1979 No. 444

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (Amendment No. 6) 1979

Made . . . . . 22*nd November* 1979

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

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 Jundicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise these powers and all other powers enabling us in that behalf as follows:

1. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 6) 1979, and shall come into operation on the 1st February 1980.

2. Order 70 of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended by adding the following rules after rule 68B—

"ATTACHMENT OF EARNINGS ORDERS UNDER THE JUDGMENTS (ENFORCEMENT) ACT (NORTHERN IRELAND) 1969

Interpretation

69. In this rule and in rules 70 to 75 of this Order—

"the Act of 1920" means the Maintenance Orders (Facilities of Enforcement) Act 1920;

"the Act of 1950" means the Maintenance Orders Act 1950;

"the Act of 1966" means the Maintenance and Affiliation Orders Act (Northern Ireland) 1966;

"the Act of 1969" means the Judgments (Enforcement) Act (Northern Ireland) 1969;

"the Order of 1978" means the Matrimonial Causes (Northern Ireland) Order 1978;

"maintenance order" means any order specified in Section 77D(1)(*a*) of the Act of 1969;

Application for attachment of earnings order by the person entitled to payments

70.—(1) Where the person to whom payments are required to be made under a maintenance order desires to apply to the High Court under section 73 of the Act of 1969 for an attachment of earnings order to secure those payments—the application must be made by summons, issued out of the Probate and Matrimonial Office.

(a) 1978 c. 23
(b) S.R. & O. 1936 No. 70 (II, p. 2559)

The defendant or respondent to the summons (in this order referred to as "the defendant") shall be the person liable to make payments under the maintenance order and any application under Article 34 of the Order of 1978 for leave to enforce payment of any arrears which became due more than 12 months before the issue of the summons shall be made by the summons.

(2) The summons must be supported by an affidavit by the applicant stating

(*a*) particulars of the maintenance order;

(*b*) the date of service of the maintenance order on the defendant or, if the order has not been served, the reason why service has not been effected;

(*c*) the amount of any arrears due to the applicant under the maintenance order, the date to which those arrears have been calculated and the date on which the next payment under the order falls due;

(*d*) particulars of any proceedings which have been taken for the enforcement of the maintenance order;

(*e*) the name and address of any person believed to be the defendant's employer;

(*f*) such of the following particulars relating to the defendant as are known to the applicant, that is to say—

(i) his full name and address,

(ii) his place of work,

(iii) the nature of his work and his works number, if any;

(*g*) such other facts relevant to the means of the defendant as are known to the applicant and in particular details of any other attachment of earnings orders made by any other court must be given.

(3) Unless the Court otherwise directs, the summons, together with a copy of the affidavit in support, must be served on the defendant personally or by post at least 14 days before the return day and the defendant may, within 10 days after service, file an affidavit in answer and in that case must serve a copy of his affidavit on the applicant within 3 days after filing it.

Notice to employer

70A. Without prejudice to the powers conferred by section 77 of the Act of 1969, the Court may at any stage of the proceedings send to any person appearing to have the defendant in his employment a notice requesting him to give to the Court within such period as may be specified in the notice a statement of the defendant's earnings and anticipated earnings with such other particulars as may be so specified.

Exercise of power to obtain statement of earnings

70B. An order under section 77 of the Act of 1969 shall be endorsed with or incorporated a notice warning the person to whom it is directed of the consequences of disobedience to the order and shall be served on him personally.

Application for attachment of earnings order by person liable to make payments.

71. An application by the person liable to make payment under a maintenance order of the High Court for an attachment of earnings order to secure those payments may be made on the making of the maintenance order or an order of the High Court varying the maintenance order.

Form and service of order

72.—(1) An attachment of earnings order must be in Form 14 in Form 14 in Appendix O and the particulars of the defendant required to be given in the first paragraph of that form shall, so far as they are known to the Court, be the prescribed particulars for the purposes of section 73(4) of the Act of 1969.

(2) The Court shall cause a copy of an attachment of earnings order and of any order varying or discharging such an order to be served on the defendants and on the person to whom the attachment of earnings order is directed.

(3) Notwithstanding any provision of these Rules relating to the service of documents, service under this rule of a copy of an order on a person other than a corporation may be effected by sending the copy to him by post at his last known place of residence or, where he is the person to whom the attachment of earnings order is directed, at his place of business.

(4) Service under this rule of a copy of an order on a corporation may be effected by sending the copy to it at—

(*a*) such address, if any, as the corporation may in a written request to the Court have specified for the purpose of this rule in relation to the defendant or to the class or description of persons to which he belongs, or

(*b*) the registered office of the corporation or, if the corporation has no registered office, any place where it resides or carries on business.

(5) A copy of Schedule 1A to the Act of 1969 shall be served with or annexed to the attachment of earnings order.

Application to revive an attachment of earnings order

72A.—(1) An application to revive an attachment of earnings order shall be treated as if it were an application for such an order under rule 70.

(2) A copy of the order for the revival of which the application is made shall be lodged with the application.

(3) Upon making an order under this rule the original attachment of earnings order may be varied as the Court may think fit.

Notice of cessation of order

73. Where an attachment of earnings order ceases to have effect by virtue of section 77D(4)(*b*) or (5) of the Act of 1969, the notice of the cessation required by section 77D(6) of that Act to be given to the person to whom the order was directed shall be given by the master if the related maintenance order—

(*a*) was made by the High Court and is not registered in a court of summary jurisdiction under Part II of the Act of 1966, or