1967. No. 76 [NC]

SUPREME COURT, NORTHERN IRELAND PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 1) 1967

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. For Order LI of the Rules of the Supreme Court (Northern Ireland) 1936(**b**), which relates to sales in the Chancery Division and in Admiralty Actions, there shall be substituted the Order set out in the Schedule hereto.

2. In consequence of provision made by these rules, sections 49 and 50 of the Landed Estates Court (Ireland) Act 1858(**c**), in so far as they apply to Northern Ireland, are hereby repealed.

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1967 and shall come into force on 15th May 1967.

Dated 17th April 1967.

Signed: *MacDermott.*
L. E. Curran.
H. A. McVeigh.
Ch. L. Sheil.
Robert Lowry.
E. W. Jones.
Leonard I. G. Fox.
James J. Napier.

(a) 10 & 11 Eliz. 2. c. 30.
(b) S.R. & O. 1936, No. 70 (II, p. 2559).
(c) 21 & 22 Vict. c. 72.

SCHEDULE *Rule* 1

Order to be substituted for Order LI of the Rules of the Supreme Court

ORDER LI

SALES OF LAND BY ORDER OF COURT AND SALES IN ADMIRALTY ACTIONS

I. Sales, etc. of Land by Order of Court

Interpretation

1. In this Order—

"the Court" includes a Judge whether sitting in Court or in Chambers.

"land" includes any interest in, or right over, land.

Power to order sale of land

2. Where in any cause or matter in the Chancery Division relating to any land it appears necessary or expedient for the purposes of the cause or matter that the land or any part thereof should be sold, the Court may order that land or part to be sold, and any party bound by the order and in possession of that land or part, or in receipt of the rents and profits thereof, may be compelled to deliver up such possession or receipt to the purchaser or to such other person as the Court may direct.

Manner of carrying out sale

3.—(1) Where an order is made, whether in Court or in Chambers, directing any land to be sold, the Court may permit the party or person having the conduct of the sale to sell the land in such manner as he thinks fit, or may direct that the land be sold in such manner as the Court may either by the order or under paragraph (4) direct for the best price that can be obtained, and all proper parties shall join in the sale and conveyance as the Court shall direct.

(2) The party entitled to prosecute the order must—

(*a*) leave a copy of the order at the Chief Clerk's chambers with a certificate that it is a true copy of the order, and

(*b*) subject to paragraph (3), take out a summons to proceed with the order.

(3) Where an order for sale contains directions with regard to effecting the sale, the party entitled to prosecute the order shall not take out a summons under paragraph (2) unless and until he requires the further directions of the Court.

(4) On the hearing of the summons the Court may give such directions as it thinks fit for the purpose of effecting the sale, including, without prejudice to the generality of the foregoing words, directions—

(*a*) appointing the party or person who is to have the conduct of the sale;

(*b*) fixing the manner of sale, whether by contract conditional on the approval of the Court, private treaty, public auction, tender or some other manner;

(*c*) fixing a reserve or minimum price;

(*d*) requiring payment of the purchase money into Court or to trustees or other persons;

(*e*) for settling the particulars and conditions of sale;

(*f*) for obtaining evidence of the value of the property;

(*g*) fixing the security (if any) to be given by the auctioneer, if the sale is to be by public auction, and the remuneration to be allowed him;

(*h*) requiring an abstract of the title to be referred to counsel appointed by the Court for his opinion thereon and to settle the particulars and conditions of sale.

Certifying result of sale

4.—(1) If either the Court has directed payment of the purchase money into Court or the Court so directs, the result of a sale by order of the Court must be certified—

(*a*) in the case of a sale by public auction, by the auctioneer who conducted the sale, and

(*b*) in any other case, by the solicitor of the party or person having the conduct of the sale;

and the Court may require the certificate to be verified by the affidavit of the auctioneer or solicitor, as the case may be.

(2) The solicitor of the party or person having the conduct of the sale must leave a copy of the certificate and affidavit (if any) at the Chief Clerk's chambers and, not later than 2 days after doing so, file the certificate and any affidavit in the Central Office.

Mortgage, exchange or partition under order of the Court

5. Rules 3 and 4 shall, so far as applicable and with the necessary modifications, apply in relation to the mortgage, exchange or partition of any land under an order of the Court as they apply in relation to the sale of any land under such an order.

II. Conveyancing Counsel

Reference of matters to counsel

6. The Court may refer to counsel appointed by the Court—

(*a*) any matter relating to the investigation of the title to any property with a view to an investment of money in the purchase or on mortgage thereof, or with a view to the sale thereof,

(*b*) any matter relating to the settlement of a draft of a conveyance, mortgage, settlement or other instrument, and

(*c*) any other matter it thinks fit,

and may act upon his opinion in the matter referred.

Objection to counsel's opinion

7. Any party may object to the opinion given by any counsel appointed by the Court on a reference under rule 6, and if he does so the point in dispute shall be determined by the Judge either in Chambers or in Court as he thinks fit.

III. Sales in Admiralty Actions

Admiralty Marshal to execute commission

8. Every commission for the appraisement or sale of property under the order of the Judge in Admiralty causes and matters shall unless the Judge shall otherwise order be executed by the Admiralty Marshal or his substitutes.

Payment of proceeds of sale into Court

9. The Admiralty Marshal shall as he receives the same pay into Court the gross proceeds of the sale of any property which shall have been sold by him, and shall at the conclusion of the sale bring into the Taxing Master's Office the account of sale with vouchers in support thereof for taxation by the Taxing Master.

Person interested in proceeds may be heard by Taxing Master

10. Any person interested in the proceeds may be heard before the Taxing Master on the taxation of the Admiralty Marshal's account of expenses and an objection to the taxation shall be heard in the same manner as an objection to the taxation of a solicitor's bill of costs.

EXPLANATORY NOTE

(This note is not part of the rules, but is intended to indicate their general purport.)

Rule 1 revokes and replaces Order LI, which relates to the sale of land in the Chancery Division and sales in Admiralty actions. The procedure prescribed by the new Order is more flexible. The Court may permit the person having conduct of the sale to sell the land in such manner as he thinks fit or may fix the mode of sale itself depending on the circumstances of each particular case.

1967. Nos. 77, 78, 79, 80

These Orders have been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.