

PLANNING AND HOUSING.**County Court Rules.**

DATED THE 18TH DAY OF NOVEMBER, 1932.

1932. No. 135.

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 21 and 22 George V., C. 12, intituled the " Planning and Housing Act (Northern Ireland), 1931," Sections 13 (4) (5), 23 (4), 34 (1), 46 (2), it is provided that applications may be made or appeals taken to the County Court in the events therein specified :

And whereas by Section 47 (2) it is provided that rules of court regulating the procedure and costs of any appeal or application to, or payment of money into, the county court under the said Act may 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 Sir William Moore, Baronet, 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 Planning and Housing Act (Northern Ireland), 1931, and with the consent of the Ministry of Finance, do hereby fix the fees set out in Schedule III hereto as the fees to be taken in the Civil Bill Courts in Northern Ireland under the said Act.

Dated this 18th day of November, 1932.

William Moore,
Lord Chief Justice.
Herbert M. Thompson,
A. H. Bates,

The Scale of Fees in Schedule III 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 twentieth day of December, 1932, in the presence of

(L.S.)

G. C. Duggan,
Assistant Secretary,
Ministry of Finance.

THE PLANNING AND HOUSING ACT (NORTHERN IRELAND), 1931,
COUNTY COURT RULES, 1932, DATED THIS 18TH DAY OF
NOVEMBER, 1932.

1.—(a) The following Rules shall have effect under the Planning and Housing Act (Northern Ireland), 1931, 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 Planning and Housing (County Court) Rules (Northern Ireland), 1932, and shall come into operation on the Second day of January, 1933.

(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 Planning and Housing Act (Northern Ireland), 1931, save where otherwise stated.

2. Where a Local Authority desires to pay any surplus in their hands into the County Court under the provisions of section 13, sub-section 4, and of section 23, sub-section 4, of 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 surplus, or in the building in respect of which the said money was lodged as payment for expenses incurred. Upon filing such affidavit the Clerk or Secretary of the Local Authority may lodge the surplus 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 building in respect of which the surplus has come into the hands of the Local Authority is situate.

3. 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 surplus, or any part thereof. Such service shall be either personal or by registered letter.

4. Any person interested in or entitled to a surplus which has been paid into Court under the provisions of Section 13, sub-section 4, or of Section 23, sub-section 4, of the said Act may file a petition setting forth shortly the particular surplus 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).

5. 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.

6. The petition shall be served upon all persons interested in such surplus or claiming to be entitled thereto, 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 County Court Judge may think just and expedient. The Court, after hearing such evidence of ownership of the particular surplus as it may require, may make an order as to the allocation and payment of the said surplus, and as to the costs thereof.

7.—(1) An appeal to a County Court under Section 13, sub-section 5, of the Act shall be brought by giving notice of appeal to the Local Authority who has made the requirement in respect of which the appeal is brought.

(2) The respondents to the appeal shall be the said Local Authority provided that the Court may give leave to add any person as appellant or respondent and may order any person to be added as respondent.

(3) The notice of appeal referred to in Section 13, sub-section 5, of the Act 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 intended respondent to any such appeal.

(4) Every appeal shall be by notice in the Form (1) 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 requirement of the Local Authority, 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.

8.—(1) An appeal to a County Court under Section 34, sub-section 1, of the Act shall be brought by giving notice of appeal to the Local Authority which has given the notice, or made the demand, or order, or refusal to determine a closing order, in respect of which the appeal is brought.

(2) The respondents to the appeal shall be the said Local Authority provided that the Court may give leave to add any person as appellant or respondent and may order any person to be added as respondent.

(3) The notice of appeal referred to in Section 34, sub-section 1, 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 intended respondent to any such appeal.

(4) Every appeal shall be by notice in the Form (3) 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 notice, demand or order, or refusal to determine a closing order made by the Local Authority, 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.

(5) The County Court Judge may, with or without any application in that behalf, inspect the premises to which the appeal relates in any case in which he thinks that such an inspection is desirable.

(6) The expenses of the inspection shall be paid in the first instance by the party on whose behalf application for an inspection is made, or, if inspection is made without an application, by the appellant.

(7) The Court shall have power to direct by whom the expenses of the inspection shall be ultimately borne.

9.—(1) Any person dissatisfied with the decision on any question of law made by the County Court Judge on the hearing by him of any appeal under section 34 of the Planning and Housing Act (Northern Ireland), 1931, may require the County Court Judge to state a case, and the County Court Judge shall state a case setting out what he finds to be the facts, and the question or questions of law, with his decision on which question or questions any party or parties requiring such case to be stated is, or are, dissatisfied, and shall sign the same. If two or more

of the parties to the appeal to the County Court Judge require a case to be stated, a single case only shall be stated which shall set out all the questions of law as to which the parties respectively have required the County Court Judge to state a case, and the County Court Judge shall decide which of such parties shall have carriage of the case stated.

(2) Immediately on the case being signed by the County Court Judge, the Clerk of the Crown and Peace shall transmit the original case signed by the County Court Judge to the Clerk of the Records and Writs, who shall file the same as of record, and the Clerk of the Crown and Peace shall endorse on the case the date on which the same is so transmitted by him, and shall at the time of transmitting the case give notice thereof to the solicitor for the party, or if more than one, to the solicitor for the parties who required the case to be stated, or if any such party appeared in person at the hearing before the County Court Judge, then such notice shall be given to each such party personally.

10. —(1) An appeal to a County Court under Section 46, subsection 2, of the Act shall be brought by giving notice of appeal to the Local Authority in the case where the party named in the arbitrator's award is dissatisfied with the amount of compensation awarded, or in the case where the Local Authority is dissatisfied with the amount awarded, by giving notice of appeal to the party named in the arbitrator's award.

(2) The notice of appeal referred to in Section 46 of the Act 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 intended respondent to any such appeal.

(3) Every appeal shall be by notice in the Form (5) 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.

11. All appeals under the provisions of the Act shall be heard at the Equity Sessions of the County Court of each division of the County, or of the Recorder's Court for a County Borough.

12. 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.

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

14. 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 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.

15. In any case in which the Judge shall consider it expedient to call in the aid of one or more assessors, he shall make such appointment according to the form (7) in Schedule I hereto, and may direct what fees shall be payable to any person or persons so appointed and by whom such fees shall be payable. The fees payable to such assessor shall be according to the scale set forth in Schedule II hereto.

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

17. The order of the Judge shall be in the Form applicable in Schedule I and the Forms in Schedule I shall be used in 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.

FORMS FOR USE IN APPEALS UNDER THE PLANNING AND HOUSING ACT (NORTHERN IRELAND), 1931, SECTION 13, SUB-SECTION 5.

(1) *Form of Notice of Appeal.*

In the matter of the Planning and Housing Act (Northern Ireland), 1931, Section 13, sub-section 5, by _____ of _____ (State name, address and description of appellant) under the said sub-section.
County of _____ Division of _____

TAKE NOTICE that I feel aggrieved by the requirement of the Local Authority dated the _____ day of _____, 19____ whereby (set out briefly the substance of the requirement appealed from). I hereby appeal from the said requirement to the County Court Judge of _____ at the Equity Sessions to be held at _____ at the Equity Sessions to be held at _____ for the division and county above named on the _____ day of _____, 19____

Dated the _____ day of _____, 19____
Signed by (on behalf of) the Appellant,

(Solicitor for) Appellant.

To The Clerk of the Crown and Peace
and the Local Authority.

(2) *Form of Order of the Court on the Hearing of an Appeal under the Planning and Housing Act (Northern Ireland), 1931, Section 13, sub-section 5.*
(Title as in Notice of Appeal).

WHEREAS by a requirement of the Local Authority, under the Planning and Housing Act (Northern Ireland), 1931, Section 13, sub-section 5, dated the _____ day of _____, 19____, it was required that

AND WHEREAS the appellant, being a person aggrieved by such requirement, duly appealed against the said requirement to this Court.

THE COURT having examined into the appeal doth _____ and doth order that

do recover against		the sum
of £	costs and £	witnesses expenses
(or as may be).		
Dated the _____	day of _____	, 19____.

County Court Judge.

Clerk of the Crown and Peace.

Solicitor for

(3) *Form of Notice of Appeal.*

In the matter of the Planning and Housing Act (Northern Ireland), 1931, Section 34, sub-section 1, by _____ of _____ in the County of _____ (state name, address and description of appellant) under the said sub-section.

County of _____, Division of _____.

TAKE NOTICE that I feel aggrieved by a notice, or demand, or order, or a refusal to determine a closing order (as the case may be), given, or made, or refused by the Local Authority, dated the _____ day of _____, 19____, whereby (set out briefly the substance of the notice, or demand, or order, or the refusal to determine a closing order (as the case may be) appealed from). I hereby appeal from the said notice, or demand, or order, or refusal to determine a closing order, to the County Court Judge of _____ at _____ the Equity Sessions to be held at _____ for the _____ Division and County above named on the _____ day of _____, 19____.

Dated the _____ day of _____, 19____.

Signed by (on behalf of) the appellant.

(Solicitor for) Appellant.

To the Clerk of the Crown and Peace
and the Local Authority.

(4) *Form of Order of the Court on the hearing of an Appeal under the Planning and Housing Act (Northern Ireland), 1931, Section 34, sub-section 1.*
(Title as in Notice of Appeal).

WHEREAS by a notice or demand or order, or a refusal to determine a closing order (as the case may be), under the Planning and Housing Act (Northern Ireland), 1931, Section 34, sub-section 1, dated the _____ day of _____, 19____, it was required, or demanded, or ordered, or an application to determine a closing order was refused. And Whereas the appellant being a person aggrieved by such requirement, or demand, or order, or refusal to determine a closing order (as the case may be), duly appealed against the said requirement, or demand, or order, or refusal to determine a closing order to this Court.

THE COURT having examined into the appeal doth
 and doth order
 that do recover against
 the sum of £ costs and £
 witnesses expenses (or as may be).
 Dated the day of , 19 .

County Court Judge.

Clerk of the Crown and Peace.

Solicitor for

(5) Form of Notice of Appeal.

In the matter of the Planning and Housing Act (Northern Ireland), 1931, Section
 46, sub-section 2, by of
 in the County of (state name, address, and
 description of appellant) under the said sub-section.
 County of Division of

TAKE NOTICE that I feel dissatisfied with an award made by an arbitrator
 appointed under the Act (or in the case of a Local Authority, Take Notice that
 we the Local Authority of feel dissatisfied
 with an award made by an arbitrator appointed under the Act) dated the
 day of , 19 , whereby (set out briefly the substance of
 the award appealed from).

I or We (as the case may be) hereby appeal from the said award to the County
 Court Judge of at the Equity Sessions to
 be held at for the division and county above
 named on the day of , 19

Dated the day of , 19 .
 Signed by (on behalf of) the Appellant.

(Solicitor for) Appellant.

To the Clerk of the Crown and Peace
and the Local Authority.

(6) Form of Order of the Court on the hearing of an Appeal under the Planning and
 Housing Act (Northern Ireland), 1931, Section 46, sub-section 2.
 (Title as in Notice of Appeal).

WHEREAS by an award made by an arbitrator appointed under the Planning
 and Housing Act (Northern Ireland), 1931, dated the day of ,
 19 , it was determined that

AND WHEREAS the appellant, being a person dissatisfied with the amount
 awarded or found to be payable (or in the case of a Local Authority the Local
 Authority being dissatisfied with the amount awarded or found to be payable),
 duly appealed against the said award to this Court.

THE COURT having examined into the appeal doth
 and doth order
 that do recover against the
 sum of £ costs and £ witnesses expenses
 (or as may be).
 Dated the day of , 19 .

County Court Judge.

Clerk of the Crown and Peace.

Solicitor for

(7) *Form of Appointment of Assessor.*
Title.

I hereby appoint _____ to act
as assessor in the above matter.
The matter will be listed for hearing on _____
the _____ day of _____, at the hour of _____;
at the Courthouse,
Dated this _____ day of _____, 19 _____
_____ County Court Judge.

SCHEDULE II.

SCHEDULE OF COSTS PAYABLE.

Under Section 13 (4)	{ 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.		
Under Section 23 (4)			
Under Section 46 (2)		The scale applicable to compensation for criminal injuries under the Local Government (Ireland) Act, 1898.	
Under Section 13 (5)			
Under Section 34 (1)			
Solicitor ..	For taking instructions for appeal or opposing appeal, advising thereon, taking instructions for hearing, advising proofs and attending and instructing Counsel when employed	£1	10 0
Solicitor ..	Drawing notice of appeal and copy for service	0	15 0
Solicitor ..	Service of notice of appeal	0	2 0
Solicitor ..	Entering appeal, attending the hearing with or without Counsel and for all other charges save brief for Counsel up to the order and taking out same	3	0 0
Solicitor ..	Brief for Counsel— 6d. per folio, but in no case to exceed £1 10s. 0d.— Minimum	0	15 0
Counsel ..	Fee on hearing	3	3 0

SCHEDULE OF ASSESSOR'S FEES.

Such sum, not exceeding Seven pounds seven shillings per day, as the Judge may decide.

SCHEDULE III.

COURT FEES PAYABLE (COUNTY COURT STAMPS).

	£	s.	d.
Under Sections 13 (5), 34 (1) —			
Filing Notice of Appeal	0	5	0
On any Final Order	0	10	0
Under Section 13 (4)	{ Fees payable under the County Officers and Courts (Ireland) Act, 1877, Part II. (S. R. & O. Northern Ireland, 1926, No. 21).		
Under Section 23 (4)			
Under Section 46 (2)			
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	15	0
			per cent.
Where the Award exceeds £1,000— For every additional £100 or part over £1,000	0	7	6
			per cent.