1976 No. 123

SUPREME COURT, NORTHERN IRELAND PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 1) 1976

Made . . . . . *29th March* 1976

Coming into operation . . . *4th May* 1976

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 37 of the Rules of the Supreme Court (Northern Ireland) 1936(b) for Part V there shall be substituted the following Part:

"V APPLICATIONS UNDER THE EVIDENCE (PROCEEDINGS IN OTHER JURISDICTIONS) ACT 1975

Interpretation

40. In this Part of this Order "the Act of 1975" means the Evidence (Proceedings in Other Jurisdictions) Act 1975 and the expressions used in it have the same meaning as in that Act.

Application for order under section 2 of Act of 1975

41.—(1) An application for an order under section 2 of the Act of 1975 shall be made to the Court or a Judge ex parte and shall be supported by affidavit.

(2) There shall be exhibited to the affidavit the request in pursuance of which the application is made and, if the request is not in the English language, a translation thereof in that language.

Application by Crown Solicitor in certain cases

42. Where a request—

(*a*) is received by the Secretary of State and sent by him to the Registrar of the Supreme Court with an intimation that effect should be given to the request without requiring an application for that purpose to be made by the agent in Northern Ireland of any party to the proceedings pending or contemplated before the requesting court; or

(*b*) is received by the Registrar in pursuance of a Civil Procedure Convention providing for the taking of evidence of any person in Northern Ireland for the purpose of such proceedings as are referred to in paragraph (*a*) and no person is named in the document as the person who will make the necessary application on behalf of such party,

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

the Registrar shall send the document to the Crown Solicitor and the Crown Solicitor may, with the consent of the Treasury, make an application under the Act of 1975 and take such other steps as may be necessary, to give effect to the request.

Person to take and manner of taking examination

43.—(1) Any order under section 2 of the Act of 1975 for the examination of a witness may order the examination to be taken before any fit and proper person nominated by the person applying for the order or before an officer of the court or such other qualified person as to the Court or a Judge seems fit (and in this Part of this Order any such officer or person is referred to as "the examiner").

(2) Such order shall be in Form No. 10 in Appendix J with any necessary modifications.

(3) Subject to Rule 45 and any direction in the order made by the Court or a Judge under section 2 of the Act of 1975, the relevant provisions of Part II of this Order shall apply to an examination under this Part of this Order with any necessary modifications.

Dealing with deposition

44. Unless the order under section 2 of the Act of 1975 otherwise directs, the examiner shall send the deposition to the Registrar of the Supreme Court and the Registrar shall—

(*a*) give a certificate identifying the order of the court for examination and the deposition taken in pursuance of the order; and

(*b*) send the certificate with those documents annexed thereto to the Secretary of State, or, where the request was sent to the Registrar by some other person in accordance with a Civil Procedure Convention to that other person, for transmission to the requesting court.

Claim of privilege under section 3(1)(*b*) *of Act of* 1975

45.—(1) The provisions of this rule shall have effect where a claim by a witness to be exempt from giving any evidence on the ground specified in section 3(1)(*b*) of the Act of 1975 is not supported or conceded as mentioned in sub-section (2) of that section.

(2) The examiner may, if he thinks fit, require the witness to give evidence to which the claim relates and, if the examiner does not do so, the Court or a Judge may do so on the ex parte application of the person who obtained the order under section 2.

(3) If such evidence is taken—

(*a*) it must be contained in a document separate from the remainder of the deposition of the witness;

(*b*) the examiner shall send to the Registrar with the deposition a statement signed by the examiner setting out the claim and the ground on which it was made;

(*c*) on receipt of the statement the Registrar shall, notwithstanding anything in rule 44, retain the document containing the part of the witness's evidence to which the claim relates and shall send the statement and a request to determine the claim to the requesting court with the documents mentioned in rule 44;