1969. No. 177 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 2) 1969

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 XXII rule 1 of the Rules of the Supreme Court (Northern Ireland) 1936(b) immediately after paragraph (3) there shall be inserted the following paragraph—

"(4) No money shall be paid into court without the leave of the Court or a Judge, where, in any cause or matter to which rule 8(1) applies, a settlement is reached subject to the approval of the Court or a Judge or where approval of any such settlement is refused."

2. In Order XXXVI for rules 32, 35, 36, 37 and 37A there shall be substituted the following rules—

"**32.**—(1) The Judge before whom an action is tried (whether with or without a jury) may give directions as to the order in which the cases of the parties are to be presented and the order of speeches at the trial, and, subject to any such directions, the party to begin and the order of speeches shall be that provided by this rule.

(2) Subject to paragraph (6), the plaintiff shall begin.

(3) If the defendant does not adduce evidence the plaintiff may, after the evidence on his behalf has been given, make a second speech closing his case and the defendant shall then state his case.

(4) If the defendant does adduce evidence he may after any evidence on behalf of the plaintiff has been given, open his case and may, if oral evidence on his behalf has been given, make a second speech closing his case and at the close of the defendant's case the plaintiff may make a speech in reply.

(5) Where there are two or more defendants who appear separately or are separately represented, then—

(*a*) if none of them elects to adduce evidence, each of them shall state his case in the order in which his name appears on the record;

(*b*) if each of them elects to adduce evidence, each of them may open his case and the evidence on behalf of each of them shall be given in the order aforesaid and the speech of each of them closing his case shall be made in that order after the evidence on behalf of all the defendants has been given;

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

(*c*) if some of them adduce evidence and some do not, those who do not shall state their case in the order aforesaid after the speech of the plaintiff in reply to the other defendants.

(6) Where the burden of proof of all the issues in the action lies on the defendant or, where there are two or more defendants and they appear separately or are separately represented, on one of the defendants, the defendant or that defendant, as the case may be, shall begin and in that case paragraphs (2), (3) and (4) shall have effect in relation to, and as between, him and the plaintiff as if for references to the plaintiff and the defendant there were substituted references to the defendant and the plaintiff respectively.

(7) Where, as between the plaintiff and any defendant, the party who would, but for this paragraph, be entitled to make the final speech raises any fresh point of law in that speech or cites in that speech any authority not previously cited, the opposing party may make a further speech in reply, but only in relation to that point of law or that authority, as the case may be.

(8) For the purposes of this rule a party shall be deemed to adduce evidence if he puts in a document whether in the course of cross-examination or otherwise.

35.—(1) The Judge shall, at or after the trial, give judgment and such judgment shall be drawn up and filed in the manner provided by Order XLJ rules 1 and 2.

(2) Where a trial is held without a jury and the plaintiff is found to have suffered damage as the result partly of his own fault and partly of the fault of the defendant, the Judge when giving judgment shall state the total damages of the plaintiff and the amount to which those damages are to be reduced.

36. The officer present in court shall at the trial or as soon as practicable thereafter, enter in a register to be kept for that purpose, the following—

(i) the record number of the action;
(ii) the date of the trial;
(iii) the name of the trial Judge and whether the trial was with or without a jury;
(iv) the title of the action;
(v) the names of counsel and of the solicitors;
(vi) the names of any witnesses;
(vii) the questions asked of and the answers given by the jury where the trial was with a jury;
(viii) particulars of the judgment and of all orders, directions and certificates (if any);
(ix) a note of the days on which the trial was held and the time spent at trial during each day on which the trial was held.

37. The Judge by whom a cause or matter is tried, whether with or without a jury, may inspect any place or thing with respect to which any question arises in the cause or matter, and whether or not he inspects it, may authorise the jury to inspect it, subject to any directions he may give.

37A.—(1) The proper officer shall take charge of every document or object put in as an exhibit during the trial of any action and shall mark or label every exhibit with a letter indicating the party by whom it is put in and shall number each party's exhibits consecutively.

(2) The proper officer shall cause a list to be made of all exhibits in the action, and any party may, on payment of the prescribed fee, have an office copy of that list.

(3) The list of exhibits when completed shall be attached to the pleadings and shall form part of the record of the action.

(4) For the purpose of this rule a bundle of documents may be treated and counted as one exhibit.

37B. It shall be the duty of every party to an action who has put in any exhibit to apply to the proper officer immediately after the trial for the return of the exhibit, and, so far as is practicable regard being had to the nature of the exhibit, to keep it duly marked and labelled as before, so that in the event of an appeal to the Court of Appeal or the House of Lords, he may be able to produce the exhibit so marked and labelled at the hearing of the appeal in case he is required by the Court of Appeal, the House of Lords or another party to do so.

37C.—(1) Documents impounded by order of the Court shall not be delivered out of the custody of the Court except in compliance with an order made by a Judge on an application made by summons;

Provided that where the Attorney General when acting on behalf of the Crown makes a written request in that behalf, documents so impounded shall be delivered into his custody.

(2) Documents impounded by order of the Court, while in the custody of the Court, shall not be inspected except by a person authorised to do so by an order of the Judge."

3. For Order XLI there shall be substituted the Order XLI set out in Schedule I hereto.

4. In Order XLII for rule 17 there shall be substituted the following rule—

"**17.**—(1) Every person to whom any sum of money or any costs are payable under a judgment or order shall, so soon as the money or costs become payable, be entitled, subject to paragraphs (2) and (3), to sue out one or more writs of fieri facias to enforce payment thereof.

(2) Except with the leave of the Court or a Judge, a writ of fieri facias shall not issue to enforce payment under a judgment obtained in default of appearance or defence, as the case may be, unless the judgment creditor has first—

(*a*) sent by recorded delivery to the judgment debtor, at his last known or usual place of abode, 7 days before he sues out the writ, a notice in Form 1B of Appendix H giving the judgment debtor notice of the judgment and informing him that a writ of fieri facias may issue by virtue of which his goods may be sold in satisfaction of the amount of money payable under the judgment; and

(*b*) filed in the Central Office a certificate in Form 1C of Appendix H to which is attached the certificate of posting in respect of the notice sent to the judgment debtor by recorded delivery in accordance with this rule.

(3) Where a judgment or order is for payment within a period stated in the judgment or order, a writ of fieri facias shall not be issued until after the expiration of any such period.

(4) Notwithstanding the provisions of rule 11(2) of this Order, a party seeking to issue execution who has not given the certificate prescribed by that rule may issue a writ of fieri facias or other process directing the sheriff to pay the proceeds of the execution into Court.

(5) The praecipe for a writ issued under the preceding paragraph shall be in Form 1B in Appendix G.

(6) The Form of writ of fieri facias issued under paragraph (4) of this rule shall be in Form 1A in Appendix H.

(7) Notice of any payment into Court under this rule shall be given by the under sheriff to the plaintiff, his solicitor or agent and to any other person specified in the judgment, order, or award, and shall be in Form 4A of Appendix B subject to such modifications as may be necessary."

5. In Order LII rule 11 shall be revoked.

6. Order LXII shall be amended as follows—

(1) for rule 23 there shall be substituted the following rule—

"**23.**—(1) An order in the Queen's Bench Division which directs the manner in which any funds in court shall be dealt with must, where appropriate, be in Form 7, 7A or 7B of Appendix M.

(2) The Registrar must send any such order to the Accountant General as soon as practicable after he has signed it."

(2) rule 40 shall be revoked.

7. Order LXV shall be amended as follows—

(1) in rules 2, 3, 4 and paragraph (41) of rule 61 the words "under his hand, on the certificate of the Registrar or other proper officer", shall be deleted.

(2) paragraph (11) of rule 61 shall be deleted.

8. At the end of Order XCI, rule 1, the following paragraph shall be added—

"(2) In these Rules a reference to the marking of judgment shall include a reference to the giving, drawing up and filing of a judgment where the context so permits."

9. Form 19 in Appendix B of the Rules of the Supreme Court shall be revoked.

10. For Form 7 in Appendix M of the Rules of the Supreme Court there shall be substituted the Forms 7, 7A and 7B in Schedule II hereto.

11. For the Forms 1-18 in Appendix F of the Rules of the Supreme Court there shall be substituted the Forms 1-9 in Schedule III hereto.

12. The Forms 1B and 1C in Schedule IV hereto shall be inserted immediately after Form 1A in Appendix H of the Rules of the Supreme Court.

13. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 2) 1969, and come into force on the 1st September 1969.

Date: 27th June 1969.

(Signed) *MacDermott*

Robert Lowry

E. W. Jones

A. McGonigal

Donald Murray

Leonard I. G. Fox

James J. Napier