STATUTORY RULES AND ORDERS OF A GENERAL CHARACTER ISSUED IN 1969

1969. No. 1 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 1) 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 XXXVI of the Rules of the Supreme Court (Northern Ireland) 1936(b) for rules 23 and 24 there shall be substituted the following rules—

"**23.**—(1) The party entering the action for trial shall deliver to the proper officer of the Central Office a copy of the notice of trial together with two bundles (one of which shall serve as the record and the other be for the use of the Judge) each consisting of one copy of each of the following documents, that is to say—

(*a*) the writ,

(*b*) the pleadings (including any affidavits ordered to stand as pleadings),

(*c*) any notice for particulars and any answer thereto,

(*d*) subject to Order XXII rule 11, any interlocutory notices or summonses, the orders made thereon and all grounding affidavits and statements of fact,

(*e*) where the action is a probate action, the order or consent specifying the place and mode of trial,

(*f*) the requisite legal aid documents.

(2) The party entering an action for trial must thereupon notify the other parties of such entry.

(3) Each of the said bundles must be indexed, paged and bound in the order set out in paragraph (1) and the bundle which is to serve as the record must be stamped with the stamp denoting a payment of the fee payable on the entry of the action and have endorsed thereon the names and addresses of the solicitors for the parties or, in the case of a party who has no solicitor, of the party himself.

(4) The party who has entered the action for trial must deliver to the proper officer two copies of any documents of the nature specified in paragraph (1) which have come into existence between the date of entry for trial and the day preceding the hearing.

(5) In this rule "the requisite legal aid documents" means any document which is required by regulations made under Part I of the Legal Aid and Advice Act (Northern Ireland) 1965.

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

24. Where a third party notice has been issued under Order XVIA, the party issuing the notice (whether with or without leave) must, on receiving notice that the action has been entered for trial or on entering the action for trial (unless the third party proceedings have been disposed of or abandoned), deliver to the proper officer of the Central Office two bundles prepared in accordance with rule 23(3) (one of which shall serve as the record and the other for the use of the Judge) each consisting of one copy of the third party notice and all documents in the third party proceedings corresponding to those specified in rule 23(1)."

2. For Order XLIV there shall be substituted the Order XLIV set out in the Schedule hereto.

3. In Order LXVI, for rule 3 there shall be substituted the following rule—

"**3.**—(1) Every document prepared by a party for use in the Supreme Court must be legibly written or printed, or partly written or partly printed, on paper of durable quality measuring approximately 11·69 inches long by 8·27 inches wide with an inner margin 1·50 inches wide, unless the nature of the document renders the use of paper of such a size impossible.

(2) Copies of all documents required for use in the Supreme Court (otherwise than for filing) or as certified or office copies may, instead of being printed or written, be copies produced by photographic or other process giving a positive and permanent representation free from blemishes."

4. In Order LXX, rule 80, paragraph (*a*) in the definition of "Undefended cause" shall be deleted.

5. In Order LXXXVIII, for rules 6 and 6A there shall be substituted the following rule—

"**6.**—(1) Subject to paragraph (2), the provisions of Order LXVI rule 3 shall apply to all proceedings to which this Order relates.

(2) Order LXVI rule 3(1) shall not apply to a notice to creditors, an affidavit of proof of debt or an instrument appointing a proxy."

6.—(1) These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1969.

(2) This rule and rules 1, 2 and 4 shall come into force on 3rd February 1969, and rules 3 and 5 shall come into force on 1st July 1969.

Dated 1st January 1969.

Signed: *L. E. Curran*
Robert Lowry
A. McGonigal
L. I. G. Fox
James J. Napier

SCHEDULE R.2

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

ORDER XLIV

COMMITTAL

Committal for contempt of Court

1.—(1) The power of the Court of Appeal or the High Court to punish for contempt of court may be exercised by an order of committal.

(2) A single Judge of the High Court may exercise in Court and, subject to the provisions of rule 4, in Chambers the jurisdiction vested in the High Court to make an order of committal and when exercising such jurisdiction shall be deemed to constitute the High Court.

(3) Every order of committal may be directed to any police officer or to such other person as the Court may order.

Application for order of committal

2.—(1) An application for an order of committal may be made by summons supported by an affidavit setting out the grounds on which the committal is sought.

(2) The summons, accompanied by a copy of the affidavit, must be served personally on the person sought to be committed not less than 8 clear days before the day named in the summons for the hearing.

(3) Without prejudice to the powers of the Court of Appeal or the High Court to make an order for substituted service of the summons and affidavit, the Court may dispense with service of the summons and affidavit if it thinks it just so to do.

Where person sought to be committed fails to appear

3. Where on the hearing of the summons the person sought to be committed fails to appear the Court may make an order of committal against him if it thinks it just so to do.

Provisions as to hearing

4.—(1) Subject to paragraph (2), the Court hearing an application for an order of committal may sit in private in the following cases, that is to say—

(*a*) where the application arises out of proceedings relating to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;

(*b*) where the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder or any other incapacitating condition;

(*c*) where the application arises out of proceedings in which a secret process, discovery or invention was in issue;

(*d*) where it appears to the Court that in the interests of the administration of justice or for reasons of public security the application should be heard in private;

but, except as aforesaid, the application shall be heard in open court.

(2) If the Court hearing an application in private by virtue of paragraph (1) makes or decides to make an order of committal against the person sought to be committed, it shall in open court state—

(*a*) the name of that person,

(*b*) in general terms the nature of the contempt of court in respect of which the order of committal is made, and

(*c*) if he is committed for a fixed period, the length of that period.

(3) Except with the leave of the Court hearing an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the affidavit under rule 2(1).

The foregoing provision is without prejudice to the powers of the Court under Order XXVIII rules 6 and 12.

(4) If on the hearing of an application the person sought to be committed expresses a wish to give or call oral evidence on his own behalf, he shall be entitled to do so.

(5) In this rule references to a Court sitting in private include references to a Court sitting in camera or to a Judge in Chambers.

Summons by peremptory order with a view to committal

5. Where a person appears to be guilty of contempt of the Court of Appeal or the High Court, the Court may make a peremptory order requiring such person to appear before it immediately or on a date named in the order to show cause why an order of committal for contempt of court should not be made against him.

Contempt in presence of Judge

6.—(1) Without prejudice to rule 5, any person who, in the presence of a Judge sitting in the Court of Appeal or the High Court, appears to be guilty of contempt of court may immediately be called upon to show cause why an order of committal should not be made against him or he may be ordered to appear on some future date, with or without recognizances, before the Court of Appeal or the High Court, to show cause why an order of committal should not be made against him.

(2) Where the Court of Appeal or the High Court directs that recognizances shall be entered into the Court shall determine the number of sureties, if any, the amount in which the person who appears to be guilty of contempt and any sureties are to be bound and the conditions to be indorsed on the recognizances with a view to the recognizances being taken subsequently.

(3) Any such recognizance may be entered into before the Registrar, who before taking the recognizance of a surety must satisfy himself that the surety is a suitable person to enter into a recognizance.

Power to suspend execution of committal order

7.—(1) The Court by whom an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(2) Where execution of an order of committal is suspended by an order under paragraph (1), the applicant for the order of committal must, unless the Court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that paragraph.

Discharge of person committed

8.—(1) The Court may, on the application of any person committed to prison until further order for contempt of court, discharge him.

(2) Where a person has been committed for failing to comply with a judgment or order requiring him to deliver any thing to some other person or to deposit it in court or elsewhere, and a writ of sequestration has also been issued to enforce that judgment or order, then, if the thing is in the custody or power of the person committed, the sequestrators appointed by the writ of sequestration may take possession of it as if it were the property of that person and, without prejudice to the generality of paragraph (1), the Court may discharge the person committed and may give such directions for dealing with the thing taken by the sequestrators as it thinks fit.

Saving for other powers

9.—(1) Nothing in the foregoing provisions of this Order shall be taken as affecting the power of the Court to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment in like manner as if he had been guilty of contempt of the High Court, to pay a fine or to give security for his good behaviour, and those provisions, so far as applicable, and with the necessary modifications, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

(2) Where, before this Order came into force, provision was made by any rule of the Supreme Court relating to the punishment for contempt of court by means of a writ of attachment, that rule shall be read and construed as if the reference therein to attachment was a reference to an order of committal.

EXPLANATORY NOTE

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

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1936. Rule 1 specifies the documents which must be lodged when entering an action for trial.

Rule 2 revokes Order XLIV, which relates to attachment, and substitutes a new Order XLIV which provides for the punishment for contempt of court by an order of committal. Where the court decides to imprison a person for contempt of court it will do so by making an order of committal whatever the nature of the contempt. A writ of attachment will no longer be used. A single Judge of the High Court may exercise the jurisdiction of the High Court to make an order of committal as provided in rule 1(2) of the new Order. The special cases in which an order for committal may be made in private and the procedure for stating in open court the terms of any order so made, are provided by rule 4 of the Order.

The amendments made by rules 1 and 2 and rule 4, which amends the definition of "Undefended cause" in Order LXX, come into force on 3rd February 1969.

Rules 3 and 5 amend Order LXVI and Order LXXXVIII. The amendments provide for the use in the Supreme Court of the international standard paper size A4 instead of foolscap size which is used at present. These amending rules come into force on 1st July 1969.