1971. No. 39 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 1) 1971

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 XIII, rule 4 of the Rules of the Supreme Court (Northern Ireland) 1936(b) for the words "issue execution upon" there shall be substituted the word "enforce".

2. In Order XVIA, rule 7(2) for the words "execution shall not issue," there shall be substituted the words "judgment shall not be enforced".

3. In Order XVII, rule 8, the words "and in such case if the plaintiff has died execution may issue as in the case provided for by Order XLII rule 24" shall be deleted.

4. In Order XIX, rule 4, immediately after the words "in figures and not in words" there shall be added the words "and where reference is made to a sum of money the sum must be stated in decimal currency, except where the reference is made in particulars which exceed three folios".

5. Order XXVII shall be amended as follows:—

(1) in rule 3 for the words "issue execution upon" there shall be substituted the word "enforce".

(2) in rule 7 the words "and upon the same being so ascertained, a writ of delivery may issue for the same" shall be deleted.

(3) in rule 10 the words "execution on any" shall be deleted, and for the word "issue" in line 12 there shall be substituted the words "be enforced".

6.—(1) In Order XXXVI immediately after rule 20 there shall be inserted the following rule—

"**20A.**—(1) The party entering an action for trial must lodge with the documents required by rule 23(1) a request to the Registrar to enter the action for trial and a certificate of readiness as in Form 19 of Appendix B signed by that party's solicitor, or by the party if he appears in person.

(2) No action shall be entered for trial before a certificate of readiness is lodged."

(2) In Appendix B of the Rules of the Supreme Court immediately after Form 18 there shall be inserted the Form 19 in Schedule 1 hereto.

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

7. In Order XXXVI, rule 43, for the figures "£3 3s." there shall be substituted the figures "£3·15".

8. Immediately after Order XLI rule 1(7) the following paragraph shall be added—

"(8) A judgment or order for the payment of a sum of money must state the sum in decimal currency".

9. Order XLIA shall be amended as follows:—

(1) in rule 13 for the words "No execution shall issue on a" there shall be substituted the word "A" and after the word "Act" in line 2 there shall be inserted the words "shall not be enforced," and for the word "execution" in line 6 there shall be substituted the word "enforcement".

(2) in rule 14 for the words "issuing execution on" there shall be substituted the word "enforcing".

(3) rule 15 shall be deleted.

10. Order XLIB shall be amended as follows:—

(1) in rule 5(1) for the words "execution on the judgment will not issue" there shall be substituted the words "the judgment will not be enforced".

(2) in rule 8(1) for the words "issue execution on" there shall be substituted the word "enforce".

(3) in rule 10(1) for the words "Execution shall not issue on a registered judgment" there shall be substituted the words "A registered judgment shall not be enforced".

(4) in rule 10(2) for the words "execution shall not issue" there shall be substituted the words "the judgment shall not be enforced".

(5) in rule 10(3) for the words "issuing an execution upon" there shall be substituted the word "enforcing".

(6) rule 11 shall be revoked.

11. Order XLIC shall be amended as follows:—

(1) for rule 2 there shall be substituted the following rule:—

"2. Nothing in any of the following Orders:—

XLII (Enforcement of Judgments etc.)

XLIV (Committal)

XLVII (Writ of Possession)

LXXXVIIIA (Proceedings under Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969).

shall apply in respect of any order against the Crown."

(2) rule 4, including the title "Attachment of moneys payable by the Crown," shall be revoked.

12. Order XLII shall be amended as follows:—

(1) for the title to the Order "I Execution," there shall be substituted the title "I Enforcement of Judgments etc.".

(2) in rule 3 for the words "A judgment for the recovery by or payment to any person of money" there shall be substituted the words "An order for the periodic payment of money made by the High Court in exercise of its matrimonial jurisdiction".

(3) rules 4 to 6 inclusive shall be revoked.

(4) rule 8 shall be revoked.

(5) in rule 9 for the words "issue execution" in line 6 there shall be substituted the words "enforce the judgment", for the words "execution issue" in line 9 there shall be substituted the words "the judgment shall be enforced" and for the words "is given to issue execution" in lines 15 and 22 there shall be substituted the words "to enforce is given".

(6) rules 10 to 14 inclusive shall be revoked.

(7) for rule 15 there shall be substituted the following rule:—

"**15.**—(1) Every judgment or order for the recovery of money shall carry interest at the rate specified in the judgment or order from the time of judgment or order was given or made or from such other time as the Court or a Judge may direct.

(2) Subject to any enactment, where no reference is made in the judgment or order to the payment of interest, interest shall be payable at 4 per cent per annum.

(3) Where an order charging land under section 46 of the Judgments (Enforcement) Act (Northern Ireland) 1969 or a charging order on funds stock or shares under section 58 of the said Act provides for the payment of interest, such interest shall be payable at the rate of 4 per cent per annum and shall be payable during the period in which the charge is subsisting."

(8) rules 16 to 25 inclusive shall be revoked.

(9) in rule 28 for the word "execution" there shall be substituted the word "enforcement".

(10) in rule 29, immediately before the word "Nothing" in line 1, there shall be inserted the words "Subject to the Judgments (Enforcement) Act (Northern Ireland) 1969, and to these Rules".

(11) rule 30 shall be revoked.

(12) in rule 31 for the words "execution may issue" there shall be substituted the words "enforcement may be had".

(13) rule 32 shall be revoked.

(14) in rule 34, immediately before the word "If" in line 1, there shall be inserted the words "Subject to the Judgments (Enforcement) Act (N.I.) 1969," and the words "execution or" shall be deleted.

(15) rules 35 and 36 shall be revoked.

13. For Order XLIII there shall be substituted the order set out in Schedule 2 hereto.

14. Order XLV shall be revoked.

15. Order XLVI shall be revoked.

16. Order XLVII shall be amended as follows:—

(1) rules 1 and 2, and rules 10 to 14 inclusive shall be revoked.

(2) in rule 15 for the words "under sheriff" there shall be substituted the words "Enforcement of Judgments Office".

(3) in rule 22 for the words "under sheriff" there shall be substituted the words "Enforcement of Judgments Office," and for the word "execute" there shall be substituted the word "enforce".

(4) rule 23 shall be revoked.

17. Order XLVIII shall be revoked.

18. Order XLVIIIA shall be amended as follows:—

(1) for rule 8 there shall be substituted the following rule:—

"**8.**—(1) A judgment or order against a firm shall not be enforced against any member of the firm except with the leave of the Court or a Judge.

(2) An application for leave to enforce a judgment under this rule against a member of a firm may be made ex parte informally where such member—

(*a*) has appeared in his own name under rule 5 or 6; or

(*b*) has admitted in the pleadings that he is a partner; or

(*c*) has been adjudged to be a partner; or

(*d*) has been individually served, as a partner, with the writ of summons and has failed to appear.

(3) An application for leave to enforce a judgment under this rule against a member of a firm, otherwise than under paragraph (2) shall be made by summons on notice to such member and if such member disputes his liability under the judgment the Court or a Judge may order that his liability be tried and determined in any manner in which any issue or question in an action may be tried and determined.

(4) Except as against any property of the partnership a judgment against a firm shall not render liable, release, or otherwise affect any member thereof who was out of the jurisdiction when the writ was issued, and who has not appeared to the writ, unless he has been made a party to the action under Order XI or has been served within the jurisdiction after the writ in the action was issued."

(2) in rule 10, for the words "no execution shall be issued" there shall be substituted the words "no judgment shall be enforced" and for the words "issue such execution" there shall be substituted the words "enforce such judgment".

19. In Order L rules 18A and 27 shall be revoked.

20. In Order L immediately after Part IV there shall be inserted the following Part:—

"V INTERIM PAYMENTS

Interpretation of Part V

30. In this part of this Order—

"an action for personal injuries" means an action in which there is a claim for damages in respect of personal injuries to the plaintiff or any other person or in respect of a person's death;

"the Court" means a Court or a Judge;

"personal injuries" includes any disease and any impairment of a person's physical or mental condition;

"interim payment" in relation to a defendant, means a payment of any such damages as aforesaid which that defendant may agree, or be ordered to make to or for the benefit of the plaintiff;

any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as next friend to the plaintiff or guardian of the defendant.

Application for interim payment

31. In an action for personal injuries the plaintiff may at any time after the writ has been served on a defendant and the time limited for him to appear has expired, apply to the Court for an order requiring that defendant to make an interim payment.

Manner in which application under rule 31 must be made

32.—(1) An application under rule 31 must be made by summons, stating the grounds on which the application is made, and be supported by an affidavit, which must—

(*a*) verify the special damages, if any, claimed by the plaintiff up to the date of the application;

(*b*) exhibit the hospital and medical reports, if any, relied upon by the plaintiff in support of the application; and

(*c*) if the plaintiff's claim is made under the Fatal Accident Acts 1846 to 1959, contain the particulars mentioned in section 4 of the Fatal Accidents Act 1846(c);

(*d*) depose to facts of which the Court requires to be satisfied, pursuant to rule 33(1).

(2) The summons and a copy of the affidavit in support and any exhibit referred to therein must be served on the defendant against whom the order is sought not less than 10 clear days before the return day.

(3) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown by reason of a change of circumstances.

Order for interim payment

33.—(1) If, on the hearing of an application under rule 31, the Court is satisfied—

(*a*) that the defendant against whom the order is sought (in this paragraph referred to as "the respondent") has admitted liability for the plaintiff's claim; or

(*b*) that the plaintiff has obtained judgment against the respondent for damages to be assessed; or

(c) 9 & 10 Vict. c. 93.

(*c*) that, if the action proceeded to trial the plaintiff would succeed on the question of liability without any substantial reduction of the damages for fault on his part or on the part of any person in respect of whose injury or death the plaintiff's claim arises and would obtain judgment for damages against the respondent, or where there are two or more defendants, against any of them,

the Court may, if it thinks fit and subject to paragraph (2), order the respondent to make an interim payment of such amount as it thinks just, not exceeding a reasonable proportion of the damages which in the opinion of the Court are likely to be recovered by the plaintiff.

(2) No order shall be made under paragraph (1) if it appears to the Court that the defendant, or, if there are two or more defendants, any of them, is not a person falling within one of the following categories, namely—

(*a*) a person who is insured in respect of the plaintiff's claim;

(*b*) a public authority;

(*c*) a person whose means and resources are such as to enable him without hardship to make the interim payment.

(3) Subject to Order XXII, rule 8, the amount of any interim payment agreed or ordered to be made shall be paid to the plaintiff unless the agreement or order provides for it to be paid into Court, and where the amount is paid into Court, the Court may, on the ex parte application of the plaintiff, order the whole or any part of it to be paid out to him at such time or times as the Court thinks fit.

(4) An interim payment may be ordered to be made in one sum or by such instalments as the Court thinks fit.

Directions on application under rule 31

34. Where an application is made under rule 31, the Court may give directions as to the further conduct of the action.

Non-disclosure of interim payment

35. The fact that an interim payment or order under rule 33 has been made shall not be pleaded and no communication of that fact shall be made to the Court at the trial or hearing of the action or of any question or issue as to liability or damages until all questions of liability and the amount of the damages have been decided.

Payment into Court

36. Where, after making an interim payment a defendant pays a sum of money into court under Order XXII, rule 1, the notice of payment must state that the defendant has taken into account the interim payment.

Adjustment on final judgment or order

37. Where a defendant has made an interim payment, the Court may, on giving or making a final judgment or order determining that defendant's liability to the plaintiff in the action, make any such order with respect to the interim payment as may be necessary for giving effect to the determination and in particular—

(*a*) an order for the repayment by the plaintiff of any sum by which the interim payment exceeds the amount which the defendant is liable to pay the plaintiff, or

(*b*) an order for the payment by any other defendant of any part of the interim payment which the defendant who made it is entitled to recover from him by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the plaintiff's claim.

Interim order on counterclaim

38. A defendant who makes a counterclaim for damages in respect of personal injuries to himself or any other person or in respect of a person's death may apply for an order requiring the plaintiff to make an interim payment and this Part of this Order shall apply accordingly with the necessary modifications."

21. In Order LII, rule 2 the words "or (*e*) against an under sheriff to pay money levied under an execution" shall be deleted.

22. In Order LV, rule 11 for the word "execution" there shall be substituted the word "enforcement".

23. Immediately after Order LV there shall be inserted the Order set out in Schedule 3 hereto.

24. Order LVII shall be amended as follows:—

(1) in rule 1, paragraph (b) shall be deleted, and

(2) rules 12, 16 and 17 shall be revoked.

25. In Order LVIII rule 17 for the word "execution" there shall be substituted the word "enforcement".

26. Order LXA, rule 1 shall be amended as follows—

(1) in item (XIII) for the words "Sequestration to enforce payment of costs" there shall be substituted the words "Enforcement of Orders made in exercise of Matrimonial Jurisdiction".

(2) items (XIV), (XV) and (XVII) shall be deleted.

27. In Order LXII, rule 21 the words from "and it shall be the duty of such Assistant Registrar" to the end of the rule shall be deleted.

28. Order LXV shall be amended as follows:—

(1) In rule 1 for the words "forty shillings" there shall be substituted the words "two pounds".

(2) In rule 2 for the words "forty shillings" there shall be substituted the words "two pounds".

(3) In rule 39(*e*) the words "ruled for pounds, shillings and pence" and the words "similarly ruled" shall be omitted.

(4) In regulation (17) of rule 61 for the words "four pence" there shall be substituted the figures "2p".

(5) In regulation (18) of rule 61 for the figures "£4 10 0" there shall be substituted the figures "£4·50"; and for the figures "£3 0 0" there shall be substituted the figures "£3".

(6) In regulation (53) of rule 61 for the figures "£28 7 0" there shall be substituted the figures "£28·35"; for the figures "£18 18 0" there shall be substituted the figures "£18·90" and for the figures "£9 9 0" there shall be substituted the figures "£9·45".

29. Order LXV shall be amended as follows:—

(1) rules 54, 55 and 60 shall be revoked.

(2) in rule 61(54) the words from "In any case" to the end of the regulation shall be deleted.

(3) rules 89, 90 and 91 shall be revoked.

30. Order LXVI shall be amended as follows:—

(1) In rule 5(*c*) the words "upon payment therefor at the rate of one penny per folio" shall be deleted.

(2) In rule 5(*i*) for the words "four pence" there shall be substituted the figures "2p".

31. In Order LXVIII rules 61 and 80 shall be revoked.

32. Order LXIX shall be revoked.

33. Order LXXIV shall be amended as follows:—

(1) immediately after rule 16 the following rule shall be inserted:

"*Notice of presentation of petition*

16A. Notice of the presentation of every petition shall be given by the petitioner to the Enforcement of Judgments Office'.'

(2) immediately after rule 130 the following rule shall be inserted:—

"*Notice of passing of resolution for winding-up*

130A. Notice of the passing of a resolution for voluntary winding-up shall be given by the company to the Enforcement of Judgments Office."

34. In Order LXXIV, rule 97(2), of the Rules of the Supreme Court for the words "four shillings" there shall be substituted the figures "20p"; for the words "two shillings" there shall be substituted the figures "10p"; and for the words "one shilling" there shall be substituted the figures "5p".

35. In Order LXXVI rule 6 shall be revoked.

36. Order LXXIX shall be amended as follows:—

(1) In rule 105(7) for the letters and figures "£0 2s. 6d." there shall be substituted the figures "13p".

(2) In rule 105(11) for the scale of fees therein set out there shall be substituted the following scale:—

"For his certificate 13p.
For filing same 13p.
For office copy to transmit with will or codicil 18p.
For receipt 10p.".

37. In Order LXXXI, rules 3 and 10 for the words "one shilling" wherever they occur there shall be substituted the figures "5p".

38. In Order LXXXIII, rule 8, the letters "£ s d" shall be deleted, for the figures "1 0 0" there shall be substituted the figures "£1"; for the figures "1 11 6" there shall be substituted the figures "£1·58"; for the figures "3 3 0" there shall be substituted the figures "£3·15"; for the figures "0 1 6" there shall be substituted the figures "8p" and for the figures "0 5 0" there shall be substituted the figures "25p".

39. In Order LXXXIV, rule 139, the references to rules 11, 12, 13, 20 and 22 of Order XLII, and the words "and rule 1 of Order XLII" shall be deleted.

40. Order LXXXVIII shall be amended as follows:—

(1) in rule 1 immediately after the definition of "deceased insolvent" insert:

"'Enforcement of Judgments Office' means the office established by section 3 of the Judgments (Enforcement) Act (Northern Ireland) 1969."

(2) rule 32 shall be revoked.

(3) immediately after rule 58 the following rule shall be inserted:

"Notice of presentation of petition

58A. Where a bankruptcy petition is presented and is not immediately disposed of, notice of such presentation shall be given by the petitioner to the Enforcement of Judgments Office."

(4) in rule 61 immediately after paragraph (4) the following paragraph shall be inserted:

"(5) The Official Assignee shall send a copy of the said notice to the Enforcement of Judgments Office."

(5) in rule 99(3) for the words from "under sheriff" to "property is situated" there shall be substituted the words "Enforcement of Judgments Office".

(6) in rule 202(1) immediately after sub-paragraph (*f*) the following sub-paragraph shall be inserted:

"(*ff*) such costs and expenses of enforcement of a judgment against a bankrupt or arranging debtor as are payable under section 84 of the Judgments (Enforcement) Act (Northern Ireland) 1969, when ordered by the Court,".

41. In Order LXXXVIII, rule 79, for the words "ten shillings" wherever they occur there shall be substituted the figures "50p".

42. Order LXXXVIIIA shall be amended as follows:—

(1) in the title for the words *"section 6 of the Debtor's Act (Ireland) 1872"* there shall be substituted the words

"Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969,".

(2) in rule 1 immediately before the definition of "debtor" insert:

" 'the Act' means the Judgments (Enforcement) Act (Northern Ireland) 1969."

(3) in rule 1 of the definition of "judgment summons" for the words "section 6 of the Debtors Act (Ireland) 1872" there shall be substituted the words "section 88 of the Act".

(4) in rule 2 for the words "section 6 of the Debtors Act (Ireland) 1872" there shall be substituted the words "Part VII of the Act".

(5) in rule 3(1) for the word "A" there shall be substituted the words "Subject to rule 8, a".

(6) in rule 3(3)(*c*) for the words "issue execution" there shall be substituted the words "enforce the judgments".

(7) in rule 3(3) immediately after sub-paragraph (*c*) the following sub-paragraph shall be added:

"(*cc*) where the judgment creditor has applied for enforcement of the judgment under the Act, unless an order has been made by the Enforcement of Judgments Office staying such enforcement or the judgment summons is being sought in respect of default by the debtor in paying one or more instalments due under an instalment order made under section 31 of the Act: or"

(8) For rule 6 the following rule shall be substituted:

"**6.**—(1) Where a judgment summons is pending or an order of commitment is outstanding against a debtor in respect of money payable under any judgment, such judgment shall not be enforced under the Act against such a debtor except by leave of the Judge.

(2) Where a judgment summons is issued against a debtor by a judgment creditor who has applied for enforcement of the judgment against such debtor under the Act, such enforcement shall be stayed and the stay shall not be removed, except by leave of the Judge, until the summons is disposed of, and the judgment creditor shall forthwith give notice in writing of the issue of such summons to the Enforcement of Judgments Office.

(3) An application for leave under this rule shall be made in accordance with the provisions of rule 12(2)".

(9) in rule 7(1) paragraph (*b*) shall be deleted and the following paragraph shall be substituted therefor:

"(*b*) make an order under section 88(3) of the Act; or"

(10) rule 7(2) shall be deleted and in rule 7(3) and 7(4) the word "stayed" shall be substituted for the word "suspended".

(11) in rule 9(1) for the word "suspended" there shall be substituted the word "stayed" in lines 6, 9 and 11.

(12) in rule 10 for the word "suspended" there shall be substituted the word "stayed" and the word "stay" shall be substituted for the word "suspension" throughout.

(13) in rule 11(1) for the word "suspended" there shall be substituted the word "stayed".

(14) in rule 21 the words "incurred on an execution" shall be deleted and the following words shall be substituted therefor—

"and expenses incurred in respect of enforcement".

(15) in rule 22 for the words "in the manner provided for writs of execution by rule 20 or Order XLII" there shall be substituted the following words: "from time to time upon the application of the judgment creditor at any time before its expiration".

43. Immediately after Order XCI, rule 1(2) the following paragraph shall be added—

"(3) In these Rules "decimal currency" means the new currency provided for by the Decimal Currency Act 1967 and where it is necessary for the purposes of these Rules to calculate the amount in decimal currency corresponding to an amount in shillings and pence, the calculation shall be made in accordance with Schedule 1 to the Decimal Currency Act 1969."

44. Appendix B shall be amended as follows:—

(1) Forms 25, 27, 28 and 29 shall be revoked.

(2) in Form 51 for the words "and order that execution of" there shall be substituted the words "leave to enforce" and the words "do issue" shall be deleted.

(3) Forms 52, 55 to 59, 61 and 62 shall be revoked.

(4) for Form 54 there shall be substituted the Form set out in Schedule 4 hereto.

45. In Appendix G Forms 1, 1A, 1B and Forms 2 to 9 inclusive shall be revoked.

46. Appendix H shall be revoked.

47. In Appendix L, after Form 40, there shall be inserted the Forms set out in Schedule 5 hereto.

48. Appendix S shall be amended as follows:—

(1) In Part I in item 31 delete the words "judgment", "Lis Pendens" and "Order" and delete item 35.

(2) Part IV shall be deleted.

(3) In Part VI, Scale II paragraphs 2(*d*), (*e*) and (*f*) shall be revoked.

(4) In Part VI, Scale III regulations 2, 3, 4, 5 and 7 shall be revoked and for the words "The Debtors Act (Ireland) 1872" there shall be substituted the words "Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969".

49. Appendix S shall be amended as follows:—

(1) In Part I for the letters "£ s d", wherever occurring, there shall be substituted "£"; for the fees specified in the third column in respect of the numbered items in the first column there shall be substituted the following fees:—

No. of item	Fee £
1	8·00
2	1·25
3	4·50
4	0·75
5	2·50
6	2·25
7	2·50
8	3·00
9	1·50
10	0·50
11	0·50
12	1·50
13	1·50
14	10·00
15	5·00
16	3·00
17	2·00
18	2·50
19	2·50
21	5·00
22	2·00
23	2·00
24	2·00
25	0·75
26	0·05 3·00
27	3·00
28	7·00
29	2·50
30	1·00
31	3·50
32	2·75
33	3·00
34	2·00
35	3·50
36	2·50 1·25
37	1·25
38	2·00
39	0·50
41	1·00 to 3·00

No. of item			Fee £
42			0·07
43			0·07
44			0·20
47			0·07
50	(a)		1·50 to 5·00
	(b)	(i)	1·50 to 6·00
		(ii)	3·00 to 15·00
	(c)		3·00 to 6·00
51			3·00 to 12·00 2·00
52			3·50
			2·00
53			2·50
54			1·00
55			0·75 1·50
			0·50
56			0·38
57	(a)		0·38
59			1·00
60			0·38
			0·50
			0·25
			0·15
			0·25
62			0·50
63			0·25
64			0·10
65			1·00
66			3·15

(2) In Section 1A of Part II for the fees specified in columns (2), (3), (4) and (5) there shall be substituted the following fees:—

(2)	(3)	(4)	(5)
£	£	£	£
3·00	0·70	0·70	1·05
4·50	0·70	0·70	2·10
8·00	0·70	0·70	3·15
9·75	1·50	1·50	5·25
16·75	1·50	1·50	6·30
19·00	1·50	1·50	7·35
27·50	1·50	1·50	8·40
35·00	1·50	1·50	9·45

(3) In Section 1B of Part II for the fees specified in columns (2), (3), (4) and (5) there shall be substituted the following fees:—

(2)	(3)	(4)	(5)
£	£	£	£
14·50	0·75	0·75	4·20
21·00	1·50	1·50	6·30
33·00	1·50	1·50	7·35

(4) In Section 1C of Part II for the fees specified in columns (2), (3), (4) and (5) there shall be substituted the following fees:—

(2)	(3)	(4)	(5)
£	£	£	£
4·75	1·50	1·50	4·20
10·00	1·50	1·50	6·30
14·25	1·50	1·50	8·40

(5) In Section 1D of Part II for the fees specified in columns 1, 2, 3 and 4 there shall be substituted the following fees:—

Column 1	Column 2	Column 3	Column 4
£	£	£	£
2·00	3·00	4·50	7·50
0·20	0·20	0·20	0·20
3·00	4·50	6·50	10·50
4·50	6·75	9·50	15·00
3·15	4·20	4·20	6·30
3·00	5·25	7·50	10·00
0·20	0·20	0·20	0·20
4·50	7·50	10·50	14·50
6·75	10·75	15·00	20·00
4·20	6·30	7·35	9·45

(6) In Section 1E of Part II for the fees specified in columns (2), (3), (4) and (5) there shall be substituted the following fees:—

(2)	(3)	(4)	(5)
£	£	£	£
2·00	3·00	4·50	7·50
0·23	0·23	0·23	0·23
3·00	4·50	6·50	10·50
4·50	6·75	9·50	15·00
3·15	4·20	4·20	6·30
3·00	5·25	7·50	10·00
0·20	0·20	0·20	0·20
4·50	7·50	10·50	14·50
6·75	10·75	15.00	20·00
3·15	5·25	7·35	9·45

(7) In Section 1F of Part II for the fees of appellant's solicitor specified in the second, third, fourth and fifth columns respectively there shall be substituted the following fees:—

Second Column	Third Column	Fourth Column	Fifth Column	
£	£	£	£	
Judge shall allow such sum not exceeding £4·20 as he may think reasonable			1·05	
5·00	0·20	4·00	2·10	£20- £25
			3·15	£25- £50
8·40	0·20	5·75	4·20	£50- £75
			5·25	£75-£100
			7·35	£100-£200
12·00	0·20	7·00	8·40	£200-£300
			9·45	£300-£400
14·70	0·20	8·50	10·50	

and for the fees of respondent's solicitor specified in the second, third and fourth columns respectively there shall be substituted the following fees:—

Second Column	Third Column	Fourth Column	
£	£	£	
Judge shall allow such sum not exceeding £4·20 as he may think reasonable		1·05	
3·50	4·00	2·10	£20- £25
		3·15	£25- £50
6·50	5·75	4·20	£50- £75
		5·25	£75-£100
		7·35	£100-£200
10·25	7·35	8·40	£200-£300
		9·45	£300-£400
12·60	9·50	10·50	

(8) In Section II of Part II for the fees specified in columns 1, 2, 3 and 4 there shall be substituted the following fees:—

Column 1	Column 2	Column 3	Column 4
£	£	£	£
3·50	4·50	6·25	8·25
0·20	0·20	0·20	0·20
3·25	5·50	6·50	9·00
2·75	3·75	6·00	8·00
3·25	5·50	6·50	9·00
4·20	6·30	7·35	9·45

(9) In paragraph 1 of Section III of Part II the following amendments shall be made:—

(*a*) In sub-paragraph A for the words "fifteen shillings" there shall be substituted the figures "75p"; and for the words "One pound ten shillings" there shall be substituted the figures "£1·50".

(*b*) In sub-paragraph B for the fees specified in columns 1 and 2 there shall be substituted the following fees:—

Column 1	Column 2
£	£
0·75	2·25
1·50	4·00

(*c*) In sub-paragraph C for the fees specified in the second and third columns there shall be substituted the following fees:—

Second Column	Third Column
£	£
0·75	2·25
1·50	4·00

(*d*) In sub-paragraph D for the fees specified there shall be substituted the following fees:—

£
1·75
3·25

(10) In paragraph 2 of Section III of Part II the letters "£ s d" shall be omitted; and for the figures "4 4 0" there shall be substituted "£4·20".

(11) The following amendments shall be made to Part III:—

(*a*) In the scale in paragraph 2 the letters "s d" and the figure "O" under the said letters "s d" wherever occurring shall be omitted.

(*b*) For the fees in paragraphs 3 to 8 there shall be substituted the following fees:—

Paragraph	Fee
	£
3	6·50
4	5·00
5	7·50
6	4·00
7	1·50
8	2·00

(12) The following amendments shall be made to Part V:—

(*a*) for the letters "£ s d" wherever occurring substitute the letter "£".

(*b*) for the fees specified in the third column in respect of the numbered items in the first column there shall be substituted the following fees:—

No. of item	Fee	No. of item	Fee
	£		£
1	10·50	12	1·50
2	10·00		to
3	16·00		15·00
4	0·05	13	1·50
5	5·25		to
6	0·35		6·00
7	0·13	14	3·00
8	3·50		to
9	2·50		15·00
10	0·07	15	1·00
11	2·50		
	to		
	8·00		

(13) The following amendments shall be made to Part VI:—

(*a*) In Scale I for the letters "£ s d" substitute the letter "£", and for the fees of "£6:5:0", "£8:15:0", "£12:0:0" and "15:0" there shall be substituted respectively the following fees:— "£6·25", "£8·75", "£12·00" and "£0·75".

(*b*) In Scale II for the letters "£ s d" wherever occurring there shall be substituted the letter "£", and for the fees specified in respect of the numbered items in the first column there shall be substituted the following fees:—

No. of item	Fees		
	£	£	£
1	10·25	13·25	16·00
2 (a)	0·75	1·25	1·25
(b)	Nil	0·75	0·75
(c)	Nil	1·00	1·00

(*c*) In Scale III for the fees specified in paragraph 1(*b*) in respect of the numbered items there shall be substituted the following fees:—

No. of item	Fee
(*b*) (1)	£3·50
(2)	£7·90
(3) (ii)	£3·15
(iii)	£2·25
(iv)	£2·00

(*d*) In paragraph 5 for the figures "£2:2:0" wherever occurring and the figures "£5:5:0" there shall be substituted respectively the figures "£2·10" and "£5·25".

(*e*) In paragraph 8 for the figures "£2:2:0" there shall be substituted the figures "£2·10".

(*f*) In paragraph 9 for the figures "£3:3:0" and "£9:9:0" there shall be substituted respectively the figures "£3·15" and "£9·45".

(*g*) In paragraph 10 for the figures "£1:15:0", "£2:10:0" and "3:6" there shall be substituted respectively the figures "£1·75", "£2·50" and "18p".

50. Appendix Y shall be amended as follows:—

(1) in Part I, Form 74 for the words "[and the Under-Sheriff of]" there shall be substituted the following words "[and the Enforcement of Judgments Office]".

(2) in Part II, Form 1 paragraph 8 shall be deleted and the following paragraph substituted therefor:

"8. That no application has been made under the Judgments (Enforcement) Act (Northern Ireland) 1969 for the enforcement of the said judgment (4) for the following reasons (13)."

Note (13) to Form 1 shall be deleted and the following note shall be substituted therefor:

"(13) Here state reasons, or if such an application has been made, the fact and the outcome thereof is to be stated."

51. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1971 and shall come into force on 15th February 1971.

Date: 1st February 1971.

(Signed) *L. E. Curran*
Robert Lowry
A. McGonigal
James J. Napier
W. J. Jefferson

SCHEDULE 1 RULE 6

Form to be inserted in Appendix B of the Rules of the Supreme Court

No. 19

REQUEST FOR ENTRY AND CERTIFICATE OF READINESS UNDER ORDER XXXVI, RULE 20A

[*Heading as in Form* 1]

To The Registrar

Sir,

I request that you enter this action for trial on or after Monday the day of 19 at the Royal Courts of Justice (Ulster), Belfast
[or] in the County of

I certify on the part of the plaintiff(s)/defendant(s)* (hereinafter called "this party")

(1) that there are no pending interlocutory proceedings by or against this party;

(2) that this party does not intend to commence any (further) interlocutory proceedings before trial;

(3) that, so far as concerns this party, the action is ready for trial.

(Signed)

†Solicitor for
plaintiff(s)/defendant(s)*

*Add name of particular defendant(s) if appearing separately from another defendant.

†Delete these words if party appears in person.

SCHEDULE 2 RULE 13

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

ORDER XLIII

ENFORCEMENT OF ORDERS MADE IN EXERCISE OF MATRIMONIAL JURISDICTION

Application

1.—(1) This order shall apply to every order for the periodic payment of money made by the High Court in the exercise of its matrimonial jurisdiction (hereinafter referred to as a "matrimonial order").

(2) In this order the expression—

"judgment creditor" means the person entitled to payments under a matrimonial order;

"judgment debtor" means the person liable to make payments under a matrimonial order.

Receivers by way of equitable execution

2.—(1) In every case in which an application is made for the appointment of a receiver by way of equitable execution, the Court or a Judge in determining whether it is just or convenient that such appointment should be made shall have regard to the amount due on foot of the matrimonial order, to the amount which may probably be obtained by the receiver, and to the probable costs of his appointment and may, if they or he shall so think fit, direct any inquiries on these or other matters before making the appointment and the order may be made on such terms as the Court or Judge may direct.

(2) An application under paragraph (1) shall be made by summons in Form No. 60 in Appendix B, supported by an affidavit of facts.

(3) An application for leave to sue in the name of the judgment debtor shall, unless otherwise ordered, be made ex parte, and may be disposed of without any formal hearing.

Attachment of debts

3. The Court or a Judge may, upon the ex parte application of the judgment creditor, either before or after any oral examination of the judgment debtor liable under such an order, order that all debts owing or accruing from any other person (hereinafter called the garnishee) to such judgment debtor shall be attached and by the same or any subsequent order it may be ordered that the garnishee shall appear before the Court or a Judge or an officer of the Court, as such Court or Judge, shall appoint, to show cause why he should not pay to the person who has obtained such order the debt due from him to such judgment debtor, or so much thereof as may be sufficient to satisfy the order. In this rule "any other person" shall include a firm, any member of which is resident within the jurisdiction and a garnishee order may be made against any firm in the name of the firm; and any appearance by any member then within the jurisdiction pursuant to any order made under this rule shall be a sufficient appearance by the firm.

Application for order

4.—(1) An application under rule 3 may be made ex parte by lodging with the Registrar an affidavit by the applicant or his solicitor, stating that the

order has been made, and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment debtor, and is within the jurisdiction, and unless otherwise ordered by the Court or 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 judgment debtor within the time limited by Order LII, rule 12, 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 shall bind the debts, due or accruing to the judgment debtor, in the hands of the garnishee.

Making order absolute

5.—(1) If the garnishee pays into Court the amount due from him to the judgment debtor or an amount equal to that payable under the matrimonial order and does not dispute the debt due or claimed to be due from him to such judgment 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.

Enforcement of garnishee order

6.—(1) If the garnishee does not forthwith pay into Court the amount due from him to the judgment debtor, and does not dispute the debt due or claimed to be due from him to such judgment debtor, or if he does not appear, the garnishee order may be enforced as if judgment for the amount payable thereunder had been given against the garnishee.

(2) No order absolute shall be made ordering the garnishee to pay any sum to or for the credit of a person resident outside the scheduled territories, as defined by the Exchange Control Act 1947(**d**), unless there is produced by the applicant a certificate that the Treasury's permission under the said Act has been given unconditionally or upon conditions that have been complied with. The said certificate shall be in Form No. IC in Appendix G.

(3) If it appears to the Court or a Judge that payment by the garnishee to the applicant will contravene the provisions of the said Act, the garnishee may be ordered to pay the amount due, together with the costs of the garnishee proceedings into Court, subject to deduction of his costs if the Court or a Judge shall so order.

Dispute of liability by garnishee

7. If the garnishee disputes his liability, the Court or a Judge may summarily determine the question at issue, or order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in an action may be tried or determined.

Claims of third persons

8.—(1) If it is brought to the notice of the Court or a Judge that the debt sought to be attached belongs to some third person or that any third person has a lien or charge upon it, the Court or Judge may order such third person to appear and state the nature and particulars of his claim upon such debt.

(**d**) 10 & 11 Geo. 6. c. 14.

(2) After hearing any person who attends before the Court or Judge in compliance with an order under paragraph (1), the Court or Judge may summarily determine the questions at issue or may make such other order as it thinks just including an order that any question or issue necessary for determining the validity of the claim of such third person be tried or determined according to the preceding rules of this Order.

Discharge of garnishee

9. Payment made by the garnishee under any such proceedings as aforesaid shall be a valid discharge to him as against the judgment debtor to the amount paid, although such proceedings may be set aside or the order reversed.

Records of proceedings

10. There shall be kept in the Principal Probate Registry a debt attachment book, and in such book entries shall be made of the attachment and proceedings thereon, with names, dates and statements of the amount recovered, and otherwise; and copies of any entries made therein may be taken by any person upon application to the proper officer.

Order imposing charge on securities

11.—(1) The Court or a Judge may, by order impose on any interest to which the judgment debtor is beneficially entitled in such of the securities to which this rule applies as may be specified in the order a charge for securing payment of the amount due under the judgment or order and interest thereon.

(2) Any such order shall in the first instance be an order to show cause, specifying the time and place for further consideration of the matter and imposing the charge until that time in any event.

(3) The securities to which this rule applies are—

(*a*) any government stock, and any stock of any company registered under any general Act of the Parliament of Northern Ireland, including any such stock standing in the name of the Accountant General, and

(*b*) any dividend of or interest payable on such stock.

(4) In this Order "Government stock" means securities of which the principal and interest, if any, are charged directly or by way of guarantee on the Consolidated Fund of Northern Ireland, or of the United Kingdom, being inscribed or registered in Northern Ireland, and funds or stocks on the National Savings Stock Register maintained by trustee savings banks in Northern Ireland.

Application for order under rule 11

12. An application for an order under rule 11 must be made ex parte supported by an affidavit—

(*a*) identifying the matrimonial order to be enforced, stating the amount unpaid under it at the date of the application, and showing that the applicant is entitled to enforce the matrimonial order;

(*b*) specifying the securities on the judgment debtor's interest in which it is sought to impose a charge and in whose name they stand;

(*c*) stating that to the best of the information or belief of the deponent the judgment debtor is beneficially entitled to an interest in the securities in question, describing that interest, and stating the sources of the deponent's information or the grounds for his belief.

Service of notice of order to show cause

13.—(1) Unless the Court or a Judge otherwise directs, a copy of the order under rule 11 to show cause must, at least 7 days before the time appointed thereby for the further consideration of the matter, be served on the judgment debtor, and if he does not attend on such consideration proof of service must be given.

(2) Notice of the making of the order to show cause, with a copy of that order, must as soon as practicable after the making of the order be served—

(*a*) where the order relates to government stock, on the principal office in Belfast of the Bank of Ireland,

(*b*) where the order relates to other stock, on the company concerned,

(*c*) where the order relates to stock standing in the name of the Accountant General, on the Accountant General.

Effect of order to show cause

14.—(1) No disposition by the judgment debtor of his interest in any securities to which an order under rule 11 to show cause relates made after the making of that order shall, so long as that order remains in force, be valid as against the judgment creditor.

(2) Until such order is discharged or made absolute the Bank of Ireland or, as the case may be, a company shall not permit any transfer of any such stock as is specified in the order, or pay to any person any dividend thereof, or interest payable thereon, except with the authority of the Court.

(3) If after notice of the making of such order is served on the Bank of Ireland or a company the Bank or company permits any transfer or makes any payment prohibited by paragraph (2), it shall be liable to pay the judgment creditor the value of the stock transferred or, as the case may be, the amount of the payment made or, if that value or amount is more than sufficient to satisfy the matrimonial order to which such order relates, so much thereof as is sufficient to satisfy it.

Making and effect of charging order absolute

15.—(1) On the further consideration of the matter the Court or a Judge shall, unless it appears that there is sufficient cause to the contrary, make the order absolute with or without modifications.

(2) Where on the further consideration of the matter it appears to the Court that the order should not be made absolute it shall discharge the order.

(3) A charge imposed by an order under rule 11 made absolute under this rule shall have the same effect, and the judgment creditor in whose favour it is made shall, subject to paragraph (4), have the same remedies for enforcing it, as if it were a valid charge effectively made by the judgment debtor.

(4) No proceedings to enforce a charge imposed by an order made absolute under this rule shall be taken until after the expiration of 6 months from the date of the order to show cause.

Discharge, etc., of charging order

16. The Court or a Judge, on the application of the judgment debtor or any other person interested in the securities to which an order under rule 11 relates, may at any time, whether before or after the order is made absolute, discharge or vary the order on such terms (if any) as to costs as it thinks just.

Money in court: charging order

17.—(1) The Court or a Judge may for the purpose of enforcing a judgment or order for the payment of an ascertained sum of money to a person by order impose on any interest to which the judgment debtor is beneficially entitled to any money in court identified in the order a charge for securing payment of the amount due under the matrimonial order and interest thereon.

(2) Any such order shall in the first instance be an order to show cause, specifying the time and place for the further consideration of the matter and imposing the charge until that time in any event.

(3) Rules 12 and 13(1) shall, with the necessary modifications, apply in relation to an application for an order under this rule and to the order as they apply in relation to an application for an order under rule 11 and to such order.

(4) Notice of the making of an order under this rule to show cause, with a copy of that order, must as soon as practicable after the making of the order, be served on the Accountant General.

(5) Rules 14(1), 15(1) and (2) and 16 shall, with the necessary modifications, apply in relation to an order under this rule as they apply in relation to an order under rule 11.

Funds in Court: stop order

18.—(1) The Court or a Judge on the application of a judgment creditor may make an order prohibiting the transfer, sale, delivery out, payment or other dealing with funds in Court or any part thereof or income thereon in which the judgment debtor has an interest without notice to the applicant.

(2) An application for an order under this rule must be made by summons in the cause or matter relating to the funds in court, or, if there is no such cause or matter, by originating summons.

(3) The summons must be served on every person whose interest may be affected by the order applied for and on the Accountant General but shall not be served on any other person.

(4) Without prejudice to the Court's powers and discretion as to costs, the Court may order the applicant for an order under this rule to pay the costs of any party to the cause or matter relating to the funds in question, or of any person interested in those funds, occasioned by the application.

Securities not in court: stop notice

19.—(1) Any person claiming to be beneficially entitled to an interest in any securities to which rule 11 applies, other than securities in court, who wishes to be notified of any proposed transfer of payment of those securities may avail himself of the provisions of this rule.

(2) A person claiming to be so entitled must file in the Principal Probate Registry—

(*a*) an affidavit identifying the securities in question and describing his interest therein by reference to the document under which it arises, and

(*b*) a notice in Form No. 54 in Appendix B, signed by the deponent to the affidavit, and annexed to it, addressed to the Bank of Ireland or, as the case may be, the company concerned, and must serve an office copy of the affidavit, and a copy of the notice sealed with the seal of the Principal Registry, on the Bank or that company.

(3) There must be indorsed on the affidavit filed under this rule a note stating the address to which any such notice as is referred to in rule 20(1) is to be sent and, subject to paragraph (4), that address shall for the purpose of that rule be the address for service of the person on whose behalf the affidavit is filed.

(4) A person on whose behalf an affidavit under this rule is filed may change his address for service for the purpose of rule 20 by serving on the Bank of Ireland, or, as the case may be, the company concerned, a notice to that effect, and as from the date of service of such a notice the address stated therein shall for the purpose of that rule be the address for service of that person.

Effect of stop notice

20.—(1) Where a notice under rule 19 has been served on the Bank of Ireland or a company, then, so long as the notice is in force, the Bank or company shall not register a transfer of any stock of make a payment of any dividend or interest, being a transfer or payment restrained by the notice, without serving on the person on whose behalf the notice was filed at his address for service a notice informing him of the request for such transfer or payment.

(2) Where the Bank of Ireland or a company receive a request for such a transfer or payment as is mentioned in paragraph (1) made by or on behalf of the holder of the securities to which the notice under rule 19 relates, the Bank or company shall not by reason only of that notice refuse to register the transfer or make the payment for longer than 8 days after receipt of the request except under the authority of an order of the Court.

Amendment of stop notice

21. If any securities are incorrectly described in a notice filed under rule 19 the person on whose behalf the notice was filed may file in the office or registry in which the notice was filed an amended notice and serve on the Bank of Ireland or, as the case may be, the company concerned a copy of that notice sealed with the seal of that office or registry, and where he does so the notice under rule 19 shall be deemed to have been served on that Bank or company on the day on which the copy of the amended notice was served on it.

Withdrawal, etc. of stop notice

22.—(1) The person on whose behalf a notice under rule 19 was filed may withdraw it by serving a request for its withdrawal on the Bank of Ireland or, as the case may be, the company on whom the notice was served.

(2) Such request must be signed by the person on whose behalf the notice was filed and his signature must be witnessed by a practising solicitor.

(3) The Court or a Judge, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a notice under rule 19 relates, may by order discharge the notice.

(4) An application for an order under paragraph (3) must be made by originating summons, and the summons must be served on the person on whose behalf the notice under rule 19 was filed.

No appearance need be entered to the summons,

Order prohibiting transfer etc. of securities

23.—(1) The Court or a Judge, on the application of any person claiming to be beneficially entitled to an interest in any government stock or any stock of any company registered under any general Act of Parliament may by order prohibit the Bank of Ireland or, as the case may be, that company from registering any transfer of such part of that stock as may be specified in the order or from paying any dividend thereof or interest thereon.

The name of the holder of the stock to which the order relates shall be stated in the order.

(2) An application for an order under this rule must be made by summons.

No appearance need be entered to an originating summons under this rule.

(3) The Court, on the application of any person claiming to be entitled to an interest in any stock to which an order under this rule relates, may vary or discharge the order on such terms (if any) as to costs as it thinks fit.

Examination in aid of enforcement

24.—(1) If any difficulty shall arise in or about the enforcement of any matrimonial order, any party interested may apply to the Court or Judge ex parte, and the Court or Judge may make such order thereon for the attendance and examination of any party or otherwise as may be just.

(2) Any party entitled to enforce an order may issue and serve a summons on the judgment debtor liable under such matrimonial order requiring him to attend before the Court or Judge to be orally examined as to whether any and what debts are owing to the judgment debtor, and whether the judgment debtor has any and what other property or means of satisfying the order.

(3) The summons under paragraph (2) 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 on the judgment debtor by recorded delivery or personally.

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

(5) An order for attendance under paragraph (1) shall be served personally on such person or persons and within such time as the Court or a Judge shall direct.

(6) Upon the examination the Court or a Judge may make any of the following orders:—

(*a*) an order for the appointment of a receiver by way of equitable execution,

(*b*) a conditional order of garnishee,

(*c*) a charging order or stop order or any order ancillary thereto,

under the preceding rules of this Order.

(7) 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. 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 obtain a copy thereof.

SCHEDULE 3 RULE 23

Order to be inserted after Order LV of the Rules of the Supreme Court

ORDER LVA

SUMMARY PROCEEDINGS FOR POSSESSION OF LAND

Proceedings to be brought by originating summons

1. Where a person claims possession of land which he alleges is occupied solely by a person or persons (not being a tenant or tenants holding over after the termination of the tenancy or a licensee whose license has terminated) who entered into or remained in occupation without his licence or consent or that of any predecessor in title of his, the proceedings may be brought by originating summons in accordance with the provisions of this Order.

Forms of originating summons

2.—(1) Subject to paragraph (2), the originating summons shall be in Form No. 27 in Appendix L.

(2) Where a person claiming possession is unable, after taking reasonable steps, to identify every person occupying the land for the purpose of making him a defendant, the originating summons shall be in Form No. 41 in Appendix L.

Affidavit in support

3. The plaintiff shall file in support of the originating summons an affidavit stating—

(*a*) his interest in the land;

(*b*) the circumstances in which the land has been occupied without licence or consent and in which his claim to possession arises; and

(*c*) where the summons is in Form No. 41 in Appendix L, that he has taken all reasonable steps (describing them) to identify the persons occupying the land who are not named in the summons.

Service of originating summons

4.—(1) Where the plaintiff has identified any person in occupation of the land the originating summons together with a copy of the affidavit in support shall be served on him personally.

(2) Where the plaintiff has not identified every person in occupation of the land, the originating summons shall, in addition to being served on the identified defendants (if any) in accordance with paragraph (1), be served by affixing a copy of it to the main door or other conspicuous part of the premises, unless the Court or a Judge directs service in some other manner.

Application by occupier to be made a party

5. Without prejudice to Order XII rule 37 and Order XVI rule 12, any person not named as a defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as a defendant.

Order for possession

6. An order for possession in proceedings under this Order shall be in Form No. 42 in Appendix L.

Setting aside order

7. The Court or a Judge may, on such terms as may be just, set aside or vary any order made in proceedings under this Order.

SCHEDULE 4 RULE 44

Form to be substituted for Form 54 of Appendix B of the Rules of the Supreme Court

No. 54

AFFIDAVIT AND NOTICE UNDER ORDER XLIII, RULE 18

I, A.B. [*or* C.D. the solicitor of A.B.] of
make oath and say that according to the best of my knowledge, information and belief I am [*or* the said A.B. is] beneficially entitled under the above mentioned settlement [*or as may be*] to an interest in the securities specified in the notice hereto annexed.

Sworn, etc.

This affidavit is filed on behalf of A.B. whose address is

Notice to be annexed to affidavit

To the Governor and Company
of the Bank of Ireland
[or as may be]

Take notice that the securities comprised in and subject to the trusts of the settlement [or as may be] referred to in the affidavit to which this notice is annexed consist of the following, namely [*specify the stock, shares, etc., stating the names in which it stands*].

This notice is intended to stop the transfer of the said securities and not the payment of any dividend thereof or interest thereon [*or* and also the payment of any dividend thereof or interest thereon].

(Signed) A.B. [*or* C.D. *if affidavit sworn by him*].

SCHEDULE 5 RULE 47

Forms to be added to Appendix L of the Rules of the Supreme Court

No. 41

ORIGINATING SUMMONS FOR POSSESSION UNDER ORDER LVA

In the High Court of Justice in Northern Ireland,
Chancery Division

In the matter of

[A.B. Plaintiff

C.D. Defendant (if any) whose name is known to the plaintiff]

Let all persons concerned attend at Chambers at the Royal Courts of Justice, (Ulster), Belfast, on day, the day of 19 , at o'clock, on the hearing of an application by A.B. for an order that he do recover possession of on the ground that he is entitled to possession and that the person(s) in occupation is (are) in occupation without licence or consent.

Dated the day of 19 .

This summons was taken out by of solicitor for the said plaintiff whose address is

[*or when the plaintiff acts in person*

This summons was taken out by the said plaintiff who resides at and is (*state occupation*) and whose address for service is]

Note. Any person occupying the premises who is not named as a defendant by this summons may apply to the Court personally or by counsel or solicitor to be joined as a defendant. If a person occupying the premises does not attend personally or by counsel or solicitor at the time and place above-mentioned, such order will be made as the Court may think just and expedient.

No. 42

ORDER FOR POSSESSION UNDER ORDER LVA

[*Heading as in summons*]

Upon hearing and upon reading the affidavit of filed the day of 19 , It is ordered that the plaintiff A.B. do recover possession of the land described in the originating summons as [and that the defendant do pay the plaintiff £ costs [or costs to be taxed]]

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

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 15th February 1971.

Rule 13 substitutes a new Order XLIII for the existing Order XLIII, which relates to Writs of Fieri Facias etc. The new Order makes provision for the enforcement of orders for the periodic payment of money in matrimonial cases and is consequential on the amendments made by these rules following the enactment of the Enforcement of Judgments Act (Northern Ireland) 1969.

Rule 20 adds a new Part to Order L, which relates to Interlocutory Orders etc. This new Part makes provision for interim payments on account of damages following the enactment of section 20 of the Administration of Justice Act 1969.

Rule 22 inserts a new Order LVA which provides for the recovery of possession of premises from a person whose identity is unknown.

The further amendments made by these rules are of a miscellaneous nature. The majority of these miscellaneous amendments are consequential on the establishment of the Enforcement of Judgments Office. Provision is made for the change to decimal currency. Order XXXVI, which relates to Trial, is amended by the addition of a new rule which requires a party to submit a certificate of readiness before setting a case down for trial.