1978 No. 180

SUPREME COURT, NORTHERN IRELAND PROCEDURE

Rules of the Supreme Court (Northern Ireland) (Capital Transfer Tax Appeals) 1978

Made . . . . . *26th June* 1978

Coming into operation . . . *4th September* 1978

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:

1. In Order 11 of the Rules of the Supreme Court (Northern Ireland) 1936(b) in rule 1 after paragraph (*j*) there shall be added the following paragraph:

"(*k*) the action is brought against a defendant not domiciled or ordinarily resident in England and Wales or Scotland in respect of a claim by the Commissioners of Inland Revenue for estate duty or capital transfer tax.".

2. After Order 59I there shall be inserted the Order 59J set out in the Schedule hereto.

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Capital Transfer Tax Appeals) 1978 and shall come into operation on 4th September 1978.

Dated 26th June 1978.

(Signed) *Robert Lowry*
John MacDermott
Donald Murray
R. D. Carswell
E. M. Doris

(a) 1962 c. 30
(b) S.R. & O. 1936 No. 70 (II, p. 2559)

SCHEDULE Rule 2

Order to be inserted after Order 59I of the Rules of the Supreme Court

"ORDER 59J

APPEALS UNDER SCHEDULE 4 TO THE FINANCE ACT 1975

PART I

Appeals under paragraph 7 of Schedule 4 to the Act

Chancery Judge to hear appeals: appeal to be by originating summons

1. An appeal or application for leave to appeal to a Judge of the High Court under paragraph 7(3) of Schedule 4 to the Finance Act 1975 (in this Order referred to as "the Act") shall be heard and determined by the Chancery Judge or by such other Judge as the Lord Chief Justice may nominate from time to time as occasion may require.

Contents of originating summons

2. Such appeal must be brought by originating summons which must—

(*a*) state the date on which the Commissioners of Inland Revenue (in this Order referred to as "the Board") gave notice to the appellant under paragraph 6 of the said Schedule of the determination which is the subject of the appeal;

(*b*) state the date on which the appellant gave to the Board notice of appeal under paragraph 7(1) of the said Schedule and, if the notice was not given within the time limited, whether the Board or the Special Commissioners have given consent to the appeal being brought out of time and, if such consent has been given, specifying the date of such consent; and

(*c*) either state that the appellant and the Board have agreed that the appeal may be to the High Court or contain an application for leave to appeal to the High Court.

Issue and service of summons

3.—(1) The originating summons shall be issued and served on the Board within 30 days of the date on which the appellant gave to the Board notice of appeal under paragraph 7(1) of the said Schedule or, if the Board or the Special Commissioners have consented to the appeal being brought out of time, within 30 days of the date on which they so consented.

(2) At the time of issuing the originating summons the appellant shall lodge in the office of the Chancery Registrar—

(*a*) two copies of the notice referred to in rule 2(*a*);

(*b*) two copies of the notice of appeal referred to in rule 2(*b*); and

(*c*) where the originating summons contains an application for leave to appeal, a copy of an affidavit setting out the grounds on which it is alleged that the matters to be decided on the appeal are likely to be substantially confined to questions of law.

(3) No appearance need be entered to the originating summons, but it must specify a date of hearing being not less than 40 days from the issue of the summons.

(4) Where the originating summons contains an application for leave to appeal to the High Court, a copy of the affidavit referred to in paragraph (2)(*c*) shall be served on the Board with the originating summons and the Board may, within 30 days after service, file an affidavit in answer and a copy of such affidavit shall be served by the Board on the appellant and a copy thereof shall be lodged in the office of the Chancery Registrar.

(5) Except with the leave of the court, the appellant shall not be entitled on the hearing of an appeal to rely on any grounds of appeal not specified in the notice referred in rule 2(*b*).