
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 55

Costs

APPENDIX 2

Decrees to carry costs

1. A decree granted by a county court shall, except as otherwise provided by any statute or rule, carry such costs as are provided by this Order.

Scales of costs

2. Subject to Rule 7(2), in all actions, suits and matters and other proceedings commenced on or after the 1st January 1980, there shall be payable—

- (a) to counsel and solicitors, costs according to the scales set out in Appendix 2 and subject to the provisions hereinafter in this Order specified;
- (b) to or in respect of witnesses; fees and expenses subject to the provisions hereinafter in Rule 6 specified.

Party and party costs

3.—(1) The above-mentioned costs, fees and expenses together with all court and service fees shall be payable between party and party.

(2) Where in any proceedings a decree is given for the plaintiff against one or more but not all the defendants, the judge may in his discretion either—

- (a) order the unsuccessful defendant or defendants to pay the costs of the successful defendant or defendants; or
- (b) order the plaintiff to pay the costs of the successful defendant or defendants and add those costs to the costs which the unsuccessful defendant is ordered to pay to the plaintiff;

and an order under sub-paragraph (b) shall be in Form 263.

Value added tax

4. In addition to the costs, fees and expenses referred to in Rule 2 a successful party may, as between party and party (except where the proceedings are by summary or default civil bill or by ordinary civil bill which is undefended) recover a sum equivalent to the value added tax at the appropriate rate on so much of the amount of those costs, fees and expenses as were incurred in

respect of any taxable supply of goods or services within the meaning of Part I of the Finance Act 1971(1); but only in so far as the tax is not deductible as input tax by the successful party.

Solicitor and client costs

5.—(1) As between solicitor and client the solicitor for the plaintiff shall be entitled to the above-mentioned costs and also to be reimbursed all outlay reasonably incurred, and his costs shall—

- (a) where they are referable to any scale based on a specific sum claimed or awarded, be calculated upon the amount claimed and not upon the amount awarded and, in a remitted action, as if a sum of £2,006 had been claimed;

Provided that—

- (i) where in any case it appears that the amount claimed in the county court or, in a remitted action, the issue of a writ, was not reasonable and proper and was not in accordance with the instructions received by the solicitor from his client, such proportionately less sum may be allowed, whether for outlay or for costs, as may be appropriate; and
- (ii) credit shall be given to the client for any party and party costs actually received by his solicitor.
 - (b) where in the exercise of his discretion the judge makes a special order as to costs, be calculated in accordance with the order.

(2) As between solicitor and client the solicitor for the defendant shall be entitled to make such reasonable charges as are appropriate to work in the county court and in relation to remitted actions to work in both the High Court and county court having regard to the nature and importance of the case to his client, the time spent, and the amount of money or the property involved, after giving credit to the client for any party and party costs actually received by the solicitor. In preparing his bill the solicitor shall take into account the relevant county court scales, both on amount awarded and on amount claimed, having regard to the degree of responsibility necessarily assumed by him in the interest of his client.

Witnesses' fees and expenses

6. Without prejudice to any discretion exercisable by the Taxing Master of the Supreme Court under the Solicitors (Ireland) Act 1849(2), there may be allowed to or in respect of witnesses such fees and expenses as the judge shall in his discretion think just.

Exercise of discretion in respect of costs

7.—(1) In any suit or proceedings for which no scale of costs is prescribed, the amount of costs shall be in the discretion of the judge.

(2) Where, in any suit or proceedings for which a scale of costs is prescribed, the judge is satisfied that any party has unreasonably and for the primary purpose of increasing his costs included in his claim an amount in respect of any undisputed loss or damage, the judge may reduce the amount of costs payable to that party by such amount as he shall think fit.

Exercise of discretion in absence of party

8. Any discretion exercisable by the judge as to the amount to be allowed for any fees or costs may be exercised notwithstanding that the party liable to pay such fees or costs is not present or represented.

(1) 1972 c. 41

(2) 1849 c. 53

Taxation of costs

9.—(1) All costs in equity suits or proceedings shall in default of agreement, and subject to Order 44, Rule 1, be taxed by the circuit registrar, subject to the revision of such taxation by the judge.

(2) In taxing costs incurred in the High Court in any suit or action previous to the remittal thereof to the county court, or during the progress thereof, the circuit registrar shall tax those costs when required by the judge according to the costs and fees payable in the High Court, subject to revision by the judge.

(3) In any taxation of costs, whenever items appear for disbursement, they shall be vouched in such manner as the taxing officer considers proper, subject to the decision of the judge appealed to.

(4) With respect to any costs and allowances which are discretionary, the officer on taxation shall take into consideration the amount or value of the subject matter of the suit and the general nature and circumstances of the particular case as well as the work actually done.

(5) In addition to the amount of costs allowed to a party on taxation in respect of the supply of goods or services on which value added tax is chargeable, there may be allowed as a disbursement a sum equivalent to value added tax at the appropriate rate on that amount in so far as the tax is not deductible as input tax by that party.

(6) Where any party seeks to have the taxation of costs reviewed by the judge, he shall serve on the circuit registrar notice of the items to which he objects.

Counterclaim

10.—(1) Where both claim and counterclaim are dismissed, as between party and party each decree shall carry costs on the scale of a defendant's costs of a dismiss on the amount claimed. Provided that the judge may direct that one decree only shall issue for the difference, if any, between the costs of the parties, or if such costs are of the same amount that no decree shall issue.

(2) Where both the claim and the counterclaim are established, then, subject to (3) hereof, as between party and party each decree shall carry costs on the scale appropriate to the amount decreed.

(3) Where both the claim and counterclaim are established and a balance is decreed in accordance with Rule 8(1) of Order 25 then, in the absence of any special order by the judge under paragraph (2) of such Rule, the costs as between the parties shall be in accordance with the scale appropriate to such balance as decreed.

(4) Where a plaintiff succeeds on his claim and a counterclaim against him is dismissed, or where a defendant succeeds on his counterclaim and the claim against him is dismissed, the judge shall upon application at the hearing decide what proportion (if any) of the scale costs appropriate to a dismiss on the amount claimed in the unsuccessful suit shall be payable to the successful party by way of additional costs occasioned by the defence of the other party's claim, and such costs (if any) shall be added to the scale costs on the amount decreed.

(5) As between solicitor and client, subject to Rule 5 of this Order, the solicitor shall be entitled to such additional costs as are appropriate to any additional work or responsibility occasioned by the prosecution or the defence of the counterclaim; but" he shall not be entitled to additional costs on the counterclaim in respect of any item common to both claim and counterclaim.

(6) In this Rule the expression "costs" includes any witnesses expenses allowed by the judge.

Undefended proceedings

11.—(1) For the purpose of this Order proceedings shall be treated as undefended if—

(a) no defence is entered and the defendant—

(i) fails to appear at the hearing; or

(ii) appears at the hearing (whether personally or by a solicitor) for the purpose only of requesting that time be allowed for the payment of such amount; or

(b) the judge in any special circumstances so directs.

(2) Notwithstanding anything in paragraph (1), in an undefended action for damages the judge may direct that the plaintiffs costs shall be in accordance with Table 1 in Part I or Appendix 2 instead of Table 3 thereof and it shall always be within the judge's discretion to allow counsel.

Costs of party appearing in person

12. The amount of any costs awarded to a party other than a solicitor appearing in person in accordance with section 1 of the Litigants in Person (Costs and Expenses) Act 1975(3) shall be such as may be determined by the judge.

Additional services

13. Where it is necessary to serve more than one copy of a civil bill or other document initiating proceedings there shall be payable for each copy after the first a further sum of 20p.

Costs payable in settlement

14. Where a defendant pays the amount due or delivers up possession, as the case may be, within fourteen days from service of the civil bill and also within that period pays fifty per centum of the solicitor's costs in column 2 of Table 3 of Part I or of Table 1 of Part III of Appendix 2, as appropriate, together with all the plaintiffs outlay including counsel's fee (if any) properly incurred to date of settlement he shall not be liable for any further costs.

Lands not separately rated

15. In any proceedings for recovery of possession of lands not separately valued for rating the judge may make any apportionments of valuation necessary for the determination of the costs applicable.

Fee for preparation of brief

16. The solicitor's remuneration provided by the scales in Appendix 2 include a fee for the preparation of a brief to counsel (if any).

Service fees for postal service

17. Where service of a civil bill or other document has been effected by post under Rule 3(2) (b) of Order 6, the solicitor shall be entitled to a fee of £1 inclusive of outlay in lieu of the fees payable to process servers.

Injunctions claimed other than in equity proceedings

18. In proceedings where an injunction is claimed under Article 13 of the Order, not being proceedings within the equity jurisdiction, the costs in relation to the hearing of the claim for an injunction shall be in the discretion of the judge, both as to incidence and amount.

Proceedings in which the amount awarded does not exceed £500

19.—(1) In any proceedings before a judge, other than excepted proceedings within the meaning of Order 25, Rule 15(1), if the award by the judge does not exceed—

- (a) £500, only half of the amount of the scale costs shall be allowed, unless the judge otherwise orders; or
- (b) £200, no costs, save those which would have been awarded under Order 26 Rule 9, shall be allowed if the judge is satisfied that the proceedings should have been brought by way of arbitration under Article 30 of the Order.

(2) In any proceedings before a circuit registrar, if the award by the circuit registrar does not exceed £200, no costs, save those which would have been awarded under Order 26, Rule 9, shall be allowed if the circuit registrar is satisfied that the proceedings should have been brought by way of arbitration under Article 30 of the Order.