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## STATUTORY INSTRUMENTS

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# 1980 No. 397

## County Courts (Northern Ireland) Order 1980

### PART V

#### SUPPLEMENTAL PROVISIONS RESPECTING JURISDICTION OF COUNTY COURTS

(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>F1F2</sup> be appointed by the<sup>F2</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>F3</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.

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|-----------|---|
| <b>F1</b> | prosp. subst. by <a href="#">2002 c. 26</a>   |
| <b>F2</b> | prosp. subst. by <a href="#">2005 c. 4</a>    |
| <b>F3</b> | prosp. insertion by <a href="#">2005 c. 4</a> |

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## **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>F4</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>F4</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.

<p><b>F4</b> prosp. subst. by <a href="#">2005 c. 4</a></p>
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## **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;
- (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>F5</sup>(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.]

F5 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)

- C1 [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)**

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### *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>F6</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>F7</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.

<b>F6</b>	1981 NI 6
<b>F7</b>	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.

(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>F8</sup> not exceeding [<sup>F9</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>F8</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>F10</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.

**F8** 1981 c. 49  
**F9** 1994 NI 15  
**F10** 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>F11F12</sup> Lord Chancellor.

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

**F11** prosp. subst. by 2002 c. 26  
**F12** 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>F13</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>F14F15</sup>.

**F13** SR 1982/192  
**F14** prosp. insertion by 2002 c. 26  
**F15** 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

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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.

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