

2000 No. 282

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 2000

Made 27th September 2000

Coming into operation 2nd October 2000

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(a), in exercise of the powers conferred on us by Article 47 of that Order, sections 7(2) and (9) of the Human Rights Act 1998(b), and all other powers enabling us in that behalf, hereby make the following Rules:—

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2000.

(2) In these Rules, a reference to an Order, Appendix or Form by number is a reference to that Order, Appendix or Form so numbered in the County Court Rules (Northern Ireland) 1981(c).

Amendments

2.—(1) After Part VI of Order 52, there shall be added the new Part VII set out in Schedule 1.

(2) After Form 396 in Appendix 1, there shall be added the new Forms set out in Schedule 2.

(a) S.I. 1980/397 (N.I. 3)

(b) 1998 c. 42

(c) S.R. 1981 No. 225 to which the most recent relevant amendments were made by S.R. 1999 No. 129

We, the undersigned members of the County Court Rules Committee, having by the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

A. R. Hart

T. A. Burgess

Brian Kennedy

Barry Valentine

P. Kelly

Brian F. Walker

Dated 14th September 2000.

After consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 2nd October 2000.

Dated 27th September 2000.

Irvine of Lairg, C.

“PART VII

THE HUMAN RIGHTS ACT 1998

Interpretation

22. In this Part—

“the Act” means the Human Rights Act 1998(a);

“appropriate person” has the same meaning as in Section 9(5) of the Act;

“Convention rights” has the same meaning as in section 1 of the Act”;

“judicial act” has the same meaning as in section 9(5) of the Act;

“originating process” means a civil bill, petition, notice of application or any other method of commencing proceedings in a county court;

“public authority” has the same meaning as in section 6(3) of the Act.

Commencement of proceedings

23.—(1) Subject to paragraph (2), proceedings under section 7(1)(a) of the Act may be brought in a county court in accordance with such provisions as relate to the action or other type of proceeding which it is sought to bring.

(2) Proceedings under section 7(1)(a) of the Act in respect of a judicial act may be brought in a county court only by exercising a right of appeal.

Proceedings

24.—(1) A party who intends to rely on a Convention right or rights in proceedings before a county court shall state that fact and shall specify such details as are referred to in paragraph (3)—

(a) if he is a plaintiff, petitioner or applicant, in the originating process;

(b) if he is an appellant, in the notice of appeal;

(c) if he is a defendant or a respondent to a petition, application or appeal, or in any other case, on a notice in Form 397.

(2) A notice in Form 397 shall be delivered to the Chief Clerk and served on each of the other parties to the proceedings—

(a) at the same time as any notice of intention to defend is so delivered and served;
or

(b) in a case where there is no notice of intention to defend, as soon as practicable after notice of the proceedings has been received.

(3) The following shall be specified in accordance with paragraph (1)—

(a) details of the Convention right or rights which it is alleged have been (or would be) infringed and details of the alleged infringement;

(b) the relief sought;

(c) whether the relief sought includes a claim for damages in respect of a judicial act to which section 9(3) of the Act applies;

(d) where the proceedings are brought following a finding by another court or tribunal that a public authority has acted in a way which is made unlawful by section 6(1) of the Act, details of that finding;

(e) where the proceedings relate to a judicial act which is alleged to have infringed a Convention right or rights of a party as provided by section 9 of the Act, details of the judicial act complained of and of the court or tribunal which is alleged to have performed that act.

(4) Paragraph (1) shall not apply to an appellant in any appeal brought to a county court except where such an appellant intends to rely on a Convention right or rights not relied upon by him before the court or tribunal from whose decision the appeal is brought.

Proceedings in respect of judicial act: Notice to appropriate person

25.—(1) Where proceedings under section 7(1)(a) of the Act in respect of a judicial act are brought in a county court in accordance with section 9(1)(a) of the Act, the Court shall give notice of those proceedings in Form 398 to the appropriate person.

(2) The notice referred to in paragraph (1) shall be given by the Court having had regard to the list of authorised Northern Ireland Departments or authorised Departments of the Government of the United Kingdom published in pursuance of section 17 of the Crown Proceedings Act 1947(a).

Proceedings in respect of a judicial act: joinder of appropriate person

26.—(1) Subject to paragraph (3), where notice has been given under Rule 25, the appropriate person shall be joined as a party on giving notice in accordance with paragraph (2).

(2) The notice referred to in paragraph (1) shall be in Form 399 and—

(a) shall be lodged with the Chief Clerk not later than 21 days, or such other period as the Court may specify, after the date of service of notice under Rule 25;

(b) a copy shall be served on each of the parties to the proceedings as soon as practicable thereafter; and

(c) where a Minister has nominated a person or a government department under section 9(5) of the Human Rights Act 1998, shall be accompanied by a copy of that nomination in writing.

(3) Where the appropriate person does not give notice within the time allowed by paragraph (2), the Court may direct that the appropriate person be joined as a party to the proceedings.

(4) Where the appropriate person is joined as a party to the proceedings under paragraphs (2) or (3), the Court may give such directions as it considers necessary for the future conduct of the proceedings.

(a) 1947 c. 44 (as applied to Northern Ireland by S.I. 1981/233)

FORM 397

Notice of party raising intention to reply on Convention right (or rights) in proceedings otherwise than in originating process or notice of appeal

ORDER 52, PART VII, RULE 24

[Heading as in proceedings in which Convention right or rights are raised]

TAKE NOTICE that I intend to rely in the above-mentioned proceedings on Convention right or rights

[Specify details set out in Order 52, Part VII, Rule 24(3)]

Dated this day of 20 .

Solicitor for the
[defendant]
[respondent]

To the [plaintiff] [applicant] [appellant] and to
the Chief Clerk for the above-mentioned County Court Division.

FORM 398

Notice to appropriate person of proceedings under section 7(1)(a) of Human Rights Act 1998 in respect of a judicial act

ORDER 52, PART VII, RULES 25 AND 26

[Headings as in proceedings]

TAKE NOTICE that proceedings under section 7(1)(a) of the Human Rights Act 1998 in respect of a judicial act have been brought in the above-mentioned county court. A copy of the document under which the issue is raised is attached in this notice.

AND TAKE FURTHER NOTICE that you may not later than [21 days] [or such period as the court has specified] after the date of service of this notice, give notice of intention to be joined as a party to the above-mentioned proceedings. If you do not give such notice within the time allowed, the Court may direct that you be joined as a party to the said proceedings.

To: *[the appropriate person as defined in section 9(5) of the Human Rights Act 1998 and as determined in accordance with Order 52, Part VII, Rule 25(2)]*

FORM 399

**Notice of intention to be joined as a party to proceedings under section 7(1)(a)
of the Human Rights Act 1998 in respect of a judicial act**

ORDER 52, PART VII, RULE 26

[Heading as in proceedings]

WHEREAS NOTICE OF PROCEEDINGS UNDER SECTION 7(1)(a) OF THE HUMAN RIGHTS ACT 1998 in respect of a judicial act was received by *[the appropriate person as defined in section 9(5) of the Human Rights Act 1998 and as determined in accordance with Order 52, Part VII, Rule 25(2)]* on the day of
20 .

TAKE NOTICE that the *[appropriate person]* intends to become a party to the above-mentioned proceedings.

Dated this day of 20 .

On behalf of *[the appropriate person]*

To the appellant/defendant/respondent and to the Chief Clerk of the above-mentioned County Court Division.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the County Court Rules (Northern Ireland) 1981 so as to insert into Order 52 a new Part VII which prescribes the practice and procedure in relation to proceedings in a county court under the Human Rights Act 1998.

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