1979 No. 448

JUDICATURE, NORTHERN IRELAND

COUNTY COURTS

County Court (Amendment No. 3) Rules (Northern Ireland) 1979

Made . . . . . 14*th December* 1979

Coming into operation . . . 1*st January* 1980

We, the County Court Rules Committee, appointed by the Lord Chancellor under section 146 of the County Courts Act (Northern Ireland) 1959(**a**), hereby, in accordance with that section, make the following rules:—

Citation

1. These rules may be cited as the County Court (Amendment No. 3) Rules (Northern Ireland) 1979.

Interpretation

2. In these rules a reference to an Order by number or to an Appendix by letter is a reference to that Order or Appendix as numbered or lettered in the County Court Rules (Northern Ireland) 1976(**b**).

Amendments of the Rules of 1976

3.—(1) The provisions of the County Court Rules (Northern Ireland) 1976 specified in the first column of Schedule 1 are amended to the extent specified in the second column.

(2) After Order 28A there shall be inserted the Order 28B set out in Schedule 2.

(3) After Appendix XA there shall be inserted the Appendix XB set out in Schedule 3.

Saving for previous application of pre-existing scales

4. Nothing in these rules shall affect any action, suit or matter commenced before the coming into operation of these rules and the costs payable to solicitors and in respect of counsel shall be those payable immediately before the commencement of these rules.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

J. P. Higgins
H. Collen
T. F. Glass

After consultation with the Lord Chief Justice I allow these rules which shall come into operation on 1st January 1980.

Dated the 14th day of December 1979.

Hailsham of St. Marylebone, C.

(a) 1959 c. 25 (N.I.) as amended by 1978 c. 23
(b) S.R. 1976 No. 374 (II, p. 1774)

SCHEDULE 1

Amendment of the County Court Rules (Northern Ireland) 1976

<table>
<tr><th>Provision amended</th><th>Extent of amendment</th></tr>
<tr><td>Order 24</td><td>In rule 17 for the words "valuation list relating to those lands or part thereof" there shall be substituted the words "latest valuation list relating to the hereditament" and for the word "lands" where it subsequently occurs there shall be substituted the word "hereditament".</td></tr>
<tr><td>Order 25</td><td>In rule 15(1) and (3) for the expression "£300" there shall be substituted the expression "£500".</td></tr>
<tr><td>Order 45</td><td>In Rule 2 for the words "1st January 1976," there shall be substituted the words "1st January 1980,".
In rule 5(1) for the expression "£1,000" there shall be substituted the expression "£2,000".
In rule 19(1)(a) for the expression "£300" there shall be substituted the expression "£500".</td></tr>
<tr><td>Appendix ZK</td><td>In Part I for Tables 1, 2, 3, 6 and 7 there shall be substituted the following respective Tables—
"TABLE 1: PLAINTIFF'S COSTS
<table>
<tr><th>In actions where amount decreed
(1)</th><th>Solicitor's costs
(2)</th><th>Counsel's fee
(3)</th></tr>
<tr><td>(i) does not exceed £30</td><td>£12.00</td><td>£6.00</td></tr>
<tr><td>(ii) exceeds £30 but does not exceed £100</td><td>£30.00</td><td>£12.00</td></tr>
<tr><td>(iii) exceeds £100 but does not exceed £250</td><td>£60.00</td><td>£20.00</td></tr>
<tr><td>(iv) exceeds £250 but does not exceed £500</td><td>£100.00</td><td>£28.00</td></tr>
<tr><td>(v) exceeds £500 but does not exceed £750</td><td>£140.00</td><td>£36.00</td></tr>
<tr><td>(vi) exceeds £750 but does not exceed £1,000</td><td>£180.00</td><td>£44.00</td></tr>
<tr><td>(vii) exceeds £1,000 but does not exceed £1,500</td><td>£250.00</td><td>£60.00</td></tr>
<tr><td>(viii) exceeds £1,500</td><td>£300.00</td><td>£70.00</td></tr>
</table></td></tr>
</table>

TABLE 2: DEFENDANT'S COSTS

In actions where amount decreed (1)	Solicitor's costs (2)	Counsel's fee (3)
(i) does not exceed £30	£11.00	£6.00
(ii) exceeds £30 but does not exceed £100	£28.00	£12.00
(iii) exceeds £100 but does not exceed £250	£58.00	£20.00
(iv) exceeds £250 but does not exceed £500	£95.00	£28.00
(v) exceeds £500 but does not exceed £750	£135.00	£36.00
(vi) exceeds £750 but does not exceed £1,000	£175.00	£44.00
(vii) exceeds £1,000 but does not exceed £1,500	£240.00	£60.00
(viii) exceeds £1,500	£290.00	£70.00

TABLE 3: PLAINTIFF'S COSTS

In actions where amount decreed (1)	Where sum claimed and costs specified in civil bill not paid within 14 days of service (2)
(i) does not exceed £30	£10.00
(ii) exceeds £30 but does not exceed £100	£15.00
(iii) exceeds £100 but does not exceed £250	£22.00
(iv) exceeds £250 but does not exceed £500	£24.00
(v) exceeds £500 but does not exceed £1,000	£30.00
(vi) exceeds £1,000 but does not exceed £1,500	£35.00
(vii) exceeds £1,500	£40.00

Provision amended	Extent of amendment

TABLE 6: PLAINTIFF'S COSTS

In actions where amount decreed (1)	Solicitor's costs (2)	Counsel's fee (3)
(i) does not exceed £100	£50.00	£25.00
(ii) exceeds £100 but does not exceed £250	£75.00	£40.00
(iii) exceeds £250	£100.00	£55.00

TABLE 7: DEFENDANT'S COSTS

In actions where amount decreed (1)	Solicitor's costs (2)	Counsel's fee (3)
(i) does not exceed £100	£48.00	£25.00
(ii) exceeds £100 but does not exceed £250	£70.00	£40.00
(iii) exceeds £250	£100.00	£55.00"

In Part II for Table 2 there shall be substituted the following Table—

"TABLE 2: DEFENDANT'S COSTS[2]

Solicitor's costs £175.00
Counsel's fee[3] £44.00

provides, however, that, where no specific sum or a sum exceeding £1,000 is claimed, the Judge, having regard to the importance or difficulty of the case or to the amount involved, may increase the above amount."

In Part VIII—

for the Table in paragraph 2 there shall be substituted the following Table—

"Where the value of the personalty and lands—	The scale applicable shall be—
does not exceed £500	Scale 1
exceeds £500 but not £1,000	Scale 2
exceeds £1,000 but not £2,000	Scale 3
exceeds £2,000 but not £3,000	Scale 4
exceeds £3,000 but not £4,000	Scale 5
exceeds £4,000 but not £5,000	Scale 6
exceeds £5,000	Scale 7"

for the Table under the heading "Counsel's fees" there shall be substituted the following Table—

"Counsel's fees

	Scale 1	Scale 2	Scale 3	Scale 4	Scale 5	Scale 6	Scale 7
	£	£	£	£	£	£	£
For advising proceedings or defence, settling the equity civil bill or petition and advising proofs—	6	12	16	20	24	28	32
On the hearing of every equity civil bill or petition—	12	17	22	27	32	37	42

Provision amended	Extent of amendment

	Scale 1	Scale 2	Scale 3	Scale 4	Scale 5	Scale 6	Scale 8
	£	£	£	£	£	£	£
In suits in which the primary relief sought is of course, and involves a reference for account or inquiry, and a second decree, no fee shall be allowed in respect of the first hearing unless the Judge, having regard to any question of difficulty which may arise in the course of the suit, otherwise directs.							
In every suit for equitable relief, where the right to such relief is not contested, the fees allowed on the hearing shall, unless the Judge otherwise directs, not exceed—	6	12	16	20	24	28	32"

for the Table under the heading "Solicitor's costs" there shall be substituted the following Table—

"Solicitor's costs

WHERE THE PRINCIPLE OF ALLOWANCE BY PERCENTAGE OR COMMISSION DOES NOT APPLY

	Scale 1	Scale 2	Scale 3	Scale 4	Scale 5	Scale 6	Scale 7
	£	£	£	£	£	£	£
1. For taking instructions for civil bill or defence, advising thereon, taking instructions for hearing, advising proofs, and instructing Counsel when employed.	5.00	10.00	15.00	20.00	25.00	30.00	35.00

2. For drawing civil bill or statement of defence and copy for service, and instructing Counsel when employed.	3.75	7.50	11.25	15.00	18.75	22.50	26.25
3. For entering civil bill or defence, and attending the hearing, with or without Counsel, and for all other costs up to the decree, and taking out same.	12.50	22.50	32.50	42.50	52.50	62.50	72.50
4. In cases of account or inquiry—on further hearing, in addition to the above, for entering the matter, attending further hearing with or without Counsel and taking out the order thereon.	12.50	22.50	32.50	42.50	52.50	62.50	72.50
5. For confirmation of certificate on account or inquiry where no application to vary a sum not exceeding—	5.00	8.75	12.50	16.25	20.00	23.75	27.50
6. Trustee Act: Order 27. For instructions and attendances, drawing, engrossing and filing an affidavit for the purpose of payment of money, transfer of stock, or deposit of security, obtaining the certificate, paying the money, transferring the stock, or depositing the security and all other costs.	8.75	17.50	26.25	35.00	43.75	52.50	61.25
7. For all work incident to obtaining an order to invest under Order 27 or Order 42 or for payment of income under Order 42—							
Where the application is ex parte	5.00	10.00	15.00	20.00	25.00	30.00	35.00
Where the application is on notice	6.25	12.00	17.75	23.50	29.25	35.00	40.75

For the purposes of items 1, 2 and 3 the expression "civil bill" includes any summons or petition initiating proceedings but does not include a petition at item 8.

Provision amended	Extent of amendment						
	Scale 1	Scale 2	Scale 3	Scale 4	Scale 5	Scale 6	Scale 7
	£	£	£	£	£	£	£
8. For all work incident to obtaining an order for payment out or distribution of funds—							
Where the application is ex parte	5.00	10.00	15.00	20.00	25.00	30.00	35.00
Where the application is on notice or by petition	8.75	17.50	26.25	35.00	43.75	52.50	61.25
9. For all work in connection with an application to the Accountant General under Court Funds Rules.	2.50	5.00	7.50	10.00	12.50	15.00	17.50
Costs in the office of the Chief Clerk.							
10. To the solicitor for the plaintiff, petitioner or party having the carriage of the proceedings. In all cases of account or inquiry directed by any decree or order to be taken or made before any officer of the court, and in lieu of all other costs incurred between the primary decree and the termination of the taking of such account or the making of such inquiry, there shall be allowed to the solicitor or the plaintiff, petitioner, or party having carriage of the proceedings, as the case may be, such sum as having regard to Rule 9 of Order 45 the taxing officer shall consider reasonable but not exceeding (save by direction of the Judge).	31.25	62.50	93.75	125.00	156.25	187.50	218.75

11. To the solicitor for the defendant or respondent. In all cases of account or inquiry directed by any decree or order to be taken or made before the officer of the court, and in lieu of all other costs incurred between the date of the primary decree and the termination of the taking of such account or the making of such inquiry, there shall be allowed to each party (other than the party having carriage of the proceedings) on the taxation of the costs, regard being had to the work properly performed, such sum as the officer thinks reasonable or just, not exceeding the allowance to the plaintiff, petitioner or other party having carriage of the proceedings, hereinbefore provided.							
OCCASIONAL COSTS							
Receivers 12. For all work in connection with the appointment of a receiver and the completion of the security, a sum not exceeding—	10.00	17.50	25.00	32.50	40.00	47.50	55.00
13. For instructions for the account of a receiver, drawing and preparing the same, and all attendances to lodge, vouch and pass the same, and the distribution or application of the balance, a sum not exceeding—	10.00	17.50	25.00	32.50	40.00	47.50	55.00
Interlocutory Applications and Attendances							
14. For all work in connection with an interlocutory application and the order thereon, a sum not exceeding—	5.00	8.75	12.50	16.25	20.00	23.75	27.50

Provision amended	Extent of amendment							
		Scale 1	Scale 2	Scale 3	Scale 4	Scale 5	Scale 6	Scale 7
		£	£	£	£	£	£	£
	Letters							
	15. For writing a letter a reasonable time before the institution of proceedings.	0.50	0.50	0.50	0.50	0.50	0.50	0.50
	Drafts and Copies							
	16. For drawing and engrossing any document not otherwise provided for, 12p per folio.							
	17. For copies of all necessary documents used in Court, or required by the Judge or briefed, per folio.	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	For carbons or duplicates, per folio	0.03	0.03	0.03	0.03	0.03	0.03	0.03"
	In Part IX under the heading of "COSTS OF THE DAY" for the words "sum of £6.25" there shall be substituted the words "discretion of the Judge".							

SCHEDULE 2

Order 28B to be inserted in the County Court Rules (Northern Ireland) 1976

ORDER 28B

Proceedings under the Matrimonial Causes (Northern Ireland) Order 1978 (Appendix XB)

1. Where application is made under Articles 35, 38 or 40 of the Matrimonial Causes (Northern Ireland) Order 1978, particulars of the question to be submitted to the decision of the judge shall be filed in the Office and thereupon a summons shall be issued in the form specified in Appendix XB and shall be served together with a copy of the particulars before the beginning of a period of 28 days ending on the entry day.

2. The Judge shall direct what costs are to be allowed.

SCHEDULE 3

Appendix XB to be inserted in the County Court Rules (Northern Ireland) 1976

APPENDIX XB

Summons

The Matrimonial Causes (Northern Ireland) Order 1978

Order 28B Rule 1(1)

[Title as in Appendix A Form 1]

The sittings at which this summons is intended to be dealt with will commence on the day of 19 , and will be held at

YOU ARE HEREBY SUMMONED at the instance of of , to appear before the County Court Judge at the equity sittings of the aforesaid Court on the day of 19 *, at the hour of , when the Court will proceed to consider the question hereunto annexed, and to make such order as it may think just and expedient.

Dated this day of 19 .

Signed Chief Clerk

Signed Solicitor for

* Day for hearing as in court calendar.

EXPLANATORY NOTE

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

These rules amend the County Court Rules (Northern Ireland) 1976

Order 24, rule 17, is amended to provide that a copy or extract of the latest valuation list relating to a hereditament shall, for the purposes of any proceedings in a county court, be sufficient proof of the valuation of such hereditament until the contrary is shown.

Amendments are made to Order 25, Part II (which relates to hearing by Circuit Registrar) and to Order 45 and Appendix ZK (which relate to costs); the amendments will take effect at the same time as the increase in county court jurisdiction brought about by the coming into force on 1st January 1980 of the County Courts (Financial Limits) Order (Northern Ireland) 1979.

A new Order 28B and a new Appendix XB have been added to the Rules of 1976 to provide for the procedure upon an application under Articles 35, 38 or 40 of the Matrimonial Causes (Northern Ireland) Order 1978.