STATUTORY INSTRUMENTS

1996 No. 277

The County Courts (Amendment) (Northern Ireland) Order 1996

Title and commencement

1.—(1) This Order may be cited as the County Courts (Amendment) (Northern Ireland) Order 1996.

(2) This Order shall come into operation on such day or days as the Lord Chancellor may by order appoint.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

Discovery and related procedures in county court

3. After Article 42 of the County Courts (Northern Ireland) Order 1980 there shall be inserted the following—

"Discovery and related procedures

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(l) 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 428 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.".

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