1983 No. 5

SUPREME COURT

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment) 1983

Made . . . . . *14th January 1983*

Coming into operation . . . . *28th February 1983*

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 pleading, practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers and all other powers enabling us in that behalf as follows:

Citation and commencement

1.—(1) These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 1983 and shall come into operation on 28th February 1983.

(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) and, unless the context otherwise requires, a form referred to by number means the form so numbered in Appendix A to the Rules.

Service of originating process: general provisions

2. The following paragraph shall be added to Order 10, rule 1:—

(7) Every copy of a writ for service on a defendant shall be sealed with the seal of the office of the Supreme Court out of which the writ was issued.

Investment of money in court

3. Order 22, rule 12 shall be amended by inserting after the words "any manner specified in" the words "Part I and" and by substituting for the words "restricted in their operation by" the words "supplemented by the provisions of".

Application under section 32(1) of Administration of Justice Act 1970

4. Order 24, rule 6(2), shall be amended as follows:—

(1) After the word "summons" there shall be inserted the words "in Form No. 28A in Appendix A".

(2) The word "personally" shall be deleted.

Order for hearing or trial

5. Order 28, rule 9 shall be amended as follows:—

(1) In paragraph (1) for the words from "an order for the hearing" to the end,

(a) 1978 c. 23
(b) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1981 No. 224 and 1982 No. 217

there shall be substituted the words "such order as to the hearing of the cause or matter as may be appropriate.".

(2) Paragraph (2) shall be omitted.

Receivers

6. Order 30 shall be amended by substituting for rules 2 to 6 the following rules:—

"*Giving of security by receiver*

2.—(1) A judgment or order directing the appointment of a receiver may include such direction as the Court may think fit as to the giving of security by the person appointed.

(2) Where by virtue of any judgment or order appointing a person named therein to be receiver a person is required to give security in accordance with this rule, he must give security approved by the Court duly to account for what he receives as receiver and to deal with it as the Court directs.

(3) Unless the Court otherwise directs, the security shall be by guarantee.

(4) The guarantee must be filed in the appropriate office and it shall be kept as of record until duly vacated.

Remuneration of receiver

3. A person appointed receiver shall be allowed such proper remuneration, if any, as may be authorised by the Court and the Court may direct that such remuneration shall be fixed by reference to such scales or rates of professional charges as it thinks fit.

Service of order and notice

4. A copy of the judgment or order appointing a receiver shall be served by the party having conduct of the proceedings on the receiver and all other parties to the cause or matter in which the receiver has been appointed.

Receiver's accounts

5.—(1) A receiver shall submit such accounts to such parties at such intervals or on such dates as the Court may direct.

(2) Any party to whom a receiver is required to submit accounts may, on giving reasonable notice to the receiver, inspect, either personally or by an agent, the books and other papers relating to such accounts.

(3) Any party who is dissatisfied with the accounts of the receiver may give notice specifying the item or items to which objection is taken and requiring the receiver within not less than 14 days to lodge his accounts with the Court and a copy of such notice shall be lodged in the appropriate office.

(4) Following an examination by or on behalf of the Court of an item or items in an account to which objection is taken the result of such examination must be certified by a master and an order may thereupon be made as to the incidence of any costs or expenses incurred.

Payment into court by receiver

6. The Court may fix the amounts and frequency of payments into court to be made by a receiver.

Default by receiver

7.—(1) Where a receiver fails to attend for the examination of his account or fails to submit any account, provide access to any books or papers, provide or do any other thing which he is required to provide or do, he and all of the parties in the

cause or matter in which he was appointed may be required to attend in chambers to show cause for the failure, and the Court may, either in chambers or after adjournment into court, give such directions as it thinks proper including, if necessary, directions for the discharge of the receiver and the appointment of another and the payment of costs.

(2) Without prejudice to paragraph (1), where a receiver fails to attend for the examination of any account of his or fails to submit any account or fails to pay into court on the date fixed by the Court any sum required to be so paid, the Court may disallow any remuneration claimed by the receiver and may, where he has failed to pay any such sum into court, charge him with interest at the rate currently payable in respect of judgment debts in the High Court on that sum while in his possession as receiver.

Directions to receiver

8. A receiver may at any time request the Court to give him directions and such request shall state in writing the matters with regard to which directions are required.''

Sale, etc., of land by order of the Court

7. Order 31 shall be amended as follows:—

(1) In paragraph (1) of rule 2 there shall be substituted for the words ''under paragraph (4)'' the word ''subsequently''.

(2) Paragraphs (2) and (3) of rule 2 shall be omitted.

(3) Paragraph (4) of rule 2 shall be re-numbered (2) and there shall be substituted for the words ''On the hearing of the summons the Court'' the words ''The Court''.

(4) In paragraph (2) of rule 3 there shall be substituted for the word ''at'' the word ''in''.

Order or judgment for amount of damages

8. Order 37 shall be amended as follows:—

(1) In the title of rule 2 for the word ''Certificate'' there shall be substituted the word ''Order''.

(2) In rule 2 the following paragraph shall be substituted for paragraph (*a*)—

''(*a*) in the Chancery Division the Master shall make an order for payment of the damages so assessed under Order 44, rule 11;''.

Writs of subpoena

9. Order 38, rule 15, shall be amended by inserting after the words ''issue of the writ'' the words ''and not less than four days, or such other period as the Court may fix, before the day on which attendance before the Court is required.''

Evidence by deposition

10. Order 39, rule 11, shall be amended by inserting at the end the following paragraph:—

''(5) Where a deposition is filed in the Central Office and the cause or matter is proceeding in the Chancery Division, a copy of the deposition shall be made in the Central Office and transmitted to the Chancery Office.''

Judgments

11. Order 42, rule 9, shall be amended as follows:—

(1) In paragraph (2) there shall be substituted for the figure ''14'' the figure ''12''.

(2) The following paragraph shall be substituted for paragraph (3):—

"(3) Where an order charging land under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981 or a charging order on funds, stock or shares under Article 58 of the said Order provides for the payment of interest on any sum secured by the order, such interest shall be payable at the rate specified in the judgment in respect of which the order was made or, where the rate of interest to be paid is not specified in the judgment, at the rate currently payable in respect of a judgment under paragraph (2), from the date of the registration of the order in the case of an order charging land or from the date of the order in the case of a charging order on funds, stock or shares, and for the period during which the charge is subsisting."

Accounts and Inquiries

12. Order 43 shall be amended as follows:—

(1) In the heading to rule 3, by inserting at the end the words "or making inquiry".

(2) In paragraph (1) of rule 3, by inserting after the words "account to be taken" the words "or inquiry to be made" and after the words "taken or vouched" the words "or the inquiry is to be made".

(3) In paragraph (2) of rule 3, by substituting for the words "taking the account" the words "taking an account."

(4) In rule 9, by substituting for the words from "the same manner" to "in such other" the word "such".

Proceedings under Judgments and Orders: Chancery Division

13. For Order 44 there shall be substituted the Order set out in Schedule A hereto.

Appeals from decision of masters, etc.

14. Order 58, rule 1(1), shall be amended by deleting the words "Without prejudice to Order 44, rule 23, and".

Procedure on remittal and removal

15. Order 78 shall be amended as follows:—

(1) In rule 8(*b*), the words "and the original documents other than the affidavit referred to in rule 2(3)" shall be omitted and for the word "principal" there shall be substituted the word "chief".

(2) In rule 9(2), for the figure "13" there shall be substituted the figure "11" and for the figure "1976" the figure "1981".

Specific performance

16. Order 86, rule 1(1)(*a*) shall be amended by substituting for the words "purchase or exchange" the words "purchase, exchange, mortgage or charge".

Official Solicitor

17. For Order 110 there shall be substituted the Order set out in Schedule B hereto.

Forms

18. In Appendix A the Form in Schedule C hereto shall be inserted as Form 28A.

Dated the 16th day of December 1982.

Lowry
J. B. E. Hutton
R. D. Carswell
James McFarland

I concur

Hailsham of St. Marylebone, C.

Dated the 14th day of January 1983