1971. No. 325 [NC]

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

PROCEDURE

Payments for Debt (Emergency Provisions) Rules 1971

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 13(1) of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971(a) to make rules (in like manner as rules of court are made) for the purpose of regulating the exercise of the jurisdiction conferred on the Master by that Act, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

Citation and commencement

1. These rules may be cited as the Payments for Debt (Emergency Provisions) Rules 1971 and shall come into force on 18th October 1971.

Interpretation

2.—(1) In these rules—

"the Act" means the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971,

"the applicant" means a person entitled to apply for emergency enforcement under section 3 of the Act,

"the Office" means the Enforcement of Judgments Office,

"the Master" includes a designated officer to whom any of the functions under the Act have been assigned,

"the respondent" means a person against whom an application has been made under section 3 of the Act,

"sealed" means sealed with the official seal of the Enforcement of Judgments Office.

(2) The expressions used in these rules shall, unless the contrary intention appears, have the same respective meanings as in the Act.

(3) Any reference to the means of a respondent in these rules includes a reference to the assets and liabilities of a limited company or other corporate body who is a respondent.

Forms

3. Without prejudice to section 25 of the Interpretation Act (Northern Ireland) 1954(b), the forms in Schedule 1 must be used where applicable with such variations as the circumstances of the particular case require.

Application for emergency enforcement

4.—(1) An application under section 3 of the Act must be in Form 1 and must be made ex parte grounded on an affidavit in Form 2—

(*a*) stating particulars of the amount lawfully due by the respondent and of the tax, service, rent or other obligation in respect of which the amount due was incurred,

(a) 1971. c. 30 (N.I.). (b) 1954. c. 33 (N.I.).

(*b*) stating that at least one application for payment has been made and the mode and date of such application,

(*c*) specifying the grounds on which the applicant relies to show that the respondent is wilfully withholding payment,

(*d*) stating that no part of the amount lawfully due accrued or became payable prior to 1st April 1971,

(*e*) stating what inquiries have been made as to the means of the respondent,

(*f*) stating to the best of the information and belief of the deponent—

(i) the status of the respondent and particulars of his means,

(ii) any other information required to enable the emergency enforcement order or orders applied for to be made.

(2) Where after inquiry an applicant is unable to obtain any or sufficient information to enable him to make the averments referred to in sub-paragraph (*f*) of paragraph (1), the applicant must so aver in the affidavit grounding his application and must give particulars of the inquiries made.

(3) An application under this rule is made by the applicant lodging in the Office the application and the affidavit grounding it together with one copy of each document.

Attendance orders

5. An attendance order must be in Form 3 or 4 as the circumstances of the case require.

Examination as to means

6.—(1) Where a respondent or other person attends pursuant to an attendance order he may be examined under oath as to the means of the respondent.

(2) An examination as to means must be conducted in private under the control and direction of the Master who must take down or cause to be taken down a note of any evidence given by the respondent or other person during the examination.

(3) The applicant shall be entitled to be present or represented and to give evidence at an examination under this rule and may, with the leave of the Master, put any question to the respondent or other person as to the means of the respondent.

Order to show cause

7.—(1) An order to show cause under section 3 of the Act must be in Form 5.

(2) A sufficient number of sealed copies of the order must be sent by the Office to the applicant by ordinary post or by delivery.

(3) An order to show cause together with a copy of the affidavit grounding the application must be served by the applicant in accordance with the Act and there must not be less than seven days between the date on which service of the order and affidavit is effected and the date on which cause is to be shown.

Emergency enforcement orders

8.—(1) An emergency enforcement order must be entitled "In the Matter of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971" and with the necessary modifications must be in the like form as

a corresponding enforcement order made under the Judgments (Enforcement) Act (Northern Ireland) 1969(**c**).

(2) An emergency enforcement order may be set aside, discharged or varied either upon the application of a party to the proceedings or by the Master of his own motion.

Power to amend certain orders

9. Where under the Act or these rules any order is required to be served personally and it is for any reason impracticable to serve it within the time required by these rules the Master may (whether or not an order for substituted service is made) direct that the date named in such order in which any person is required to attend for examination or to show cause shall be amended so as to allow additional time for the service of the order in accordance with these rules.

Swearing of affidavits

10. Affidavits must be sworn in Northern Ireland for the purpose of proceedings under the Act before the Master, a commissioner to administer oaths, or a justice of the peace.

Substituted service

11.—(1) An application for substituted service under section 10(3) of the Act may be made by affidavit stating the facts relied on.

(2) Substituted service of a document, in relation to which an order is made under this rule, is effected by taking such steps as the Master may direct to bring the document to the notice of the person to be served.

Application of Judgment Enforcement Rules 1971(**d**)

12. Subject to the Act and to these rules, the provisions of the Judgment Enforcement Rules 1971 specified in column 1 of Schedule 2 shall, with the necessary modifications and to the extent set out in column 2 of that Schedule, apply to proceedings under the Act as if those provisions were incorporated in these rules.

Date: 18th October 1971.

(Signed) *Robert Lowry*
L. E. Curran
A. McGonigal
Basil Kelly
W. J. Jefferson

(**c**) 1969. c. 30 (N.I.).

(**d**) S.R. & O. (N.I.) 1971, No. 5.

SCHEDULE 1 RULE 3

FORM 1 (No. 197 /)

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

IN THE MATTER OF THE PAYMENTS FOR DEBT (EMERGENCY PROVISIONS) ACT (NORTHERN IRELAND) 1971

AND IN THE MATTER of an application for an emergency enforcement order

BY:

A. B.

Applicant

against

C. D.

Respondent

1. I of the applicant [*or* an officer duly authorised by the applicant to make this application] hereby make application for an order that the respondent do show cause why the following emergency enforcement order(s) should not be made [*or* for an order for the attendance of the respondent to be examined as to his means and consequent upon such examination for an order that the respondent do show cause why such emergency enforcement order(s) as may be appropriate should not be made.]

2. This application is grounded on the affidavit of lodged on 19 .

Dated

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Applicant/authorised officer of applicant.

FORM 2 (No. 197 /)

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

Affidavit under section 3

(*Title as in Form* 1)

I [*Here insert full name, residence, occupation or description of deponent*] aged of in the County of. make oath and say as follows:—

1. [*Here insert full name and address of respondent*] (hereinafter called "the respondent") is indebted to [*Here insert full name and address of applicant*] (hereinafter called "the applicant") in the sum of £ for [*Here insert particulars of the debt in full specifying the nature and date of each transaction or dealing from which the debt arose*].

2. At least one application for payment has been made on behalf of the applicant since the debt was incurred. The last application for payment was made on the day of 19 .

3. The respondent is wilfully withholding payment contrary to the provisions of section 3 of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 in that [*Here state facts relied on in support of this averment*]

4. The full sum referred to in paragraph 1 of this affidavit is now due and payable by the respondent to the applicant over and above all just credits and allowances, and no part thereof has been in any manner paid, satisfied or discharged.

5. No part of the debt referred to in paragraph 1 of this affidavit accrued or became payable prior to 1st April 1971 and no part of the debt has been recovered under section 1 of the Act, [except].

6. I have caused inquiries to be made concerning the means of the respondent and to the best of my knowledge and belief they are as follows:—*

or

6. I have caused inquiries to be made concerning the means of the respondent by [*Here state the nature of the inquiries made*] but I have been unable to obtain any [*or* sufficient] information to enable the applicant to apply for a particular emergency enforcement order or orders.

7. I am duly authorised by the applicant to make this affidavit and except where otherwise stated it is within my own knowledge that all the facts above deposed to are true.

SWORN before me at
in the County of this
day of 19 .

Commissioner for Oaths/Justice of the Peace.

NOTE:—Where the debtor is a limited company the form should be adapted accordingly.