1971. No. 318 **[NC]**

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 4) 1971

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 31 of the Rules of the Supreme Court (Northern Ireland) 1936(b), immediately after rule 29, there shall be inserted the following rule:—

"*Applications under sections* 31 *or* 32(1) *of the Administration of Justice Act* 1970

30.—(1) In this rule—

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

"the Act of 1970" means the Administration of Justice Act 1970(c).

(2) An application for an order under section 31 of the Act of 1970 shall be made to the Court by summons in Form 34 of Appendix B and the person against whom the order is sought shall be the respondent in the summons and shall be served with the summons.

(3) An application after the commencement of proceedings for an order under section 32(1) of the Act of 1970 shall be made to the Court by summons in Form 34 of Appendix B which must be served on the person against whom the order is sought and on every other party to the proceedings.

(4) A summons under paragraph (2) or (3) shall be supported by an affidavit which must—

(*a*) in the case of a summons under paragraph (2), state the grounds on which it is alleged that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in the High Court within section 31 of the Act of 1970 and the nature of such proceedings,

(*b*) in any case, specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any pleading served or intended to be served in the proceedings, that the documents are relevant to an issue arising or likely to arise out of a claim made, or likely to be made, in the proceedings and that the person against whom the order is sought is likely to have or have had them in his possession, custody or power.

(5) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(a) 10 & 11 Eliz. 2. c. 30. (b) S.R. & O. 1936, No. 70 (II, p. 2559).
(c) 1970. c. 31.

(6) An order under the said section 31 or 32(1) of the Act of 1970 may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just and shall require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are or at any time have been, in his possession, custody or power, and, if not then in his possession, custody or power, when he parted with them and what, so far as he is aware, has become of them.

(7) No person shall be compelled by virtue of such an order to disclose any documents which he could not be compelled to disclose—

(*a*) in the case of a summons under paragraph (2), if the subsequent proceedings had already been begun, or

(*b*) in the case of a summons under paragraph (3), if he had been served with a writ of subpoena duces tecum to produce the documents at the trial."

2. In Order 50 immediately after rule 16 there shall be inserted the following rule:—

"*Applications under section* 21 *of the Administration of Justice Act* 1969 *or section* 32(2) *of the Administration of Justice Act* 1970

16A.—(1) In this rule—

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

"the Act of 1969" means the Administration of Justice Act 1969(**d**);

"the Act of 1970" means the Administration of Justice Act 1970.

(2) The power conferred by section 21(1) of the Act of 1969 shall be exercisable only in respect of property as to which it appears to the Court that it may become the subject matter of subsequent proceedings involving a claim for personal injuries to a person or in respect of a person's death.

(3) An application for an order under section 21(1) of the Act of 1969 shall be made by summons in Form 35 of Appendix B and the person against whom the order is sought shall be the respondent in the summons, and shall be served with the summons.

(4) An application after the commencement of proceedings for an order under section 32(2) of the Act of 1970 in respect of property which is not the property of or in the possession of any party to the proceedings shall be made by summons, in Form 36 of Appendix B, which must be served on the person against whom the order is sought and on every other party to the proceedings.

(5) A summons under paragraph (3) or (4) shall be supported by an affidavit which must—

(*a*) in the case of a summons under paragraph (3) show that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in the High Court in which a claim in respect of personal injuries to a person or in respect of a person's death is likely to be made,

(*b*) in any case, specify or describe the property in respect of which the order is sought and show, if practicable, by reference to any pleading served or intended to be served in the proceedings, that it is the subject matter of the proceedings or that it is property as to which any question arises or will arise in the proceedings.

(d) 1969. c. 58.

(6) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(7) An order made under the said section 21 of the 1969 Act or 32(2) of the 1970 Act may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just.

(8) No such order shall be made if it appears to the Court—

(*a*) that compliance with the order, if made, would result in the disclosure of information relating to a secret process, discovery or invention not in issue in the proceedings, and

(*b*) that the application would have been refused on that ground if—

(i) in the case of a summons under paragraph (3) the subsequent proceedings had already begun or,

(ii) in the case of a summons under paragraph (4) the person against whom the order is sought were a party to the proceedings."

3. For rule 1 of Order 63, there shall be substituted the following rule:—

"**1.** The sittings of the Court of Appeal and of the High Court in Belfast shall be three in every year, that is to say—

(*a*) the Michaelmas sittings which shall begin on 15th September and end on 18th December, subject to a recess from the Monday which falls on or nearest to 31st October to the following Friday, both days included,

(*b*) the Hilary sittings which shall begin on 11th January and end on 31st March, and

(*c*) the Trinity sittings which shall begin on 15th April and end on 30th June."

4. In Order 65, immediately after rule 8, there shall be inserted the following rule:—

"**8A.** Where an application is made in accordance with Order 31, rule 30, or Order 50, rule 16A, for an order under section 21 of the Administration of Justice Act 1969 or section 31 or 32 of the Administration of Justice Act 1970, the person against whom the order is sought shall be entitled, unless the Court or a Judge otherwise directs, to his costs of and incidental to the application and of complying with any order made thereon and he may, after giving the applicant 7 days notice of his intention to do so, tax such costs and if they are not paid within 48 hours after taxation, file judgment for his taxed costs."

5. In Order 65, rule 36, immediately after the word "paid", there shall be inserted the following words—

", or, in the case of a taxation to which rule 8A of this Order applies, a copy of the notice given pursuant to the said rule 8A,".

6. In Appendix B there shall be inserted in the places appropriate to their numbers the Forms 34, 35 and 36 set out in the Schedule hereto.

7. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 4) 1971 and shall come into force on 25th October 1971.

Date 6th October 1971.

Robert Lowry.
L. E. Curran.
H A. McVeigh.
E. W. Jones.
Turlough O'Donnell.
James J. Napier.
W. J. Jefferson.