**1979 No. 86**

**SUPREME COURT, NORTHERN IRELAND**

**PROCEDURE**

# Rules of the Supreme Court (Northern Ireland) (Transitional Rules) 1979

*Made* . . . . . *21st March* 1979

*Coming into operation* . . . *18th April* 1979

*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 these powers and all other powers enabling us in that behalf as follows:

**1.** In the Rules of the Supreme Court (Northern Ireland) 1936(b), the Orders specified in column 1 of Schedule 1 hereto are hereby revoked to the extent specified in column 2 of that Schedule.

**2.** The Orders set out in Schedule 2 hereto shall be inserted in the Rules of the Supreme Court (Northern Ireland) 1936 in the places appropriate to their number and shall have effect accordingly.

**3.** The Rules of the Supreme Court (Northern Ireland) 1936 and the Criminal Appeal (Northern Ireland) Rules 1968(c) shall have effect subject to the amendments set out in Schedule 3 hereto.

**4.** The General Orders made by the Lord Chief Justice under section 118 of the Lunacy Regulation (Ireland) Act 1871(d) (which Orders, by virtue of paragraph 4 of Schedule 6 to the said Act, become rules of court) shall have effect subject to the amendments set out in Schedule 4 hereto.

**5.** Where immediately before the date of the commencement of these Rules, any cause or matter was pending—

(*a*) in a division of the High Court of Justice in Northern Ireland, such cause or matter shall be treated as pending on that date in the division to which it would have been assigned by Order 94 set out in Schedule 2 hereto;

(*b*) in the Department of the Affairs of Patients, such cause or matter shall be treated as pending on that date in the Family Division.

**6.** These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Transitional Rules) 1979 and shall come into operation on 18th April 1979.

---

(a) 1978 c. 23
(b) S.R. & O. 1936 No. 70(II p. 2559)
(c) S.R. & O. (N.I.) 1968 No. 218 (p. 918)
(d) 1871 c. 22

Dated the 21st day of March 1979.

Signed:

*Robert Lowry*
*E. W. Jones*
*A. McGonigal*
*John MacDermott*
*Donald Murray*
*J. B. E. Hutton*
*R. D. Carswell*
*E. M. Doris*
*Owen Catchpole*

I concur *Elwyn-Jones, C.*

23rd March 1979.

SCHEDULE 1

**Part revocation of Rules of the Supreme Court (Northern Ireland) 1936**

| Column 1<br>*Order* | Column 2<br>*Extent of Revocation* |
|---|---|
| Order 1 | Rule 3 |
| Order 5 | Rule 2 |
| Order 11 | In rule 6, the words from "and 'In the matter' " to the end |
| Order 22 | In rule 1(1), the word "and" in sub-paragraph (*a*) and the whole of sub-paragraph (*b*) |
| Order 34 | Rule 8 |
| Order 36 | Rules 51, 52 and 54 to 58 |
| Order 41 | The whole Order |
| Order 43 | The whole Order |
| Order 49 | Rule 7 |
| Order 54 | Rules 19 to 21 |
| Order 55 | Rule 2 |
| Order 59 | In rule 1, the words "Judge of Assize or", "as the case may be" and "or sub-section (4)" |
| | Rules 8(1)(*a*), 10 and 12 |
| Order 60A | Rule 3 |
| Order 62 | Rules 1 to 33, 36 to 70 and 72 to 85 |
| Order 65 | Rule 1 |
| | In rule 19 the words "or any Divisional or other Courts thereof" |
| | Rule 64 |
| | Appendix S, Part II |
| Order 70 | Rules 1 to 68 and 69 to 81 |
| Order 74 | Rules 4, 10 and 26 |
| Order 84 | Rules 1, 3, 4, 5, 7, 8 to 20, 22, 23, 25, 33 to 50, 52 to 67, 88 to 93, 98 to 141, 148 to 158, 161 to 169, 199 to 215 and 217 |
| Order 88A | In rule 1(1), the words from "the Judge" to "such Judge", the words from "Messenger" to "assistant messenger". |
| | In rule 14, the words "the Registrar shall give notice thereof to the judgment creditor", "the Registrar shall inform" and "who" |
| | Rule 24 |
| Order 91 | In rule 1(1): the first sentence; the words from "Admiralty Registrar" to the words "Clerk of the Crown and Peace", where those words last occur; the words from "Lord Chief Justice" to the words "King's Coroner and Attorney"; the words from "the Acts" to the words "the Supreme Court of Judicature (Ireland) Act, 1877 (40 and 41 Vict. c. 57)" |

## SCHEDULE 2

## ORDER 41

### JUDGMENTS

*Interpretation*

1. In this Order "judgment" includes order, decision or direction.

*Drawing up judgments*

2.—(1) Every judgment shall—

(*a*) subject to rules 3 and 7(1), be drawn up and signed by the proper officer of the appropriate office; and

(*b*) be sealed and filed by an officer of that office and such officer shall at the time of filing enter such judgment in the book kept for the purpose and the date of filing shall be deemed to be the date of such entry.

(2) The officer shall at the time of filing make a note in the cause book that a judgment has been filed in the cause or matter.

(3) Where a judgment is given by a judge a note of the judgment shall be made by the officer present at the time it is given.

(4) Where a form of judgment is prescribed by Appendix F the judgment must be as nearly as possible in that form.

*Judgments required to be drawn up*

3.—(1) Subject to paragraph (2), every judgment of the Court shall be drawn up unless the Court otherwise directs.

(2) An order—

(*a*) which—

(i) extends the period within which a person is required or authorised by these Rules, or by any judgment, to do any act, or

(ii) grants leave for the doing of any of the acts mentioned in paragraph (3), and

(*b*) which neither imposes any special terms nor includes any special directions other than a direction as to costs,

need not be drawn up unless the Court otherwise directs.

(3) The acts referred to in paragraph (2)(*a*)(ii) are—

(*a*) the issue of any writ, other than a writ of summons for service out of the jurisdiction;

(*b*) the amendment of a writ of summons or other originating process or a pleading;

(*c*) the filing of any document;

(*d*) any act to be done by an officer of the Court other than a solicitor.

*Judgment requiring act to be done: time for doing it*

4.—(1) Subject to paragraph (2), a judgment which requires a person to do an act must specify the time after service of the judgment, or some other time, within which the act is to be done.

(2) Where the act which any person is required by any judgment to do is to pay money to some other person, give possession of any land or deliver any goods, a time within which the act is to be done need not be specified in the judgment by virtue of paragraph (1), but the foregoing provision shall not affect the power of the Court to specify such a time and to adjudge or order accordingly.

*Judgment requiring act to be done: order fixing time for doing it*

5.—(1) Notwithstanding that a judgment which requires a person to do an act specifies a time within which the act is to be done, the Court shall, without prejudice to Order 64, rule 7, have power to make an order requiring the act to be done within another time, being such time after service of that order, or such other time, as may be specified therein.

(2) Where, notwithstanding rule 4(1), or by reason of rule 4(2), a judgment requiring a person to do an act does not specify a time within which the act is to be done, the Court shall have power subsequently to make an order requiring the act to be done within such time after service of that order, or such other time as may be specified therein.

(3) An application for an order under this rule must be made by summons and the summons must be served on the person required to do the act in question.

*Judgment in favour of reversioner for detention of goods*

6.—(1) Where a claim relating to the detention of goods is made by a partial owner whose right of action is not founded on a possessory title, any judgment given in respect of the claim shall, notwithstanding anything in section 3(3) of the Torts (Interference with Goods) Act 1977(a), be for the payment of damages only.

In this paragraph "partial owner" means one of two or more persons having interest in the goods, unless he has the written authority of every other such person to sue on the latter's behalf.

(2) This rule is without prejudice to the remedies and jurisdiction mentioned in section 3(8) of the said Act of 1977.

*Judgment in default of appearance or defence*

7.—(1) A party entitled to judgment in default of appearance or defence may obtain judgment by producing the following documents to an officer of the Central Office—

(*a*) the original writ by which the proceedings were begun;

(*b*) the affidavit of service, or certificate of no defence delivered, as the case may be;

(*c*) any affidavit filed under Order 13, rule 16, or Order 27, rule 8, and

(*d*) a judgment duly drawn up by the party.

(2) Where the provisions of any statutory provision or these Rules enable a party to any proceedings to obtain judgment on the production of any documents, the officer of the Central Office shall not sign any such judgment until all the documents which the party is required to produce are produced and the officer is satisfied that they are in order.

*Date from which judgment takes effect*

8.—(1) A judgment of the Court takes effect from the day of its date.

(2) Such a judgment shall be dated as of the day on which it is given, unless the Court orders it to be dated as of some other earlier or later day, in which case it shall be dated as of that other day.

*Copies of judgments*

9. Before a copy of a judgment is issued it must be sealed and stamped "copy" and there must be noted thereon the number of the judgment and the date of filing.

(a) 1977 c. 32