
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 295

**County Court (Amendment No. 3)
Rules (Northern Ireland) 1996**

Discovery of documents

3. Order 15 shall be amended by the insertion of the following new rule after rule 5—

“Application under Article 42A(2) or 42B(2) of the Order

5A.—(1) An application for an order

- (a) under Article 42A(2) of the Order for the disclosure of documents before the commencement of proceedings; or
- (b) under Article 42B(2) of the Order for the disclosure of documents by a person who is not party to the proceedings

shall be made by notice in writing in Form 68D and the person against whom the order is sought shall be the respondent to the application.

(2) The notice shall be filed with the chief clerk and shall be served on the respondent and in the case of an application under Article 42B(2) on the parties to the proceedings at least 7 days before the date fixed for hearing.

(3) The notice shall be supported by an affidavit which must—

- (a) in the case of an application under Article 42A(2) state the grounds on which it is alleged that the applicant and the respondent are likely to be parties to subsequent proceedings in the court in which a claim in respect of personal injuries is likely to be made;
- (b) in any case, specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any civil bill (or other originating summons) served or intended to be served in the proceedings, that the documents are relevant to an issue arising or likely to arise out of a claim for personal injuries made or likely to be made in the proceedings and that the person against whom the order is sought is likely to have or have had them in his possession, custody or power.

(4) A copy of the supporting affidavit shall be served with the notice on every person on whom the notice is required to be served.

(5) An order under the said Article 42A(2) or 42B(2) for the disclosure of documents shall be in Form 68E; and

- (a) may be made conditional on the applicant giving security for the costs of the person against whom it is made or on such other terms, if any, as the court thinks just;
- (b) shall require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are, or at any time have been in his possession, custody or power and if not then in his

possession, custody or power, when he parted with them and what has become of them.

(6) No person shall be compelled by virtue of such an order to produce any documents which he could not be compelled to produce

(a) in the case of an application under Article 42A(2), if the subsequent proceedings had already been begun; or

(b) in the case of an application under Article 42B(2) if he had been served with a writ of subpoena duces tecum to produce the documents at trial.

(7) In this rule “a claim for personal injuries” means a claim in respect of personal injuries to a person or in respect of a person’s death”.