EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order prescribes the manner of painting and of repainting inside walls and ceilings of factories and the intervals for repainting or revarnishing those walls and ceilings. The Order also exempts certain factories from requirements as to the periodical washing, painting or varnishing, or whitewashing or colour-washing, of inside walls and ceilings; but, as a result of revoking previous Orders, reimposes those requirements in the case of certain factories and parts of factories.

1964. No. 17 **[NC]**

SUPREME COURT, NORTHERN IRELAND PROCEDURE

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

PART I

EXECUTION

1. In Order XLII of the Rules of the Supreme Court (Northern Ireland) 1936(b), which relates to execution, the following amendments shall be made:—

(1) To rule 8 there shall be added the following paragraph—

"(2) All writs of execution for the enforcement of a judgment or order for the payment of money shall issue out of the Central Office."

(2) The following paragraph shall be added to rule 9—

"(2) An application under this rule shall be made by summons (Form 51, Appendix B) supported by an affidavit of facts."

(3) For paragraph (1) of rule 17 there shall be substituted the following paragraph—

"(1) Every person to whom any sum of money or any costs shall be payable under a judgment or order shall, so soon as the money or costs shall be payable, be entitled to sue out one or more writ or writs of fieri facias to enforce payment thereof, but if the judgment or order is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period."

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

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

(4) Immediately after rule 17 there shall be inserted the following rule—

"17A.—(1) Where a judgment is given or an order made for the payment of money by any person and the Court or a Judge is satisfied on application made at the time of the judgment or order or at any time thereafter by the judgment debtor or other party liable to execution that there are special circumstances which render it inexpedient to enforce the judgment or order or that the judgment debtor is unable from any cause to pay the money, then, notwithstanding anything in rules 17 or 18 of this Order, the Court or Judge may by order stay execution of the judgment or order by writ of fieri facias either absolutely or for such period and subject to such conditions as the Court or Judge thinks fit.

(2) An application under this rule if not made at the time the judgment is given or the order made shall be made by summons (Form 52, Appendix B) and may be so made notwithstanding that an appearance has not been entered.

(3) The evidence in support of an application made by summons may be given orally or by affidavit made by or on behalf of the applicant. An affidavit in support of such application shall state the grounds of the application and the facts necessary to substantiate them and, in particular, shall, in the case of an application on the grounds of the applicant's inability to pay, disclose his income, the amount of any debts due to him, the nature and value of any property of his and the amount of any other liabilities of his.

(4) A summons under this rule and a copy of the affidavit in support (if any) shall be served not less than two clear days before the return day, on the party entitled to enforce the judgment or order or his solicitor and may, without prejudice to any other mode of service be so served by ordinary prepaid post. Any document served by post under this paragraph shall be deemed to have been served at the time at which it would have been delivered in the ordinary course of post.

(5) Any order staying execution under this rule may be varied or revoked by a subsequent order."

(5) For rule 24 the following rule shall be substituted—

"24.—(1) In the following cases, viz:—

(*a*) Where six years have elapsed since the judgment or date of the order, or any change has taken place by death or otherwise in the parties entitled or liable to execution;

(*b*) Where a husband is entitled or liable to execution upon a judgment or order for or against a wife;

(*c*) Where a party is entitled to execution upon a judgment of assets in futuro;

(*d*) Where a party is entitled to execution against any of the shareholders of a joint-stock company upon a judgment recorded against such company, or against a public officer or other person representing such company;

the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly. And the Court or Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or

question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in an action may be tried. And in either case the Court or Judge may impose such terms as to costs or otherwise as shall be just.

(2) Unless otherwise ordered by the Court or a Judge, an application under this rule may be made ex parte, grounded on an affidavit of facts.

(3) Notwithstanding any provision in this Order, where default in payment of any sum of money at the time appointed for payment thereof by any judgment or order made in a matrimonial cause or matter has been made, the writ of fieri facias may be issued as of course in the Central Office upon an affidavit of service of the judgment or order and non-payment."

(6) The following Part shall be substituted for Part II—

"II. PROCEEDINGS IN AID OF EXECUTION

34. If any difficulty shall arise in or about the execution or enforcement of any judgment or order other than for the recovery or payment of money, any party interested may apply to the Court or a Judge ex parte, and the Court or a Judge may make such order thereon for the attendance and examination of any party or otherwise as may be just.

35.—(1) Any party entitled to enforce any judgment or order for the recovery or payment of money may issue and serve a summons on the debtor liable under such judgment or order, or in the case of a corporation on any officer thereof, or on any other person, requiring him to attend before the Court or a Judge to be orally examined as to whether any and what debts are owing to the debtor, and whether the debtor has any and what other property or means of satisfying the judgment or order.

(2) The summons shall be in Form No. 53 in Appendix B or as near thereto as the circumstances of the case may render necessary and shall be served personally on the debtor.

(3) If the debtor shall fail to attend in pursuance of the summons the Court or a Judge may make an order for the attendance of the debtor or any other person and for the production of any books or documents.

(4) An order for attendance under the preceding paragraph shall be served personally on such person or persons and within such time as the Court or a Judge shall direct.

36.—(1) Upon the examination the Court or a Judge may make all or any of the following orders:—

(*a*) An order staying execution absolutely or upon terms under rule 17A of this Order;

(*b*) A conditional order of garnishee under Order XLV of these Rules;

(*c*) A charging or stop order or any order ancillary thereto under Order XLV of these Rules;

(*d*) An order for the appointment of a receiver by way of equitable execution under Order L of these Rules.

(2) The evidence given on the examination shall be taken down in writing, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the examinee.

(3) A copy of the note of such evidence shall, on payment of the appropriate fees, be made available to the parties to any such examination, but save as aforesaid no person shall, without leave of the Court or a Judge, be entitled to examine such note or to obtain a copy thereof."

PART II

GARNISHEE PROCEEDINGS

2. In Order XLV, which relates to attachment of debts, the following amendments shall be made:—

(1) The following rule shall be substituted for rule 2—

"**2.**—(1) An application under the preceding rule may be made ex parte by lodging with the Registrar the affidavit referred to in the preceding rule and, unless otherwise ordered by the Court or a Judge, no formal hearing shall be necessary.

(2) A copy of the order nisi shall be served on the garnishee and, unless otherwise ordered, on the debtor within the time limited by Order LII, rule 12, of these Rules and at least seven clear days before the day fixed for the hearing.

(3) Service of the order nisi on the garnishee in the manner prescribed by Order LXVII of these Rules shall bind the debts, due or accruing to the debtor, in the hands of the garnishee."

(2) After rule 2 there shall be inserted the following rule—

"**2A.**—(1) If the garnishee pays into Court the amount due from him to the debtor liable under a judgment or order, or an amount equal to the judgment or order and does not dispute the debt due or claimed to be due from him to such debtor, or, if the garnishee indicates his willingness to pay the amount or the appropriate proportion thereof, the Court or a Judge may make the order absolute and, where the money has been paid into Court, may order the same to be paid to the applicant.

(2) In making the order absolute the Court or a Judge may make such order for the payment or recovery of the applicant's or garnishee's costs as to the Court or Judge shall seem meet."

(3) Rule 9 shall be deleted.

PART III

CHARGING AND STOP ORDERS

3. In Order XLVI, which relates to charging and stop orders, the following amendments shall be made:—

(1) The following rule shall be substituted for rule 1—

"**1.**—(1) An order charging stock or shares may be made by the Court or a Judge and the effect shall be such as is provided by the Debtors (Ireland) Act 1840(**a**) and the Common Law Procedure Amendment Act (Ireland) 1853(**b**).

(**a**) 3 & 4 Vict. c. 105. (**b**) 16 & 17 Vict. c. 113.