

1984 No. 354

## SUPREME COURT, NORTHERN IRELAND

## PROCEDURE

The Rules of the Supreme Court (Northern Ireland)  
(Amendment No. 3) 1984*Made* . . . . . 2nd October 1984*Coming into operation* . . . . . 12th November 1984*To be laid before Parliament*

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(a) 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, interpretation and commencement*

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 1984 and shall come into operation on 12th November 1984.

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

*Setting down for trial*

2. In Order 34, rule 4, the following paragraph shall be added after paragraph (5)—

“(6) The party who has set an action down for trial must deliver to the appropriate office two copies of any documents of the kind specified in paragraph (1) which have come into existence between the date of setting down and the day preceding the trial of the action.”

*Court expert*

3. Order 40 in the Schedule hereto shall be inserted in the Rules of the Supreme Court (Northern Ireland) 1980 in the place appropriate to its number.

*Committal*

4. Order 52 shall be amended as follows:—

(1) In rule 1 the following paragraph shall be added after paragraph (5)—

“(6) A court of two or more judges exercising jurisdiction pursuant to this rule shall be called a Divisional Court.”

(2) In rule 4(2) there shall be added after the word “personally” the words “on the person sought to be committed.”

*Application for judicial review*

5. Order 53, rule 3(3), shall be amended by the deletion of the words “by a judge while sitting”.

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(a) 1978 c. 23

(b) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1981 No. 224, 1982 No. 217 and 1983 No. 44

## EXPLANATORY NOTE

*(This note is not part of the Rules.)*

These rules amend the Rules of the Supreme Court (Northern Ireland) 1980 so as—

- (a) to make further provision for the documents to be lodged with the court when an action is set down for trial (rule 2);
- (b) to introduce as Order 40 an Order relating to court experts (rule 3);
- (c) to use the term ‘‘Divisional Court’’ to describe a court of two or more judges in proceedings for committal for contempt of court and to clarify the procedure for service of an order in such proceedings (rule 4);
- (d) to remove doubt as to the jurisdiction of a master to grant leave to apply for judicial review in a civil matter (rule 5);
- (e) to require the Chief Clerk in the County Court, on an appeal, to send a certified copy of the decree appealed against to the High Court and to require the appellant to lodge an appeal book (rule 6);
- (f) to remove doubt as to the power of the High Court to estreat a recognizance or forfeit a security in certain circumstances (rule 7);
- (g) to amend Order 106 (proceedings relating to solicitors) so as to accord with the provision of the Solicitors (N.I.) Order 1976 (rule 8);
- (h) to correct an error in Order 11 (committal under Judgments Enforcement (N.I.) Order 1981) (rule 9); and
- (i) to amend Form 37A, which relates to County Court appeals (rule 10).

*Appeals to High Court — County Court appeals*

6. Order 55 shall be amended as follows—

(1) In rule 2(3) for the words “the original decree appealed against or a certificate as to its nature and effect” there shall be substituted “a certified copy of the original decree appealed against.”

(2) Immediately after rule 6 the following rule shall be inserted—

*“Appeal books*

6A. The appellant must, not later than 14 days after lodging the notice of appeal, lodge in the appropriate office one appeal book (unless the Master directs a different number) containing the following documents, namely—

- (a) a copy of the notice of appeal;
- (b) a copy of civil bill or other originating process;
- (c) the legal aid certificate, if any; and
- (d) any other documents which may be relevant to the appeal.”

*Bail — Estreat of recognizance and forfeiture of security*

7. Order 79 shall be amended as follows:—

(1) In rules 8(2), 9(2) and 10 the words “the High Court or” shall be inserted immediately before the words “the Court of Appeal” where they occur in the said rules.

(2) In rule 8(3) for the words “Schedule 4 to the Magistrates’ Courts Act (Northern Ireland) 1964” there shall be substituted the words “Schedule 3 to the Magistrates’ Courts (Northern Ireland) Order 1981”.

*Proceedings relating to solicitors: The Solicitors (N.I.) Order 1976*

8. In Order 106, rule 10(3), for the words “the day on which a statement of the Committee’s findings were filed” there shall be substituted the words “the date of the making of the order or refusal appealed against.”

*Committal under Judgments Enforcement (N.I.) Order 1981*

9. In Order 111, rule 1, for the figure “88”, where it occurs in the definition of “judgment summons”, there shall be substituted the figure “107”.

*Forms*

10. In Appendix A Form 37A shall be amended by the insertion of the words “Hearing Time” immediately below the date.

Dated 18th September 1984.

(Signed) *Lowry*  
*John MacDermott*  
*R. D. Carswell*  
*W. A. Campbell*  
*Hugh P. Kennedy*  
*Owen Catchpole*

I concur,

*Hailsham of St. Marylebone, C.*

Dated 2nd October 1984.

## SCHEDULE

## ORDER 40

## Court Expert

*Appointment of expert to report on certain questions*

1.—(1) In any cause or matter in which any question for an expert witness arises the Court may at any time, on the application of any party or of its own motion, appoint an independent expert or, if more than one such question arises, two or more experts to inquire and report upon any question of fact or opinion not involving questions of law or of construction.

An expert appointed under this paragraph is referred to in this Order as a “court expert”.

(2) Any court expert in a cause or matter shall, if possible, be a person agreed between the parties and, failing agreement, shall be nominated by the Court.

(3) The question to be submitted to the court expert and the instructions (if any) given to him shall, failing agreement between the parties, be settled by the Court.

(4) In this rule “expert”, in relation to any question arising in a cause or matter, means any person who has such knowledge or experience of or in connection with that question that his opinion on it would be admissible in evidence.

*Report of court expert*

2.—(1) The court expert must send his report to the Court, together with such number of copies thereof as the Court may direct, and the proper officer must send copies of the report to the parties or their solicitors.

(2) The Court may direct the court expert to make a further or supplemental report.

(3) Any part of a court expert's report which is not accepted by all the parties to the cause or matter in which it is made shall be treated as information furnished to the Court and be given such weight as the Court thinks fit.

*Experiments and tests*

3. If the court expert is of opinion that an experiment or test of any kind (other than one of a trifling character) is necessary to enable him to make a satisfactory report he shall inform the parties or their solicitors and shall, if possible, make an arrangement with them as to the expenses involved, the persons to attend and other relevant matters; and if the parties are unable to agree on any of those matters it shall be settled by the Court.

*Cross-examination of court expert*

4. Any party may, within 14 days after receiving a copy of the court expert's report, apply to the Court for leave to cross-examine the expert on his report, and on that application the Court shall make an order for the cross-examination of the expert by all the parties either—

(a) at the trial, or

(b) before an examiner at such time and place as may be specified in the order.

*Remuneration of court expert*

5.—(1) The remuneration of the court expert shall be fixed by the Court and shall include a fee for his report and a proper sum for each day during which he is required to be present either in court or before an examiner.

(2) Without prejudice to any order providing for payment of the court expert's remuneration as part of the costs of the cause or matter, the parties shall be jointly and severally liable to pay the amount fixed by the Court for his remuneration, but where the appointment of a court expert is opposed the Court may, as a condition of making the appointment, require the party applying for the appointment to give such security for the remuneration of the expert as the Court thinks fit.

*Calling of expert witnesses*

6. Where a court expert is appointed in a cause or matter, any party may, on giving to the other parties a reasonable time before the trial notice of his intention to do so, call one expert witness to give evidence on the question reported on by the court expert but no party may call more than one such witness without the leave of the Court, and the Court shall not grant leave unless it considers the circumstances of the case to be exceptional.