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## STATUTORY INSTRUMENTS

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# 1980 No. 397

## County Courts (Northern Ireland) Order 1980

### 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.

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

- C1** Art. 60 applied (11.1.2015) by [The Civil Jurisdiction and Judgments \(Protection Measures\) Regulations 2014 \(S.I. 2014/3298\)](#), regs. 1(4), **3(5)**
- C2** Art. 60 applied by 2003 c. 31, Sch. 2 para. 27(1)(2) (as inserted (17.7.2015) by [Serious Crime Act 2015 \(c. 9\)](#), ss. **73(2)**, 88(1) (with s. 86(14)(15)); S.I. 2015/1428, reg. 2(a))
- C3** Art. 60 applied (4.3.2016) by [The Recall of MPs Act 2015 \(Recall Petition\) Regulations 2016 \(S.I. 2016/295\)](#), regs. 1, **129(4)**
- C4** Art. 60 applied (4.3.2016) by [Recall of MPs Act 2015 \(c. 25\)](#), s. 24(3), **Sch. 3 para. 12(7)**; S.I. 2016/290, reg. 2
- C5** Art. 60 applied (4.3.2016) by [Recall of MPs Act 2015 \(c. 25\)](#), s. 24(3), **Sch. 3 para. 11(6)**; S.I. 2016/290, reg. 2
- C6** [Art. 60](#) applied by 2003 c. 21, Sch. 3A para. 98 (as inserted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 1** (with Sch. 2); S.I. 2017/1286, reg. 2(b))

##### **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>F1</sup> twenty-one days] commencing on the date on which the decision was given and a copy shall be served on the other party.

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(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.

(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.

F1 2002 c. 26

## [<sup>F2</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.]

F2 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<sup>F3</sup>..., 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, [<sup>F4</sup>a district judge (magistrates' courts) or lay magistrate] , shall certify upon such recognizance in what respect the conditions thereof have not been observed and transmit the same to the chief clerk<sup>F5</sup>..., 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.

**F3** Words in art. 63(1)(a) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 80(10)(a), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F4** Words in art. 63(7) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 80(10)(b) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)

**F5** Words in art. 63(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 80(10)(b), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

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### **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.

### **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.

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**Changes and effects yet to be applied to :**

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)