

ROADS.**Roads Improvement : County Court Rules.**

THE ROADS IMPROVEMENT ACT (NORTHERN IRELAND), 1928,
COUNTY COURT RULES, 1931, DATED THE 15TH DAY OF
MARCH, 1931.

1931. No. 35.

WHEREAS by an Act, 40 and 41 Vict., C. 45, intituled "The County Officers and Courts (Ireland) Act, 1877," Section 79, it is enacted that the Lord Chancellor, with the concurrence of the County Court Judges and Chairmen of Quarter Sessions in Ireland, or any five of them, to be selected or nominated as in the said Act is provided, may make rules and orders for regulating the proceedings in and practice of the Civil Bill Courts in Ireland and for prescribing the forms of proceedings, and for the several other purposes in the said Act mentioned, and otherwise for carrying the said Act into execution, and may from time to time amend such rules, orders and forms, and that every such rule, order and form certified under the hands of the Lord Chancellor and any five of such Judges and Chairmen shall take effect from and after such day as shall be therein named :

And whereas by Section 83 of the said Act, it is provided that the Lord Chancellor, with the concurrence of the Chairmen or any five of them to be selected or nominated as in the said Act provided, and with the consent of the Treasury may by Order fix the fees to be taken in the Civil Bill Courts in respect of any business under that or any other Acts in force for the time being in such Courts, and may, with the like concurrence and consent, alter, reduce or increase the same from time to time, and may also, with the like concurrence and consent, alter the fees and Stamp Duties taken in those Courts and substitute other fees for the same :

And whereas under and in pursuance of the provisions of the Government of Ireland Act, 1920, and the Orders made by His Majesty in Council thereunder, the references in the said Section to the Lord Chancellor shall be construed as references to the Lord Chief Justice of Northern Ireland and the references to the Treasury shall be construed as references to the Ministry of Finance for Northern Ireland :

And whereas by the County Officers and Courts Act (Northern Ireland), 1925, Section 10, the concurrence required in connection with the making by the Lord Chief Justice of Northern Ireland

of Rules or Orders under Section seventy-nine of the County Officers and Courts (Ireland) Act, 1877, shall be the concurrence of the Chairmen within the meaning of the said Act, or any two of them to be nominated by the said Lord Chief Justice :

And whereas the Lord Chief Justice of Northern Ireland duly nominated His Honour Herbert Marshall Thompson, Recorder of Belfast and County Court Judge and Chairman of Antrim, and His Honour Arthur Henry Bates, County Court Judge and Chairman of the County of Down, as the Chairmen with whose concurrence such rules and orders may be made in pursuance of the provisions of the said Act :

And whereas by an Act of 18 and 19 George V., C. 10, entitled "The Roads Improvement Act (Northern Ireland), 1928," Section 2 (7), and by Articles 18, 19 and 20 of the Schedule to the said Act it is provided that applications may be made to the County Court in the events therein specified :

And whereas by Article 24 of the Schedule to the said Act it is provided that rules of court regulating the practice, procedure and costs in the county court under the said Schedule shall be made by the authority having power to make rules and orders for regulating the practice of the civil bill courts.

Now I, the Right Honourable William Moore, Lord Chief Justice of Northern Ireland, with the concurrence of the said Judges as testified by their signatures hereto, in pursuance of the powers given by the said recited Acts, and of all other powers thereunto us enabling, do hereby make and certify the rules and forms hereinafter set forth as rules and forms to be used and be in force in proceedings in the County Courts under the Roads Improvement Act (Northern Ireland), 1928, and with the consent of the Ministry of Finance, do hereby fix the fees set out in Schedule II hereto as the fees to be taken in the Civil Bill Courts in Northern Ireland under the said Act.

Dated this 15th day of March, 1931.

William Moore,

Lord Chief Justice.

Herbert M. Thompson.

A. H. Bates.

The Scale of Fees in Schedule II has been fixed with the consent of the Ministry of Finance for Northern Ireland.

In Witness whereof the Official Seal of the Ministry has been affixed hereto this 26th day of March, 1931.

(L.S.)

G. C. Duggan,

Assistant Secretary,
Ministry of Finance.

THE ROADS IMPROVEMENT ACT (NORTHERN IRELAND), 1928,
COUNTY COURT RULES, 1931, DATED THIS 15TH DAY OF
MARCH, 1931.

1.—(a) The following Rules shall have effect under the Roads Improvement Act (Northern Ireland), 1928 (in these Rules referred to as “the Act”), with reference to any matter under the Act coming before the County Court.

(b) These Rules may be cited as the Roads Improvement (County Court) Rules (Northern Ireland), 1931, and shall come into operation on the 1st day of April, 1931.

(c) Expressions used in these Rules shall have the same meaning as the same expressions used in the Act.

(d) The Interpretation Act, 1889, and the Interpretation Act (Northern Ireland), 1921, shall apply for the purpose of the interpretation of these Rules as they apply for the purpose of the interpretation of an Act of Parliament.

(e) These Rules shall also be read and construed with the County Courts (Ireland) Orders, 1890, and the County Court Rules of subsequent date amending the same, and save as otherwise provided herein the rules of interpretation applicable to such Rules shall apply also to these Rules and the provisions of such Rules shall apply to all proceedings under the Act.

(f) In the construction of these Rules the Act shall mean the Roads Improvement Act (Northern Ireland), 1928, save where otherwise stated.

Rules as to applications under Section 2 (7) of the Act.

2. Where any question has arisen under section 2, sub-section 7, of the Act, an application for the settlement of such question may be made to the Court having jurisdiction where the land, in respect of which the question arose, is situate.

3.—(a) The applicant shall file with the Clerk of the Crown and Peace an application entitled in the matter of the Act and in the matter of the dispute, which application shall state con-

cisely the question that has arisen, and shall with the subsequent proceedings, be recorded in the same manner as proceedings by Equity Civil Bill.

(b) Particulars shall be appended or annexed to the application containing—

The full address and description of the applicant and respondent and their respective solicitors, if any.

A concise description of the property alleged to have been injuriously affected or an account of the loss alleged to have been sustained.

A concise statement of the interest of the applicant in the property.

Particulars of the requirements of the notice or of the restrictions imposed by it.

Particulars of the amount claimed for compensation.

(c) The application and particulars shall be in the Form I. in the Schedule I., with such modification as the nature of the case may require.

(d) Where by reason of their length, any part of the particulars aforesaid cannot conveniently be appended or annexed to the application, such particulars may be included in a separate document, referred to in the application, and filed and served therewith.

4. The applicant shall deliver to the Clerk of the Crown and Peace with the application and particulars two copies thereof, one for the Judge and the other to be served on the respondent.

5.—(a) On the filing of the application, the Clerk of the Crown and Peace shall note on such copy to be served and on the copy for the Judge the date and place at which such hearing will in the ordinary course be held, inserting in all cases the first day of a sessions in the particular division unless the Judge shall otherwise order.

(b) The respondent shall be served with the copy of the application and particulars containing such note, filled up and signed by the Clerk of the Crown and Peace, at least ten clear days before the return day mentioned in such note.

6.—(a) If the respondent considers that the question in dispute is not accurately set out in the application or that the applicant's particulars are in any respect inaccurate or incomplete, or desires to bring any offer of compensation, fact or document to the notice of the judge or intends to rely on the fact that the claim for compensation was not made within the time limited by Section 2, Sub-section 7, of the Act or intends to deny, wholly or partially, the liability to pay compensation under the said section, he shall, five clear days at least before the first day of the sessions, file with the Clerk of the Crown and Peace an answer in the Form II. in Schedule I. to the Rules or as near thereto as possible, stating

the name and address of the respondents and of the solicitor (if any), setting forth the matters which he disputes and upon which he intends to rely, or the grounds on, and extent to which he denies liability.

(b) The respondent shall with such answer deliver a copy thereof for the judge and shall serve a copy thereof on the applicant.

7.—(a) In the alternative the respondent may within such time as aforesaid, file with the Clerk of the Crown and Peace a notice in the Form III. in Schedule I. to these Rules or as near thereto as possible, in which he submits to an award for an amount (to be specified in such notice) which he considers to be sufficient to cover his liability in the circumstances of the case, and further stating whether he admits or denies liability, and may, if he thinks fit, pay such sum into Court.

(b) The respondent shall, forthwith, after such notice is filed, serve notice thereof upon the applicant.

(c) If the applicant elects to accept in satisfaction the sum specified in respondent's notice, he shall send to the Clerk of the Crown and Peace and to the respondent by post, or leave at the Clerk of the Crown and Peace's office and at the residence or place of business of respondent, a written notice stating such acceptance within such reasonable time before the first day of the sessions as the time of filing Notice of Submission by the respondent has permitted.

(d) In case of such election to accept being made, and notice of acceptance given, the Judge may, on application made to him, forthwith make an award directing payment of such sum to the applicant.

(e) In default of notice of acceptance by the applicant, the hearing may proceed, and the Judge shall not be bound to award the sum specified in the respondent's notice, but shall have full power to award any greater or smaller sum, or refuse compensation altogether.

8. The award shall be in writing signed by the Judge in the Form IV. in Schedule I. to these Rules or as near thereto as possible, and shall be enforceable in the same manner as a Decree or Order of the Court.

Rules as to applications under Article 18 of the Schedule.

9. All applications for relief under the provisions of Article 18 of the Schedule to the Act shall be heard at the Equity sittings of the County Court of each Division of the County, or of the Recorder's Court for a County Borough.

10. No application shall be made to the County Court unless one calendar month's previous notice in writing in the Form V.

in Schedule I. to these Rules, or as near thereto as circumstances may permit, shall have been given to the local authority by the intending applicant. Every such notice as aforesaid may be signed by the intending applicant or by his Solicitor or Solicitors on his behalf and shall be served by sending a copy thereof by registered post addressed to the Clerk or Secretary of the local authority at the office of such authority.

11. Every application shall be made by notice which shall be in the Form VI. in Schedule I. to these Rules. Every such notice shall be served fifteen clear days before the first day of the sessions, and a copy thereof, with the endorsement of service thereon, shall be lodged with the Clerk of the Crown and Peace at least ten clear days before the first day of the sessions at which the application is to be heard.

12. The local authority shall, unless the Judge shall otherwise direct, within six days after the service upon it of any notice of application for relief or within such extended time as the Judge shall allow, serve upon the person to whom the money was paid by it, or if such person be dead, upon his personal representative, a copy of such notice, together with a notice in the Form VII. in Schedule I. to these Rules and a copy of these Rules. Any person so served shall be entitled to appear at the hearing and take such part therein as may be just, and the Judge may order such proceedings to be taken, documents to be delivered or amendments to be made and give such directions as shall appear proper.

Rules as to applications under Article 19 of the Schedule.

13. Where a local authority desires to pay any compensation fund into the County Court under the provisions of Article 19 of the Schedule to the Act, the Clerk or Secretary of the local authority shall file with the Clerk of the Crown and Peace an affidavit entitled in the matter of the said Act, setting forth fully the circumstances which make such lodgment necessary or desirable, and the names and addresses of all the persons, so far as can be ascertained, who claim or appear to be entitled to an interest in the said fund or in the land for which the said money is lodged as compensation. Upon filing such affidavit, the Clerk or Secretary of the local authority may lodge the compensation fund in the manner provided by the Rules of Court relating to lodgments of money in the County Court under Order 30A. County Courts (Ireland) Orders, 1890. Every such lodgment shall be made in the County Court having jurisdiction where the land, in respect of which the compensation has been paid, is situate.

14. A copy of this affidavit and of the Clerk of the Crown and Peace's Certificate of the lodgment of the money shall be served by the local authority upon every person, so far as known,

claiming or appearing to be entitled to the said compensation fund, or any part thereof. Such service shall be either personal or by registered letter.

15. Any person interested in or entitled to funds which have been paid into court under the provisions of Article 19 of the said Act may file a petition setting forth shortly the particular fund for which he applies, and the substance of the order he seeks to obtain; and if the nature of the case require it, he shall give full particulars of his claim (and the relief or remedy which he seeks).

16. Petitions shall be delivered to the Clerk of the Crown and Peace at his office one calendar month before the sitting of the Court at which the petition is to be heard and shall be filed by him at his office.

17. The petition shall be served upon all persons interested in such funds or claiming to be entitled thereof, so far as can be ascertained, and upon the local authority, together with twenty-one clear days' notice informing them of the day on which the petition is to be heard, and that if they do not attend, either in person or by their solicitors, such order will be made and proceedings taken as the Judge may think just and expedient. The Court, after hearing such evidence of title to the said compensation fund as it may require, may make an order as to the allocation and payment out of the said compensation fund or of the interest thereon and as to the costs thereof.

Rules as to applications under Article 20 of the Schedule.

18. All appeals under the provisions of Article 20 of the Schedule to the Act shall be heard at the ordinary sittings of the County Court of each Division of the County, or of the Recorder's Court for a County Borough.

19. The notice of appeal referred to in such Article 20 may be signed by the intending appellant or by his solicitor or solicitors on his behalf; and shall be served by sending a copy thereof by registered post addressed to the Clerk or Secretary of the local authority at the office of such authority, or to such other party as may be the intending respondent to any such appeal.

20. Every appeal shall be by notice in the Form VIII in Schedule I to these Rules. Every such notice shall be served fifteen clear days before the first day of the sessions, and a copy thereof, with the endorsement of service thereon and a certificate of the amount of compensation awarded by the arbitrator in his award, shall be lodged with the Clerk of the Crown and Peace at least ten clear days before the first day of the sessions at which the appeal is to be heard.

General Rules as to proceedings under Section 2 (7) of the Act and under Articles 18, 19 and 20 of the Schedule thereto.

21. Save where otherwise provided, notices may be served by registered letter or in any of the modes in which an ordinary or an equity civil bill may be served, provided, however, that service need not be effected by a civil bill officer.

22. Where not otherwise expressly provided by these Rules, the existing practice of the County Courts in equity suits shall apply to all applications to the County Court under the Act.

23. The Judge may make such order as to costs, court fees and witnesses' expenses as he shall think fit, and may measure such costs and expenses or direct them to be taxed according to such Schedule II hereto, provided that in all cases in which, having regard to the work actually performed, or the peculiar difficulty or importance of the case, the allowances for fees, costs and expenses shall appear inadequate, the Judge may make a special order allowing such fees, costs and expenses as he may think just and reasonable.

24. There shall be payable in respect of every proceeding under the Act the court fees specified in the Schedule II hereto.

25. The forms in Schedule I shall be used on proceedings under the Act and in any case where forms are not included in the Schedule, the forms in use in the County Court may be adapted with such variations as may be necessary.

SCHEDULE I.

FORM I.
APPLICATION.

In the County Court of
Division of

In the matter of the Roads Improvement Act (Northern Ireland), 1928
and

In the matter of the dispute between

Applicant;

and

(The local authority)

Respondent.

1. On the day of , 193 , notice was served on the applicant imposing restrictions with respect to property situated in the County of under the powers conferred by the above-mentioned Act
(or as the case may be).

2. The question has (or questions have) arisen. (Here state the questions specifying only those which have arisen, e.g., (a) as to whether the respondent is liable to pay compensation or (b) as to the amount of such compensation.
(or as the case may be).

3. A hearing under the above-mentioned Act is hereby requested between the said applicant, and the local authority respondent.

4. Particulars are hereunto appended (or annexed).

PARTICULARS:

1. Name and address of applicant.
2. Description of nature and situation of property alleged to have been interfered with.
3. Interest of the applicant therein, whether beneficial or in trust, and the extent of such interest.
4. Particulars of the loss sustained or injury to the property caused by the requirement of the notice.
5. Particulars of the applicant's claim for compensation.

The name and address of the applicant and his solicitor are :—

of the applicant :

of his solicitor :

Dated this day of

(Signed)

19

Applicant or
Applicant's Solicitor.

NOTE.

The matter of the above application will be heard by the County Court Judge of at on the day of 19 , at the hour of o'clock, and if the respondent being duly served herewith does not attend in person, or by his solicitor, such order will be made and proceedings taken in his absence as the Judge may think just.

FORM II.

ANSWER BY RESPONDENT.

In the County Court of

Division of

In the matter of the Roads Improvement Act (Northern Ireland), 1928

and

In the matter of the dispute between

Applicant ;

and

(The local authority.)

Respondent.

TAKE NOTICE :—

That the respondent states that the applicant's particulars filed in this matter are inaccurate or incomplete in the particulars hereto annexed ; or

That the respondent intends at the hearing to give evidence and rely on the facts stated in the particulars hereto annexed ; or

That the respondent denies the liability to pay compensation under the Act on the grounds stated in the particulars hereto annexed ; or

That the respondent states that the applicant's claim was not brought within the time limited by the Act.

PARTICULARS.

1. Particulars in which the particulars filed by the applicant are inaccurate or incomplete.
2. Facts which the respondent desires to bring to the notice of the Judge.
3. Facts which the respondent intends to give in evidence and rely on at the hearing.
4. Grounds on which the respondent denies his liability to pay compensation.

AND FURTHER TAKE NOTICE:—

That Name and Address of the respondent's solicitor are:—

Dated this day of 19 .

(Signed)

Solicitor for the Respondent.

To:—

The Clerk of the Crown and Peace
and

To:—

The Applicant.

FORM III.

NOTICE OF RESPONDENT OFFERING TO SUBMIT TO AWARD.

In the County Court of

Division of

In the matter of the Roads Improvement Act (Northern Ireland), 1928.

and

In the matter of the dispute between

Applicant;

and

(The local authority.)

Respondent.

TAKE NOTICE that the Respondent hereby offers, without prejudice, to submit to an award in the above-mentioned matter for payment by him to the applicant of the sum of £ (and the respondent herewith pays into Court the said sum of £ in satisfaction of such liability).

(or as the case may be).

AND FURTHER, TAKE NOTICE, that the respondent denies (or admits) liability to the amount of the said sum.

Dated this day of , 19 .

(Signed)

Solicitor for the Respondent.

To:—

The Clerk of the Crown and Peace
and

To:—

The Applicant.

FORM IV.

AWARD.

In the County Court of

Division of

In the matter of the Roads Improvement Act (Northern Ireland), 1928.

and

In the matter of the dispute between

Applicant;

and

(The local authority)

Respondent.

Having duly considered the matter, I do hereby determine the questions submitted to me, and make my award as follows: I fix the proper amount of compensation at the sum of £

And I order that the said Clerk of the Crown and Peace, for the use of the applicants, their costs of and incidental to this arbitration, such costs, in default of agreement between the parties as to the amount thereof to be taxed by the Clerk of the Crown and Peace, and to be paid by the said Clerk of the Crown and Peace within 14 days from the date of the certificate of the result of such taxation.

Dated this _____ day of _____, 19____
County Court Judge.

FORM V.

To the _____ Council.

TAKE NOTICE that _____ of _____ in the County of _____ will after the expiration of one calendar month from the time of your being served with this Notice cause proceedings to be instituted against you in the County Court claiming under the provisions of Article 18 of the Schedule to the Roads Improvement Act (Northern Ireland), 1928, the relief following, that is to say:—

And will proceed thereupon according to law.

Dated the _____ day of _____, 19____
(Signed)

FORM VI.

County of _____
Division of _____
Between _____ Applicant;
and _____ Respondent.

TAKE NOTICE that the above-named _____ of _____ in the County of _____ will apply to the County Court at the Sessions to be held for the above-named County and Division at _____ on the _____ day of _____ under the provisions of Article 18 of the Schedule to the Roads Improvement Act (Northern Ireland), 1928, against you the above-named respondents for the relief following, namely:—

Dated the _____ day of _____, 19____
(Signed) _____ Solicitor for the Applicant.

FORM VII.

County of _____
Division of _____
Between _____ Applicant;
and _____ Respondent.

TAKE NOTICE that _____ of _____ in the County of _____ in the County Court at the Sessions to be held for the above-named County and Division at _____ on the _____ day of _____ under the provisions of Article 18 of the Schedule to the Roads Improvement Act (Northern Ireland), 1928, and claims to be entitled to a sum of £ _____ which was paid to you by the _____ Council in compensation under the said Act.

AND FURTHER TAKE NOTICE that under the provisions of Rule 6 of the Roads Improvement (County Court) Rules (Northern Ireland), 1931, a copy of which Rules are herewith sent to you, you are entitled to appear at the hearing and take such part therein as may be just.

Dated the _____ day of _____, 19 _____
 (Signed) _____

FORM VIII.
 FORM OF NOTICE OF APPEAL.

County Court of County of _____
 Division of _____
 In the matter of an Appeal under the Schedule to the Roads Improvement Act (Northern Ireland), 1928 :

A.B. of _____ in the County of _____ Appellant :
 C.D. of _____ in the County of _____ Respondent .

TAKE NOTICE that (state who appeals) hereby appeals to the County Court Judge of _____ against the award made by the arbitrator in this matter on the _____ day of _____ (or against so much of the award made by the arbitrator in this matter on the _____ day of _____ as declares (setting forth the portion of the award complained of)). Such appeal to be heard at the Sessions to be held for the above-mentioned County and Division at _____ on the _____ day of _____

Dated this _____ day of _____, 19 _____
 (Signed) A.B.

or
 X.Y. Solicitor of A.B.
 (Add address of Solicitor).

To the Clerk of the Crown and Peace of the County of _____
 And to (add the names and descriptions of all parties to be served or their solicitors).

SCHEDULE II.

SCHEDULE OF COSTS PAYABLE.

Under Section 2 (7) }
 Under Article 18 } The scale applicable to compensation for criminal
 Under Article 20 } injuries under the Local Government (Ireland)
 Act, 1898.
 Under Article 19 .. The scale applicable to Equity suits in the County
 Court under the provisions of the County Officers
 and Courts (Ireland) Act, 1877, Part II., and
 Order XXXV. of the County Court Orders
 (Ireland), 1890.

SCHEDULE OF COURT FEES PAYABLE (COUNTY COURT STAMPS).

Under Section 2 (7)—
 On lodging notice of application £0 7 6
 On award by court 0 7 6
 Under Articles 18 and 19—
 Fees payable under the County Officers and Courts (Ireland) Act, 1877,
 Part II.
 Under Article 20—
 Notice of Appeal £1 0 0
 Where the Award does not exceed £500 1 0 0 per cent.
 Where the Award exceeds £500 but not £1,000 for
 every additional £100 or part over £500 0 10 0
 Where the Award exceeds £1,000—
 For every additional £100 or part over £1,000 0 5 0