1971. No. 26 **[C]**

COUNTY COURTS

County Courts (Judgments Enforcement) (Consequential Amendment) Rules (Northern Ireland) 1971

RULES, DATED 25TH JANUARY 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959.

I, Major the Right Honourable James Dawson Chichester-Clark, D.L., Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959(a), sections 88(1), 90, 91, 106, 128(1) and 129 of the Judgments (Enforcement) Act (Northern Ireland) 1969(b) and all other powers thereunto enabling, on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, do hereby make the Rules hereinafter set forth.

Dated this 25th day of January 1971.

J. D. Chichester-Clark,
Minister of Home Affairs
for Northern Ireland.

Citation and commencement

1. These Rules shall be cited as the County Court (Judgments Enforcement) (Consequential Amendment) Rules (Northern Ireland) 1971 and shall come into operation on 15th February 1971.

Schedule of amendments and revocations

2. The provisions of the County Court Rules (Northern Ireland) 1965(c) to which reference is made in column 1 of the Schedule shall have effect subject to the amendments or revocations specified in column 2 thereof.

(a) 1959. c. 25.
(b) 1969. c. 30 (N.I.).
(c) S.R. & O. (N.I.) 1965, No. 261.

SCHEDULE

Amendments and revocations of the County Court Rules (Northern Ireland) 1965 consequent upon operation of the Judgments (Enforcement) Act (Northern Ireland) 1969

Provision amended or revoked	Amendment or revocation
Order 1: Rule 10	The Rule is revoked.
Order 2: Rule 2	Paragraph (*b*) of the Rule is revoked.
Order 6: Rule 2	In paragraph 6(*a*) of the Rule the words "(other than in a replevin case)" are revoked.
Order 6: Rule 3	In paragraph (4) and in paragraph (6) of the Rule for the words "under section 6A of the Debtors Act (Ireland) 1872" there shall be substituted the words "under section 88 of the Judgments (Enforcement) Act (Northern Ireland) 1969".
Order 6: Rule 4	At the end of paragraph (1)(*c*) of the Rule there shall be inserted the following words:— "so, however, that in relation to an application for possession made in accordance with Rule 26B of Order 36 the civil bill shall be served on the judgment debtor instead of on such persons as are referred to in sub-paragraph (ii) above;". Paragraph (1)(*e*) of the Rule is revoked.
Order 10: Part I	The Part is revoked.
Order 15: Rule 6	The Rule is revoked except in relation to any proceeding in respect of execution made under any enactment or rule of law in force before the commencement of the Judgments (Enforcement) Act (Northern Ireland) 1969 or made in accordance with section 131 of or Schedule 5 to that Act.
Order 18: Rule 11	The Rule is revoked.
Order 24: Rule 24	In paragraph (2) of the Rule the words "or a decree payable by instalments" are revoked.
Order 29: Rule 1A	After Rule 1 there shall be added the following Rule:— *"Interest amount awarded by decree* 1A. The amount awarded by a decree (not being a penal sum for securing principal and interest) including any interest and costs thereby awarded shall subject to any direction by the Judge carry interest at the rate of four pounds per centum per annum from the date on which the decree was made.".
Order 29: Rule 2	At the end of the Rule there shall be inserted the following paragraphs:—. "(2) Where the court makes an attachment of earnings order or an order under section 88 of the Judgments (Enforcement) Act (Northern Ireland) 1969

Provision amended or revoked	Amendment or revocation
Order 29: Rule 2 (*Contd.*)	or stays enforcement of any decree or order on the ground of the debtor's inability to pay, the party in whose favour such order or decree is made shall, in addition to complying with paragraph (1), at the same time forward a copy thereof to the Office. (3) The clerk of the Crown and peace shall, after comparing the form of order or decree referred to in paragraph (1) with the copy forwarded under paragraph (2), certify such copy before transmitting it to the Enforcement of Judgments Office in accordance with section 97(3) of the said Act of 1969.".
Order 29: Rule 3	Paragraphs (2) and (3) of the Rule are revoked.
Order 29: Rule 4	In paragraph (1) of the Rule the words "or, if the decree orders payment by instalments, in Form 2" are revoked.
Order 29: Rule 6A	After Rule 6 there shall be inserted the following Rule:— *"Stay of execution and removal thereof* **6A**—(1) The clerk of the Crown and peace or the registrar shall endorse or cause to be endorsed on a decree the terms of any stay of execution granted by the court. (2) A decree shall not issue until such stay be removed. (3) A party seeking to remove a stay of execution upon default in complying with such terms shall lodge in the office an affidavit setting out particulars of the default. (4) Where such default is in the payment of a sum by instalments or some or one of them, the affidavit shall set out particulars of and the amounts of the several instalments (if any) which have been paid and particulars of the default including the amount then due on foot of the decree. (5) The clerk of the Crown and peace or the registrar shall before issuing a decree write and sign or cause to be written and signed on the face of the decree a statement that the stay of execution has been removed. (6) Where the decree is such as is referred to in paragraph (4), the statement shall specify the total amount of the instalments (if any) paid to the date of the affidavit lodged under paragraph (3) and the decree shall issue for the whole amount remaining due on foot of the decree after deducting such instalments (if any) as have been paid thereunder as shown in the said affidavit but with the addition to the costs therein stated of a sum of £1·50 as the costs and outlay of the said affidavit.".

Provision amended or revoked	Amendment or revocation
Order 29: Rule 9	In paragraph (*b*) of the Rule the words from "and, if the under-sheriff certifies" to the end of the paragraph are revoked.
Order 29: Rule 12	In paragraph (4) after the words "in accordance with" there shall be inserted the words "this Rule and Rule 14 and".
Order 29: Rule 13	In paragraph (2) of the Rule for the words "the under-sheriff" where they firstly appear there shall be substituted the words "a receiver or such other person as the Judge directs" and for the words "under-sheriff" where they secondly appear there shall be substituted the words "receiver or other person as aforesaid". In paragraph (3) for the words "an execution made under section 74 of the Act" there shall be substituted the words "an execution which is required to be made by the Enforcement of Judgments Office under a decree to which the Judgments (Enforcement) Act (Northern Ireland) 1969 applies".
Order 29: Rule 17	The Rule is revoked.
Order 30: Rule 11	The words "to the under-sheriff" are revoked.
Order 31: Rule 4	In Rule 4 for any reference to a writ of restitution there shall be substituted a reference to an order of restitution.
Order 35: Rule 7	In the cross-heading to the Rule for the words "section 6A of the Debtors Act (Ireland) 1872" there shall be substituted the words "Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969".
Order 35: Rule 8	The Rule is revoked.
Order 36: Rule 1	After the words "the court may" there shall be inserted the words ", except where under section 8 of the Judgments (Enforcement) Act (Northern Ireland) 1969 jurisdiction to grant such relief is vested in the Enforcement of Judgments Office,".
Order 36: Rule 2	The Rule is revoked.
Order 36: Rule 3	The Rule is revoked.
Order 36: Part III	Part III of the Order is revoked.
Order 36: Part IV	In the cross-heading to Part IV of the Order for the words "SECTION 6A OF THE DEBTORS ACT (IRELAND) 1872" there shall be substituted the words "PART VII OF THE JUDGMENTS (ENFORCEMENT) ACT (NORTHERN IRELAND) 1969".

Provision amended or revoked	Amendment or revocation
Order 36: Rule 21	In paragraph (1) of the Rule for the words "section 6A of the Debtors Act (Ireland) 1872" there shall be substituted the words "section 88 of the Judgments (Enforcement) Act (Northern Ireland) 1969 where no instalment order has been made by the Enforcement of Judgments Office under section 31 of the said Act".
Order 36: Rule 22	In paragraph (1) of the Rule after the words "to be paid" there shall be inserted the words "or due under an instalment order made by the Enforcement of Judgments Office under section 31 of the said Act of 1969". In paragraph (2) in sub-paragraph (*a*) after the words "full particulars of the enforcement order" there shall be inserted the words "or of the order made under the said section 31" and in the body of the paragraph after the words "wherein the enforcement order was made" there shall be inserted the words "or, in the case of an order under the said section 31, in the division in which he resides or carries on business".
Order 36: Rule 23	In paragraph (3) of the Rule at the end there shall be inserted the words "and where proceedings are taken under Rule 22 to enforce an order made by the Enforcement of Judgments Office under section 31 of the said Act of 1969, a duly authenticated copy of the order shall be produced in court at the hearing".
Order 36: Rule 24	For paragraph (2) of the Rule there shall be substituted the following paragraph:— "(2) A committal order shall be addressed to the Chief Superintendent or, as the case may be, Superintendent for the Constabulary Division in which the debtor resides or is to be found."
Order 36: Rule 25	For Rule 25 there shall be substituted the following Rule:— *"Discharge from custody* **25.**—(1) A debtor taken into custody under a committal order shall not be released from custody unless he pays to the constable or the governor of the prison to which he is committed the full amount of the debt or instalment in respect of which such order was made and the costs of the order or upon receipt by the governor of the certificate of discharge prescribed under paragraph (5). (2) A constable or prison governor to whom a sum of money is paid by a debtor in accordance with paragraph (1) shall issue to the debtor a receipt therefor and shall endorse on the committal order a certificate of the amount he has received and the date thereof and the constable or prison governor shall sign his name at the foot of the certificate.