1985 No. 78

JUDGMENTS (ENFORCEMENT)

Judgment Enforcement (Recovery of Admitted Debts) Rules (Northern Ireland) 1985

Made	*2nd April 1985*
Coming into operation . . .	*1st May 1985*
To be laid before Parliament	

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The Lord Chancellor, in exercise of the powers conferred on him by Article 141(1) of the Judgments Enforcement (Northern Ireland) Order 1981(**a**) and of all other powers enabling him in that behalf, hereby makes the following Rules—

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Judgement Enforcement (Recovery of Admitted Debts) Rules (Northern Ireland) 1985 and shall come into operation on 1st May 1985.

Interpretation

2.—(1) In these rules, unless the context otherwise requires—

"admitted debt" means a sum certain in money which a creditor claims is owed to him by a debtor and which indebtedness the debtor either admits or is taken to admit by virtue of Article 95(5) or (6);

"creditor" means a person who makes application to the Office in accordance with Article 95(1) for the recovery of a debt;

"debt" means a sum certain in money which is the subject of an application under Article 95(1);

"debtor" means a person against whom a creditor makes application to the Office in accordance with Article 95(1) for the recovery of a debt;

"nominated officer" means an officer nominated by the Chief Enforcement Officer under rule 23(1) of the principal Rules;

"the Order" means the Judgments Enforcement (Northern Ireland) Order 1981 and an Article referred to by number means the relevant Article of the Order;

"the principal Rules" means the Judgment Enforcement (Northern Ireland) Rules 1981(**b**).

(2) Without prejudice to paragraph (1) the expressions used in these rules shall, unless the contrary intention appears, have the same meaning as in the Order.

Forms

3.—(1) The forms in the Schedule shall be used where applicable with such variations as the circumstances of the particular case require.

(2) References in these rules to numbered forms are references to the numbered forms in the Schedule.

Non-compliance with rules

4.—(1) Where, in beginning or purporting to begin any proceedings under Part VII of the Order or at any stage in the course of or in connection with such proceedings, there has, by reason of anything done or left undone, been a failure to comply with the requirements of these rules, whether in respect of time, place, manner, form or content or in any other respect, the failure shall be treated as an irregularity and shall not nullify the proceedings, any step taken in the proceedings or any document, judgment or order therein.

(2) The Master may, on the ground that there has been such a failure as is mentioned in paragraph (1) and on such terms as to costs or otherwise as he thinks just, set aside either wholly or in part the proceedings or any document or order therein or exercise his powers under the principal Rules to allow such amendments to

(**a**) S.I. 1981/226 (N.I. 6)
(**b**) S.R. 1981 No. 147

be made, and to make such order dealing with the proceedings generally as he thinks fit.

Application of principal Rules

5. Subject to the provisions of these rules, the principal Rules shall apply, with any necessary modifications, to proceedings under Part VII of the Order.

Referral by Chief Enforcement Officer to the Master

6. The Chief Enforcement Officer may at any time refer an application under Article 95(1) to the Master.

Limitation on recovery of admitted debts

7. An application under Article 95(1) shall not be accepted by the Office if—

(*a*) the debt exceeds £3,000; or

(*b*) the debt is due otherwise than to—

(i) a Minister of the Crown or a government department (which for the purposes of this rule includes a department of the Government of the United Kingdom);

(ii) a local or public authority, that is to say—

(A) a district council or a joint committee appointed by two or more district councils,

(B) a body or person exercising functions under a statutory provision,

(C) a body or person appointed , wholly or partly, by a Minister of the Crown or a government department (whether upon, or partly upon, the nomination of any other person or otherwise),

(D) a body or person whose accounts are audited by or on behalf of, or are examined and reported on by or on behalf of, the Comptroller and Auditor-General for Northern Ireland;

(iii) the Consolidated Fund;

(iv) any funds administered by or on behalf of any government department or local or public authority; or

(*c*) the entirety of the debt is in respect of any local or public rates (including water rates, regional rate and district rate); or

(*d*) it appears to the Office that the debtor is;

(i) an infant,

(ii) a patient,

(iii) dead, or

(iv) outside the jurisdiction.

PART 2

RECOVERY OF ADMITTED DEBTS

Notice on intention to apply for recovery of debt

8.—(1) Where a creditor intends to make an application under Article 95(1) he shall complete a notice in Form 1 with Form 2 attached and shall lodge the notice in the Office.

(2) Where the intended application is against two or more debtors the creditor shall lodge a notice in respect of each debtor.

(3) A notice under this rule shall be signed by the creditor's solicitor or by a person duly authorised in that behalf.

(4) The Office shall forthwith send the notice to each creditor named therein.

(5) The notice under this rule shall cease to have effect after the expiration of three months unless the Chief Enforcement Officer shall otherwise direct.

Written communication from debtor

9. When in receipt of—

(*a*) Form 2, signed at Part A, B or C by a debtor or by a solicitor on his behalf; or

(*b*) any other written communication signed by a debtor or by a solicitor on his behalf;

the Office shall—

(i) make and retain a copy of that document; and

(ii) send the original of that document to the creditor named therein.

Application for recovery of debt

10.—(1) An application under Article 95(1) for the recovery of a debt shall be in Form 3 and shall be signed by the creditor's solicitor or by a person duly authorised in that behalf.

(2) The following documents shall be lodged at the Office together with the application—

(*a*) a true copy of Form 1 as lodged in the Office;

(*b*) Form 2, where this has been returned by the debtor; and

(*c*) any written communication sent by the debtor to the creditor or to the Office after service of Form 1.

(3) Except with the leave of the Chief Enforcement Officer an application under this rule must be lodged within one calendar month from the date on which it purports to have been signed.

Summons for examination under Article 95(1)

11.—(1) On receipt of an application made in accordance with rule 10 the Chief Enforcement Officer or such other member of the Northern Ireland Court Service as he may direct shall, subject to paragraph (4), issue a summons under Article 95(1) requiring the debtor—

(*a*) to attend for examination as to whether he admits the debt and, if he does admit it, for examination as to his means; and

(*b*) to produce all books, documents and things in his possession or under his control relevant to the debt and his means.

(2) There shall be at least eight days between the date fixed for the hearing of the summons and the date on which service of the summons is deemed to have been effected.

(3) The Office shall notify the creditor of the date and time fixed for the hearing of the summons.

(4) A summons shall not be issued under paragraph (1) of this rule where, in a written communication sent to the Office, a debtor has admitted the debt or is taken to have done so by virtue of rule 14.

Conduct of examination under Article 95(1)

12.—(1) An examination under Article 95(1) shall, subject to paragraph (5), be conducted by a nominated officer and such officer shall have power to administer oaths for that purpose.

(2) The examination shall be conducted in private.

(3) The creditor shall be entitled to be present and may, with the leave of the person conducting the examination, give evidence or put any question to the debtor as to his means.

(4) A note shall be taken of any answer or evidence given by the debtor during the examination.

(5) The Chief Enforcement Officer may—

(*a*) in any particular instance; or

(*b*) with reference to any particular class of debtors;

direct that the conduct of the examination be referred to the Master whether or not the examination has begun before a nominated officer.

Examination under Article 95(1)

13.—(1) At an examination under Article 95(1) the nominated officer shall inquire from the debtor whether he admits the debt which is the subjectmatter of the application.

(2) The nominated officer shall record in a certificate whether the debtor admits any debt and the particulars of any debt so admitted.

(3) Where the debtor admits the debt, or is taken to do so by virtue of rule 14, he may be sworn and examined as to his means.

(4) Subject to rules 14 and 15, where the debtor does not admit the debt the nominated officer shall dismiss the application.

Admission of lesser debt

14.—(1) Where a debtor disputes the debt but admits—

(*a*) on attending at the Office in pursuance of a summons under rule 11; or

(*b*) in a written communication sent to the Office;

that he is indebted to the creditor in a sum less than that stated in the creditor's application, the creditor may request the Office to amend the application to show that lesser sum as the debt.

(2) Where the request referred to in paragraph (1) is made orally the creditor shall confirm that request subsequently in writing.

(3) Where the Chief Enforcement Officer is satisfied that—

(*a*) the admission referred to in paragraph (1) can properly be accepted; and

(*b*) the requested amendment can be made;

he may direct that the sum admitted by the debtor be taken to be an admitted debt.

Non-compliance by debtor

15.—(1) Where—

(*a*) a debtor—

(i) does not pay the debt in full before the time when he is required by a summons under rule 11 to attend for examination.

(ii) does not comply with the summons, and

(iii) does not notify the Office in writing that he disputes the debt; and

(*b*) The Chief Enforcement Officer is satisfied that the debtor received the summons;

the Chief Enforcement Officer may direct that the debtor be taken to admit the debt.

(2) Where the Chief Enforcement Officer makes a direction under paragraph (1) he shall cause notice of that direction to be served on the creditor and on the debtor.