1969. No. 177 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 2) 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 XXII rule 1 of the Rules of the Supreme Court (Northern Ireland) 1936(b) immediately after paragraph (3) there shall be inserted the following paragraph—

"(4) No money shall be paid into court without the leave of the Court or a Judge, where, in any cause or matter to which rule 8(1) applies, a settlement is reached subject to the approval of the Court or a Judge or where approval of any such settlement is refused."

2. In Order XXXVI for rules 32, 35, 36, 37 and 37A there shall be substituted the following rules—

"**32.**—(1) The Judge before whom an action is tried (whether with or without a jury) may give directions as to the order in which the cases of the parties are to be presented and the order of speeches at the trial, and, subject to any such directions, the party to begin and the order of speeches shall be that provided by this rule.

(2) Subject to paragraph (6), the plaintiff shall begin.

(3) If the defendant does not adduce evidence the plaintiff may, after the evidence on his behalf has been given, make a second speech closing his case and the defendant shall then state his case.

(4) If the defendant does adduce evidence he may after any evidence on behalf of the plaintiff has been given, open his case and may, if oral evidence on his behalf has been given, make a second speech closing his case and at the close of the defendant's case the plaintiff may make a speech in reply.

(5) Where there are two or more defendants who appear separately or are separately represented, then—

(*a*) if none of them elects to adduce evidence, each of them shall state his case in the order in which his name appears on the record;

(*b*) if each of them elects to adduce evidence, each of them may open his case and the evidence on behalf of each of them shall be given in the order aforesaid and the speech of each of them closing his case shall be made in that order after the evidence on behalf of all the defendants has been given;

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

(*c*) if some of them adduce evidence and some do not, those who do not shall state their case in the order aforesaid after the speech of the plaintiff in reply to the other defendants.

(6) Where the burden of proof of all the issues in the action lies on the defendant or, where there are two or more defendants and they appear separately or are separately represented, on one of the defendants, the defendant or that defendant, as the case may be, shall begin and in that case paragraphs (2), (3) and (4) shall have effect in relation to, and as between, him and the plaintiff as if for references to the plaintiff and the defendant there were substituted references to the defendant and the plaintiff respectively.

(7) Where, as between the plaintiff and any defendant, the party who would, but for this paragraph, be entitled to make the final speech raises any fresh point of law in that speech or cites in that speech any authority not previously cited, the opposing party may make a further speech in reply, but only in relation to that point of law or that authority, as the case may be.

(8) For the purposes of this rule a party shall be deemed to adduce evidence if he puts in a document whether in the course of cross-examination or otherwise.

35.—(1) The Judge shall, at or after the trial, give judgment and such judgment shall be drawn up and filed in the manner provided by Order XLJ rules 1 and 2.

(2) Where a trial is held without a jury and the plaintiff is found to have suffered damage as the result partly of his own fault and partly of the fault of the defendant, the Judge when giving judgment shall state the total damages of the plaintiff and the amount to which those damages are to be reduced.

36. The officer present in court shall at the trial or as soon as practicable thereafter, enter in a register to be kept for that purpose, the following—

(i) the record number of the action;
(ii) the date of the trial;
(iii) the name of the trial Judge and whether the trial was with or without a jury;
(iv) the title of the action;
(v) the names of counsel and of the solicitors;
(vi) the names of any witnesses;
(vii) the questions asked of and the answers given by the jury where the trial was with a jury;
(viii) particulars of the judgment and of all orders, directions and certificates (if any);
(ix) a note of the days on which the trial was held and the time spent at trial during each day on which the trial was held.

37. The Judge by whom a cause or matter is tried, whether with or without a jury, may inspect any place or thing with respect to which any question arises in the cause or matter, and whether or not he inspects it, may authorise the jury to inspect it, subject to any directions he may give.

37A.—(1) The proper officer shall take charge of every document or object put in as an exhibit during the trial of any action and shall mark or label every exhibit with a letter indicating the party by whom it is put in and shall number each party's exhibits consecutively.

(2) The proper officer shall cause a list to be made of all exhibits in the action, and any party may, on payment of the prescribed fee, have an office copy of that list.

(3) The list of exhibits when completed shall be attached to the pleadings and shall form part of the record of the action.

(4) For the purpose of this rule a bundle of documents may be treated and counted as one exhibit.

37B. It shall be the duty of every party to an action who has put in any exhibit to apply to the proper officer immediately after the trial for the return of the exhibit, and, so far as is practicable regard being had to the nature of the exhibit, to keep it duly marked and labelled as before, so that in the event of an appeal to the Court of Appeal or the House of Lords, he may be able to produce the exhibit so marked and labelled at the hearing of the appeal in case he is required by the Court of Appeal, the House of Lords or another party to do so.

37C.—(1) Documents impounded by order of the Court shall not be delivered out of the custody of the Court except in compliance with an order made by a Judge on an application made by summons;

Provided that where the Attorney General when acting on behalf of the Crown makes a written request in that behalf, documents so impounded shall be delivered into his custody.

(2) Documents impounded by order of the Court, while in the custody of the Court, shall not be inspected except by a person authorised to do so by an order of the Judge."

3. For Order XLI there shall be substituted the Order XLI set out in Schedule I hereto.

4. In Order XLII for rule 17 there shall be substituted the following rule—

"**17.**—(1) Every person to whom any sum of money or any costs are payable under a judgment or order shall, so soon as the money or costs become payable, be entitled, subject to paragraphs (2) and (3), to sue out one or more writs of fieri facias to enforce payment thereof.

(2) Except with the leave of the Court or a Judge, a writ of fieri facias shall not issue to enforce payment under a judgment obtained in default of appearance or defence, as the case may be, unless the judgment creditor has first—

(*a*) sent by recorded delivery to the judgment debtor, at his last known or usual place of abode, 7 days before he sues out the writ, a notice in Form 1B of Appendix H giving the judgment debtor notice of the judgment and informing him that a writ of fieri facias may issue by virtue of which his goods may be sold in satisfaction of the amount of money payable under the judgment; and

(*b*) filed in the Central Office a certificate in Form 1C of Appendix H to which is attached the certificate of posting in respect of the notice sent to the judgment debtor by recorded delivery in accordance with this rule.

(3) Where a judgment or order is for payment within a period stated in the judgment or order, a writ of fieri facias shall not be issued until after the expiration of any such period.

(4) Notwithstanding the provisions of rule 11(2) of this Order, a party seeking to issue execution who has not given the certificate prescribed by that rule may issue a writ of fieri facias or other process directing the sheriff to pay the proceeds of the execution into Court.

(5) The praecipe for a writ issued under the preceding paragraph shall be in Form 1B in Appendix G.

(6) The Form of writ of fieri facias issued under paragraph (4) of this rule shall be in Form 1A in Appendix H.

(7) Notice of any payment into Court under this rule shall be given by the under sheriff to the plaintiff, his solicitor or agent and to any other person specified in the judgment, order, or award, and shall be in Form 4A of Appendix B subject to such modifications as may be necessary."

5. In Order LII rule 11 shall be revoked.

6. Order LXII shall be amended as follows—

(1) for rule 23 there shall be substituted the following rule—

"**23.**—(1) An order in the Queen's Bench Division which directs the manner in which any funds in court shall be dealt with must, where appropriate, be in Form 7, 7A or 7B of Appendix M.

(2) The Registrar must send any such order to the Accountant General as soon as practicable after he has signed it."

(2) rule 40 shall be revoked.

7. Order LXV shall be amended as follows—

(1) in rules 2, 3, 4 and paragraph (41) of rule 61 the words "under his hand, on the certificate of the Registrar or other proper officer", shall be deleted.

(2) paragraph (11) of rule 61 shall be deleted.

8. At the end of Order XCI, rule 1, the following paragraph shall be added—

"(2) In these Rules a reference to the marking of judgment shall include a reference to the giving, drawing up and filing of a judgment where the context so permits."

9. Form 19 in Appendix B of the Rules of the Supreme Court shall be revoked.

10. For Form 7 in Appendix M of the Rules of the Supreme Court there shall be substituted the Forms 7, 7A and 7B in Schedule II hereto.

11. For the Forms 1-18 in Appendix F of the Rules of the Supreme Court there shall be substituted the Forms 1-9 in Schedule III hereto.

12. The Forms 1B and 1C in Schedule IV hereto shall be inserted immediately after Form 1A in Appendix H of the Rules of the Supreme Court.

13. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 2) 1969, and come into force on the 1st September 1969.

Date: 27th June 1969.

(Signed) *MacDermott*

Robert Lowry

E. W. Jones

A. McGonigal

Donald Murray

Leonard I. G. Fox

James J. Napier

SCHEDULE I R.3

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

ORDER XLI

JUDGMENTS AND ORDERS

Drawing up of judgments and orders

1.—(1) Subject to paragraphs (3) and (5), every judgment or order shall be—

(*a*) drawn up and signed by or under the direction of a Registrar; and

(*b*) sealed and filed by an officer of the Central Office or the Principal Registry, as the case may be.

(2) A note must be made of every judgment or order by the officer present at the time it is made or given or by the Registrar when made or given by him.

(3) Every judgment or order given or made in Court must be signed by the officer present in Court at the time, and where such officer is not a Registrar the judgment or order, as the case may be, must be counter-signed by a Registrar.

(4) Where a form of judgment is prescribed by Appendix F the judgment must be drawn up as nearly as possible in that form.

(5) An order—

(*a*) which—

(i) extends the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act, or

(ii) grants leave for the doing of any of the acts mentioned in paragraph (6), and

(*b*) which neither imposes any special terms nor includes any special directions other than directions as to costs,

need not be drawn up unless the Court or a Judge otherwise directs.

(6) The acts referred to in paragraph (5)(*a*)(ii) are—

(*a*) the issue of any writ, other than a writ of summons for service out of the jurisdiction;

(*b*) the amendment of a writ of summons or other originating process or a pleading;

(*c*) the filing of any document;

(*d*) any act to be done by an officer of the Court other than a solicitor.

(7) Where a writ is issued or any document is served pursuant to an order, then, unless otherwise provided by these Rules, a note that such an order has been made must be indorsed on the writ or document, as the case may be.

Filing of judgments

2. Every judgment or order received for filing in the Central Office or the Principal Registry, as the case may be, must be filed by an officer of that office and where a judgment or order is received in the Central Office the proper officer shall at the time of filing make a note in the cause book that a judgment or an order has been filed in the cause or matter.

Judgment, etc. requiring act to be done: time for doing it

3.—(1) Subject to paragraph (2), a judgment or order which requires a person to do an act must specify the time after service of the judgment or order, or some other time, within which the act is to be done.

(2) Where the act which any person is required by any judgment or order to do is to pay money to some other person, give possession of any land or deliver any goods, a time within which the act is to be done need not be specified in the judgment or order by virtue of paragraph (1), but the foregoing provision shall not affect the power of the Court to specify such a time and to adjudge or order accordingly.

(3) Where any judgment or order requires a person to do or refrain from doing an act it may further require him, in accordance with and subject to the provisions of this rule, to do any other act which may appear to the Court or a Judge to be necessary to render the judgment or order effective.

Judgment in default of appearance or defence

4.—(1) A party entitled to judgment in default of appearance or defence may obtain judgment by producing the following documents to an officer of the Central Office—

(*a*) the original writ by which the proceedings were begun;

(*b*) the affidavit of service or of no defence delivered, as the case may be; and

(*c*) any affidavit filed under Order XIII rule 16 or Order XXVII rule 8.

(2) Where the provisions of any enactment or these Rules enable a party to any proceedings to obtain judgment on the production of any documents, the officer of the Central Office shall not draw up and file any such judgment until all the documents which the party is required to produce are produced and the officer is satisfied that they are in order.

Date from which judgment or order takes effect

5. A judgment or order takes effect from the day of its date and shall be dated as of the day it is given or made, unless the Court or a Judge orders it to be dated as from some other earlier or later day, in which case it shall be dated as of that other day.

Filing of proper officer's certiffcate

6. Where the amount of a final judgment has been ascertained by the Registrar, Chief Clerk or before the under sheriff the certificate of such officer shall be filed with the judgment.

Judgment, etc., requiring act to be done: order fixing time for doing it

7.—(1) Notwithstanding that a judgment or order requiring a person to do an act specifies a time within which the act is to be done, the Court or a Judge shall, without prejudice to Order LXIV rule 7, have power to make an order requiring the act to be done within another time, being such time after service of that order, or such other time, as may be specified therein.

(2) Where, notwithstanding rule 3(1), or by reason of rule 3(2), a judgment or order requiring a person to do an act does not specify a time within which the act is to be done, the Court or a Judge shall have power subsequently to make an order requiring the act to be done within such time after service of that order, or such other time, as may be specified therein.

(3) An application for an order under this rule must be made by summons and the summons must be served on the person required to do the act in question.

Copies of judgments and orders

8.—(1) In this rule "judgment" includes order.

(2) A copy of a judgment may be a carbon copy of the original except that if the Registrar so directs, the copy of a particular judgment, and if the Registrar so directs, the copy of every judgment of such class as he directs, shall be a photographic copy or a copy produced by type lithography or similar process.

(3) Before a copy of a judgment is issued it must be sealed and stamped "copy" and there must be noted thereon the number of the judgment and the date of filing.

Adaptation of reference to entry of judgment in the Rules

9. Where before this Order came into force any rule of the Supreme Court contained a reference to the entry of judgment that rule shall be read and construed as if the reference to such entry were a reference to the filing of a judgment in accordance with rule 2.

SCHEDULE II Rule 10

Forms to be substituted for Form 7 in Appendix M of the Rules of the Supreme Court

O. LXII r. 23

FORM 7

Record No.

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION

Plaintiff;

and

Defendant.

Date of Order:

By whom made:

Name of guardian (if any):

The Accountant General is hereby directed to make the payments specified below out of the money standing in his books to the credit of the above action and to the separate credit of

Person to be paid	Particulars	Amount to be paid

Total (in words):

Signed:

Registrar.

FORM 7A O. LXII r. 23

Record No.

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION

Plaintiff;

and

Defendant.

Date of Order:

By whom made:

Name of guardian:

The Accountant General is hereby directed to carry over the funds standing in his books to the credit of this action, to an account entitled in this action and separate credit of a minor, and to deal with funds as specified below:

Investments	Amount

Signed:

Registrar.

Date:

FORM 7B O. LXII r. 23

Record No.

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION

Plaintiff;

and

Defendant.

Date of Order:

By whom made:

Name of guardian (if any):

The Accountant General is hereby directed to deal with the funds in Court to the credit of this action as follows:—

Registrar.

Date:

SCHEDULE III Rule 11

Forms to be substituted for the Forms Nos. 1-18 in Appendix F of the Rules of the Supreme Court

No. 1

Judgment in Default of Appearance or Defence in Action for Liquidated Demand

[*Heading as in action*]

[*Date*]

No appearance having been entered [*or* no defence having been delivered] by the defendant herein, it is this day adjudged that the defendant do pay the plaintiff £ and £ costs.

No. 2

Judgment in Default of Appearance or Defence in action for Unliquidated Demand

[*Heading as in action*]

[*Date*]

No appearance having been entered [*or* no defence having been delivered] by the defendant herein, it is this day adjudged that the defendant do pay the plaintiff damages to be assessed.

No. 3

Judgment in default in action relating to detention of goods

[*Heading as in action*]

[*Date*]

No appearance having been entered [*or* no defence having been delivered] by the defendant herein,

It is this day adjudged that the defendant do deliver to the plaintiff the goods described in the writ of summons [*or* statement of claim] as [*here insert description of goods*] or pay the plaintiff the value of the goods to be assessed [and also damages for their detention to be assessed]

or

It is this day adjudged that the defendant do pay the plaintiff the value of the goods described in the writ of summons [*or* statement of claim] to be assessed [and also damages for their detention to be assessed].

No. 4

Judgment in default in action for possession of land

[*Heading as in action*]

[*Date*]

No appearance having been entered [*or* no defence having been delivered] it is this day adjudged that the defendant do deliver up to the plaintiff possession of the land described in the writ of summons [*or* statement of claim].

No. 5

Final judgment after assessment of Damages

[*Heading as in action*]

[*Date*]

The plaintiff having on the day of , 19 , obtained interlocutory judgment herein against the defendant for damages to be assessed, and the amount found due to the plaintiff having been certified at £ as appears from the return to the writ of inquiry or the certificate of the Chief Clerk, as the case may be, filed the day of

It is this day adjudged that the defendant do pay to the plaintiff £ and his costs of this action.

[The above costs have been taxed and allowed at £ as appears by the Taxing Master's Certificate dated day of 19 .][1]

NOTE

(1) **Delete if inapplicable.**

No. 6

General Form of Judgment following Application

[*Heading as in action*]

[*Date*]

Whereas application was made on behalf of the plaintiff/defendant (1)

It is this day adjudged that the defendant do pay the plaintiff £ and his costs of this action

or

the defendant do pay the plaintiff damages to be assessed [and his costs of this action]

or

the defendant do deliver to the plaintiff the goods described in the writ of summons [*or* statement of claim] as [*or* do pay the plaintiff the value of the said goods to be assessed] [and damages for their detention to be assessed and his costs of this action].

[The above costs have been taxed and allowed at £ as appears by the Taxing Master's Certificate dated day of 19 .]

or

the defendant do pay the plaintiff his costs of this action

or

the plaintiff do pay the defendant his costs of this action

or

(2)

NOTES

(1) Here state the nature of and reasons for the application.

(2) Where foregoing examples are inapplicable either alter to suit or set out the nature of the judgment.

No. 7

Judgment after trial before Judge with jury

[*Heading as in action*]

This action was tried on the day(s) of 196 before with a jury of the County of the City of Belfast. Questions were asked of and answered by the jury in relation to the plaintiff's claim [(1)and in relation to the counterclaim by defendant(s) against plaintiff(s)] as follows(2)—

The Judge accordingly gave judgment on 196 as follows:—

*(*a*) that the defendant pay to the plaintiff the sum of £ and his costs of this action;

*(*b*) that the plaintiff pay to the defendant his costs of this action;

*(*c*) that the defendant pay to the plaintiff his costs of the counterclaim in this action

*(*d*) that the plaintiff pay to the defendant the sum of £ and his costs of the counterclaim in this action.

*And the Judge further ordered

Signed by officer present in Court.

Countersigned by Registrar(3).....

Dated day of 19 .

Filed day of 19 .

*Delete where not applicable, or alter if necessary.

NOTES

(1) Delete words in [ ] where there is no counterclaim.

(2) Here set out the questions and answers as recorded stating "not answered" in the case of any question to which no answer was given.

(3) The Registrar must countersign when the officer present in Court was not a Registrar.

No. 8

Contribution by Third Party to Action after trial before Judge with Jury

[*Heading as in action*]

This action was tried on the day(s) of 196 before with a jury of the County of the City of Belfast. Questions were asked of and answered by the jury in relation to the claim by the defendant against the third party as follows(1)—

The Judge accordingly gave judgment on the day of 196 for the defendant/third party as follows—

*(*a*) that the third party pay to the defendant the sum of £ and his costs of the third party proceedings in this action;

*(*b*) that the defendant pay to the third party his costs of the third party proceedings in this action.

*And the Judge further ordered

Signed by the officer present in Court.

Countersigned by Registrar(2).....

Dated day of 19

Filed day of 19

*Delete where not applicable, or alter if necessary.

NOTES

(1) Here set out the questions and answers as recorded which relate to the third party proceedings stating "not answered" in the case of any question to which no answer was given.

(2) The Registrar must countersign where the officer present in Court was not the Registrar.

No. 9

Judgment after trial before Judge without jury

[*Heading as in action*]

This action was tried on the day(s) of 196 before without a jury at the Royal Courts of Justice (Ulster) Belfast [*or as may be*] and the Judge on the day of 19 (1)[having assessed the plaintiff's damages at £ and being of opinion that having regard to the plaintiff's share of responsibility for the damage such damages ought to be reduced to £] gave judgment for the plaintiff/defendant as follows—

*(*a*) that the defendant pay to the plaintiff the sum of £ and his costs of this action; or

*(*b*) that the plaintiff pay to the defendant his costs of this action.

*And the Judge further ordered

Signed by officer present in Court.

Countersigned by Registrar(2).....

Dated day of 19 .

Filed day of 19 .

*Delete where not applicable, or alter if necessary.

NOTES

(1) Delete words in [ ] where damages are not reduced having regard to plaintiff's own fault.

(2) Registrar must countersign where officer present in Court was not a Registrar.

SCHEDULE IV Rule 12

Forms 1B and 1C to be inserted in Appendix H of the Rules of the Supreme Court

FORM 1B O. XLII r. 17(2)

Notice to Judgment Debtor in Default of Appearance or Defence before issue of Writ of Fieri Facias

In the High Court of Justice in Northern Ireland

Between A.B. Plaintiff

and C.D. Defendant.

Take Notice that on 196 (1) judgment was obtained against you in default of appearance/defence(2) and you were ordered by the Court to pay me the sum of £ and £ for costs making in all a sum of £ .

I hereby inform you that unless I receive payment of the said sum of £ before 196 (3) I intend to enforce payment of the said sum by means of a writ of fieri facias under which the under-sheriff may seize and sell your goods and chattels in satisfaction of the said judgment and costs.

.....

Signed by Judgment Creditor or his Solicitor.

Date:

To (4)

IF YOU DO NOT UNDERSTAND THIS NOTICE YOU ARE ADVISED TO CONSULT A SOLICITOR IMMEDIATELY.

NOTES

(1) Insert date of judgment.

(2) Delete whichever not applicable.

(3) Insert date on which application will be made for writ of fieri facias.

(4) Insert name of judgment debtor and send notice by recorded delivery to his last known place of abode.

FORM 1C O. XLII r. 17(2)

Certificate of Posting Notice to Judgment Debtor under Order XLII rule 17. (2)

[*Heading as in Form* 1B]

I , solicitor for the plaintiff (1)

in the above-named action hereby certify that on the 19 , I caused to be posted a notice in Form 1B to the defendant informing him of the amount of the judgment and costs obtained against him. I attach the certificate of posting by recorded delivery.

Signed: .....
Solicitor for the plaintiff.

Date:

NOTE

(1) Where the plaintiff is not represented by a solicitor the plaintiff must sign this notice.

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 and come into force on 1st September 1969.

A new Order XLI, which relates to judgments and orders, is substituted by rule 3 for the existing Order XLI. The new Order XLI, which is set out in Schedule I to these Rules, changes the procedure for the entry of judgment. The new procedure provides for the drawing up and filing of judgments in the offices of the Supreme Court, without the production of a Registrar's certificate or an application by a party to the action. Rule 11 substitutes new forms in Appendix F for the existing forms relating to Queen's Bench judgments. The new forms change the manner in which a judgment is expressed. The defendant is ordered to satisfy the plaintiff's claim in the manner specified in the judgment instead of the judgment merely conferring a right on the plaintiff to recover from the defendant.

The other amendments made by these Rules are of a miscellaneous nature. Rule 1 adds a new paragraph to Order XXII rule 1, which requires the approval of the Court or a Judge before money can be paid into Court in a case involving a person under disability, after a settlement has been reached in the action or where approval of such a settlement is refused. Rule 2 amends Order XXXVI by inserting new rules relating to procedure at the trial of an action. Rule 4 by amending Order XLII requires a judgment creditor, who has obtained judgment in default of appearance or defence, to notify the judgment debtor before he issues a writ of fieri facias to enforce payment of the judgment debt.

The scale of witnesses' expenses prescribed by Order LXV rule 61(11) has been deleted by rule 7(2), leaving witnesses' expenses in the discretion of the Taxing Master on taxation.