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STATUTORY RULES OF NORTHERN IRELAND

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**1981 No. 225**

**County Court Rules (Northern Ireland) 1981**

**ORDER 32**

Statutory appeals, references, applications and cases stated

**PART I**

**STATUTORY APPEALS, REFERENCES AND APPLICATIONS**

**Appeals**

1.—(1) This Rule shall apply, with any necessary modifications and subject to the provisions of the relevant enactment, to any appeal not otherwise provided for which under any enactment for the time being in force may lie to a county court against any order, determination, award or other decision of a tribunal (in this Order referred to as an “order”).

(2) Every such appeal (in this Order referred to as an “appeal”) shall be by way of re-hearing and where any question of fact is involved in an appeal, the evidence bearing on such question shall be given orally unless the judge, as respects that evidence or any part thereof, otherwise directs.

(3) Every appeal shall be brought by notice of appeal intituled in the matter of the relevant enactment and as between the parties to the appeal, and shall set forth the grounds upon which the appellant relies.

(4) Every such notice of appeal shall be served—

- (a) within the time provided by the relevant enactment and if no time is so provided then within twenty-one days from the date on which the order was made or within such further period as the judge, having regard to all the circumstances, may in his discretion allow;
- (b) upon every body or person making, or affected by, the order; and
- (c) subject to any directions of the judge in like manner as a civil bill is served.

(5) Every appeal shall be entered in the Office by the appellant who shall send by prepaid post to, or leave at, the Office—

- (a) a true copy or notice of the order if in his possession; and
- (b) a true copy of the notice of appeal and endorsement of each service thereof;

so as to be received in the Office not later than entry day.

(6) Every appeal shall be to the equity sittings held next after the expiration of a period of fifteen days from the day on which notice of appeal is served.

(7) An appellant may by his notice appeal against the whole or any part of the order and the notice shall state whether the whole or part only, and if part only which part, of the order is impugned.

(8) Upon the entry of an appeal the chief clerk may require the secretary, registrar or other proper officer of the tribunal to furnish to the Office a copy of the order.

(9) The chief clerk may make and issue to any party, or any person interested, a copy of the order.

(10) Subject to the provisions of paragraphs (5) and (7) of Article 8 of the Order, every appeal shall be heard in the court for the division—

- (a) in which any land, property or business affected by the order is wholly or mainly situated or carried on; or
- (b) in which the order was made.

(11) Subject to the provisions of this Rule, the judge shall, in relation to an appeal, have the like powers and authorities as he has in the exercise of the jurisdiction of the court in equity matters.

(12) Subject to the provisions of the relevant enactment and of this Rule, the procedure, rules and practice for the time being in force in county courts with respect to equity proceedings shall apply to every appeal.

### **References**

2. Rule 1 shall with any necessary modifications apply to any matter or proceeding not otherwise provided for where under any enactment for the time being in force any matter, question or issue whether of law or of fact may be submitted or referred to a county court for its opinion or decision.

### **Applications**

3. Any application (other than an application by way of appeal or reference) under the provisions of any enactment for the time being in force, not otherwise provided for, may be brought either in the manner in which similar or analogous applications are brought in the county court or in the manner (subject to any necessary modifications) in which appeals may be brought under this Order.

## **PART II**

### **CASES STATED**

#### **Application of this Part**

4. This Part shall apply, subject to the provisions of the relevant enactment and of the Rules of the Supreme Court, to any case stated which, under the provisions of any enactment for the time being in force, may be stated for the opinion of the Court of Appeal.

#### **Stating of case**

5.—(1) The judge may state a case on the application of any party.

(2) An application for a case stated shall be made in the manner and within the time provided by the relevant statute, and if not so provided, then such an application shall be made in writing by delivering it to the chief clerk within a period of fourteen days commencing on the date on which the decision was given and a copy shall be given to the other party.

(3) The written application shall set out the precise point of law involved in the decision with which the applicant is dissatisfied.

(4) Subject to any directions of the judge in special circumstances, a case stated shall be prepared by the party applying for it and shall be submitted in draft form to the other party or parties for approval within one month from the day on which the judge directs the case to be stated.

(5) The party to whom the draft case is submitted shall within three weeks from the day on which it is submitted to him return it with his observations thereon to the party who prepared it.

(6) Every case stated shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and refer to such documents as may be necessary to enable the Court of Appeal to decide any question raised thereby.

### **Submission and transmission of case**

6.—(1) The party or parties preparing a case stated shall, within two months from the day on which the judge directs the case to be stated or such longer time as the judge may allow, submit it to the judge for approval and settlement.

(2) Any dispute between the parties as to the contents of the case stated shall be determined by the judge.

(3) The judge shall within two months from receipt of a case stated approve and settle the case and shall—

- (a) sign it and insert the date of such signature;
- (b) where more than one party applies for a case stated, direct which applicant is to have carriage; and
- (c) transmit the case to the chief clerk.

(4) Subject to paragraph (2), the chief clerk on receiving the signed case stated shall—

- (a) endorse thereon the date of receipt; and
- (b) transmit to the applicant a signed case with the date of transmission also endorsed.

(5) Where any enactment or any order of the judge requires a party having carriage of a case stated to fulfil any condition precedent (whether by way of giving security for costs, or of entering into a recognizance for the due prosecution of the case, or otherwise) to the entry of the case stated in the Supreme Court, the chief clerk shall not transmit the case to the applicant until that condition has been fulfilled.

(6) Where any such condition precedent is not fulfilled, or the party preparing the draft case does not submit it to the judge for approval and settlement, within the time fixed by the enactment or by these Rules or such longer time as the judge may allow, the application shall be deemed to be withdrawn and thereupon, if the case was stated—

- (a) after the determination of the proceedings, that determination shall stand affirmed;
- (b) before the determination of the proceedings, the proceedings shall stand adjourned until the next succeeding sittings or, with the consent of the parties, to the sittings for such other division as may be convenient.

(7) Where the party to whom a draft case stated has been submitted under Rule 5(5) makes default in complying with that Rule, the party having carriage may proceed in accordance with paragraph (1).

## **PART III**

### **INTERPRETATION**

#### **Interpretation**

7. In this Order the expression—

“enactment” means an Act or statutory instrument or any provision of an Act or statutory instrument;

“Supreme Court” includes any division or judge of that Court;

“tribunal” means any court, authority, body or person making the order.