
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 43

Practice generally

Hours of sitting and order of hearing of proceedings

1.—(1) The ordinary hours of sitting of a court shall be such as the judge of that court shall determine but shall not be before nine o'clock in the morning, and the hearing of any civil proceedings shall not commence after the hour of six o'clock in the afternoon.

(2) All proceedings in a county court shall be heard in such order as the judge shall direct.

Change of solicitor

2.—(1) Any party in any proceedings for whom a solicitor has acted who changes his solicitor shall give to the solicitor and to every other party written notice of the change, stating the name and address of his new solicitor, and shall lodge a copy of the notice with the chief clerk who shall file the same.

(2) Any party for whom a solicitor has acted who desires to act in person shall inform the solicitor and shall give notice to every other party stating his intention to act in person and giving an address for service and shall lodge a copy of the notice with the chief clerk who shall file the same.

(3) Where a party who has acted in person appoints a solicitor to act for him, he shall give notice of the appointment and of the solicitor's address for service to every other party and shall lodge a copy of the notice with the chief clerk who shall file the same.

(4) Where a solicitor's instructions to act for a party in any proceedings have been withdrawn or a solicitor wishes to withdraw from any such proceedings and notice has not been given of the appointment of a new solicitor or of the party's intention to act in person the solicitor may apply to the judge, on notice to all the parties to the action stating the grounds of the application, for an order declaring that he has ceased to act as the solicitor for that party in the proceedings.

Delivery and lodgment of notices and documents

3. All notices or documents required by any enactment to be delivered to or lodged with the circuit registrar or chief clerk may be delivered or lodged—

- (a) by leaving the notice or document at the Office with the chief clerk or with any clerk or assistant of the chief clerk; or
- (b) by sending the notice or document by registered post to the chief clerk at his office; posted at such time as to permit its delivery, in the ordinary course of post, within the period required by the enactment for the delivery of the notice or document.

Office books and records: issue of copies

4.—(1) The books and records to be kept and maintained by each chief clerk shall, subject to the Order and County Court Rules, be such as were kept and maintained by him immediately before the commencement of the Act and such other books and records as may be necessary to effect the purpose of these Rules.

(2) Copies of all documents and records which may be inspected in the Office shall, except as otherwise provided by any enactment, be prepared for any party requiring them upon payment of the cost of such copies.

Acts and notices by solicitor or agent

5. Where by these Rules any act may be done or notice given by any party, such act may be done or notice given either by the party in person or by his solicitor or, if it can be legally done by an agent, by his agent.

Service on solicitor of party

6. Where a party acts by a solicitor, service of any proceeding or document upon such solicitor, or delivery of the same at his office, or sending the same to him by post, shall be deemed to be good service upon the party for whom such solicitor acts, as upon the day when the same is so served or delivered or upon which, in the ordinary course of post, it would be delivered, except in cases where by these Orders or any other enactment personal service upon a party is required.

Service by advertisement

7. Where, by reason of the absence of any party or from any other sufficient cause, the service of any notice, proceeding, or document (other than a civil bill or petition) cannot be effected, the judge may order notice by advertisement or otherwise in lieu of said service.

Advertisements

8. The judge or circuit registrar or chief clerk as the case may be shall direct in what newspaper any advertisements which may from time to time be ordered in any suit or proceedings shall be inserted.

Party to have conduct of suit or matter

9. The judge may order what party shall have the conduct of any suit or matter.

Enlargement or abridgement of time

10. The judge may, upon such terms, if any, as he may think reasonable, enlarge or abridge any of the times fixed by these Rules for taking any step, or filing or sending any document, or giving any notice in any proceedings; and where any person has failed to take any step, or to file or serve any document, or to give any notice within the time or in the manner prescribed by these Rules, the judge may, upon the application of such person, and if he thinks sufficient excuse exists for such failure, and upon such terms as to costs or otherwise as he thinks fit, declare the taking of such step, or the filing or serving of such document, or the giving of such notice so done or effected, to be sufficient.

Interest on debts

11. Where an estate has been ordered to be administered, creditors shall, unless otherwise entitled to interest at a different rate on the debts due to them from the estate, be entitled to interest in respect

of those debts at the rate of £4 per centum per annum from the date of the order, and to the costs of successfully proving such debts.

Interest on legacies

12. Interest shall be computed on legacies at the rate of £4 per centum per annum from the end of one year from the date of the death of the testator, unless otherwise ordered, or a different rate or time of payment is directed by the will or established by law.

Forms

13.—(1) All proceedings and documents may be in forms similar to the forms in Appendix 1 to these Rules, where the same are applicable, or in a form as near thereto as the circumstances of a particular case admit; and in cases Where no forms are provided, parties shall frame the proceedings or documents, using as guides those contained in Appendix 1.

(2) Where a form in Appendix 1 is used in any proceedings in which there is only one plaintiff or, as the case may be, only one defendant and the heading of the form specifies the name of that plaintiff or defendant, any subsequent reference to that plaintiff or, as the case may be, that defendant need not refer to him by name and in any such form any blank space left immediately after the word "plaintiff" or, as the case may be, "defendant" may be ignored and need not be filled in.

Verbal or technical error; non-compliance with any rule or practice

14.—(1) No action or proceeding in a county court shall be treated or considered as invalid solely on account of any verbal or technical error, and the judge may decide and determine what is a verbal or technical error in any action or proceeding; all errors which are not manifestly calculated to mislead or injuriously prejudice the opposite party in the merits of his case may be deemed to be merely verbal or technical.

(2) Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceedings void unless the Court or a Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court or Judge shall think fit.

Civil bill under-stamped

15. Where a civil bill has not been stamped or has been stamped for an amount less than that specified in any County Court Fees Order for the time being in force, the judge may in such cases, and on such conditions including the payment of a penalty, if any, as he thinks fit, allow the proceeding to continue as if the civil bill had been properly stamped but, where it proceeding is allowed to continue under this Rule, the amount by which the fee was underpaid shall be paid by the party liable therefor in addition to any penalty payable by that party.

Notices

16. Where by these Orders arty party is required to give notice according to a form in Appendix 1, it shall be sufficient if in the opinion of the judge the notice given complies substantially with such form.

Computation of time

17. Without prejudice to section 39 of the Interpretation Act (Northern Ireland) 1954(1)—

(1) 1954 c. 33 (N.I.)

- (a) where anything is required by these Orders to be done within a specified period of or after the happening of a particular event, the period shall be computed from the end of the day on which the event happens unless the period is expressed to be inclusive of such day;
- (b) where anything is required by these Orders to be done within a period not exceeding three days or where a period not exceeding three days is required by these Orders to elapse between the doing of an act and the happening of a particular event, no Saturday or Sunday nor any day on which the Office is closed shall "be included in the computation of that period;
- (c) where the time prescribed for doing any act expires on a Saturday or a Sunday or any day on which the Office is closed, the act shall be in time if done on the next day on which the Office is open.

Accounts, notices, etc., to be on judicature paper

18.—(1) All accounts, copies, papers, notices, and other documents lodged with the chief clerk or other officer are to be written upon judicature paper bookwise, unless the nature of the document renders it impracticable to do so, and shall be endorsed with the solicitor's name, and any document not so endorsed or not plainly and legibly written shall be refused.

(2) All decrees shall be written on judicature paper of a size not less than thirteen inches by eight inches unless the chief clerk in any particular case otherwise determines.

Service by post

19. Every notice or other document, the service of which by post or by registered post is permitted under these Orders, or the service of which by post or by registered post is directed by the judge, shall be deemed sufficiently given and served if it is transmitted by post by registered letter or recorded delivery service, the postage being prepaid, addressed to the person or persons directed to be served at his or their present or last known place of abode; and such service may be proved by affidavit.

Documents to be free from erasures and alterations

20. Unless the judge otherwise orders, no decree, dismissal, order, recognizance, or other document shall be received by the chief clerk or other officer unless the same is free from all unsightly or ambiguous erasures, interlineations or other alterations.

Production of documents in custody of the chief clerk

21. Where documents in the Office are required by any party to be produced in evidence, notice in writing to produce the same shall be served at the Office, on the chief clerk, seven days before the day on which the same may be required.

Bail

22. No solicitor, or apprentice or clerk to a solicitor or officer of the county court shall be bail in any matter in the county court.

Equity practice

23. Subject to the provisions of these Rules and Orders, the enactments and practice relating to ordinary civil bill actions shall, so far as the same are applicable, apply to every proceeding under the equitable jurisdiction of the court and when such enactments and practice are not applicable to such proceedings, the enactments and practice relating to the Chancery Division of the High Court shall be followed in such proceedings so far as the same are applicable, *mutatis mutandis*.

Searches

24. Searches may be made on such days in each week as shall be fixed from time to time by the judge, and notice thereof shall be printed and kept posted on some conspicuous place in the Office.

Instructing solicitor to attend counsel

25. Except by leave of the judge on such terms as to costs or otherwise as to the judge may seem just, no counsel shall be heard unless he is instructed by a solicitor who is either personally present or represented by someone in attendance upon counsel at the hearing.

Proceedings by and against the Crown

26. Save as otherwise provided by the Crown Proceedings Act and these Orders—

- (a) these Orders and any County Court Rules for the time being in force shall, so far as may be, apply to all proceedings by or against the Crown in like manner as they apply to proceedings between subjects; and
- (b) proceedings by or against the Crown shall, so far as may be, take the same form as proceedings between subjects.