injured by the refusal or neglect.

(5) Paragraphs (1) to (4) shall apply to a debtor summoned under [<sup>F50</sup> Article 108 of the Judgments Enforcement (Northern Ireland) Order 1981 ] in like manner as they apply to a person summoned as a witness.

(6) Paragraphs (1) to (3) shall, in like manner as they apply to a person summoned as a witness in a civil action, apply to a person summoned in accordance with county court rules as a witness in proceedings in the county court consequent on an appeal to it under [<sup>F51</sup> Article 140, 141 or 142 of the Magistrates' Courts (Northern Ireland) Order 1981] and where a person is so summoned in such proceedings by the Crown shall apply with the omission in paragraph (1) of the words from “to whom” to “of time”.

(7) Subject to the foregoing provisions of this Article, a county court shall in relation to witnesses in any proceedings before it have the like powers as are exercisable by the High Court in any proceedings before that court.

**F50** 1981 NI 6  
**F51** 1981 NI 26

#### **Contempt of court**

**55.**—(1) If any person—

- (a) wilfully insults or acts contumaciously towards the judge of a county court, or a circuit registrar, or any witness, or any officer of the court during his sitting or attendance in court, or in going to or returning from the court; or
- (b) wilfully interrupts the proceedings of a county court or otherwise misbehaves in court;

he shall be guilty of a contempt of the court.

**Status:** Point in time view as at 01/01/2006.

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(2) Where by virtue of any provision of this Order a person is guilty of contempt of court, any officer of the court or constable, with or without the assistance of any other person, may by order of the judge take the offender into custody and detain him until the rising of the court, and the judge may, if he thinks fit, impose on the offender a fine<sup>[F52]</sup> not exceeding<sup>[F53]</sup> £2,500] in respect of every offence, and in addition or alternatively may by warrant under his hand commit the offender to prison for<sup>[F52]</sup> a specified period] not exceeding one month.

(3) Any act which under paragraph (1) is a contempt of court shall be a contempt of court if committed during the hearing of or in relation to any proceedings heard or to be heard by a judge in chambers or a circuit registrar or by an officer (whether under county court rules or by direction of the judge) and, subject to county court rules, that paragraph shall have effect accordingly.

(4) Without prejudice to the powers conferred on county courts by <sup>[F54]</sup> Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 ] or any other statutory provision, a county court shall have the like powers and authorities as the High Court with respect to the enforcement of any decree which, if it were made in any proceedings in the High Court, could be enforced in that court by committal.

**F52** 1981 c. 49  
**F53** 1994 NI 15  
**F54** 1981 NI 6

### Miscellaneous

#### Affidavits

**56.**—(1) An affidavit to be used in a county court may be sworn before the judge, a circuit registrar, a commissioner for oaths, a justice of the peace or any officer of the court designated for the purpose by the<sup>F55F56</sup> Lord Chancellor.

(2) An affidavit sworn before a judge or any officer may be sworn without payment of any fee.

**F55** prosp. subst. by 2002 c. 26  
**F56** prosp. subst. by 2005 c. 4

#### Evidence of records

**57.** Any entry in a book or other document prescribed for the purpose of keeping a record of or in relation to any proceedings in a county court, or a copy of such an entry authenticated in the prescribed manner, shall at all times without further proof be admitted as evidence of the entry and of the proceedings thereby referred to and of the regularity of those proceedings.

#### Information to be furnished to Lord Chancellor

**58.** Each chief clerk<sup>F57</sup> . . . shall, in relation to his functions under this Order, furnish to the Lord Chancellor such information as may be prescribed or required by the Lord Chancellor<sup>F58F59</sup>.

**F57** SR 1982/192  
**F58** prosp. insertion by 2002 c. 26  
**F59** prosp. insertion by 2005 c. 4

### **County court seal**

**59.**—(1) There shall be a seal for each county court which shall be kept in the custody of an officer of the court designated by the Lord Chancellor and shall be impressed and authenticated in the prescribed manner on every decree of the court, and on such other instruments or documents as may be prescribed.

(2) Any decree, instrument or document duly sealed with the county court seal and every duly authenticated document issued by the High Court on or in connection with any county court proceedings or any appeal therefrom shall be received in evidence.

## **PART VI**

### **APPEALS FROM AND CASES STATED BY COUNTY COURTS**

#### *Appeals*

#### **Ordinary appeals from the county court in civil cases**

**60.**—(1) Any party dissatisfied with any decree of a county court made in the exercise of the jurisdiction conferred by Part III may appeal from that decree to the High Court.

*Para. (2) rep. by SR 1980/346*

(3) The decision of the High Court on an appeal under this Article shall, except as provided by Article 62, be final.

#### **Cases stated by county court judge**

**61.**—(1) Except where any statutory provision provides that the decision of the county court shall be final, any party dissatisfied with the decision of a county court judge upon any point of law may question that decision by applying to the judge to state a case for the opinion of the Court of Appeal on the point of law involved and, subject to this Article, it shall be the duty of the judge to state the case.

(2) An application under paragraph (1) shall be made in writing by delivering it to the chief clerk within a period of <sup>F60</sup> twenty-one days] commencing on the date on which the decision was given and a copy shall be served on the other party.

(3) Within a period of fourteen days commencing on the date on which the chief clerk despatches to the applicant the case stated (such date to be stamped by the chief clerk or by a member of his office staff on the front of the case stated) the applicant shall transmit the case stated to the Master (Queen's Bench and Appeals) and serve on the respondent a copy of the case stated with the date of transmission endorsed thereon.

(4) If the county court judge is of opinion that an application under paragraph (1) is frivolous, vexatious or unreasonable he may, subject to paragraphs (5) and (6), refuse to state a case and, if the applicant so requires, shall give him a certificate stating that the application has been refused on the grounds stated in the certificate.

(5) The county court judge shall not refuse to state a case upon an application made to him by or on behalf of the Attorney-General with respect to any question arising on or in connection with any appeal or application to which Article 28 applies.

(6) Where a county court judge refuses to state a case or fails to state a case within such time as may be prescribed by county court rules, the applicant may apply to a judge of the Court of Appeal for an order directing the county court judge to state a case within the time limited by the order, and the judge of the Court of Appeal may make such order as he thinks fit.

*Status: Point in time view as at 01/01/2006.*

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(7) Except as provided by section 41 of the Judicature (Northern Ireland) Act 1978, the decision of the Court of Appeal on any case stated under this Article shall be final.

**F60** 2002 c. 26

### [<sup>F61</sup> Appeals from decisions under Part I of Arbitration Act 1996

**61A.**—(1) Article 61 does not apply to a decision of a county court judge made in the exercise of the jurisdiction conferred by Part I of the Arbitration Act 1996.

(2) Any party dissatisfied with a decision of the county court made in the exercise of the jurisdiction conferred by any of the following provisions of Part I of the Arbitration Act 1996, namely—

- (a) section 32 (question as to substantive jurisdiction of arbitral tribunal);
- (b) section 45 (question of law arising in course of arbitral proceedings);
- (c) section 67 (challenging award of arbitral tribunal: substantive jurisdiction);
- (d) section 68 (challenging award of arbitral tribunal: serious irregularity);
- (e) section 69 (appeal on point of law),

may, subject to the provisions of that Part, appeal from that decision to the Court of Appeal.

(3) Any party dissatisfied with any decision of a county court made in the exercise of the jurisdiction conferred by any other provision of Part I of the Arbitration Act 1996 may, subject to the provisions of that Part, appeal from that decision to the High Court.

(4) The decision of the Court of Appeal on an appeal under paragraph (2) shall be final.]

**F61** 1996 c. 23

### Cases stated by High Court on appeal from county court

**62.**—(1) The High Court may, upon the application of a party, state a case for the opinion of the Court of Appeal upon a point of law arising on an appeal under Article 60.

(2) The decision of the Court of Appeal upon a case stated under this Article shall be final.

### *Supplemental provisions*

### Special provisions as to cases stated under Article 61 on appeal from magistrates' court

**63.**—(1) Subject to this Article, a person applying to a county court judge to state a case upon a decision made on appeal from a magistrates' court shall, before the case is stated and delivered to him—

- (a) if the judge so directs enter, before a resident magistrate or justice of the peace having jurisdiction in the county court division in which the county court sat, into a recognizance with or without sureties, in such sum as the resident magistrate or justice of the peace considers proper having regard to the means of the applicant, conditioned to prosecute the case stated without delay and to submit to the judgment of the Court of Appeal and pay such costs as may be awarded by that court; and
- (b) pay—
  - (i) to the chief clerk for and in respect of the case stated;

(ii) to the clerk of petty sessions for and in respect of any such recognizance:

such fees as may be fixed under section 116 of the Judicature (Northern Ireland) Act 1978 .

(2) Paragraph (1) shall not apply where the applicant is a public or local authority or an officer of a public or local authority acting as such or is a constable acting as such.

(3) Where the applicant is in custody, the county court judge may order that he be released upon a recognizance entered into under paragraph (1) and further conditioned for his appearance before the county court at the next sitting of that court after the judgment of the Court of Appeal has been given and to abide such judgment unless the decision appealed against is reversed.

(4) Without prejudice to section 16 of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1958 , any such recognizance as is referred to in paragraph (3) may be entered into before the governor or deputy governor of the prison in which the applicant is in custody.

(5) Where the county court judge refuses to release the applicant or the applicant considers the amount of the recognizance excessive, the applicant may apply to a judge of the High Court to release him, or to reduce the amount of the recognizance.

(6) An application under paragraph (5) shall be made in like manner as an application for bail by a person who has been committed for trial in custody and on any such application the judge may release the applicant from custody on such conditions and fix the amount of the recognizance at such sum as the judge thinks fit.

(7) Where any of the conditions of a recognizance entered into under this Article have not been complied with, the resident magistrate or justice of the peace who fixed the amount of the recognizance or any other resident magistrate or justice of the peace having jurisdiction in the place where the recognizance was taken, shall certify upon such recognizance in what respect the conditions thereof have not been observed and transmit the same to the chief clerk for the county court division in which the recognizance was taken, to be proceeded upon in like manner as other recognizances forfeited at the county court may by law be enforced; and such certificate shall be sufficient prima facie evidence of the said recognizance having been forfeited.

### **Powers of appellate court**

**64.** Without prejudice to the generality of section 22 of the Interpretation Act (Northern Ireland) 1954 , upon the hearing of any appeal under this Part (including an appeal by way of case stated), the appellate court may—

- (a) adjourn the hearing from time to time;
- (b) draw any inference of fact which might have been drawn or give any judgment or make any order which might have been given or made by the county court;
- (c) remit the proceedings for rehearing and determination by the county court;
- (d) where the appeal is by case stated, amend the case stated or remit it, with such declarations or directions as the appellate court may think proper, for hearing and determination by the county court or for re-statement or amendment or for a supplemental case to be stated thereon;
- (e) make such order as to costs incurred in the appeal and in the proceedings in the county court as the appellate court thinks fit;
- (f) make such other order as may be necessary for the due determination of the appeal.

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### **Single mode of appeal in all cases**

**65.**—(1) A party giving notice of appeal under Article 60 shall be deemed to have abandoned any right to apply under Article 61 for a case to be stated by the county court judge in respect of the same decree.

(2) Where an application under Article 61 for a case to be stated has been granted, any other right of the applicant to appeal (including any right to appeal under Article 60) in respect of the same decision shall cease.

(3) Where two or more parties to the same proceedings apply under Article 61 to a county court judge to state a case, the judge, subject to Article 61(4), shall state a single case only.

(4) Where two or more parties proceed to question the decision of a county court judge the manner of questioning such decision shall unless the parties otherwise agree, be by single appeal under Article 60 in such manner and subject to such conditions as may be prescribed by rules of court.

### **Practice and procedure**

**66.**—(1) County court rules may provide for the practice and procedure to be followed upon an application to state a case under Article 61 up to and including the transmission of the case to the Master (Queen's Bench and Appeals).

(2) Without prejudice to section 21 of the Interpretation Act (Northern Ireland) 1954 or to section 55 of the Judicature (Northern Ireland) Act 1978 but subject to the provisions of this Part, rules of court may provide for—

- (a) the lodgment of appeals under Article 60 (including the manner in which and the persons upon whom notice of appeal is to be served);
- (b) the manner in, and time within, which an application to state a case under Article 62 is to be made, and the case is to be prepared;
- (c) the security to be given by an appellant for the due prosecution of an appeal (including an appeal by way of case stated other than where the appellant has been directed to enter into a recognizance under Article 63);
- (d) the stay of execution or suspension of a decree pending an appeal (including an appeal by way of case stated);
- (e) the abandonment of such an appeal;
- (f) the costs which may be awarded upon the hearing or are to be recoverable upon the abandonment of such an appeal;
- (g) any other matter incidental to such an appeal.

## **PART VII**

### **FINANCIAL AND SUPPLEMENTARY PROVISIONS**

#### **Financial provisions**

**67.** There shall be defrayed out of moneys provided by the Parliament of the United Kingdom all expenses incurred in carrying this Order into effect, and in particular (but without prejudice to the generality of the foregoing words)—

- (a) the remuneration and expenses of interpreters and shorthand-writers appointed under Article 53;
- (b) any expenses incurred by the County Court Rules Committee.

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## **Amendments**

**68.**—(1) Any statutory provision conferring jurisdiction (other than original criminal jurisdiction) on, or otherwise referring to any such jurisdiction of,—

- (a) a civil bill court, a court of quarter sessions, general quarter sessions, general sessions of the peace, justices in quarter sessions, a recorder's court or sessions of the peace for a county shall be construed as referring to a county court exercising the jurisdiction so conferred or referred to or a like jurisdiction conferred by any other statutory provision;
- (b) a chairman of quarter sessions, an assistant barrister or a recorder of a borough shall be construed as referring to a county court judge presiding over a court in the exercise of such jurisdiction as aforesaid.

*Para. (2), with Schedule 1, effects amendments*

## **Transitional provisions and repeals**

**69.**—(1) The transitional provisions set out in Schedule 2 shall have effect.

*Para. (2), with Schedule 3, effects repeals*

**Status:** Point in time view as at 01/01/2006.

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## *Schedule 1—Amendments*

### SCHEDULE 2

Article 69(1).

#### TRANSITIONAL PROVISIONS

1. All rules and orders regulating proceedings in county courts made, or having effect as if made, under the County Courts Act (Northern Ireland) 1959 and in force at the commencement of Article 47 and (in so far it is not inconsistent with the provisions of this Order) any procedure provided for by any statutory provision repealed by that Act, shall continue in force and have effect as if they had been provided for under that Article until amended, revoked or repealed by county court rules made under that Article.

2. Where any statutory provision passed or made before 1st April 1960 requires or authorises the making of rules in relation to any proceeding or matter whatsoever in the county courts, the functions conferred by that provision shall be performed in accordance with Articles 46 and 47, and that provision shall have effect accordingly.

#### *Para. 3 spent*

4. As from such date as may be specified for the purposes of this paragraph by an order made by the Secretary of State—

- (a) Article 14 of this Order shall have effect as if in paragraph (a) for the words from “where” onwards there were substituted the words “where, at the date of his death, the property included in his net estate (that is to say, all property of which he had power to dispose by his will, otherwise than by virtue of a special power of appointment, less the amount of his funeral, testamentary and administration expenses, debts and liabilities, including any capital transfer tax or estate duty payable out of his estate on his death) did not exceed £15,000 in value;”;
- (b) Article 16 of this Order shall have effect as if in paragraph (1)(b) for the words from “his property” to “beneficially” there were substituted the words “the property included in his estate (that is to say, all property of which he had power to dispose by his will, otherwise than by virtue of a special power of appointment)”.

5. Nothing in this Schedule prejudices the operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 .

## *Schedule 3#Repeals*



**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

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