The Rent and Mortgage Interest (Restrictions) Act (Northern Ireland), 1940, County Court Rules, 1942.

1942. No. 168.

I, THE RIGHT HONOURABLE SIR JAMES ANDREWS, Baronet, Lord Chief Justice of Northern Ireland, in exercise of the powers conferred on me by sub-section (2) of section 4 of the Administration of Justice (Emergency Provisions) (Northern Ireland) Act, 1939, and of all other powers me thereunto enabling, do hereby make and certify the rules hereinafter set forth as rules to be in force in proceedings in the county court under The Rent and Mortgage Interest (Restrictions) Act (Northern Ireland), 1940.

Dated this 8th day of October, 1942.

(Signed) *James Andrews*,
Lord Chief Justice of Northern Ireland.

The Court Fees included in rule 12 have been fixed with the consent of the Ministry of Finance for Northern Ireland.

In witness whereof the Official Seal of the Ministry has been affixed hereto this 15th day of October, 1942, in the presence of

(L.S.) *W. B. Spender*,
Secretary, Ministry of Finance.

THE RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT (NORTHERN IRELAND), 1940.

COUNTY COURT RULES, 1942.

Dated this eighth day of October, 1942.

The following rules under the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland), 1940, (in these rules referred to as " the Act ") shall apply to the county courts.

These rules may be cited as The Rent and Mortgage Interest (Restrictions) (County Court) Rules (Northern Ireland), 1942.

Applications to the Court.

1.—(1) Applications for stay, suspension, postponement, discharge, rescission or variation of orders or judgments under section 8, sub-section 3, or section 9, sub-section 1, or for compensation under section 8, sub-section 5, or under section 27, shall be made to the court in which the order of judgment complained of was made.

(2) An application for an order authorizing a mortgagee to call in and enforce a mortgage pursuant to the third proviso to section 10 may be made

(*a*) to the court of the county and division in which the mortgaged property is situate; or

(*b*) to the court of the county and division in which the mortgagor resides or carries on business.

(3) All other applications under the Act shall be made in the court of the county and division in which the premises are situate.

Mode of Application.

2. An application under these rules (other than the applications referred to in Rule 15) shall be made by means of a notice of motion entitled " In the matter of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland), 1940," but in other respects in such one of the forms in the appendix to the Increase of Rent and Mortgage Interest (Restrictions) Rules, 1920, as, with the necessary modifications, shall be applicable to the case, such notice of motion to be returnable on the first day of the sessions at which the same is to be heard.

Filing of Notices.

3. Duplicate copies of the notice shall be filed with the Clerk of the Crown and Peace three clear days before the return day, and such application shall be entered by him in the ordinary Civil Bill book and tried as an ordinary civil bill.

Service and Substituted Service.

4. The notice shall be served on every person affected thereby six clear days at least before the first day of the sessions at which the same is to be heard, unless the judge at any time gives leave for shorter service.

5.—(1) Service may be effected in the manner prescribed for the service of ordinary civil bills by the County Courts (Ireland) Orders, 1890, or any amendment thereof.

(2) Service upon a landlord may also be effected by serving in any of the modes allowed by paragraph (1) of this rule, his known agent to whom the tenant's rent has been usually paid.

(3) The court shall have power to direct such substituted or other service or such service out of the jurisdiction as it shall in the circumstances deem just. In any case the court may upon just grounds declare the service actually effected sufficient.

(4) The civil bill officer's fee shall be :—

	s.	d.
First copy served	2	6
Each additional copy served	1	0

Evidence in Support of Application.

6. No affidavit in support of the application shall be used except by leave of the court, but the court shall hear oral evidence tendered by either party.

Power to hear Cases in Private.

7. The court may at any stage of the proceedings on an application under the Act order that the case shall thenceforward be heard in private.

Decisions of Court.

8. On the hearing of the application, or at any adjournment thereof, the court, on proof of the service of the notice, if the respondent does not appear, shall make such determination, order or declaration in the matter as the court shall think fit.

Power to Impose Conditions.

9. On an application for an order authorising a mortgagee to call in and enforce a mortgage, the court may, after considering all the circumstances of the case and the position of all the parties, make or refuse to make the order subject to such conditions as the court may think fit to impose.

Certificates, Orders, or Declarations on Applications.

10. When the court has given its decision on any application, a certificate of the determination of the court, or an order or a declaration in accordance with the decision of the court, shall be sealed or stamped with the seal of the Court and signed by the Clerk of the Crown and Peace, and shall be issued to any party applying for the same.

General Provisions as to Procedure on Application.

11. Subject to the provisions of the Act and these rules, the practice and procedure of the county courts, and in particular the practice and procedure with respect to *subpœnas* for witesses, shall, with the necessary modifications, apply to proceedings on an application under the Act.

Fees.

12. The following fees shall be payable in the county courts, on applications under the Act and these rules, viz. :—

	s.	d.
(*a*) On every application for an order or declaration or the determination of a question relating to the increase or the amount of rent of premises or for leave to distrain	2	6
On copy for service	1	0
(*b*) On every application for the apportionment of rent or for compensation under section 8, sub-section (5 or 6)...	4	0
On copy for service	1	0

	s.	d.
(*c*) On every application for an order authorising a mortgagee to call in and enforce a mortgage ...	8	0
On copy for service	1	0
On requisition for entry of *any* application ...	1	0
On decree, dismiss, award, declaration or other order of the court in cases under :—		
(*a*) above	2	6
(*b*) ,, ...	3	0
(*c*) ,, ...	5	0
On every subpœna or witness' summons ...	1	6

Costs.

13.—(1) The costs of any application under the Act and these rules shall be in the discretion of the Court and may be measured by the Judge, and when not so measured, shall be allowed on the higher scale applicable to proceedings in an equity suit in the county court, and the statutory provisions and rules for the time being in force as to the allowance and taxation of costs in such cases shall apply.

(2) The court may direct that any costs allowed shall be payable by the opposite party, or, in the case of an application for an order authorising a mortgagee to call in and enforce a mortgage, that they shall be included in the security ; and any order directing payment of costs shall be included in the certificate or order and shall be enforceable in the same manner as an order for payment of costs made in a civil bill.

Forms.

14. The forms in the Appendix to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, with such modifications as may be necessary, shall be used for notices, applications, certificates and orders under the Act and these rules.

Death of Tenant Intestate.

15. Where, on the death of a tenant intestate, a member of his family requires the decision of the court under the latter part of section 28, sub-section (1), of the Act, the judge, on a statement of facts submitted to him, shall give such directions as to the procedure to be followed, and the notices to be given to and the attendance of all such persons as may be interested as he shall think fit, and he shall consider what may be urged by or on behalf of such persons, and thereupon give his decision. Rule 10, relating to certifictes of decisions, shall apply to a decision under this sub-section if so directed by the Judge.

16. Non-compliance with any of the foregoing rules shall not render any proceedings void unless the court shall so direct, but the time may be extended and the proceedings may be set aside, either wholly or in

part, or may be amended or otherwise dealt with in such manner and upon such terms as the court may think just.

17. The Interpretation Act, 1889, and the Interpretation Act (Northern Ireland), 1921, shall apply to the interpretation of these rules as they apply to the interpretation of an Act of Parliament. Expressions used in these rules shall have the same meaning as in the Act.

18. These rules shall come into operation on the Nineteenth day of October, 1942.

The Ministry of Finance for Northern Ireland doth hereby with the consent of the Lord Chief Justice of Northern Ireland order that the several fees specified in Rule 12 of the foregoing rules shall be taken on the proceedings therein mentioned in lieu of all other fees for the proceedings therein set forth.

DRAINAGE.

Lough Neagh and River Bann : Completion of Scheme.

ORDER, DATED 14TH JANUARY, 1942, MADE BY THE MINISTRY OF FINANCE UNDER SECTION 12 (2) OF THE DRAINAGE ACT (NORTHERN IRELAND), 1929.

1942. No. 9.

WHEREAS the Ministry of Finance (in this Order referred to as " the Ministry ") as the drainage authority for reducing flooding on Lough Neagh and the River Bann, by an Order dated the fifteenth day of September, nineteen hundred and thirty, made under section six of the Drainage Act (Northern Ireland), 1929 (in this Order referred to as " the Act ") confirmed a draft scheme made under section three of the Act, with such alterations as the Ministry thought proper to make therein (which draft scheme as so confirmed is in this Order referred to as " the scheme ") :

AND WHEREAS the Ministry has carried out the works to be executed under the scheme with such additions, omissions, variations and deviations as were found to be necessary in the course of executing the works :

AND WHEREAS by sub-section (2) of section twelve of the Act the Ministry is required by order to certify the date to be taken for the purposes of Part 1 of the Act as the date of the completion of the works to be executed under the scheme, and to define the area to be taken for those purposes as the Bann catchment area :