

SCHEDULE 1

The Rules of the Supreme Court (Northern Ireland) 1980 COMMENCEMENT AND PROGRESS OF PROCEEDINGS

ORDER 29

INTERLOCUTORY INJUNCTIONS, INTERIM PRESERVATION OF PROPERTY, INTERIM PAYMENTS, ETC.

II. INTERIM PAYMENTS IN ACTIONS FOR PERSONAL INJURIES

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 in respect of personal injuries to the plaintiff or any other person or in respect of a person's death which that defendant may be held liable to pay to or for the benefit of the plaintiff;

any reference to the plaintiff or defendant includes a reference to any person who for the purpose of the proceedings, acts as next friend to the plaintiff or guardian of the defendant.

[E.r. 9]

Application for interim payment

12. In an action for personal injuries the plaintiff may, at any time after the writ has been served on a defendant and the time limited for him to appear has expired, apply to the Court for an order requiring that defendant to make an interim payment.

[E.r. 10]

Manner in which application under rule 12 must be made

13.—(1) An application under rule 12 must be made by summons, stating the grounds on which the application is made, and be supported by an affidavit, which must—

- (a) verify the special damages, if any, claimed by the plaintiff up to the date of the application;
- (b) exhibit the hospital and medical reports, if any, relied upon 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⁽¹⁾ contain the particulars mentioned in Article 4 of the Order.

(2) The summons and a copy of the affidavit in support and any exhibit referred to therein must be served on the defendant against whom the order is sought not less than 10 clear days before the return day.

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

[E.r. 11]

(1) S.I. 1977 No. 1251 (N.I. 18)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Order for interim payment

- 14.—(1) If, on the hearing of an application under rule 12, 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 claim; 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 succeed in the action on the question of liability without any substantial reduction of the damages for fault on his part or on the part of any person in respect of whose injury or death the plaintiff’s claim arises and would obtain judgment for damages against the respondent or, where there are two or more defendants, against any of them,

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.

(2) No order shall be made under paragraph (1) if it appears to the Court that the defendant, or, if there are two or more defendants, any of them, 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;
- (c) a person whose means and resources are such as to enable him to make the interim payment.

(3) 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 ex parte 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.

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

[E.r. 12]

Directions on application under rule 12

15.—(1) Where an application is made under rule 12, the Court may give directions as to the further conduct of the action.

[E.r. 13]

Non-disclosure of order for interim payment

16. The fact that an order has been made under rule 14 shall not be pleaded and no communication of that fact shall be made to the Court at the trial or hearing of the action or of any question or issue as to liability or damages until all questions of liability and the amount of the damages have been decided.

[E.r. 14]

Payment into court

17. Where, after making an interim payment pursuant to an order under rule 14, 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.

[E.r. 15]

Adjustment on final judgment or order

18. Where a defendant has made an interim payment pursuant to an order under rule 13, the Court may, on giving or making a final judgment or order determining that defendant's liability to the plaintiff in the action, make any such order with respect to the interim payment as may be necessary for giving effect to the determination and in particular—

- (a) an order for the repayment by the plaintiff of any sum by which the interim payment exceeds the amount which that defendant is liable to pay the plaintiff, or
- (b) 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.

[E.r. 16]

Interim order on counterclaim

19. A defendant who makes a counterclaim for damages in respect of personal injuries to himself or any other person or in respect of a person's death may apply for an order requiring the plaintiff to make an interim payment and this Part of this Order shall apply accordingly with the necessary modifications.

[E.r. 17]