1974. No. 59 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 1) 1974

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. For paragraph (2) of rule 9 of Order 54E of the Rules of the Supreme Court (Northern Ireland) 1936(b), there shall be substituted the following paragraph—

"(2) The Chancery Registrar shall transmit to the Principal Probate Registry the office copy of the order referred to in section 5(4) of the Act together with the probate or letters of administration, and a memorandum of the order shall be endorsed on, or permanently annexed to, the probate or letters of administration under which the estate is being administered."

2. For Order 59F there shall be substituted the Order set forth in the Schedule hereto.

3. Order 70 shall be amended as follows:—

(1) In paragraph (1) of rule 68A the definition of "Registrar" shall be deleted.

(2) Immediately after rule 68A there shall be added the following rule:—

"**68B.**—(1) In this rule—

(*a*) "the Act of 1972" means the Maintenance Orders (Reciprocal Enforcement) Act 1972;

(*b*) expressions used which are used in the Act of 1972 shall have the same meaning as in that Act.

(2) For the purposes of section 2(3), section 5(4) and section 14 of the Act of 1972, the Registrar shall be the prescribed officer.

(3) An application for a maintenance order to be sent to a reciprocating country under section 2 of the Act of 1972 shall be made by lodging in the registry—

(*a*) an affidavit by the applicant stating—

(i) the address of the payer or, if that is not known, the applicant's reasons for believing that the payer under the maintenance order is residing in a reciprocating country, and

(a) 10 & 11 Eliz. 2 c. 30.

(b) S.R. & O. 1936 (No. 70) II. p. 2559.

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

(*b*) a certified copy of the maintenance order;

(*c*) a statement giving such information as the applicant possesses as to the whereabouts of the payer;

(*d*) a statement giving such information as the applicant possesses for facilitating the identification of the payer (including, if known to the applicant, the name and address of any employer of the payer, his occupation and the date and place of issue of any passport of the payer), and

(*e*) a photograph of the payer if available to the applicant.

(4) Where the court makes a provisional order under section 5 of the Act of 1972, the document required by subsection (4) of that section to set out or summarise the evidence given in the proceedings shall be authenticated by a certificate signed by the Registrar.

(5) On receipt by the High Court of a certified copy of a provisional order made in a reciprocating country, together with the document mentioned in section 5(5) of the Act of 1972, the Registrar shall fix a time and place for the court to consider whether or not the provisional order should be confirmed and shall send to the payee and to the payer under the maintenance order notice of the time and place so fixed together with a copy of the provisional order and of that document.

(6) The Registrar shall send to the court which made the provisional order a certified copy of any order confirming or refusing to confirm that order.

(7) The High Court shall be the prescribed court for the purposes of taking evidence pursuant to a request by a court in a reciprocating country under section 14 of the Act of 1972 where—

(*a*) the request for evidence relates to a maintenance order made by a superior court in the United Kingdom, and

(*b*) the witness resides in Northern Ireland.

(8) Such evidence may be taken before a judge or officer of the High Court as the Court thinks fit and the provisions of Order 37, rules 7 to 17, 19, 20 and 22 shall apply with the necessary modifications as if the evidence were required to be taken pursuant to an order made under rule 5 of that Order.

(9) Where the High Court makes an order (other than a provisional order) varying or revoking a maintenance order a copy of which has been sent to a reciprocating country under section 2 of the Act of 1972, the Registrar shall send a certified copy of the order to the court in the reciprocating country.

(10) Any document required to be sent to a court in a reciprocating country under section 5(4) or section 14(1) of the Act of 1972 or by paragraph (6) or (9) of this rule shall be sent to the Secretary of State for transmission to that Court unless the Registrar is satisfied that, in accordance with the law of that country, the document may be properly sent by him direct to that court."