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STATUTORY INSTRUMENTS

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**1980 No. 397**

**County Courts (Northern Ireland) Order 1980**

**PART V**

**SUPPLEMENTAL PROVISIONS RESPECTING  
JURISDICTION OF COUNTY COURTS**

**(ii)**

**PROVISIONS SUPPLEMENTAL TO CIVIL JURISDICTION**

*Exercise of Civil Jurisdiction*

**Civil jurisdiction exercisable by circuit registrars**

**30.**—(1) Subject to paragraph (3), any action in which the amount claimed, or the value of specific chattels claimed, does not exceed [<sup>F1</sup>£10,000] shall, save as otherwise provided by county court rules, be heard and determined by a circuit registrar in accordance with those rules.

[<sup>F2</sup>(2) Any order, decision or determination made by a district judge under this Article (other than one made in dealing with a claim by way of arbitration under paragraph (3)) shall be embodied in a decree which for all purposes (including the right of appeal under Part VI) shall have the like effect as a decree pronounced by a county court judge.]

(3) Where in any action to which paragraph (1) applies the amount claimed, or the value of specific chattels claimed, does not exceed [<sup>F3</sup>£3,000] the circuit registrar shall, save as otherwise provided by county court rules, deal with the claim by way of arbitration in accordance with those rules.

[<sup>F2</sup>(4) Where in any action to which paragraph (1) applies the claim is dealt with by way of arbitration under paragraph (3)—

(a) any award made by the district judge in dealing with the claim shall be embodied in a decree which for all purposes (except the right of appeal under Part VI) shall have the like effect as a decree pronounced by a county court judge;

[ any party may appeal on a question of law to a judge (not being a deputy judge) against  
<sup>F4</sup>(ab) any order, decision or determination;]

(b) the district judge may, and shall if so required [<sup>F4</sup> by the Court of Appeal, state for the determination of the Court of Appeal any question of law arising out of an award made by the district judge in dealing with the claim unless an appeal on the question has been brought under sub-paragraph (ab);]

(c) except as provided by [<sup>F4</sup> sub-paragraphs (ab) and (b)], any award so made shall be final; and

(d) except as otherwise provided by county court rules, no costs shall be awarded in connection with the action.

**Status:** Point in time view as at 25/02/2013.

**Changes to legislation:** County Courts (Northern Ireland) Order 1980, (ii) is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[  
<sup>F4</sup>(4A) An appeal under paragraph (4)(ab) shall be brought within the period of twenty-one days commencing with the date on which the order, decision or determination was made; and on such an appeal the judge—

- (a) has the same powers as the district judge; but
- (b) is not required to hold a hearing;

and his decision shall be final.]

(5) Subject to paragraph (4), county court rules may—

- (a) apply any of the provisions of Part I of the Arbitration Act 1996 to arbitrations under paragraph (3) with such modifications as may be prescribed;
- (b) prescribe the rules of evidence to be followed on any arbitration under paragraph (3) and, in particular, make provision with respect to the manner of taking and questioning evidence.

(5A) Except as provided by virtue of paragraph (5)(a), Part I of the Arbitration Act 1996 shall not apply to an arbitration under paragraph (3).]

(6) References in paragraphs (1) and (3) to an amount claimed include references to a balance claimed in the circumstances mentioned in Article 10(1)( a)( b) and ( c).

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| <b>F1</b> | Word in art. 30(1) substituted (25.2.2013) by <a href="#">The County Courts (Financial Limits) Order (Northern Ireland) 2013 (S.R. 2013/18)</a> , arts. 1, <b>2(b)</b> (with art. 5) |
| <b>F2</b> | <a href="#">1996 c. 23</a>   |
| <b>F3</b> | Words in art. 30(3) substituted (2.5.2011) by <a href="#">County Courts (Financial Limits) Order (Northern Ireland) 2011 (S.R. 2011/65)</a> , <b>art. 2</b>                          |
| <b>F4</b> | <a href="#">2002 c. 26</a>   |

## Arbitration

**31.**—(1) The judge may, with the consent of the parties to any civil proceedings, order the proceedings to be referred to arbitration (whether with or without other matters within the jurisdiction of the court in dispute between the parties) to such person or persons and in such manner and on such terms as he thinks just and reasonable.

(2) Where any proceedings are referred to arbitration as aforesaid—

- (a) the arbitrator shall be deemed to be an officer of the court;
- (b) subject to the order, the arbitrator shall conduct the references in the prescribed manner;
- (c) the award shall, unless set aside by the judge, have the like effect as a decree pronounced by the judge and shall be embodied in a decree accordingly;
- (d) the remuneration to be paid to the arbitrator shall be determined by the judge, and, subject to any agreement between the parties or order of the judge, be costs in the proceedings.

*Para. (3) rep. by 1996 c. 23*

## Reference to officer

**32.**—(1) Subject to county court rules the judge may refer to a circuit registrar or an officer of the court for inquiry and report—

- (a) any proceedings requiring any prolonged examination of documents or any scientific or local examination which cannot, in the opinion of the judge, conveniently be made before him;

- (b) any proceedings where the question in dispute consists wholly or partly of matters of account;
- (c) with the consent of the parties, any other proceedings;
- (d) any question arising in any proceedings.

(2) Subject to county court rules, every such reference shall be conducted in accordance with the directions of the judge.

(3) The judge may remit any report for further inquiry and report, and on the consideration of any report or further report may give such judgment or make such order as may seem just.

(4) The judge may, after deciding or reserving any question of liability, refer to a circuit registrar or an officer of the court any mere matter of account which is in dispute between the parties and, after deciding the question of liability, may give judgment on the circuit registrar's or officer's report.

### Assessors

**33.**—<sup>F5</sup>(1) In any proceedings the judge may, if he thinks fit on the application of any party, appoint, in such manner as may be prescribed, a person or persons of skill and experience in the matter to which the proceedings relate who may be willing to sit with the judge and act as assessor or assessors.

(2) The remuneration of persons for acting as assessors shall be at such rate as may be prescribed and unless otherwise ordered by the judge shall be costs in the proceedings.

(3) Where any person is proposed to be appointed as an assessor, objection to him, either personally or in respect of his qualification, may be taken by any party in the prescribed manner.

**F5** mod. by 1984 c. 12

#### Modifications etc. (not altering text)

**C1** [Art. 33\(1\)](#) applied (with modifications) (1.1.2007) by [Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), [reg. 36\(7\)\(a\)](#) (with [regs. 5\(4\)](#), [16\(3\)\(4\)](#), [26](#), [53](#))

### *Extent of Powers of County Court*

#### County court to have powers of High Court

**34.**—(1) A county court in relation to any proceedings within its jurisdiction shall have the like powers as the High Court, and in particular (but without prejudice to the generality of the foregoing words of this paragraph) may—

- (a) grant such relief, redress or remedy or combination of remedies, either absolute or conditional; and
- (b) give such and the like effect to every ground of defence or counterclaim equitable or legal;

as ought to be granted or given in the like case by the High Court and in as full and ample a manner.

(2) A judge shall, whether within his division or not, have jurisdiction in any proceedings pending in any court in his division to make any order or to exercise on an ex-parte application any authority or jurisdiction which, if it related to an action or proceeding pending in the High Court, might be made or exercised by a judge of that court in chambers.

(3) In any proceedings in or in relation to which a county court may under any statutory provision exercise the like powers as the High Court, a circuit registrar or his deputy may, subject to county court rules and to any direction of the judge, perform any functions which, if the proceedings had

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been brought in (or as the case may be had been retained in or removed to) the High Court might have been performed by an officer of the<sup>F6</sup>Court of Judicature].

**F6** Words in art. 34(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(b)(d)

### **Power of High Court to grant injunctions**

**35.** Without prejudice to the powers conferred on county courts by this Order, a party to any proceedings in a county court may during any interval between the sittings of that court apply for an injunction to such judge of the High Court as may be designated by rules of court; and—

- (a) such judge shall have the like power to hear and determine the application as if the proceedings were an action commenced in the High Court; and
- (b) the granting of such an injunction shall not operate to remove the proceedings from the county court to the High Court unless such judge so directs.

### *Institution of Civil Proceedings*

#### **Division of causes of action**

**36.** It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in any one or more than one county court.

#### **No action on judgment of other courts**

**37.** It shall not be lawful for any person to sue in a county court upon a judgment or order of any other court in Northern Ireland but nothing in this Article shall apply to proceedings under <sup>F7</sup>Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 ].

**F7** 1981 NI 6

### *Parties*

#### **Civil proceedings by and against the Crown**

**38.** Civil proceedings may be instituted in a county court by or against the Crown (whether in right of Her Majesty's Government in the United Kingdom or of Her Majesty's Government in Northern Ireland) in accordance with the relevant provisions of the Crown Proceedings Act 1947 .

#### **Capacity of parties**

**39.—(1)** Subject to this Order and to county court rules, the capacity of persons or classes of persons to institute or continue proceedings, and the liability of persons or classes of persons to be sued, in a county court shall be the same as in the High Court.

- (2) Without prejudice to the generality of paragraph (1)—
  - (a) a representative of a deceased person may sue or be sued in like manner as if he were a party in his own right;
  - (b) a person rendering himself an executor de son tort may be sued as if he were a rightful executor but shall not be liable beyond the amount of the assets actually received by him;

- (c) a minor may sue as if he were of full age for money due to him under a contract of service or for work done by him;
- (d) no proceedings shall abate by reason of the marriage, death or bankruptcy of<sup>F8</sup>, or the formation of a civil partnership by,] any party, where the cause of action survives or continues, nor by reason of the assignment, creation or devolution of any estate or title *pendente lite*.

F8 2004 c. 33

### Third and subsequent parties

40.—(1) In any action where—

- (a) a defendant claims to be entitled to contribution or indemnity from or other relief over against another defendant or any person not a party to the action (in this Article referred to as a “third party”);
- (b) a third party makes a like claim against any other person, whether a party to the action or not (in this Article referred to as a “fourth party”),

a county court shall have jurisdiction to grant, subject to county court rules, any such relief as may be granted in the like case by the High Court to a defendant or third party.

(2) Subject to county court rules, the practice and procedure as between a defendant and a third party and as between a third party and a fourth party shall be the same as the practice and procedure as between a plaintiff and defendant.

(3) County court rules shall apply the foregoing provisions of this Article to—

- (a) any action wherein a fourth party makes, as such, a claim against another person not a party to the action; and
- (b) any action wherein any subsequent like claims are made successively.

(4) A party shall not be prejudiced or unnecessarily delayed in the prosecution of his claim by reason of questions between other parties in which he is not concerned.

### Process

#### Service of process

41. Service of civil bills and other process and documents shall be effected and may be proved in such manner as shall be prescribed.

#### Offences in relation to civil process

42.—(1) Any person wilfully and corruptly endorsing on a civil bill, or other process or document initiating or relating to any civil proceedings in a county court, any false statement in relation to the service thereof shall be guilty of an offence.

(2) Any person who—

- (a) delivers or causes to be delivered to any other person any paper falsely purporting to be, or to be a copy of, any civil bill or other process of a county court, knowing it to be false; or
- (b) acts or professes to act under any false colour or pretence of the process or authority of a county court;

shall be guilty of an offence.

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- (3) Any person guilty of an offence under paragraph (1) or (2) shall be liable—
- (a) on conviction on indictment, to imprisonment for any term not exceeding two years;
  - (b) on summary conviction, to imprisonment for any term not exceeding six months or to a fine not exceeding<sup>[F9]</sup> level 3 on the standard scale] or to both such imprisonment and such fine.

(4) Without prejudice to paragraph (2), any person who delivers or causes to be delivered to any other person any document which, not having been issued under the authority of a county court, has by reason of its form (including its colour) or contents or both the appearance of having been issued under such authority shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F9]</sup> level 3 on the standard scale].

**F9** 1984 NI 3

<sup>[F10]</sup>Discovery and related procedures

**F10** 1996 NI 3

### **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(1) 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 42B 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.]

#### *Witnesses*

#### **Subpoenas and commissions for examination of witnesses**

**43.**—(1) For the purpose of any proceedings in a county court the High Court shall have the like power—

- (a) to issue a subpoena;
- (b) to issue a commission, request or order for the examination of witnesses;

as the High Court has for the purpose of any proceedings in that court.

(2) Paragraph (1) shall operate without prejudice to any jurisdiction exercisable by a county court by virtue of Article 14 or any other provision of this Order.

*Status: Point in time view as at 25/02/2013.*

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## Evidence of prisoners

**44.**—(1) Without prejudice to section 16 of the Prison Act (Northern Ireland) 1953, the judge in any proceedings pending in a county court may, if he thinks fit, upon the application of any party in accordance with county court rules, issue an order under his hand for bringing up before the court any person (in this Article referred to as a “prisoner”) confined in any prison or place under any sentence or under commitment for trial or otherwise to be examined as a witness in the proceedings.

(2) Subject to paragraph (3), a prisoner shall be brought before the court in the like custody and be dealt with in all respects in the like manner as a prisoner brought before and examined as a witness in the High Court by virtue of a writ of habeas corpus.

(3) A prison governor shall not be bound to obey the order unless there is tendered to him a reasonable sum for the conveyance and maintenance of any proper officers and of the prisoner in going to, remaining at and returning from the court.

## Decrees

### Decrees

**45.**—(1) Every decree of a county court shall, except as provided by Part VI or any other statutory provision or county court rules, be final and conclusive between the parties.

(2) If at any time before the creditor has applied to the Enforcement of Judgments Office under [F11 Article 22 or Article 23 of the Judgments Enforcement (Northern Ireland) Order 1981 ] to enforce the decree it appears to the satisfaction of the judge that any party to any proceedings is unable from any cause to pay any sum decreed against him, the judge may in his discretion stay the execution of the decree for such time and on such terms as the judge thinks fit.

F11 1981 NI 6

### [F12] Interest on debts and damages

**45A.**—(1) Subject to county court rules, in proceedings (whenever instituted) before a county court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as county court rules may provide, on all or any part of the debt or damages in respect of which judgment is given, or payment is in respect of which judgment is given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—

- (i) in the case of any sum paid before judgment, the date of the payment; and
- (ii) in the case of the sum for which judgment is given, the date of the judgment.

(2) Subject to the rules of court, where—

- (a) there are proceedings (whenever instituted) before the High Court for the recovery of a debt; and
- (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),

the defendant shall be liable to pay the plaintiff simple interest at such rate as the court thinks fit or as rules of court may provide on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.

(3) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.



(4) Without prejudice to the generality of section 55, rules of court may provide for a rate of interest by reference to a rate for which any other enactment provides.

(5) Interest under this section may be calculated at different rates in respect of different periods.

(6) In this section “plaintiff” means the person seeking the debt or damages and “defendant” means the person from whom the plaintiff seeks the debt or damages.

(7) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.]

**F12** 1982 c. 53

**Status:**

Point in time view as at 25/02/2013.

**Changes to legislation:**

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