1972. No. 151 **[NC]**

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 3) 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. Order 19 of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended as follows—

(1) in rule 4 for the words "Every pleading" there shall be substituted the words "Subject to the provisions of rule 4A, every pleading", and

(2) immediately after rule 4 there shall be inserted the following rule—

"**4A.**—(1) If in any action which is to be tried with pleadings any party intends, in reliance on section 7 of the Civil Evidence Act (Northern Ireland) 1971, to adduce evidence that a person was convicted of an offence by or before a court in the United Kingdom or by a court-martial there or elsewhere, he must include in his pleading a statement of his intention with particulars of—

(*a*) the conviction and the date thereof,

(*b*) the court or court-martial which made the conviction, and

(*c*) the issue in the proceedings to which the conviction is relevant.

(2) If in any action which is to be tried with pleadings any party intends, in reliance on section 8 of the said Act of 1971, to adduce evidence that a person was found guilty of adultery in matrimonial proceedings or was adjudged to be the father of a child in affiliation proceedings before a court in the United Kingdom, he must include in his pleading a statement of his intention with particulars of—

(*a*) the finding or adjudication and the date thereof,

(*b*) the court which made the finding or adjudication and the proceedings in which it was made, and

(*c*) the issue in the proceedings to which the finding or adjudication is relevant.

(3) Where a party's pleading includes such a statement as is mentioned in paragraph (1) or (2), then if the opposite party—

(*a*) denies the conviction, finding of adultery or adjudication of paternity to which the statement relates, or

(*b*) alleges that the conviction, finding or adjudication was erroneous, or

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

(*c*) denies that the conviction, finding or adjudication is relevant to any issue in the proceedings,

he must make the denial or allegation in his pleading.

(4) This rule shall not apply to evidence intended to impeach the credit of a party or witness."

2. In Order 36 immediately after item (*f*) of paragraph (1) of rule 23, there shall be added the following item—

"(*g*) any notice given pursuant to Part VI of Order 37."

3. In Order 37 immediately after rule 47 there shall be inserted the Part set out in the Schedule hereto.

4. In paragraph (3) of rule 16 of Order 59, for the reference to "rule 8(*b*)" there shall be substituted a reference to "rule 9".

5. In Order 60A, rule 1(1) shall be amended by the insertion immediately after item (x) of the following item—

"(xA) to specify the time for the purposes of Order 37, rule 49(1)(*b*);"

6. Order 74 shall be amended as follows—

(1) in paragraph (1) of rule 126, after the words "employed by the official liquidator", there shall be added the following item—

"Next—such costs and expenses of enforcement of a judgment against the company as are payable under section 84(1) of the Judgments (Enforcement) Act (Northern Ireland) 1969, when ordered by the Court."

(2) immediately after rule 130A there shall be added the following rule—

"**130B.** Such costs and expenses of enforcement of a judgment against the company as are payable under section 84(1) of the Judgments (Enforcement) Act (Northern Ireland) 1969 shall be paid out of the assets of the company next in priority after the costs charges and expenses of winding-up payable under section 278 of the Act."

7. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 3) 1972 and shall come into force on 1st September 1972.

Dated 30th June 1972.

(Signed) *Robert Lowry*
L. E. Curran
H. A. McVeigh
Maurice W. Gibson
Turlough O'Donnell
Donald Murray
E. Malachy Doris

SCHEDULE RULE 3

Part to be inserted after Order 37, rule 47, of the Rules of the Supreme Court

VI EVIDENCE ADMISSABLE UNDER PART I OF THE CIVIL EVIDENCE ACT (NORTHERN IRELAND) 1971

Interpretation and application

48.—(1) In this Part of this Order "the Act" means the Civil Evidence Act (Northern Ireland) 1971 and "the Court" means the Court or a Judge thereof.

(2) Any expressions used in this Part of this Order and in Part I of the Act have the same meanings in this Part of this Order as they have in the said Part I.

(3) This Part of this Order shall apply in relation to the trial or hearing of an issue or question arising in a cause or matter, and to a reference, inquiry and assessment of damages, as it applies in relation to the trial or hearing of a cause or matter.

Notice of intention to give in evidence statement under section 1 or 2 of the Act

49.—(1) Subject to the provisions of this rule, a party to a cause or matter who desires to give in evidence at the trial or hearing of the cause or matter any statement contained in a document which is admissable in evidence by virtue of section 1 or 2 of the Act must—

(*a*) in the case of a cause or matter which is required to be set down for trial or hearing or adjourned into court, within 21 days after it is set down or so adjourned, or within such other period as the Court may specfiy, and

(*b*) in the case of any other proceedings within such period as the Court may specify after the commencement of the proceedings,

serve on every other party to the cause or matter notice of his desire to do so, and the notice must comply with the provisions of rule 50 or 51, as the circumstances of the case require.

(2) Paragraph (1) shall not apply in relation to any statement contained in a document which any party to a probate action desires to give in evidence at the trial of that action and which is alleged to have been made by the deceased person whose estate is the subject of the action.

(3) Where by virtue of any provision of these rules or of any order or direction of the Court the evidence in any proceedings is to be given by affidavit then paragraph (1) shall not apply in relation to any statement contained in a document which any party to the proceedings desires to have included in any affidavit to be used on his behalf in the proceedings, but nothing in this paragraph shall affect the operation of Order 38, rule 4, or the powers of the Court under Order 37, rule 1.

(4) Unless the Court otherwise directs, paragraph (1) shall not apply in relation to any statement contained in a document which is admissible by virtue of section 1 or 2 of the Act and which an applicant for judgment in default of appearance in admiralty proceedings under Order 13, rule 14, desires to give in evidence at the hearing.

Statement admissible by virtue of section 1 of the Act: contents of notice

50.—(1) If the statement contained in a document is admissible by virtue of section 1 of the Act, the notice must have annexed to it a copy or transcript of the document containing the statement, or of the relevant part thereof, and must contain—

(*a*) particulars of—

(i) the person by whom the record containing the statement was compiled;

(ii) the person who originally supplied the information from which the record was compiled; and

(iii) any other person through whom that information was supplied to the compiler of that record;

and, in the case of any such person as is referred to in (i) or (iii) above, a description of the duty under which that person was acting when compiling that record or supplying information from which that record was compiled, as the case may be;

(*b*) if not apparent on the face of the document annexed to the notice, a description of the nature of the record which, or part of which, contains the statement; and

(*c*) particulars of the time, place and circumstances at or in which that record or part was compiled.

(2) If the party giving the notice alleges that any person, particulars of whom are contained in the notice, cannot or should not be called as a witness at the trial or hearing for any of the reasons specified in rule 52, the notice must contain a statement to that effect specifying the reason relied on.

Statement admissible by virtue of section 2 of the Act: contents of notice

51.—(1) If the statement is contained in a document produced by a computer and is admissible by virtue of section 2 of the Act, the notice must have annexed to it a copy or transcript of the document containing the statement, or of the relevant part thereof, and must contain particulars of—

(*a*) a person who occupied a responsible position in relation to the management of the relevant activities for the purposes of which the computer was used regularly during the material period to store or process information;

(*b*) a person who at the material time occupied such a position in relation to the supply of information to the computer, being information which is reproduced in the statement or information from which the information contained in the statement is derived;

(*c*) a person who occupied such a position in relation to the operation of the computer during the material period;

and where there are two or more persons who fall within any of the foregoing subparagraphs and some only of those persons are at the date of service of the notice capable of being called as witnesses at the trial or hearing, the person particulars of whom are to be contained in the notice must be such one of those persons as is at that date so capable.

(2) The notice must also state whether the computer was operating properly throughout the material period and, if not, whether any respect in which it was not operating properly or was out of operation during any part of that period was such as to affect the production of the document in which the statement is contained or the accuracy of its contents.