1970. No. 163 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 1) 1970

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, with the concurrence of the Treasury, so far as is required by subsection (4) of that section, exercise those powers and all other powers enabling us in that behalf as follows:—

1. In Order LVI, rule 23 of the Rules of the Supreme Court (Northern Ireland) 1936(b) for paragraphs (1) and (3) there shall be substituted the following paragraphs—

"(1) Applications under sections 4, 7 (1) and (2) and section 23 (4) of the Act shall, unless the Court or a Judge otherwise directs, be made by motion on notice and Order LII shall apply where applicable with any necessary modifications.

(3) Every other application under the Act may be made at Chambers, and where an application is made at Chambers, Order LIV, or Order LXXXVIII where the application is under section 3 (2) of the Act, shall apply where applicable with any necessary modifications."

2. Order LXXXII shall be amended as follows—

(1) rule 7 shall be revoked,

(2) in rule 8 the words "and affidavits" shall be deleted,

(3) in rule 9 the words "or affidavit" shall be deleted.

3. Order LXXXVIII shall be amended as follows—

(1) For the title to the Order and rules 1-212 there shall be substituted the title and rules in Schedule 1 hereto in the places appropriate to their numbers.

(2) For the headings immediately before rules 213 and 216 and for rules 213 to 216 there shall be substituted the following heading and rules—

"PART XIV

WINDING UP OF ESTATE OF BANKRUPT OR DECEASED INSOLVENT BY A TRUSTEE

213.—(1) Subject to the Acts and this Part, the foregoing rules of this Order shall, where applicable and with the necessary modifications, apply to proceedings in the winding up of the estate of a bankrupt or a deceased insolvent by a trustee.

(2) Subject to the Acts, this Part shall apply to proceedings in the administration of the estate of a deceased insolvent where applicable, with the necessary modifications.

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

214.—(1) The bankrupt or any creditor of the bankrupt whose debts in the aggregate amount to £50 or upwards may apply to the Court, at the public sitting appointed for the choice of a creditors' assignee, to postpone such choice and for an order summoning a general meeting of the creditors for the purpose of obtaining their agreement to the estate of the bankrupt being wound up by a trustee and a committee of inspection.

(2) The application shall not be made before the bankrupt's statement of affairs is filed or after the appointment of a creditors' assignee, unless the Court in special circumstances otherwise directs.

(3) The application shall be supported by an affidavit setting out the grounds upon which it is made.

215.—(1) Where the Court orders the summoning of a general meeting it shall be held, unless the Court otherwise directs, before the Registrar and presided over by him.

(2) A general meeting shall be summoned by such person as the Court may direct sending, 10 days before the date fixed for the meeting, a notice in the prescribed form to the bankrupt and to each creditor at the address given in his proof of debt or where he has not proved, at the address given in the bankrupt's statement of affairs, and the notice shall be published in the Gazette.

216.—(1) The notice of the general meeting shall be sent at the expense of the applicant and where the Court subsequently orders that the estate of the bankrupt be wound up by a trustee the cost of sending the notice shall be repaid out of the bankrupt's estate.

(2) No part of the expense of any competition for the office of trustee shall be paid out of the bankrupt's estate."

(3) In rule 217 immediately after the words "the Act" there shall be added the words "of 1872".

(4) In rules 218, 226, 233, 244, 252, 253, 254, 256 (including the heading), 263, 264, 266, 267 and 268 for the words "Chief Registrar" there shall be substituted the word "Registrar".

(5) In rule 228 for the word "motion" there shall be substituted the word "summons".

(6) In rule 229 for the words "serve a notice of motion to the Court" there shall be substituted the words "apply to the Court on notice to the trustee".

(7) For rule 235 there shall be substituted the following rule—

"**235.** The trustee may apply to the Court by summons for directions and the summons shall be served on such persons, if any, as the Court may direct."

(8) In rule 238 for the words "a Registrar" where they occur in line 12 there shall be substituted the words "the Registrar".

(9) In rules 241 and 265 the words "of the Court" where they occur after the words "Official Assignee" shall be deleted.

(10) Rules 269 to 289 shall be revoked.

(11) Immediately after rule 268 the following rule shall be inserted—

"**269.**—(1) Where the bankrupt wishes to make an application to the Court for a certificate of conformity during the continuance of the bankruptcy, he shall request the trustee to summon a meeting of his creditors for the purpose of obtaining their consent to the making of the application.

(2) The trustee shall summon the meeting of creditors on receiving a deposit of £5 for costs, but where the creditors refuse their consent no further meeting shall be summoned by the trustee for a period of 3 months from the date of such refusal."

4. In Appendix K of the Rules of the Supreme Court Form 34 shall be deleted.

5. Part V of Appendix S of the Rules of the Supreme Court shall be amended as follows—

(1) in item 3 the word "copy" shall be inserted immediately before the word "affidavit",

(2) in item 10 the words "(besides stamp duty)" shall be deleted,

(3) in items 11 and 16 the words "in arrangements" shall be deleted,

(4) in item 12 for the word "motion" there shall be substituted the word "summons".

6. Appendix Y of the Rules of the Supreme Court shall be amended as follows—

(1) in Part I for Forms 1-35 and 50 to 54 there shall be substituted the Forms set out in Schedule 2 hereto,

(2) Forms 36-49 in Part I shall be re-numbered as Forms 120 to 133,

(3) the words "Queen's Bench Division" in the heading to Form I in Part II shall be deleted.

7.—(1) Subject to the provisions of this rule, Order LXXXVIII, as amended by these rules, shall apply to all proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1964 commenced before these rules came into force.

(2) Without prejudice to the powers conferred by Order LXXXVIII, rule 199, the costs in any proceedings under the said Acts commenecd before these rules came into force, shall be taxed in accordance with the rules and scale of costs in force on the date such proceedings were commenced.

(3) Where it is not practicable to apply Order LXXXVIII as amended by these rules to proceedings commenced before these rules came into force, the rules in force when the proceedings were commenced shall apply.

8. In consequence of provisions made by these rules, the enactment specified in column 1 of Schedule 3 hereto is amended to the extent specified in column 2 of that Schedule.

9. In consequence of provisions made by these rules, the enactments specified in columns 1 and 2 of Schedule 4 hereto are repealed to the extent specified in column 3 of that Schedule.

10. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1970 and shall come into force on 1st January 1971.

Dated 2nd June 1970.

(Signed) MacDermott
L. E. Curran
H. A. McVeigh
Robert Lowry
E. W. Jones
A. McGonigal
Maurice W. Gibson
Donald Murray
James J. Napier
W. J. Jefferson

We concur

(Signed) E. G. Perry
Neil McBride

Lords Commissioners of Her Majesty's Treasury.

SCHEDULE 1 RULE 3

Title and rules to be substituted for title and certain rules of Order LXXXVIII

ORDER LXXXVIII

Bankruptcy and Related Proceedings

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule
1. Interpretation.
2. Application.
3. Computation of time.
4. Extension or abridgment of time.
5. Size of documents, etc.

PART II

GENERAL PROCEDURE

Rule
6. Sittings, vacations and office hours.
7. Title of proceedings.
8. Hearings in court and chambers.
9. Trial by jury.
10. Appeal to the Court of Appeal.
11. Exercise of jurisdiction by Registrar.
12. Default by person examined before Registrar.
13. Appeal from Registrar.
14. Sealing of documents issued by the Court.
15. Mode of application to the Court.
16. Form and attestation of petitions.
17. Service of documents.
18. Service out of the jurisdiction.
19. Substituted service.
20. Notice of application to the Court.
21. Length of notice.
22. Respondent's affidavit.
23. Oral evidence on hearing of summons.
24. Adjournments.
25. Subpoena.
26. Allowances to witnesses.
27. Affidavits.
28. Discovery.
29. Reading evidence taken in other causes or matters.