
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 283

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

**The Rules of the Supreme Court (Northern
Ireland) (Amendment No. 3) 1996**

Made - - - - 15th July 1996

To be laid before Parliament

Coming into operation 1st September 1996

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978⁽¹⁾ to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 1996 and shall come into operation on 1st September 1996.

(2) In these Rules any reference to an Order by number means the Order so numbered in the Rules of the Supreme Court (Northern Ireland) 1980⁽²⁾.

Costs

2. Order 62 shall be amended as follows—

(1) By substituting in rule 18(3) for the sum “£8·00” the sum “£9·25”;

(2) By substituting in Appendix 3—

(a) for Table A (BASIC COSTS) in Part I the following Table:

(1) 1978 c. 23

(2) S.R. 1980 No. 346 to which relevant amendments were made by S.R. 1988 No. 70; S.R. 1989 No. 498 and S.R. 1992 No. 399

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| | “Amount to be allowed in cases under following sub-paragraphs of paragraph 1 of this Appendix | | |
|--|---|---------|---------|
| | (a) £ p | (b) £ p | (c) £ p |
| If the amount recovered is— | 61·25 | 80·75 | 142·00 |
| not less than £600 but less than £2,000— | | | |
| (i) where the writ was served by post | | | |
| (ii) where the writ was served on the defendant personally | 69·00 | 87·00 | 149·00 |
| not less than £2,000 but less than £3,000— | | | |
| (i) where the writ was served by post | | | |
| (ii) where the writ was served on the defendant personally | 75·75 | 94·50 | 156·00 |
| not less than £3,000 | 89·25 | 129·00 | 184·00” |

(b) for Table B (Additional Costs) in Part I the following Table:

| | “(i) | (ii) |
|---------|-------|--------|
| (1) | 9·50 | 12·25 |
| (2) | 22·25 | 47·75 |
| (a) (3) | 34·50 | 61·25 |
| (b) (3) | 40·50 | 69·00 |
| (4) | 16·25 | 18·25 |
| (5) | 16·25 | 18·25 |
| (6) | 12·25 | 22·25” |

(c) in paragraph 1 of Part III for the sum of “£7·50” the sum of “£8·50”;

(d) in paragraph 2 of Part III for the sum of “£26·50” the sum of “£35·00”;

(e) in paragraph 3 of Part III for the sum of “£11·50” the sum of “£13·00”.

(3) By inserting after rule 32 the following new rule—

“Short Form Taxation

32A.—(1) Where the professional charges have been agreed between the parties and one or more items of disbursement remain in dispute, the Taxing Master may conduct a taxation in accordance with this rule (hereinafter referred to as “short form taxation”).

(2) This rule shall not apply to any taxation under Schedule 2 to the Legal Aid and Assistance (Northern Ireland) Order 1981.

(3) Rule 29 shall apply to a short form taxation subject to the following modifications of sub-paragraphs 7(c) and (d);

(a) the bill of costs shall be in Form 1 (Application for Short Form Taxation) in Appendix 4 to this Order; and

(b) unless the Taxing Master otherwise orders, only those papers and vouchers relevant to the items in dispute shall be lodged in the Supreme Court Taxing Office.

(4) Nothing in Rule 27(3) or, with the exception of paragraphs (4) and (5) of Rule 30, in Rules 30 to 32 shall apply to a short form taxation.

(5) Where a party has begun proceedings in accordance with this rule, the proper officer shall enter the proceedings for taxation in a list kept for the purposes of this rule and shall forthwith give notice of the day and time appointed for the taxation of the party whose costs are to be taxed.

(6) The party whose costs are to be taxed under this rule shall, not less than four days before the day appointed for the taxation, send a copy of Form 1 to every other party entitled to be heard on the taxation with a notice of the day and time appointed for the taxation.”;

(4) By adding after Appendix 3 the new Appendix set out in Schedule 1 to these rules.

Trade Marks Act 1994

3. For Order 100 there shall be substituted the new Order set out in Schedule 2 to these rules.

*Brian Hutton
R. D. Carswell
J. M. Nicholson
Anthony Campbell
Hugh P. Kennedy
Patrick Coghlin
Tony Caher*

Dated 27th June 1996.

I concur

Dated 15th July 1996.

Mackay of Clashfern, C.

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SCHEDULE 1

Rule 2(4)

APPENDIX 4

Form 1 Application for Short Form Taxation (Order 62, Rule 32A)

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND 19 No.

TAXING OFFICE

BETWEEN:

AND

Plaintiff

Defendant

Part A: BACKGROUND

[Here give brief particulars of the nature of the case in which the Order for Taxation was obtained]

| | AMOUNT | VAT |
|-----------------------------------|--------|-----|
| Items Agreed | | |
| Agreed Professional Charges | £ : | £ |
| Agreed Disbursements [#] | £ : | £ |
| | ----- | |
| Total agreed items | £ : | £ |

* You need include here only the total amount of all disbursements which have been agreed, and the total amount of VAT attributable to that disbursement total.

Part B: DISPUTED ITEMS

| | AMOUNT | VAT TAXED OFF [for completion by Master if appropriate] |
|--|--------|---|
|--|--------|---|

Items in dispute

[Each item of disbursement in dispute should be listed separately, and individually numbered]

| | |
|----------|-------|
| 1. _____ | £ : £ |
| 2. _____ | £ : £ |

Costs of Taxation

(i) Preparation of Bill and ancillary papers;
attending taxation, vouching and
completing taxation;

(i) ___ hours @ £⁽¹⁾ ___ per hour £

(ii) Uplift for care and conduct @
50%

£
_____ £ :

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Dated this day of 1996

Signed.....

Solicitors for the Plaintiffs/Defendants⁽²⁾

Address.....

.....

.....

Telephone No.

(1) Insert as appropriate

(2) Delete as appropriate

Part C: FOR OFFICE USE ONLY

SUMMARY OF TAXATION OF DISPUTED ITEMS

| | CLAIMED | VAT TAXED OFF |
|--------------------------------------|---------|---------------|
| Page 1 | | |
| Page 2 | | |
| <hr/> | | |
| Less taxed off | | |
| <hr/> | | |
| Add VAT on disputed items as allowed | | |
| <hr/> | | |
| Add costs of Taxation | | |
| Add VAT thereon | | |
| <hr/> | | |
| Add STAMP DUTY on taxed items | | |
| <hr/> | | |
| TOTAL COSTS TAXED AND ALLOWED | | |
| <hr/> | | |

SCHEDULE 2

Rule 3

Order 100

The Trade Marks Act 1938 as Amended by The Trade Marks (Amendment) Act 1984; The Trade Marks Act 1994 and the Olympic Symbol Etc (Protection) Act 1995

Interpretation

- In this Order—
 - “the 1938 Act” means the Trade Marks Act 1938(3) as amended by the Trade Marks (Amendment) Act 1984(4);

(3) 1938 c. 22
 (4) 1984 c. 19

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“the 1994 Act” means the Trade Marks Act 1994(5);

“the Olympic Symbol Act” means the Olympic Symbol etc (Protection) Act 1995(6);

“the Olympic Symbol Regulations” means the Olympic Association Right (Infringement Proceedings) Regulations 1995(7);

“the Registrar” means the Comptroller General of Patents, Designs and Trade Marks;

“the register” means the register or trade marks maintained by the Registrar pursuant to section 63 of the 1994 Act.

Assignment to Chancery Division

2. Proceedings in the High Court under the 1938 Act, the 1994 Act, the Olympic Symbol Act or the Olympic Symbol Regulations shall be assigned to the Chancery Division.

Appeals and applications under the 1938 Act, the 1994 Act and the Olympic Symbol Act

3.—(1) Subject to rule 4 and paragraph (6) below every application to the High Court under the 1938 Act, the 1994 Act, the Olympic Symbol Act and the Olympic Symbol Regulations must be begun by originating motion.

(2) Notice of the motion by which any application is made under the 1938 Act or the 1994 Act must be served on the Registrar.

(3) Where—

(a) the Registrar refers to the High Court an application made to him under the 1938 Act or the 1994 Act;

(b) the Board of Trade under the 1938 Act or an appointed person under section 76 of the 1994 Act refers to that Court an appeal,

then unless within one month after receiving notification of the decision to refer, the applicant or the appellant, as the case may be, makes to that court the application or appeal referred, he shall be deemed to have abandoned it;

(4) The period prescribed by Order 55, rule 14(2), or by paragraph (3) in relation to an application or appeal to which that paragraph applies may be extended by the Registrar on the application of any party interested and may be so extended although the application is not made until after the expiration of that period, but the foregoing provision shall not be taken to affect the power of the Court under Order 3, rule 5, to extend that period.

(5) Where under subsection (6) of section 17, or subsection (9) of section 18, of the said Act of 1938 an appellant becomes entitled to withdraw his application which is the subject matter of the appeal, he must give notice of his intention to the Registrar and to any other party to the appeal within one month after the Court has given leave under the said subsection (6) or the said subsection (9), as the case may be, for further grounds of objection to be taken.

(6) An application under section 16 or section 19 of the 1994 Act or regulation 3 or regulation 5 of the Olympic Symbol Regulations shall be made by originating summons or, if it is made in a pending action by summons or motion in that action.

(7) Where an application is made under section 19 of the 1994 Act or regulation 5 of the Olympic Symbol Regulations the applicant shall serve notice of the application on all persons so far as reasonably ascertainable having an interest in the goods, material or articles which are the subject of the application including any person in whose favour an order could be made in respect of the goods,

(5) [1994 c. 26](#)
(6) [1995 c. 32](#)
(7) [S.I.1995/3325](#)

material or articles under the said section of the 1994 Act or the said regulation of the Olympic Symbol Regulations or under section 114, 204 or 231 of the Copyright, Designs and Patents Act 1988.

Proceedings for infringement or registered trade mark; validity of registration disputed or revocation or rectification sought

4.—(1) Where in any proceedings a claim is made for relief for infringement of the rights conferred on the proprietor of a registered trade mark by section 9 of the 1994 Act, the party against whom the claim is made may in his defence put in issue the validity of the registration of that trade mark or may counterclaim for an order for revocation of the registration or for a declaration of invalidity of the registration or for rectification of the register, or may do any or all of those things.

(2) A party to any such proceedings who in his pleading (whether a defence or counterclaim) disputes the validity of the registration of a registered trade mark or seeks a declaration of invalidity or an order for revocation of the registration, or rectification of the register, must serve with his pleading particulars of the objections to the validity of the registration or of any grounds for revocation or rectification, on which he relies.

(3) A party to any such proceedings who counterclaims for an order for revocation of the registration or for a declaration of invalidity of the registration or for rectification of the register must serve on the Registrar a copy of the counterclaim together with a copy of the particulars mentioned in paragraph (2) and the Registrar shall be entitled to take such part in the proceedings as he may think fit but need not serve a defence or other unless ordered to do so by the Court.

Service of documents

5.—(1) This rule applies to the service of any document (including originating process) on a party until such time as that party has provided an address for service within the meaning of Order 6 rule 4(2) or Order 12 rule 3(3).

(2) Subject to paragraph (3) for the purposes of any proceedings relating to a registered trade mark (including proceedings for revocation, declaration of invalidity or non-infringement or groundless threats of infringement proceedings or any other proceedings under the 1938 Act or the 1994 Act), where any document is served in the manner prescribed by Order 10 or Order 65 at an address for service given in the register kept under section 63 of the 1994 Act—

- (a) service shall be deemed to have been effected on the registered proprietor of the trade mark on the date on which the document was served at the said address:
- (b) the party on whom service is deemed to have been effected under sub-paragraph (a), shall be treated, for the purposes of any provision of these rules which specifies a time-limit for responding to the document so served (whether by acknowledging service, giving notice of intention to defend or otherwise), as having been served on the seventh day after the date on which the document was served at the said address.

(3) Nothing in this rule shall prevent service being effected on the proprietor in accordance with the provisions of these rules.

Service of orders on the Registrar

6. Where an order is made by the Court in any case under the 1938 Act or the 1994 Act, the person in whose favour the order is made or, if there is more than one, such one of them as the Court shall direct, shall serve an office copy of the order on the Registrar.

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EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 to;

- (a) increase the costs allowed to a litigant in person and the fixed costs recoverable under Appendix 3 of Order 62;
- (b) provide for short form taxation in respect of individual items or disbursement in dispute; and
- (c) substitute a new Order 100 to provide for applications under the Trade Marks Act 1994, the Olympic Symbol etc (Protection) Act 1995 and the Olympic Association Right (Infringement Proceedings) Regulations 1995.