

1982 No. 217

**SUPREME COURT
PROCEDURE**

**The Rules of the Supreme Court (Northern Ireland)
(Amendment No. 2) 1982**

Made 14th July 1982

Coming into operation 1st September 1982

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(a) to make, amend or revoke rules regulating the pleading, practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby with the concurrence of the Lord Chancellor, exercise those powers as follows:—

Citation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1982 and shall come into operation on 1st September 1982.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court (Northern Ireland) 1980(b) and, unless the context otherwise requires, a form referred to by number means the form so numbered in Appendix A to the Rules.

Bankruptcy and Companies Office

2. In Order 1, rule 14, there shall be inserted after the word “Companies” the word “Office”.

Service of originating process

3. Order 10 shall be amended as follows:—

(1) The following paragraph shall be substituted for paragraph (1) of rule 1:—

“(1) Subject to the provisions of these Rules or any statutory provision a writ must be served personally on each defendant by the plaintiff or his agent.”

(2) Paragraph (1) of rule 4 shall be amended by substituting for the words “by personal service on the defendant anywhere in Northern Ireland” the words “in accordance with the foregoing provisions”.

Service of process abroad and State immunity

4. For rule 7 of Order 11 there shall be substituted the following rule:—

“Service of process on a foreign State

7.—(1) Subject to paragraph (4), where a person to whom leave has been granted under rule 1 to serve notice of a writ on a State, as defined in section 14 of the State Immunity Act 1978(c), wishes to have the notice served on that State, he must lodge in the Central Office—

(a) 1978 c. 23

(b) S.R. 1980 No. 346

(c) 1978 c. 33

- (a) a request for service by the Secretary of State; and
- (b) a copy of the notice of the writ; and
- (c) except where the official language of the State is, or the official languages of the State include, English, a translation of the notice of the writ in the official language or one of the official languages of that State.

(2) Rule 6(6) shall apply in relation to a translation lodged under paragraph (1) of this rule as it applies in relation to a translation lodged under paragraph (5) of that rule.

(3) Documents duly lodged under this rule shall be sent by the Master (Queen's Bench and Appeals) to the Secretary of State with a request that the Secretary of State should arrange for the notice of the writ to be served.

(4) Where section 12(6) of the State Immunity Act 1978 applies and the State has agreed to a method of service other than that provided by the preceding paragraphs, the writ or notice of the writ may be served either by the method agreed or in accordance with the preceding paragraphs of this rule."

Default of appearance

5. In Order 13 the following rule shall be inserted after rule 7:—

"Judgment against a State

7A.—(1) Where the defendant is a State, as defined in section 14 of the State Immunity Act 1978 ("the Act"), the plaintiff shall not be entitled to enter judgment under this Order except with the leave of the Court.

(2) An application for leave to enter judgment shall be supported by an affidavit—

- (a) stating the grounds of the application,
- (b) verifying the facts relied on as excepting the State from the immunity conferred by section 1 of the Act, and
- (c) verifying that the writ has been served by being transmitted through the Foreign and Commonwealth Office to the Ministry of Foreign Affairs of the State, or in such other manner as may have been agreed to by the State, and that the time for entering an appearance, as extended by section 12(2) of the Act (by two months) where applicable, has expired.

(3) The application may be made *ex parte* but the Court hearing the application may direct a summons to be issued and served on that State, for which purpose such a direction shall include leave to serve the summons and a copy of the affidavit out of the jurisdiction.

(4) Unless the Court otherwise directs, an affidavit for the purposes of this rule may contain statements of information or belief with the sources and grounds thereof, and the grant of leave to enter judgment under this Order shall include leave to serve out of the jurisdiction—

- (a) a copy of the judgment, and
- (b) a copy of the affidavit, where not already served.

(5) The procedure for effecting service out of the jurisdiction pursuant to leave granted in accordance with the rule shall be the same as for the service of the notice of the writ under Order 11, rule 7(1), except where section 12(6) of the Act applies and an alternative method of service has been agreed."

Misjoinder and non-joinder of parties

6. Order 15, rule 6, shall be amended as follows:—

(1) Paragraph (2) shall be amended by inserting, at the beginning, the words "Subject to the provisions of this rule," and by omitting the words "but no person shall be added as a plaintiff" to the end.

(2) After paragraph (3) there shall be added the following paragraphs:—

“(4) No person shall be added as a plaintiff without his consent signified in writing or in such other manner as may be authorised.

(5) No person shall be added or substituted as a party after the expiry of any relevant period of limitation unless either—

- (a) the relevant period was current at the date when proceedings were commenced and it is necessary for the determination of the action that the new party should be added, or substituted, or
- (b) the relevant period arises under the provisions of section 9A or 9B of the Statute of Limitations (Northern Ireland) 1958 and the Court directs that those provisions should not apply to the action by or against the new party.

In this paragraph “any relevant period of limitation” means a time limit under the Limitation Acts (Northern Ireland) 1958 to 1982.

(6) The addition or substitution of a new party shall not be regarded as necessary for the purposes of paragraph (5)(a) unless the Court is satisfied that—

- (a) the new party is a necessary party to the action in that property is vested in him at law or in equity and the plaintiff’s claim in respect of an equitable interest in that property is liable to be defeated unless the new party is joined, or
- (b) the relevant cause of action is vested in the new party and the plaintiff jointly but not severally, or
- (c) the new party is the Attorney General and the proceedings should have been brought by relator proceedings in his name, or
- (d) the new party is a company in which the plaintiff is a shareholder and on whose behalf the plaintiff is suing to enforce a right vested in the company, or
- (e) the new party is sued jointly with the defendant and is not also liable severally with him and failure to join the new party might render the claim unenforceable”.

7. In Order 16, rule 10, the words and commas “, either as a third party or as one of two or more joint tortfeasors liable in respect of the same damage,” shall be omitted.

Pleadings

8. Order 18 shall be amended by adding after paragraph (6) of rule 12 the following paragraph:—

“(7) Where particulars are given pursuant to a request, or order of the Court, the request or order shall be incorporated with the particulars, each item of the particulars following immediately after the corresponding item of the request or order.”

Amendment of writ or pleading with leave

9. Order 20, rule 5, shall be amended by substituting, for the existing paragraph (4), the following paragraph:—

“(4) An amendment to alter the capacity in which a party sues may be allowed under paragraph (2) if the new capacity is one which that party had at the date of the commencement of the proceedings or has since acquired.”

Discontinuance

10. Order 21, rule 2, shall be amended by inserting:—

- (a) at the beginning of paragraph (1) and paragraph (2), the words “Subject to paragraph (2A),”; and

(b) after paragraph (2), the following new paragraph:—

“2A. A party in whose favour an interim payment has been ordered, in accordance with Order 29, rule 14, may not discontinue any action or counterclaim, or withdraw any particular claim therein, except with the leave of the Court or the consent of all the other parties.”

Admissions

11. Order 27 shall be amended as follows:—

- (1) In the title of rule 2 the word “facts” shall be omitted.
- (2) In rule 2 there shall be substituted for the words “the facts” the words “such facts or such part of his case; as may be”.
- (3) In the title of rule 3 the words “of facts” shall be omitted.
- (4) In rule 3 there shall be inserted after the word “fact” the words “or of part of a case”.

Interim payments

12. For the existing Parts II and III of Order 29 there shall be substituted the Part set out in Schedule A hereto.

Applications and proceedings in Chambers

13. Order 32 shall be amended as follows:—

- (1) Paragraph (3) of rule 4 shall be omitted.
- (2) The following rule shall be inserted after rule 12—

“Application for a direction under the Statute of Limitations

12A. The jurisdiction to direct, under section 9D of the Statute of Limitations (Northern Ireland) 1958, that section 9A or 9B of that Act should not apply to an action or to any specified cause of action to which the action relates shall be exercisable by the Court.”

Setting down for trial actions begun by writ

14. Order 34, rule 4(2), shall be amended by inserting after the words “the proper chronological order” a comma, and the following words:—

“save that voluntary particulars of any pleading and particulars to which Order 18, rule 12(7), applies shall be placed immediately after the pleading to which they relate”.

Proceedings at trial

15. Order 35, rule 4(5)(c), shall be amended by inserting the word “not” before the word “shall”.

Issue of writ of subpoena

16. Order 38 shall be amended as follows:—

- (1) Paragraph 3 of rule 12 shall be omitted.
- (2) In rule 14, the words from “by filing” to the end of the rule shall be omitted.

Affidavits

17. Order 41 shall be amended as follows:—

- (1) In rule 1(4)—
 - (a) After the words “the first person and” there shall be inserted a comma followed by the words “unless the Court otherwise directs”.

(b) At the end of the paragraph there shall be added the following paragraph:—

“In the case of a deponent who is giving evidence in a professional, business or other occupational capacity the affidavit may, instead of stating the deponent’s place of residence, state the address at which he works, the position he holds and the name of his firm or employer, if any.”

(2) In paragraph (2) of rule 11 the figure “(3)” shall be substituted for the figure “(2)” where the latter secondly occurs.

Judgments

18. Order 42, rule 9, shall be amended as follows:—

(1) In paragraphs (2) and (3) for the figure “15” there shall be substituted the figure “14”.

(2) In paragraph (3) for the words “section 58 of the said Act” there shall be substituted the words “Article 58 of the said Order”.

Enforcement of judgments

19. Order 45 shall be amended as follows:—

In rule 2(1)(b), rule 3, and the cross heading to rule 5, for the words “rule 5” substitute the words “rule 4”.

Judicial review – Divisional Court

20. In rule 2 of Order 53, the following paragraph shall be added after paragraph (6):—

“(7) A court of two or more judges exercising jurisdiction pursuant to this rule shall be called a Divisional Court.”

Habeas corpus

21. In Order 54 the following rule shall be added after rule 10:—

“Divisional Court

11. A court of two or more judges exercising jurisdiction pursuant to this Order shall be called a Divisional Court.”

Appeals and references to the High Court

22. Order 55 shall be amended as follows:—

(1) The following rule shall be added after rule 12:—

“12A. The proper officer shall send a copy of any order made under this Part to the Chief Clerk of the county court appealed from.”

(2) The following rule shall be substituted for rule 19:—

“References

19.—(1) Subject to paragraph (2), the rules of this Part shall apply mutatis mutandis to any case not otherwise provided for where by any statutory provision, any matter or question, whether of law or fact, may be submitted or referred to the Court for its decision or opinion.

(2) Where the Registrar of Titles refers an application under section 53 of the Land Registration Act (Northern Ireland) 1970 to the High Court for decision, the time limit imposed by rules 14(2) and 15(1) shall be 6 weeks instead of 21 days.”

Costs

23. Order 62 shall be amended as follows:—

(1) In rule 9(3) there shall be substituted for the words “2(1)(b)” the words “2(b)”.

(2) In rule 31(1) for the words “Legal Aid and Advice Act (Northern Ireland) 1965” there shall be substituted the words “Legal Aid, Advice and Assistance (Northern Ireland) Order 1981”.

(3) In Regulation 2(1) of Appendix 2 for the words “Legal Aid and Advice Act (Northern Ireland) 1965” there shall be substituted the words “Legal Aid, Advice and Assistance (Northern Ireland) Order 1981”.

Right to inspect, etc. certain documents in Court Offices

24. Rule 5 of Order 66 shall be amended as follows:—

(1) In paragraph (1) the words “the Chancery Office or the Bankruptcy and Companies Office” shall be inserted before the word “namely”.

(2) Paragraph (2) shall be omitted.

Service of foreign process

25. For Order 69 there shall be substituted the Order set out in Schedule B hereto.

Arbitration

26. For Order 73 there shall be substituted the Order set out in Schedule C hereto.

Crown proceedings: discovery, etc.

27. In rule 11 of Order 77, paragraph (1) shall be omitted.

Proceedings concerning minors

28. Order 90, rule 3, shall be amended by inserting after paragraph (3) the following paragraph:—

“(3A). The name of each party to the proceedings shall be qualified by a brief description, in the body of the summons, of his interest in, or relationship to, the minor.”

Committal under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981

29. Order 111 shall be amended as follows:—

(1) In rule 1 for the words “Rule 124 of the Matrimonial Causes Rules (Northern Ireland) 1979” there shall be substituted the words “rule 130 of the Matrimonial Causes Rules (Northern Ireland) 1981.”

(2) In rule 12(5) for the words “Section 90 of the Act of 1969” there shall be substituted the words “Article 109 of the Order of 1981”.

Summary possession of land

30. Order 113 shall be amended as follows:—

(1) In rule 4 the following new paragraph shall be inserted after paragraph (2)—

“(2A). Every copy of an originating summons for service under paragraph (1) or (2) shall be sealed with the seal of the Chancery Office.”

(2) In rule 6 the following new paragraph shall be inserted after paragraph (2)—

“(3) Nothing in this Order shall prevent the Court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.”

Forms

31.—(1) In the Arrangement of Forms there shall be substituted in Appendix A for the words “No. 11 Notice of originating summons.” the words “No. 11 Notice of originating motion.”

(2) Appendix A shall be amended as follows:—

- (a) In the last paragraph of Form No. 5 there shall be substituted for the figure “14” the figure “21”.
- (b) Form No. 28 shall be amended by inserting after the words “Chambers” the words “at the Royal Courts of Justice, Chichester Street, Belfast.”
- (c) Form No. 33 shall be amended by inserting after the blank space following the words “in the originating summons as” the following words “[and the defendant do give possession of the said land on]”.
- (d) The form set out in Schedule D hereto shall be substituted for Form No. 37A.

Amendment of Administration of Justice Act 1960(a)

32. In paragraph 2 of Part I of the Second Schedule to the Administration of Justice Act 1960 for the words “as references to a Court of the High Court of Justice in Northern Ireland consisting of two or more judges” there shall be substituted the word “accordingly”.

Dated 29th June 1982.

Lowry

Donald Murray

J. B. E. Hutton

R. D. Carswell

J. J. Sheil

Owen Catchpole

I concur,

Hailsham of St. Marylebone, C.

Dated 14th July 1982.

“II — INTERIM PAYMENTS

Interpretation of Part II

11. In this Part of this Order—

“interim payment”, in relation to a defendant, means a payment on account of any damages, debt or other sum (excluding costs) which he may be held liable to pay to or for the benefit of the plaintiff; and any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as next friend of the plaintiff or guardian of the defendant.

Application for interim payment

12.—(1) The plaintiff may, at any time after the writ has been served on a defendant and the time limited for him to enter an appearance has expired, apply to the Court for an order requiring that defendant to make an interim payment.

(2) An application under this rule shall be made by summons but may be included in a summons for summary judgment under Order 14 or Order 86.

(3) An application under this rule shall be supported by an affidavit which shall—

- (a) verify the amount of the damages, debt or other sum to which the application relates and the grounds of the application;
- (b) exhibit any documentary evidence relied on by the plaintiff in support of the application; and
- (c) if the plaintiff's claim is made under the Fatal Accidents (Northern Ireland) Order 1977, contain the particulars mentioned in Article 4(4) of that Order.

(4) The summons and a copy of the affidavit in support and any documents exhibited thereto shall be served on the defendant against whom the order is sought not less than 10 clear days before the return day.

(5) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown.

Order for interim payment in respect of damages

13.—(1) If, on the hearing of an application under rule 12 in an action for damages, the Court is satisfied—

- (a) that the defendant against whom the order is sought (in this paragraph referred to as “the respondent”) has admitted liability for the plaintiff's damages, or
- (b) that the plaintiff has obtained judgment against the respondent for damages to be assessed; or
- (c) that, if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against the respondent,

the Court may, if it thinks fit and subject to paragraph (2), order the respondent to make an interim payment of such amount as it thinks just, not exceeding a reasonable proportion of the damages which in the opinion of the Court are likely to be recovered by the plaintiff after taking into account any relevant contributory negligence and any set-off, cross-claim or counterclaim on which the respondent may be entitled to rely.

(2) No order shall be made under paragraph (1) in an action for personal injuries if it appears to the Court that the defendant is not a person falling within one of the following categories, namely—

- (a) a person who is insured in respect of the plaintiff's claim;
- (b) a public authority; or
- (c) a person whose means and resources are such as to enable him to make the interim payment.

Order for interim payment in respect of sums other than damages

14. If, on the hearing of an application under rule 12, the Court is satisfied—

- (a) that the plaintiff has obtained an order for an account to be taken as between himself and the defendant and for any amount certified due on taking the account to be paid; or

- (b) that the plaintiff's action includes a claim for possession of land and, if the action proceeded to trial, the defendant would be held liable to pay to the plaintiff a sum of money in respect of the defendant's use and occupation of the land during the pendency of the action, even if a final judgment or order were given or made in favour of the defendant; or
- (c) that, if the action proceeded to trial the plaintiff would obtain judgment against the defendant for a substantial sum of money apart from any damages or costs,

the Court may, if it thinks fit, and without prejudice to any contentions of the parties as to the nature or character of the sum to be paid by the defendant, order the defendant to make an interim payment of such amount as it thinks just, after taking into account any set-off, cross-claim or counterclaim on which the defendant may be entitled to rely.

Manner of payment

15.—(1) Subject to Order 80, rule 10, the amount of any interim payment ordered to be made shall be paid to the plaintiff unless the order provides for it to be paid into court, and where the amount is paid into court, the Court may, on the application of the plaintiff, order the whole or any part of it to be paid out to him at such time or times as the Court thinks fit.

(2) An application under the preceding paragraph for money in court to be paid out may be made *ex parte*, but the Court hearing the application may direct a summons to be issued.

(3) An interim payment may be ordered to be made in one sum or by such instalments as the Court thinks fit.

(4) Where a payment is ordered in respect of the defendant's use and occupation of land the order may provide for periodical payments to be made during the pendency of the action.

Directions on application under rule 12

16. Where an application is made under rule 12, the Court may give directions as to the future conduct of the action, and, in particular, the Court may order an early trial of the action.

Non-disclosure of interim payment

17. The fact that an order has been made under rule 13 or 14 shall not be pleaded and, unless the defendant consents or the Court so directs, no communication of that fact or of the fact that an interim payment has been made, whether voluntarily or pursuant to an order, shall be made to the court at the trial, or hearing, of any question or issue as to liability or damages until all questions of liability and amount have been determined.

Payment into court in satisfaction

18. Where, after making an interim payment, whether voluntarily or pursuant to an order, a defendant pays a sum of money into Court under Order 22, rule 1, the notice of payment must state that the defendant has taken into account the interim payment.

Adjustment on final judgment or order or on discontinuance

19. Where a defendant has been ordered to make an interim payment or has in fact made an interim payment, whether voluntarily or pursuant to an order, the Court may, in giving or making a final judgment or order, or granting the plaintiff leave to discontinue his action or to withdraw the claim in respect of which the interim payment has been made, or at any other stage of the proceedings on the application of any party, make such order with respect to the interim payment as may be just, and in particular—

- (a) an order for the repayment by the plaintiff of all or part of the interim payment, or
- (b) an order for the payment to be varied or discharged, or
- (c) an order for the payment by any other defendant of any part of the interim payment which the defendant who made it is entitled to recover from him by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the plaintiff's claim.

Counterclaims and other proceedings

20. The preceding rules in this Part of this Order shall apply, with the necessary modifications, to any counterclaim or proceeding commenced otherwise than by writ, where one party seeks an order for an interim payment to be made by another."

SCHEDULE B

Rule 25

ORDER 69

SERVICE OF FOREIGN PROCESS

Definitions

1. In this Order—

“a convention country” means a foreign country in relation to which there subsists a civil procedure convention providing for service in that country of process of the High Court, and includes a country which is a party to the Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters signed at the Hague on 15th November 1965;

“process” includes a citation;

“process server” means the process server appointed under rule 4 or his authorised agent;

“Master” means the Master (Queen’s Bench and Appeals).

Applications

2. This Order applies to the service on a person in Northern Ireland of any process in connection with civil or commercial proceedings in a foreign court or tribunal where the Master receives a written request for service—

- (a) from Her Majesty’s Principal Secretary of State for Foreign and Commonwealth Affairs, with a recommendation by him that service should be effected, or
- (b) where the foreign court or tribunal is in a convention country, from a consular or other authority of that country.

Service of process

3.—(1) The request shall be accompanied by a translation thereof in English, two copies of the process and, unless the foreign court or tribunal certifies that the person to be served understands the language of the process, two copies of a translation thereof.

(2) Subject to paragraphs (3) and (5) and to any statutory provision providing for the manner of service of documents on corporate bodies, the process shall be served by the process server’s leaving a copy of the process and a copy of the translation or certificate, as the case may be, with the person to be served.

(3) The provisions of Order 10, rule 1(2)(a) and (b) shall apply to the service of foreign process as they apply to the service of writs, except that service may be proved by an affidavit or by a certificate or report in such form as the Master may direct.

(4) The process server shall send to the Master a copy of the process and an affidavit, certificate or report proving due service of process or stating the reason why service could not be effected, as the case may be, and shall, if the Court so directs, specify the costs incurred in effecting or attempting to effect service.

(5) Order 65, rule 4 (substituted service), shall apply to the service of foreign process as it applies to the service of writs, except that the Master may make an order for substituted service of foreign process on the basis of the process server’s affidavit, certificate or report, without an application being made to him in that behalf.

(6) The Master shall send a certificate, together with a copy of the process, to the consular or other authority or the Secretary of State, as the case may be, stating—

- (i) when and how service was effected or the reason why service could not be effected, as the case may be;
- (ii) where appropriate, the amount certified by the Master (Taxing Office) to be the costs of effecting or attempting to effect service.

(7) The certificate under paragraph (6) shall be sealed with the seal of the Supreme Court.

Appointment of process server

4. The Lord Chancellor may appoint a process server for the purposes of this Order.

ORDER 73

ARBITRATION PROCEEDINGS

Assignment of arbitration proceedings among Divisions of High Court

1. A cause or matter consisting of an application to the High Court under the Arbitration Act (Northern Ireland) 1937(a) or the Arbitration Act 1950(b) other than an application under section 4 of the said Act of 1937 or Part II of the said Act of 1950 made in proceedings assigned to the Chancery Division, shall be assigned to the Queen's Bench Division.

Matters for a judge in court

2.—(1) Every application to the Court—

- (a) to remit an award under section 15 of the Arbitration Act (Northern Ireland) 1937, or
- (b) to remove an arbitrator or umpire under section 7(1) of that Act, or
- (c) to set aside an award under section 7(2) thereof,

must be made by originating motion.

(2) An application for a declaration that an award made by an arbitrator or umpire is not binding on a party to the award on the ground that it was made without jurisdiction may be made by originating motion but the foregoing provision shall not be taken as affecting the Court's power to refuse to make such a declaration in proceedings begun by motion.

Matters for a judge in chambers or master

3.—(1) Subject to the provisions of this Order and the provisions of this rule the jurisdiction of the High Court under the Arbitration Act (Northern Ireland) 1937 and the Arbitration Act 1950 may be exercised by a judge in chambers or a master.

(2) Any application to which this rule applies shall, where an application is pending, be made by summons in the action and in any other case by an originating summons for which no appearance need be entered.

Time-limits and other special provisions as to applications under the Arbitration Act (Northern Ireland) 1937

4.—(1) An application to the Court—

- (a) to remit an award under section 15 of the Arbitration Act (Northern Ireland) 1937, or
- (b) to set aside an award under section 7(2) of that Act, must be made, and the notice of motion must be served, within 6 weeks after the award has been made and published to the parties.

(2) A special case stated under section 22 of the Arbitration Act (Northern Ireland) 1937 shall be heard by a judge. The decision thereon shall be deemed to be a judgment of the Court and the provisions of Order 56 shall apply thereto.

(3) In the case of every application to which this rule applies, the notice of originating motion must state the grounds of the application and, where the application is founded on evidence by affidavit, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every affidavit intended to be used, or as the case may be, of every consent given in writing, must be served with the notice or summons.

Service out of the jurisdiction of summons, notice, etc.

5.—(1) Service out of the jurisdiction—

- (a) of an originating summons for the appointment of an arbitrator or umpire or for leave to enter an award as a judgment, or
- (b) of notice of an originating motion to remove an arbitrator or umpire or to remit or set aside an award, or
- (c) of any order made on such a summons or motion as aforesaid,

(a) 1937 c. 8 (N.I.)

(b) 1950 c. 27

is permissible with the leave of the Court provided that the arbitration to which the summons, motion or order relates is governed by the law of Northern Ireland or has been, is being, or is to be held within the jurisdiction.

(2) An application for the grant of leave under this rule must be supported by an affidavit stating the grounds on which the application is made and showing in what place or country the person to be served is, or probably may be found; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this rule.

(3) Order 11, rules 5, 6 and 8, shall apply in relation to any such summons, notice or order as is referred to in paragraph (1) as they apply in relation to notice of a writ.

Registration in High Court of foreign awards

6. Where an award is made in proceedings on an arbitration in any part of Her Majesty's dominions or other territory to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933(a) extends, being a part to which Part II of the Administration of Justice Act 1920(b) extended immediately before the said Part I was extended thereto, then, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place, Order 71 shall apply in relation to the award as it applies in relation to a judgment given by that court, subject, however, to the following modifications:—

- (a) for references to the country of the original court there shall be substituted references to the place where the award was made: and
- (b) the affidavit required by rule 3 of the said Order must state (in addition to the other matters required by that rule) that to the best of the information or belief of the deponent the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

Registration of awards under Arbitration (International Investment Disputes) Act 1966

7.—(1) In this rule and in any provision of these rules as applied by this rule—

- “the Act of 1966” means the Arbitration (International Investment Disputes) Act 1966(c);
- “award” means an award rendered pursuant to the Convention;
- “the Convention” means the Convention referred to in section 1(1) of the Act of 1966;
- “judgment creditor” and “judgment debtor” mean respectively the person seeking recognition or enforcement of an award and the other party to the award.

(2) Subject to the provisions of this rule, the following provisions of Order 71, namely, rules 1, 3(1) (except sub-paragraphs (c) and (d) thereof) and 7 (except paragraph (3)(c) and (d) thereof), shall apply with the necessary modifications in relation to an award as they apply in relation to a judgment to which Part II of the Foreign Judgments (Reciprocal Enforcement) Act 1933 applies.

(3) An application to have an award registered in the High Court under section 1 of the Act of 1966 shall be made by originating summons to which no appearance need be entered.

(4) The affidavit required by Order 71, rule 3, in support of an application for registration shall—

- (a) in lieu of exhibiting the judgment or a copy thereof, exhibit a copy of the award certified pursuant to the Convention, and
- (b) in addition to stating the matters mentioned in paragraph 3(1)(c)(i) and (ii) of the said rule 3, state whether at the date of the application the enforcement of the award has been stayed (provisionally or otherwise) pursuant to the Convention and whether any, and if so what, application has been made pursuant to the Convention which, if granted, might result in a stay of the enforcement of the award.

(5) There shall be kept in the Central Office a register of the awards ordered to be registered under the Act of 1966.

(6) Where it appears to the Court on granting leave to register an award or on an application made by the judgment debtor after an award has been registered—

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- (a) 1933 c. 13
 - (b) 1920 c. 81
 - (c) 1966 c. 41

- (a) that the enforcement of the award has been stayed (whether provisionally or otherwise) pursuant to the Convention, or
- (b) that an application has been made pursuant to the Convention which, if granted, might result in a stay of the enforcement of the award,

the Court shall, or, in the case referred to in sub-paragraph (b), may, stay enforcement of the award for such time as it considers appropriate in the circumstances.

(7) An application by the judgment debtor under paragraph (6) shall be made by summons and supported by affidavit.

Enforcement of arbitration awards

8.—(1) An application for leave under section 16 of the Arbitration Act (Northern Ireland) 1937 or under section 3(1)(c) of the Arbitration Act 1975(a) to enter an award as a judgment may be made *ex parte* but the Court hearing an application may direct a summons to be issued.

(2) If the Court directs a summons to be issued, the summons shall be an originating summons to which no appearance need be entered.

(3) An application for leave must be supported by affidavit—

(a) exhibiting—

- (i) where the application is under section 16 of the Arbitration Act (Northern Ireland) 1937, the arbitration agreement and the original award or, in either case, a copy thereof;
- (ii) where the application is under section 3(1)(c) of the Arbitration Act 1975, the documents required to be produced by section 4 of that Act;
- (b) stating the name and the usual or last known place of abode or business of the applicant (hereinafter referred to as “the creditor”) and the person against whom it is sought to enforce the award (hereinafter referred to as “the debtor”) respectively;
- (c) as the case may require, either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.

(4) An order giving leave must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of abode or business or in such other manner as the Court may direct.

(5) Service of the order out of the jurisdiction is permissible without leave, and Order 11, rules 5, 6 and 8, shall apply in relation to such an order as they apply in relation to notice of a writ.

(6) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the debtor, applies within that period to set aside the order, until after the application is finally disposed of.

(7) The copy of the order served on the debtor shall state the effect of paragraph (6).

(8) In relation to a body corporate this rule shall have effect as if for any reference to the place of abode or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate; so, however, that nothing in this rule shall affect any statutory provision which provides for the manner in which a document may be served on a body corporate.

SCHEDULE D

No. 37A

PARTICULARS OF COUNTY COURT APPEALS

(O. 55, r.2(3))

Parties' names	Cause of action	Place and date of sitting	Order appealed from other than costs or expenses	Witnesses examined	Solicitors' and counsel's names

Dated the day of

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Signed

Chief Clerk

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend the Rules of the Supreme Court (Northern Ireland) 1980 so as—

- (a) to clarify the procedure relating to service of writs and other originating processes (rule 3);
- (b) to provide for the service of process and entry of a default judgment against a State, as defined in the State Immunity Act 1978 (rules 4 and 5);
- (c) to make provision for the addition or substitution of a party after the expiry of a period of limitation (rule 6);
- (d) to amend the rules relating to contributions consequential upon the Civil Liability (Contribution) Act 1978 (rule 7);
- (e) to change the practice regarding the giving of further and better particulars and the place where they appear in the pleadings (rules 8 and 14);
- (f) to enlarge the power to allow amendments as to the capacity in which a party sues (rule 9);
- (g) to amend the present rules relating to discontinuance so as to prevent discontinuance without leave of the Court where an interim payment has been ordered (rule 10);
- (h) to broaden the scope of the present rules about admissions (rule 11);
- (i) to allow the Court to order interim payments on account of any damages, debt or other sum claimed, whatever the nature of the litigation (rule 12);
- (j) to delete an unnecessary definition in the rules relating to proceedings in Chambers and to enable a master to give a direction under section 9D of the Statute of Limitations (Northern Ireland) 1958 (rule 13);
- (k) to simplify the practice in relation to the issue of a writ of subpoena (rule 16);
- (l) to allow a person making an affidavit to give a work address instead of his home address in certain circumstances and also to apply for permission to omit the address altogether (rule 17);
- (m) to reduce the rate of interest on judgments from 15 per cent. to 14 per cent. (rule 18);
- (n) to use the term “Divisional Court” to describe a court of two or more judges (rules 20, 21 and 32);
- (o) to provide that a copy of the order of the court hearing an appeal from the county court shall be sent to the county court appealed from and to extend the time limit for certain references of land registry matters to the High Court (rule 22);
- (p) to amend references to certain statutory provisions (rules 23 and 29);
- (q) to provide that the same rules will govern the inspection of documents filed in the Chancery Office and the Bankruptcy and Companies Office as govern documents filed in the Central Office (rule 24);
- (r) to modernise the procedure for service in Northern Ireland of process originating abroad (rule 25);
- (s) to modernise the rules relating to arbitration proceedings (rule 26);
- (t) to require that the originating summons in wardship proceedings should state the relationship of each party to the minor, or the party’s interest in the proceedings (rule 28);

- (u) to clarify the powers of the Court to specify a date for possession in summoning proceedings for the possession of land (rule 30);
- (v) to make miscellaneous minor amendments to rules (rules 2, 11, 15, 19, 23 and 27);
- (w) to make consequential amendments to statutory provisions and to forms (rules 31 and 32).