1971. No. 39 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 1) 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 XIII, rule 4 of the Rules of the Supreme Court (Northern Ireland) 1936(b) for the words "issue execution upon" there shall be substituted the word "enforce".

2. In Order XVIA, rule 7(2) for the words "execution shall not issue," there shall be substituted the words "judgment shall not be enforced".

3. In Order XVII, rule 8, the words "and in such case if the plaintiff has died execution may issue as in the case provided for by Order XLII rule 24" shall be deleted.

4. In Order XIX, rule 4, immediately after the words "in figures and not in words" there shall be added the words "and where reference is made to a sum of money the sum must be stated in decimal currency, except where the reference is made in particulars which exceed three folios".

5. Order XXVII shall be amended as follows:—

(1) in rule 3 for the words "issue execution upon" there shall be substituted the word "enforce".

(2) in rule 7 the words "and upon the same being so ascertained, a writ of delivery may issue for the same" shall be deleted.

(3) in rule 10 the words "execution on any" shall be deleted, and for the word "issue" in line 12 there shall be substituted the words "be enforced".

6.—(1) In Order XXXVI immediately after rule 20 there shall be inserted the following rule—

"**20A.**—(1) The party entering an action for trial must lodge with the documents required by rule 23(1) a request to the Registrar to enter the action for trial and a certificate of readiness as in Form 19 of Appendix B signed by that party's solicitor, or by the party if he appears in person.

(2) No action shall be entered for trial before a certificate of readiness is lodged."

(2) In Appendix B of the Rules of the Supreme Court immediately after Form 18 there shall be inserted the Form 19 in Schedule 1 hereto.

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

7. In Order XXXVI, rule 43, for the figures "£3 3s." there shall be substituted the figures "£3·15".

8. Immediately after Order XLI rule 1(7) the following paragraph shall be added—

"(8) A judgment or order for the payment of a sum of money must state the sum in decimal currency".

9. Order XLIA shall be amended as follows:—

(1) in rule 13 for the words "No execution shall issue on a" there shall be substituted the word "A" and after the word "Act" in line 2 there shall be inserted the words "shall not be enforced," and for the word "execution" in line 6 there shall be substituted the word "enforcement".

(2) in rule 14 for the words "issuing execution on" there shall be substituted the word "enforcing".

(3) rule 15 shall be deleted.

10. Order XLIB shall be amended as follows:—

(1) in rule 5(1) for the words "execution on the judgment will not issue" there shall be substituted the words "the judgment will not be enforced".

(2) in rule 8(1) for the words "issue execution on" there shall be substituted the word "enforce".

(3) in rule 10(1) for the words "Execution shall not issue on a registered judgment" there shall be substituted the words "A registered judgment shall not be enforced".

(4) in rule 10(2) for the words "execution shall not issue" there shall be substituted the words "the judgment shall not be enforced".

(5) in rule 10(3) for the words "issuing an execution upon" there shall be substituted the word "enforcing".

(6) rule 11 shall be revoked.

11. Order XLIC shall be amended as follows:—

(1) for rule 2 there shall be substituted the following rule:—

"2. Nothing in any of the following Orders:—

XLII (Enforcement of Judgments etc.)

XLIV (Committal)

XLVII (Writ of Possession)

LXXXVIIIA (Proceedings under Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969).

shall apply in respect of any order against the Crown."

(2) rule 4, including the title "Attachment of moneys payable by the Crown," shall be revoked.

12. Order XLII shall be amended as follows:—

(1) for the title to the Order "I Execution," there shall be substituted the title "I Enforcement of Judgments etc.".

(2) in rule 3 for the words "A judgment for the recovery by or payment to any person of money" there shall be substituted the words "An order for the periodic payment of money made by the High Court in exercise of its matrimonial jurisdiction".

(3) rules 4 to 6 inclusive shall be revoked.

(4) rule 8 shall be revoked.

(5) in rule 9 for the words "issue execution" in line 6 there shall be substituted the words "enforce the judgment", for the words "execution issue" in line 9 there shall be substituted the words "the judgment shall be enforced" and for the words "is given to issue execution" in lines 15 and 22 there shall be substituted the words "to enforce is given".

(6) rules 10 to 14 inclusive shall be revoked.

(7) for rule 15 there shall be substituted the following rule:—

"**15.**—(1) Every judgment or order for the recovery of money shall carry interest at the rate specified in the judgment or order from the time of judgment or order was given or made or from such other time as the Court or a Judge may direct.

(2) Subject to any enactment, where no reference is made in the judgment or order to the payment of interest, interest shall be payable at 4 per cent per annum.

(3) Where an order charging land under section 46 of the Judgments (Enforcement) Act (Northern Ireland) 1969 or a charging order on funds stock or shares under section 58 of the said Act provides for the payment of interest, such interest shall be payable at the rate of 4 per cent per annum and shall be payable during the period in which the charge is subsisting."

(8) rules 16 to 25 inclusive shall be revoked.

(9) in rule 28 for the word "execution" there shall be substituted the word "enforcement".

(10) in rule 29, immediately before the word "Nothing" in line 1, there shall be inserted the words "Subject to the Judgments (Enforcement) Act (Northern Ireland) 1969, and to these Rules".

(11) rule 30 shall be revoked.

(12) in rule 31 for the words "execution may issue" there shall be substituted the words "enforcement may be had".

(13) rule 32 shall be revoked.

(14) in rule 34, immediately before the word "If" in line 1, there shall be inserted the words "Subject to the Judgments (Enforcement) Act (N.I.) 1969," and the words "execution or" shall be deleted.

(15) rules 35 and 36 shall be revoked.

13. For Order XLIII there shall be substituted the order set out in Schedule 2 hereto.

14. Order XLV shall be revoked.

15. Order XLVI shall be revoked.

16. Order XLVII shall be amended as follows:—

(1) rules 1 and 2, and rules 10 to 14 inclusive shall be revoked.

(2) in rule 15 for the words "under sheriff" there shall be substituted the words "Enforcement of Judgments Office".

(3) in rule 22 for the words "under sheriff" there shall be substituted the words "Enforcement of Judgments Office," and for the word "execute" there shall be substituted the word "enforce".

(4) rule 23 shall be revoked.

17. Order XLVIII shall be revoked.

18. Order XLVIIIA shall be amended as follows:—

(1) for rule 8 there shall be substituted the following rule:—

"**8.**—(1) A judgment or order against a firm shall not be enforced against any member of the firm except with the leave of the Court or a Judge.

(2) An application for leave to enforce a judgment under this rule against a member of a firm may be made ex parte informally where such member—

(*a*) has appeared in his own name under rule 5 or 6; or

(*b*) has admitted in the pleadings that he is a partner; or

(*c*) has been adjudged to be a partner; or

(*d*) has been individually served, as a partner, with the writ of summons and has failed to appear.

(3) An application for leave to enforce a judgment under this rule against a member of a firm, otherwise than under paragraph (2) shall be made by summons on notice to such member and if such member disputes his liability under the judgment the Court or a Judge may order that his liability be tried and determined in any manner in which any issue or question in an action may be tried and determined.

(4) Except as against any property of the partnership a judgment against a firm shall not render liable, release, or otherwise affect any member thereof who was out of the jurisdiction when the writ was issued, and who has not appeared to the writ, unless he has been made a party to the action under Order XI or has been served within the jurisdiction after the writ in the action was issued."

(2) in rule 10, for the words "no execution shall be issued" there shall be substituted the words "no judgment shall be enforced" and for the words "issue such execution" there shall be substituted the words "enforce such judgment".

19. In Order L rules 18A and 27 shall be revoked.

20. In Order L immediately after Part IV there shall be inserted the following Part:—

"V INTERIM PAYMENTS

Interpretation of Part V

30. In this part of this Order—

"an action for personal injuries" means an action in which there is a claim for damages in respect of personal injuries to the plaintiff or any other person or in respect of a person's death;

"the Court" means a Court or a Judge;

"personal injuries" includes any disease and any impairment of a person's physical or mental condition;

"interim payment" in relation to a defendant, means a payment of any such damages as aforesaid which that defendant may agree, or be ordered to make to or for the benefit of the plaintiff;

any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as next friend to the plaintiff or guardian of the defendant.

Application for interim payment

31. In an action for personal injuries the plaintiff may at any time after the writ has been served on a defendant and the time limited for him to appear has expired, apply to the Court for an order requiring that defendant to make an interim payment.

Manner in which application under rule 31 must be made

32.—(1) An application under rule 31 must be made by summons, stating the grounds on which the application is made, and be supported by an affidavit, which must—

(*a*) verify the special damages, if any, claimed by the plaintiff up to the date of the application;

(*b*) exhibit the hospital and medical reports, if any, relied upon by the plaintiff in support of the application; and

(*c*) if the plaintiff's claim is made under the Fatal Accident Acts 1846 to 1959, contain the particulars mentioned in section 4 of the Fatal Accidents Act 1846(c);

(*d*) depose to facts of which the Court requires to be satisfied, pursuant to rule 33(1).

(2) The summons and a copy of the affidavit in support and any exhibit referred to therein must be served on the defendant against whom the order is sought not less than 10 clear days before the return day.

(3) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown by reason of a change of circumstances.

Order for interim payment

33.—(1) If, on the hearing of an application under rule 31, the Court is satisfied—

(*a*) that the defendant against whom the order is sought (in this paragraph referred to as "the respondent") has admitted liability for the plaintiff's claim; or

(*b*) that the plaintiff has obtained judgment against the respondent for damages to be assessed; or

(c) 9 & 10 Vict. c. 93.