**1964. No. 149** **[NC]**

## SUPREME COURT, NORTHERN IRELAND
## PROCEDURE

### The Rules of the Supreme Court (Northern Ireland) (No. 4) 1964

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 rule 11 of Order LIV of the Rules of the Supreme Court (Northern Ireland) 1936(b), which relates to applications and proceedings at Chambers, the words "requiring service" shall be inserted immediately after the words "originating summons".

**2.** In rule 23 of Order LV, which relates to Chambers in the Chancery Division, the words "requiring service" shall be inserted immediately after the words "originating summons".

**3.** In rule 9 of Order LVIII, which relates to appeals, for the words and figures "Companies Act (Northern Ireland) 1932" there shall be substituted the words and figures "Companies Acts (Northern Ireland) 1960 and 1963".

**4.** For Order LXXIV, which relates to proceedings for and in the winding-up of companies, there shall be substituted the Order set out in Schedule I hereto.

**5.** In Order LXXV, which relates to procedure on applications under the Companies Act (Northern Ireland) 1932, for the title and rules 1-8 (inclusive) the following shall be substituted:—

"APPLICATIONS UNDER THE COMPANIES ACTS (NORTHERN IRELAND) 1960 AND 1963, OTHER THAN APPLICATIONS FOR OR IN THE WINDING-UP OF COMPANIES

*Interpretation*

**1.** In this Order—

"The Act" means the Companies Act (Northern Ireland) 1960 as for the time being amended by any subsequent enactment;

"the company" means the company to which any application under this Order relates;

"the petition", "the summons", mean the petition or summons presented or taken out pursuant to this Order.

Unless the context otherwise requires, expressions defined in the Act and in Order LXXIV, rule 1, shall have the meanings so respectively defined.

The forms respectively referred to, are the forms set out in Appendix Q, Part II.

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

*Application of Rules of Supreme Court*

**2.** The Rules of the Supreme Court for the time being in force and the general practice of that Court including the course of procedure and practice in Chambers shall apply as regards all proceedings in relation to the applications to which this Order relates so far as may be practicable, except if and so far as the Act or this Order otherwise provides.

*Title of proceedings*

**3.**—(1) Every petition and summons and all notices, affidavits and other proceedings under any petition or summons shall be intituled in the High Court of Justice in Northern Ireland (Chancery Division), and in the matter of the company.

(2) An application for leave under section 179(1) of the Act shall be intituled in the matter of the company in relation to which the applicant was convicted or was guilty of such an offence or of such conduct as is mentioned in the said sub-section.

*Proceedings in Chambers*

**4.** The provisions of Order LXXIV, rules 10 and 11, shall apply to applications under this Order.

*Applications by petition*

**5.** The following applications shall be made by petition, that is to say, applications:—

(*a*) to cancel an alteration of objects under section 5 of the Act;

(*b*) to cancel an alteration in the form of the constitution of the company by substituting a memorandum and articles for a deed of settlement under section 345 of the Act;

(*c*) to cancel an alteration in conditions in the memorandum under section 23 of the Act;

(*d*) to confirm a reduction of capital under section 67 of the Act;

(*e*) to confirm the reduction of any share premium account under section 56(1) of the Act or any capital redemption reserve fund under section 58(1)(*d*) of the Act;

(*f*) to cancel any variation of the rights of holders of special classes of shares under section 72 of the Act;

(*g*) to sanction the issue of shares at a discount under section 57 of the Act;

(*h*) to sanction a compromise or arrangement under section 197(2);

(*i*) to restore a company's name to the register under section 316(8) of the Act; and

(*j*) for relief by officers of a company or by persons employed as auditors by a company under section 394(2) of the Act.

*Applications other than by petition*

**6.**—(1) Every application not required to be made by petition shall be made by summons.

(2) In any of the matters falling under the provisions of this rule an order may be made by the Judge upon an ex-parte application without the issue of a summons, if he is satisfied that the urgency of the matter or the interests of justice so require.

*Summons for directions*

**7.**—(1) Where the petition has been presented pursuant to paragraphs (*a*), (*b*), (*c*), (*d*), (*e*), (*f*) or (*j*) of rule 5, or where an order is sought under section 199 of the Act, an application shall in every case be made by summons to the Judge for directions as to the proceedings to be taken.

(2) Upon the hearing of the summons or upon any adjourned hearing or hearings thereof or any subsequent application, the Judge may make such order or orders and give such directions as he may think fit as to all the proceedings to be taken and more particularly with respect to the following matters, that is to say:—

(*a*) the publication of notices;

(*b*) in cases where the Court orders an inquiry as to the debts, claims or liabilities of or affecting a company or as to any such debts, claims or liabilities, the proceedings to be taken for settling the list of creditors entitled to object, including the dispensing with the observance of section 67(2) of the Act as regards any class or classes of creditors, fixing the date with reference to which the list of such creditors is to be made out, and generally fixing a time for and giving directions as to all necessary or proper steps in the matter whether expressly mentioned in any of the rules of this Order or not.

*Orders under section 201 of the Act*

**8.** Where an Order under section 201 of the Act has been made, the Judge shall give such directions as he shall think fit as to service of a copy of the order on the company and on the Registrar of Companies, and where such order involves a reduction of capital or alteration of the memorandum of association, the Act and the rules of this Order relative to such matters shall apply as the Judge may direct.."

**6.** The following further amendments shall be made to Order LXXV:—

(1) Rule 9 shall be amended as follows:—

(*a*) In line 2 thereof for the figure "8" there shall be substituted the figure "7".

(*b*) In paragraph A there shall be substituted for the word "seven" in line 1, the words "twenty-one", and for the word "one" in line 16, the word "two".

(*c*) For paragraph E the following paragraph shall be substituted:—

"E. Notice of the presentation of the petition, of the effect of the order directing the enquiry and of the list of creditors shall, after the filing of the affidavit mentioned in paragraph A of this rule, be published at such times and in such newspapers as the Judge shall direct. Every such notice shall state the amount of any proposed reduction of the capital, and the places where the aforesaid list of creditors may be inspected, and the time within which creditors of the company who are not but are entitled to be entered on the said list, and are desirous of being entered therein, or creditors who are desirous of being entered therein for a larger or different amount, must send in their names and addresses, and the particulars of their debts or claims, and the names and addresses of their solicitors, if any, to the solicitor of the company. Such notice may be in Form No. 4 with such variations as the circumstances of the case may require.",

(*d*) In paragraph I there shall be substituted for the figures "56(2)" wherever they appear therein, the figures "67(2)".

(*e*) In paragraph M there shall be substituted for the figures and letter "56(2)(*c*)" the figures and letter "67(2)(*c*)".

(*f*) In paragraph N there shall be substituted for the figures "56(2)" the figures "67(2)".

(*g*) In paragraph O there shall be substituted for the figures "56(2)" the figures "67(2)".

(*h*) In paragraph P there shall be substituted:—

(i) for the figures "58", the figures "69", and

(ii) for the figures "57", the figures "68".

(2) In rule 11 and in the heading thereto there shall be substituted for the figures "149" the figures "199".

(3) Rule 12 is hereby annulled.

**7.**—(1) The forms in Schedule II hereto shall be substituted for the forms in Part I of Appendix Q to the Rules of the Supreme Court.

(2) In Part II of Appendix Q the following amendments shall be made:—

(*a*) Form 1 shall be deleted.

(*b*) At the commencement of Forms Nos. 2 and 5 the word "Title" shall be substituted for the words "Heading as in Form 1".

(*c*) At the commencement of Forms 3, 4, 6 and 7, the word "[Title]" shall be substituted for the words "In the matter of etc., as in No. 1.".

(*d*) (i) In the title of Form 8 there shall be substituted for the words and figures "Section 149 of the Companies Act (Northern Ireland) 1932" the words and figures "section 199 of the Companies Act (Northern Ireland) 1960.".

(ii) In the body of Form 8 there shall be substituted for the words and figures "section 149(2) of the Companies Act (Northern Ireland) 1932", wherever they occur, the words and figures "section 199(2) of the Companies Act (Northern Ireland) 1960".

**8.** Nothing in these rules shall be deemed to revive any Order or rule annulled by any former Order, nor to prejudice or affect anything done or suffered before the date on which these rules come into force under any Order or rule which was in force before the said date.

**9.** These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 4) 1964, and shall come into force on the 1st day of January, 1965.

Dated the 25th day of September, 1964.

Signed *MacDermott*
*Charles L. Sheil*
*Robert Lowry*
*E. W. Jones*
*A. McGonigal*
*Leonard I. G. Fox*
*James J. Napier*

SCHEDULE I Rule 4.

## ORDER TO BE SUBSTITUTED FOR ORDER LXXIV OF THE RULES OF THE SUPREME COURT

### ORDER LXXIV

### PROCEEDINGS FOR AND IN THE WINDING-UP OF COMPANIES

#### PART I

#### PRELIMINARY

*Interpretation of terms*

1. In this Order, unless the context otherwise requires:—

"the Act" means the Companies Act (Northern Ireland) 1960(a) as for the time being amended by any subsequent enactment;

"the bank" means the Bank as defined in Order XCI, rule 1, or such other bank as the Judge in any particular case may nominate;

"Chief Clerk" means the Chief Clerk or the Assistant Chief Clerk;

"the company" means a company which is being wound-up or against which proceedings to have it wound up have been commenced;

"Judge" means any Judge of the Supreme Court and includes the Chief Clerk exercising the powers of any such Judge;

"proceedings" means the proceedings in the winding-up of a company under the Act;

"Registrar" means the Chancery Registrar;

"Registrar of Companies" means the Registrar of Companies for Northern Ireland;

"the rules" means the rules of this Order and includes the prescribed forms.

"sealed" means sealed with the seal of the Court.

The forms respectively referred to are the forms set out in Appendix Q, Part I.

Unless the context otherwise requires words or expressions contained in the rules shall bear the same meaning as in the Act.

*Application of the rules*

2.—(1) Subject to the limitation hereinafter mentioned, the rules shall apply to the proceedings in every winding-up of a company which may commence on and after the date on which the rules come into operation, and they shall also, so far as practicable, and subject to any general or special order of the Court, apply to all proceedings which may be taken or instituted after the said date in the winding-up of a company which commenced before the said date.

(2) Rules which from their nature and subject-matter are, or which, by the head lines above the group in which they are contained or by their terms are made applicable only to the proceedings in a winding-up by the Court, or only to such proceedings and to proceedings in a creditors' voluntary winding-up, shall not apply to the proceedings in a voluntary winding-up, or, as the case may be, in a members' voluntary winding-up, whether any such voluntary winding-up is or is not being continued under the supervision of the Court.

(a) 1960. c. 22.