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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

##### (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>F1</sup>£10,000] shall, save as otherwise provided by county court rules, be heard and determined by a circuit registrar in accordance with those rules.

[<sup>F2</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>F3</sup>£5,000] 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>F2</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 any order, decision or determination;]

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<sup>F4</sup>(ab)

- (b) the district judge may, and shall if so required<sup>F4</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>F4</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>F4</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).

<b>F1</b>	Word in <a href="#">art. 30(1)</a> substituted (25.2.2013) by <a href="#">The County Courts (Financial Limits) Order (Northern Ireland) 2013 (S.R. 2013/18)</a> , arts. 1, <b>2(b)</b> (with art. 5)
<b>F2</b>	<a href="#">1996 c. 23</a>
<b>F3</b>	Sum in <a href="#">art. 30(3)</a> substituted (3.10.2022) by <a href="#">The County Courts (Financial Limits) Order (Northern Ireland) 2022 (S.R. 2022/158)</a> , arts. 1, <b>2</b>
<b>F4</b>	<a href="#">2002 c. 26</a>

## 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;
- (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>F5</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.

**F5** mod. by 1984 c. 12

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

**C1** 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;

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as ought to be granted or given in the like case by the High Court and in as full and ample a manner.

(2) [F6 A judge shall have jurisdiction in any proceedings pending in a county court] 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 [F7 Court of Judicature].

**F6** Words in art. 34(2) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 80(9) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)

**F7** Words in art. 34(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(b)(d)

### 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 [F8 Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 ].

**F8** 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 .

### 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>F9</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*.

F9 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.

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### 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>[F10]</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>[F10]</sup> level 3 on the standard scale].

**F10** 1984 NI 3

<sup>[F11]</sup> *Discovery and related procedures*

**F11** 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

- (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 [F12 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.

**F12** 1981 NI 6

### **[F13] 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



(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.]

**F13** 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 be appointed by the<sup>[F14]</sup>Lord Chief Justice] 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>[F15]</sup>(1A) The Lord Chief Justice must consult the Lord Chancellor before making an appointment under paragraph (1)(b), (c), (e) or (f).]

(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.

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

- F14** Words in art. 46(1) substituted (temporary from (3.4.2006) to the fully coming into force date of the amendment by s. 73(2) Justice (Northern Ireland) Act of 2002 (c. 26) (N.I.)) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), Sch. 5 para. 134(2)(4) (with Sch. 5 para. 131); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(k)
- F15** Art. 46(1A) inserted (temporary from (3.4.2006) to the fully coming into force date of the amendment by s. 73(2) of [Justice \(Northern Ireland\) Act 2002 \(c. 26\) \(N.I.\)](#)) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), Sch. 5 para. 134(3)(4) (with Sch. 5 para. 131); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(k)

### 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>F16</sup>(1A) For the purposes of this Article, “relevant authority” means—

- (a) in relation to county court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and
- (b) otherwise, the Department of Justice;

and for the purposes of this paragraph “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.]

[<sup>F17</sup>(2) County court rules must be certified under the hand of the members of the Rule Committee, or any three or more of them.

(3) After making and certifying county court rules the Rules Committee must submit them to the [<sup>F18</sup>relevant authority].

(4) The [<sup>F18</sup>relevant authority] must, after consultation with the Lord Chief Justice, allow or disallow county court rules submitted to [<sup>F19</sup>it].

(5) County court rules have effect only if the [<sup>F18</sup>relevant authority] allows them.

(6) If the [<sup>F18</sup>relevant authority] disallows county court rules, the [<sup>F18</sup>relevant authority] must give the Rules Committee written reasons why [<sup>F20</sup>it] has disallowed them.

(7) County court rules allowed by the [<sup>F18</sup>relevant authority] shall come into operation on such day as the [<sup>F18</sup>relevant authority] shall direct.

(8) Paragraph (9) applies if the [<sup>F18</sup>relevant authority] gives the Rules Committee written notice that [<sup>F21</sup>it] thinks it is expedient for county court rules to include provision that would achieve a purpose specified in the notice.

(9) The Rules Committee must make such county court rules as it considers necessary to achieve the specified purpose.

(10) Those rules must be—

- (a) made within a reasonable period after the [<sup>F18</sup>relevant authority] gives notice under paragraph (8);

(b) made in accordance with this Article.]

- F16** Art. 47(1A) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 118(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F17** Art. 47(2)-(10) substituted (3.4.2006) for art. 47(2)(3) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 57; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F18** Words in art. 47 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 118(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F19** Word in art. 47(4) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 118(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F20** Word in art. 47(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 118(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F21** Word in art. 47(8) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 118(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### [<sup>F22</sup>Control of county court rules

**47A.—(1)** County court rules that are required under Article 47 to be submitted to the Lord Chancellor are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 applies accordingly.

(2) County court rules that are required under Article 47 to be submitted to the Department of Justice are subject to negative resolution.]

- F22** Art. 47A inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), s. 28(4), **Sch. para. 3**

#### 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;

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- (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>F23</sup>(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.]

**F23** 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 <sup>F24</sup>[<sup>F25</sup>, as it has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020].

**F24** S.I. 1978/1910

**F25** Words in art. 50(2) inserted (31.12.2020) by [The Services of Lawyers and Lawyer’s Practice \(Revocation etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1342\)](#), reg. 1(1), **Sch. para. 3** (with Sch. para. 13)

### 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)

- C2** 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>F26</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>F27</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.

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**F26** 1981 NI 6  
**F27** 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>[F28]</sup> not exceeding<sup>[F29]</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>[F28]</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>[F30]</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.

**F28** 1981 c. 49  
**F29** 1994 NI 15  
**F30** 1981 NI 6

### Modifications etc. (not altering text)

**C3** Art. 55 applied (1.4.2016) by Public Services Ombudsman Act (NorthernIreland) 2016 (c. 4), ss. 53(5), 64

## 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>[F31]</sup> Lord Chief Justice]

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

**F31** Words in art. 56(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 58; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

## 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>F32</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>F33</sup> and furnish to the Lord Chief Justice such information as may be prescribed or required by the Lord Chief Justice.]

**F32** SR 1982/192

**F33** Words in art. 58 inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), Sch. 5 para. 59; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

## 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.

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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](#)