

1976 No. 219

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

Rules of the Supreme Court (Northern Ireland) (No. 2) 1976

Made

24th June 1976

Coming into operation

1st September 1976

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:

1. For rule 12 of Order 13 of the Rules of the Supreme Court (Northern Ireland) 1936(b) the following rule shall be substituted:

“12. In all actions not by the rules of this Order otherwise provided for, where a defendant served with a writ fails to enter an appearance within the time limited for appearing, upon the plaintiff filing an affidavit of service and where a statement of claim was not endorsed on or delivered with the writ, upon the plaintiff delivering a statement of claim either personally or by sending it to the defendant by ordinary post at his last known address, the action may proceed as if the defendant had appeared, subject, as to actions where an account is claimed, to the provisions of Order 15.”

2. Order 19 shall be amended as follows:

- (1) in rule 10 all the words occurring after the words “does not appear by a solicitor” to the end of the rule shall be deleted; and
- (2) rule 12 shall be deleted.

3. In paragraph (b) of rule 1 of Order 20 the words “as to filing a statement of claim when there is no appearance” shall be deleted.

4. In Order 22, rule 12, for the expression “£500” there shall be substituted the expression “£1,500”.

5. In Order 27, rule 11, the words “filing and” shall be deleted.

6. In Order 28, rule 8, the words “and in the copy which has been filed” and the words “and filing a copy thereof both of” shall be deleted.

7. In Order 36, rule 2, for the word “filing” there shall be substituted the word “delivery”.

8. Immediately after Order 59H there shall be inserted the Order 59I set out in the Schedule hereto.

(a) 1962 c. 30

(b) S.R. & O. 1936 No. 70 (II, p. 2559)

9. Order 65 shall be amended as follows :

(1) immediately after rule 20 there shall be inserted the following rule :

“20A.—(1) On a taxation of the costs of a litigant in person there may, subject to the provisions of this rule, be allowed such costs as would have been allowed if the work and disbursements to which the costs and expenses relate had been done or made by a solicitor on the litigant’s behalf.

(2) Where in the opinion of the Taxing Master a litigant has not suffered any pecuniary loss in doing any work to which the costs relate, he shall be allowed in respect of the time reasonably spent by him on such work not more than £2 per hour.

(3) The amount allowed in respect of any item other than a disbursement shall be such sum as the Taxing Master thinks fit not exceeding two-thirds of the sum which, in the opinion of the Taxing Master, would have been allowed in respect of that item if the litigant had been represented by a solicitor.

(4) A litigant shall be allowed costs in accordance with this rule in respect of attending court to conduct his own case but shall not be entitled to any allowance as a witness in addition.”;

(2) in rule 36 after the words “the Taxing Master and” there shall be inserted the words “except where rule 20A applies”;

(3) in rule 39—

(i) in paragraph (a) after the word “Every” there shall be inserted the word “solicitor’s”;

(ii) in paragraph (e) before the words “Bills of costs” there shall be inserted the word “Solicitor’s”;

(iii) in paragraphs (g), (h) and (k) before the words “bill of costs” wherever they appear there shall be inserted the word “solicitor’s”;

(4) in rule 42 after the word “solicitor” there shall be inserted the words “or party”;

(5) in rule 61(17) for the words “the solicitor of the party” wherever they appear and for the words “the solicitor” respectively there shall be substituted the words “the party or his solicitor”.

10. For rule 5 of Order 67 the following rule shall be substituted:

“5. Where by virtue of these rules any document is required to be served on any person but is not required to be served personally, and at the time when service is to be effected that person is in default as to entry of appearance or has no address for service, the document need not be served on that person unless the Court otherwise directs or any of these rules otherwise provides.”.

11. In Order 70 in rule 74 after the words “the solicitor of the party” there shall be inserted the words “or the party”.

12. Appendix S shall be amended as follows :

(1) in Part I in regulation 1(1) after the words “subject to” there shall be inserted the words “rule 20A and”;

(2) in Part II in the costs regulations after regulation 8(2) there shall be added the following paragraph :

“(3) Where the notice of appeal has been lodged by a litigant in person the amount to be allowed shall be two-thirds of the amounts specified in the scales prescribed in this Part.”;

(3) in Part V in regulation 2 before the words “the solicitor’s remuneration” there shall be inserted the words “the party’s or”.

13. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 2) 1976 and shall come into operation on 1st September 1976.

Dated 24th June 1976.

(Signed) *Robert Lowry.*
Maurice W. Gibson.
J. B. E. Hutton.
E. Malachy Doris.
Ivan Montgomery.

SCHEDULE

Rule 8

**Order to be inserted after Order 59H of the Rules of the
Supreme Court**

ORDER 59I

**Appeal to a Judge of the High Court from Decisions of
Secretary of State for Prices and Consumer Protection
under section 41 of the Consumer Credit Act 1974**

Appeal from Secretary of State by case stated

1.—(1) A party dissatisfied with a decision of the Secretary of State on an appeal under section 41 of the Consumer Credit Act 1974 and who had a right of appeal to the Secretary of State, whether or not he exercised that right, may require him to state and sign a case for the opinion of a Judge of the High Court which sets forth the precise point of law involved in the decision with which the appellant is dissatisfied and which states concisely such facts and refers to such documents as may be necessary to enable the Judge to decide any question on which the determination of the point of law may depend.

(2) The requisition to state a case shall set out the precise point of law involved in the decision with which the appellant is dissatisfied and, where the appeal is against part of the decision only, that part must be specified.

Special case

2. The Secretary of State may, of his own motion or on the request of any party to the proceedings upon the hearing of an appeal under section 41 of the Consumer Credit Act 1974, state in the course of the proceedings in the form of a special case for the decision of a Judge of the High Court any question of law arising in the proceedings.

Time for appealing

3.—(1) The requisition to state a case under rule 1 shall be served upon the Secretary of State within a period of 21 days commencing on the day on which notice of the decision of the Secretary of State was served upon the appellant.

(2) A copy of the requisition must be sent by the appellant to the Registrar and, where the appeal is by a licensee under a group licence against compulsory variation, suspension or revocation of that licence, shall be served on the original applicant, if any; but the Judge may direct service upon any other person.

Time for stating case

4.—(1) A case stated must be settled and sent to the appellant within a period of 6 weeks commencing on the day the requisition was served on the Secretary of State.

(2) The appellant or, if there is more than one, the party whose name first appears on the requisition shall be the party having carriage, unless the Judge otherwise directs.

Entering case stated

5. The party having carriage of the case stated must within 14 days of receiving it from the Secretary of State—

- (a) lodge the case stated with a duly stamped requisition for entering with the Registrar,

- (b) serve a copy of the case stated on any other appellant and on the persons referred to in rule 3(2) giving them notice of such entry.

Entering special case stated

6.—(1) A special case stated by the Secretary of State under rule 2 shall be lodged with the Registrar as soon as it is perfected and the Secretary of State shall send copies of the case stated to the parties.

(2) The Registrar on receipt of the special case stated shall enter the case for hearing not earlier than 8 days after the date of lodgment and notify the parties and the Secretary of State of such entry.

Service of documents

7.—(1) Any document required by these rules to be served, lodged or sent to any person may be sent by recorded delivery or delivered—

- (a) in the case of a document directed to the Registrar, to the Royal Courts of Justice, Chichester Street, Belfast BT1 3JF,
- (b) in the case of a document directed to the Secretary of State, to the Crown Solicitor at that address,
- (c) in the case of a document directed to any other person, to his address for service or, in the absence of such an address, to his last known address or place of business in the United Kingdom or, if a party is a company, to the company's registered office.

(2) A document sent by recorded delivery shall be deemed, unless the contrary is shown, to have been served on the third day after the day on which it was sent.

- (3) In this rule "document" includes a notice.

Application for order to state a case

8. Where the Secretary of State refuses or fails to state a case under section 13(1) of the Tribunals and Inquiries Act 1971, as applied by section 13(5A) thereof, the appellant may, within 21 days after the date of such refusal or failure, apply by summons to a Judge for an order directing him to state a case within the time limited by the order.

Procedure following appeal

9. Where on the hearing of a case stated the Judge allows the appeal he shall remit the matter to the Secretary of State with such declarations and directions as he shall think proper for hearing and determination by the Secretary of State.

EXPLANATORY NOTE

(This note is not part of the Rules but is intended to indicate their general purport.)

These rules amend the Rules of the Supreme Court (Northern Ireland) 1936 and come into operation on 1st September 1976.

Rule 12 of Order 22 of the Rules is amended in order to allow payment out of a fund or share of a fund in court not exceeding £1,500 to the next-of-kin of a person who has died intestate and whose assets (including that fund or share) do not exceed that figure. The present limit is £500.

Order 59I is inserted into the Rules to deal with appeals to a Judge of the High Court from decisions of the Secretary of State for Prices and Consumer Protection under section 41 of the Consumer Credit Act 1974. See section 13 of the Tribunals and Inquiries Act 1971 as amended by section 42(1) of the 1974 Act.

Orders 13, 19, 20, 27, 28, 36 and 67 are amended so as to abolish the requirement to file pleadings when they are delivered. The party entering an action for trial is still required to comply with rule 23 of Order 36 by, inter alia, delivering two bundles containing the pleadings (one for the use of the Judge and the other for the record).

Orders 65 and 70 of and Appendix S to the 1936 Rules are amended in consequence of the coming into operation of the Litigants in Person (Costs and Expenses) Act 1975.