SECOND SCHEDULE

BY COUNTY COURT STAMPS

	£	s.	d.
On each Petition	1	0	0
On each copy for service	0	2	6
On each interim order	0	10	0
On each application for an adoption order	0	10	0
On each application for the discharge of an interim order ...	0	5	0
On each adoption order	0	10	0
On each discharge of an interim order	0	5	0
On each application for a licence	0	10	0
On each licence	1	0	0

Crown Proceedings Act County Court Rules (Northern Ireland), 1950

1950. No. 22

WE, the undersigned members of the County Court Rules Committee appointed by the Lord Chief Justice of Northern Ireland under sub-section (3) of Section 2 of the County Courts (Salaries and Rules) Act (Northern Ireland), 1947, by virtue of the powers vested in us in this behalf, do hereby make the Rules hereinafter set forth as rules to be in force in proceedings in the County Courts under the Crown Proceedings Act, 1947, and do hereby certify the same under our hands and submit them to the Lord Chief Justice of Northern Ireland accordingly.

(Signed) *Bernard J. Fox*
Isaac Copeland
Samuel Cumming
Geo. H. Pollock
Charles Stewart.

I approve of these Rules which shall come into force on the 14th day of February, 1950.

Dated the 2nd day of February, 1950.

(Signed) *James Andrews*,
Lord Chief Justice of Northern Ireland.

1. These Rules may be cited as the County Court (Crown Proceedings) Rules (Northern Ireland), 1950, and shall have effect for the purposes of civil proceedings by or against the Crown instituted on or after the first day of March, 1950.

2. The County Courts (Ireland) Orders, 1890 (as those Orders have effect in Northern Ireland) shall have effect subject to the following provisions of these Rules.

3. At the end of the interpretation paragraph prefixed to the said Orders there shall be added the following :—

" " The Crown Proceedings Act " means the Crown Proceedings Act, 1947, as extended to Northern Ireland by the Northern Ireland (Crown Proceedings) Order, 1949 ;

the Crown shall be deemed to reside within the jurisdiction of each county court."

4. At the end of Order III there shall be added the following new Rule :—

" **11.**—(1) When civil proceedings are brought against the Crown in accordance with the provisions of the Crown Proceedings Act the Crown may, within two days from the service of the civil bill, serve a notice upon the plaintiff or his solicitor, requiring such information as may be reasonably necessary to show the circumstances in which the alleged liability of the Crown has arisen, and any department and officer of the Crown concerned.

(2) The plaintiff or his solicitor shall, within three days from the service of such notice, serve upon the Crown an answer to the notice containing the required particulars, and the plaintiff shall be bound by the statements contained therein unless at the hearing of the civil bill the judge otherwise directs.

(3) If the plaintiff fails to comply with the requirements of such notice as aforesaid, the judge shall, subject to paragraph (4) of this Rule, adjourn the hearing of the civil bill and direct the plaintiff to furnish the required particulars within such time as shall be specified by the judge. The costs of such adjournment shall be in the discretion of the judge.

(4) If it appears to the judge, on the application of the plaintiff, that the furnishing by the plaintiff of any particulars required by the Crown is not reasonably practicable or is likely to prejudice the plaintiff's case, the judge shall not direct such particulars to be furnished ; and in any such case an answer by the plaintiff which omits such particulars shall be deemed to be a sufficient compliance with the notice ; and if such an answer has already been served the judge may proceed to hear and determine the civil bill without an adjournment."

5. At the end of Order IV there shall be added the following new Rule :—

" **10.**—(1) In proceedings by the Crown for the recovery of any taxes, duties or penalties, a defendant shall not be entitled to avail himself of any set-off or counterclaim.

(2) In any proceedings by the Crown other than those referred to in the preceding paragraph, a defendant shall not be entitled to avail himself of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties.

(3) A defendant shall not be entitled without the leave of the judge, to be obtained on application of which not less than three clear days' notice has been given to the Crown, to avail himself of any set-off or counterclaim if —

(*a*) the subject matter of the set-off or counterclaim does not relate to the Government department in whose name the proceedings are brought ; or

(*b*) the proceedings are brought in the name of the Attorney-General.

(4) In proceedings against the Crown the Crown shall not be entitled without the leave of the judge, to be obtained on application of which not less than three clear days' notice has been given to the plaintiff, to avail itself of any set-off or counterclaim if —

(*a*) The Crown is sued in the name of a Government department and the subject matter of the set-off or counterclaim does not relate to that department ; or

(*b*) The Crown is sued in the name of the Attorney-General." .

6. At the end of Order VI there shall be added the following new Rules :—

" **12.**—(1) The provisions of this Order relating to personal service shall not apply to any civil bill or other document required to be served on the Crown. Service of any such civil bill or document shall be in accordance with section eighteen of the Crown Proceedings Act and may be effected either —

(*a*) by leaving the civil bill or document at the office of the person to be served ; or

(*b*) by posting it in a pre-paid registered envelope addressed to the person to be served ;

and where service under this Rule is effected by post the time at which the document so posted would be delivered in the ordinary course of post shall be considered as the time of service thereof.

13. A civil bill at the suit of the Crown may by leave of the judge be served out of Northern Ireland in any case in which leave might be granted by the High Court for the service of a writ of summons out of the jurisdiction. Where such leave has been given in any proceedings in a county court, the like leave may be given in respect of documents to be subsequently served in those proceedings.

14. Where leave is asked from the judge to serve a civil bill anywhere in Great Britain, if it appears to the judge that there may be a concurrent remedy in England or Scotland (as the case may be), the judge shall have regard to the comparative cost and

convenience of proceedings within the jurisdiction of the Court, or in the place of residence of the intended defendant, and particularly to the powers and jurisdiction of the county courts in England, and of the sheriffs' courts or small debts courts in Scotland, respectively.

15.—(1) An application for leave to serve a civil bill on a person out of Northern Ireland shall be supported by affidavit or other evidence —

(*a*) stating that, in the belief of the deponent, the applicant has a good cause of action ; and

(*b*) showing —

(i) in what country and place the person to be served is, or may probably, be found ;

(ii) whether such person is a British subject or not ; and

(iii) the grounds on which the application is made.

(2) Where the judge gives leave for the service of a civil bill or other document out of Northern Ireland, he shall fix the return day, and in so doing shall have regard to the distance of the country wherein service is to be effected.

16.—(1) Where leave is given under the preceding Rules of this Order for service out of the jurisdiction, such service shall, subject to the succeeding paragraph of this Rule, be effected either —

(*a*) by posting the document to be served together with a copy of the relevant order in a prepaid registered envelope addressed to the person to be served ; or

(*b*) by transmitting such document to an agent of the plaintiff for personal service by such agent.

(2) Where the person to be served is without His Majesty's dominions there shall be served on him a copy of the relevant order and a notice of commencement of proceedings to which there shall be annexed a copy of the document for the service of which leave has been given."

7. At the end of Order XV there shall be added the following new Rule :—

" **3.** In any proceedings by or against the Crown, the judge may, where he deems it necessary, make an order for the examination upon oath before an officer of the court or before any other person, and at any place, of any witness or person, and may empower any party to the proceedings to give such deposition in evidence therein on such terms (if any) as the judge may direct."

8. At the end of Order XVI there shall be added the following new Rule :—

" **13.**—(1) If the Crown does not appear on the hearing of any civil bill in which it is a defendant, the civil bill shall be adjourned to a date fixed by the judge, on such terms as to him may seem just.

Notice of such date shall be served upon the Crown in a manner to be directed by the judge, and shall set out that the case will be heard on the date named, and such judgment given or other order made as to the judge may seem just, the Crown's absence notwithstanding. If the Crown does not appear on the adjourned hearing the judge may, upon proof of service of such notice, proceed to hear and determine the case and may give such judgment or make such other order as to him may seem just.

(2) A default process shall not be issued against the Crown."

9. At the end of Order XXXVI there shall be added the following new Rule :—

"**24.** Save as is otherwise provided by the Crown Proceedings Act or by these Orders —

(*a*) these Orders and any County Court Rules for the time being in force, shall, so far as may be, apply to all proceedings by or against the Crown in like manner as they apply to proceedings between subjects ; and

(*b*) proceedings by or against the Crown shall so far as may be take the same form as proceedings between subjects."

Elections and Franchise Act (Northern Ireland), 1946 (Reprint to 1948)

County Court Rules (Northern Ireland), 1950

1950. No. 47

WE, the undersigned members of the County Court Rules Committee appointed by the Lord Chief Justice of Northern Ireland under sub-section (3) of section 2 of the County Courts (Salaries and Rules) Act (Northern Ireland), 1947, by virtue of the powers vested in us in this behalf, do hereby make the Rules hereinafter set forth as rules to be in force in proceedings in the County Courts under the Elections and Franchise Act (Northern Ireland), 1946 (Reprint to 1948), and do hereby certify the same under our hands and submit them to the Lord Chief Justice of Northern Ireland accordingly.

(Signed) *Bernard J. Fox*
Isaac Copeland
Samuel Cumming
Charles Stewart
Geo. H. Pollock.