1972. No. 317 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 5) 1972

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 60A, rule 1(1), of the Rules of the Supreme Court (Northern Ireland) 1936(b), the following item shall be inserted immediately after item (xx)—

"(xxi) functions under Order 93, rule 2."

2. Immediately after Order 91 there shall be inserted the Order set forth in Schedule 1 hereto.

3. Immediately after Order 92 there shall be inserted the Order set forth in Schedule 2 hereto.

4. Immediately after Appendix Z of the Rules of the Supreme Court there shall be inserted the Appendix set forth in Schedule 3 hereto.

5. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 5) 1972 and shall come into force on 1st January 1973.

Dated 6th November 1972.

(Signed) *Robert Lowry*
L. E. Curran
E. W. Jones
Maurice W. Gibson
Turlough O'Donnell
Donald Murray

(a) 10 & 11 Eliz. 2. c. 30.
(b) S.R. & O. 1936, No. 70 (II, p. 2559).

SCHEDULE 1 RULE 2

Order to be inserted after Order 91

ORDER 92

REFERENCES TO THE EUROPEAN COURT

Interpretation

1. In this Order—

"the Court" means the Court or a Judge thereof,

"the European Court" means the Court of Justice of the European Communities,

"order" means an order referring a question to the European Court for a preliminary ruling under Article 177 of the Treaty establishing the European Economic Community, Article 150 of the Treaty establishing the European Atomic Energy Authority or Article 41 of the Treaty establishing the European Coal and Steel Community.

Making of order

2.—(1) An order may be made by the Court of its own motion at any stage in a cause or matter, or on an application by a party before or at the trial or hearing thereof.

(2) Where an application for an order is made before the trial or hearing it shall be made by motion on notice to every other party to the proceedings.

Form of order

3. An order, which shall be in Form 1 of Appendix ZA with such variations as the circumstances require, shall set out the request for the preliminary ruling of the European Court in a schedule, and the Court may give directions as to the manner and form in which the schedule is to be prepared.

Stay of proceedings pending ruling

4. The proceedings in which an order is made shall, unless the Court otherwise orders, be stayed until the European Court has given a preliminary ruling on the question referred to it.

Transmission of order to the European Court

5. When an order has been made, the Registrar shall send a copy thereof to every party to the proceedings and to the Registrar of the European Court; but, unless the Court otherwise directs, he shall not do so until the time for appealing against the order has expired or, if an appeal is entered within that time, until the appeal has been determined or otherwise disposed of.

Appeals from orders made by High Court

6.—(1) An order made by the High Court shall be deemed to be an order prescribed under section 2(1)(*h*)(vi) of the Northern Ireland Act 1962 as appearing to be of the nature of a final decision and, accordingly, an appeal from the order shall lie to the Court of Appeal without the leave of the Judge or of the Court of Appeal.

(2) The period within which a notice of appeal must be served under Order 58, rule 4(1), shall be 21 days from the date on which the order was made.

SCHEDULE 2 RULE 3

Order to be inserted after Order 92

ORDER 93

REGISTRATION OF EUROPEAN COMMUNITY JUDGMENTS

Interpretation

1.—(1) In this Order—

"the Court" means the High Court,

"the Order in Council" means the European Communities (Enforcement of Community Judgments) Order 1972.

(2) Expressions used in this Order shall, unless the context otherwise requires, have the same meaning as in the Order in Council.

Functions under Order in Council exercisable by Judge

2. The functions assigned to the Court by the Order in Council may be exercised by a Judge.

Application for registration of a Community judgment, etc.

3. An application for the registration in the Court of a Community judgment or Euratom inspection order may be made ex parte.

Evidence in support of application

4.—(1) An application for registration must be supported by an affidavit exhibiting the Community judgment and the order for its enforcement or the Euratom inspection order, or a copy thereof, and, where the Community judgment or Euratom inspection order is not in the English language, a translation thereof in that language certified by a notary public or authenticated by affidavit.

(2) Where the application is for registration of a Community judgment under which a sum of money is payable, the affidavit shall also state—

(*a*) the name, trade or business and the usual or last known place of abode or business of the judgment debtor, so far as known to the deponent,

(*b*) to the best of the information and belief of the deponent, as the case may require, either that, at the date of the application the judgment has not been satisfied, or the amount in respect of which it remains unsatisfied, and

(*c*) where the sum payable under the judgment is not expressed in the currency of the United Kingdom, the amount which that sum represents in the currency of the United Kingdom calculated at the rate of exchange prevailing at the date when the judgment was originally given.

Register of judgments and orders

5.—(1) There shall be kept in the Central Office under the direction of the Registrar a register of the judgments and orders registered under the Order in Council.

(2) There shall be included in the register particulars of any enforcement issued on a Community judgment so registered.