

COUNTY COURT RULES**County Court (Amendment) (No. 3) Rules**

RULES, DATED 22ND DECEMBER 1972, MADE BY THE SECRETARY OF STATE UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, THE RIGHT HONOURABLE WILLIAM WHITELAW, M.C., M.P., in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959(a), section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972(b) and all other powers enabling me in that behalf, do hereby, upon the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, make the rules hereinafter set forth.

Citation and commencement

1. These Rules may be cited as the County Court (Amendment) (No. 3) Rules (Northern Ireland) 1972 and shall come into operation on the date on which the United Kingdom becomes a member of the European Communities.

Procedure on Order for reference to European Court

2. After Order 22 of the County Court Rules (Northern Ireland) 1965(c) there shall be inserted the following Order:—

“Order 22A**References to the European Court (Appendix RA)***Interpretation*

1. In this Order—

“the European Court” means the Court of Justice of the European Communities; and

“order” means an order referring to the European Court for a preliminary ruling under Article 177 of the Treaty establishing the European Economic Community, Article 150 of the Treaty establishing the European Atomic Energy Community or Article 41 of the Treaty establishing the European Coal and Steel Community.

Making of order

2.—(1) The court may make an order at any stage in the course of an action or matter whether of its own motion or an application by a party before or at the hearing thereof.

(2) Where an application for an order is made before the hearing nothing in Rule 1 of Order 14 shall be construed as authorising the hearing of the application other than by the Judge in person and that Rule shall apply accordingly.

(a) 1959. c. 25.
(b) 1972. c. 22.

(c) S.R. & O. (N.I.) 1965, No. 261.

Schedule to order to set out request for ruling

3. An order shall be in the Form set out in Appendix RA and shall set out in a schedule the request for the preliminary ruling of the European Court and the court may give directions as to the manner and form in which the schedule is to be prepared.

Stay of proceedings pending ruling

4. The proceedings in which an order is made shall, unless the court otherwise orders, be stayed until the European Court has given a preliminary ruling on the question referred to it.

Transmission of order to the European Court

5. When an order has been made the clerk of the Crown and peace shall send a copy thereof to the parties and to the Registrar of the European Court; but, where there is a right of appeal against the order he shall not do so, unless the court otherwise orders, until the time for appealing has expired or, as the case may be, until any appeal has been decided or disposed of."

Form of order for reference to European Court

3. After Appendix R of the said Rules of 1965 there shall be inserted the following Appendix:—

"APPENDIX RA.

FORM

Form of order for reference to European Court

ORDER 22A, RULE 3(1)

" [Title as in Appendix A, Form 1] "

It is ordered that the question(s) set out in the Schedule hereto concerning the interpretation [or validity] of [specify Treaty provision or community instrument or act concerned] be referred to the Court of Justice of the European Communities for a preliminary ruling in accordance with Article 177 of the Treaty establishing the European Economic Community [or Article 150 of the Treaty establishing the European Atomic Energy Community or Article 41 of the Treaty establishing the European Coal and Steel Community, as the case may be].

And it is ordered that all further proceedings in the above-named action or matter be stayed until the said Court of Justice has given its ruling on the said question(s) or until further order.

SCHEDULE

Request for Preliminary Ruling of the Court of Justice of the European Communities

[Here set out a brief statement of the case giving rise to the request for the ruling of the European Court, giving particulars of the parties and the proceedings, indicating the nature of the issues between the parties, and specifying the Treaty provisions or other acts, instruments or rules of Community law concerned.]

The preliminary ruling of the Court of Justice of the European Communities is accordingly requested on the following questions:—

1., 2., & etc. *[here set out the question on which the ruling is sought].*

Dated the day of 19 .”

References to the European Court other than in cases within the civil jurisdiction of the County Court

4.—(1) Rules 1, 2(1), 3 and 4 of Order 22A and the Form in Appendix RA of the County Court Rules (Northern Ireland) 1965 shall apply, subject to paragraph (2), to any order such as is defined in the said Rule 1 which is made in proceedings other than those to which under Rule 5 of Order 48 the said Rules apply.

(2) In the Form of order for reference to the European Court set out in Appendix RA the reference to Order 22A shall be omitted.

Dated this 22nd day of December 1972.

W. S. I. Whitelaw,
One of Her Majesty's Principal
Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Rules, but is intended to indicate their general purport.)

These Rules add a new Order 22A to the County Court Rules (Northern Ireland) 1965 regulating the procedure on references to the European Court for preliminary rulings under Article 177 of the E.E.C. Treaty, Article 150 of the Euratom Treaty and Article 41 of the E.C.S.C. Treaty. Those Articles directly confer a power, and in some cases a duty, on courts to refer certain questions as to the interpretation and validity of Community law to the European Court for a preliminary ruling.

The Rules also add, in Appendix RA to the 1965 Rules, a model form of order for reference to the European Court.

Order 22A is applied with modifications to such references as are made in proceedings in the original criminal jurisdiction of the County Court.