1973. No. 39 **[NC]**

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 1) 1973

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 30, rule 1 of the Rules of the Supreme Court (Northern Ireland) 1936(b) items (22) and (23) shall be deleted.

2. Immediately after Order 59G there shall be inserted the Order 59H set out in Schedule 1 hereto.

3. In Order 60A for rule 1 there shall be substituted the following rule:—

"**1.**—(1) The Registrar may transact all such business and exercise such jurisdiction in respect of the same as may be transacted or exercised by a Judge in proceedings and matters under the following Orders and rules, namely—

(*a*) Order 3A, rule 4(1) (leave to enter default judgment in a moneylenders' action),

(*b*) Order 7, rules 3 and 4 (change of solicitor),

(*c*) Order 8, rule 1 (renewal of writ),

(*d*) Order 9, rules 4, 10, 12, 18 and 21 (service of writ of summons),

(*e*) Order 12, rules 32, 34 and 37 (appearance),

(*f*) Order 13, rules 1, 19 and 20 (default of appearance),

(*g*) Order 16A, rules 1(2), 5(1)(*b*), 7(2), 8(1) and 9(3) (third party procedure),

(*h*) Order 17, rules 4 and 8 (order to carry on on death and compelling party to proceed),

(*i*) Order 22, rules 4 and 9 (payment out of money lodged in court),

(*j*) Order 27, rules 20 and 21 (hire-purchase actions and mortgage suits),

(*k*) Order 28, rule 1 (amendment of indorsements or pleadings),

(*l*) Order 35, rule 1 (order by consent for trial without pleadings),

(*m*) Order 37, rule 49(1)(*b*) (specification of time),

(*n*) Order 41D (registration of maintenance orders),

(*o*) Order 42 (enforcement of judgments),

(*p*) Order 43 (enforcement of orders made in exercise of matrimonial jurisdiction),

(*q*) Order 48A, rules 1 and 8 (actions by or against a firm),

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

(*r*) Order 54F, rule 4(2) (remittal),

(*s*) Order 55, rule 7 (payment of moneys secured by a mortgage or charge or delivery of possession of property subject to a mortgage or charge),

(*t*) Order 62, rule 39 (payment out, etc., of funds in Court),

(*u*) Order 64, rule 7 (time),

(*v*) Order 93, rule 2 (functions).

(2) In addition to the powers conferred by paragraph (1), the Registrar may—

(*a*) receive a consent and make the same a rule of court for the purposes of the settlement of any action (save in cases under Order 22, rule 8),

(*b*) on consent set aside a judgment entered in default of appearance or defence.

(3) The provisions of this rule shall not operate to give jurisdiction to the Registrar to make an order in a matter directly relating to the liberty of the subject."

4. In Order 84 for rule 82 there shall be substituted the following rule:—

"**82.**—(1) Every application for bail to the High Court where the applicant is in custody shall be made by summons setting out the grounds of the application.

(2) The summons must be in Form 1 of Appendix V and shall issue when received by the Registrar.

(3) The Registrar on the issue of a summons shall—

(*a*) deliver a copy of the summons to the Director of Public Prosecutions and at the same time inform him by telephone of the terms of the application which is being delivered to him,

(*b*) send to the appropriate clerk of the Crown and peace or clerk of petty sessions, as the case may be, a letter requiring him to return all documents in his possession which may be relevant to the application for bail and at the same time inform him by telephone of the terms of the letter which is being sent to him, and

(*c*) subject to any direction by the Court or a Judge, list the application for hearing for a time not later than 7 days from the date on which the summons was issued.

(4) The Registrar shall notify the Director of Public Prosecutions and the Governor of the prison or other place in which the applicant is detained of the time and place of the hearing of the application.

(5) Where an applicant is admitted to bail the Registrar shall forthwith file the order admitting the applicant to bail and such order may be in Form 2 of Appendix V.

(6) The Registrar shall give a copy of the order to the applicant by handing it to the person having custody of him and send a copy of the order to the clerk of the Crown and peace or clerk of petty sessions to whom the letter under paragraph 3(*b*) was sent.

(7) A recognisance may be entered into by or in respect of any applicant before any clerk of petty sessions on the production to him of a copy of the order admitting the applicant to bail."

5. In Appendix V for Forms 1 and 2 there shall be substituted the forms set out in Schedule 2 hereto.

6. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1973 and shall come into force on 2nd April 1973.

Dated 21st February 1973.

(Signed) *Robert Lowry.*
L. E. Curran.
Maurice W. Gibson.
Turlough O'Donnell.
John MacDermott.
Donald Murray.

SCHEDULE 1 Rule 2

Order to be inserted after Order 59G of the Rules of the Supreme Court

ORDER 59H

Appeal to the High Court by case stated from a Value Added Tax Tribunal under section 13 of the Tribunals and Inquiries Act 1971

Interpretation

1. In this Order—

"the Act" means the Tribunals and Inquiries Act 1971,

"the Court" means the Court or a Judge thereof,

"proper officer" means a member of the administrative staff of a tribunal authorised to accept service of documents under or pursuant to the Value Added Tax Tribunal Rules 1972 or any rules substituted therefor,

"tribunal" means a Value Added Tax Tribunal for Northern Ireland constituted in accordance with Schedule 6 to the Finance Act 1972.

Appeal from tribunal by case stated

2.—(1) A party dissatisfied in point of law with a decision of a tribunal may require the tribunal to state and sign a case for the opinion of the Court which sets forth the precise point of law involved in the decision with which the appellant is dissatisfied and which states concisely such facts and refers to such documents as may be necessary to enable the Court to decide any question on which the determination of the point of law may depend.

(2) The requisition to state a case shall set out the precise point of law involved in the decision with which the appellant is dissatisfied and where the appeal is against part of the decision only that part must be specified.

Special case stated

3. Where in the course of any proceedings before a tribunal a question of law arises, which in the opinion of the Chairman should be decided by the Court before the determination of such proceedings, the tribunal may state a special case for the opinion of the Court.

Time for appealing

4.—(1) The requisition to state a case under rule 2 must be lodged with the proper officer within a period of 21 days commencing on the day the decision of the tribunal was sent to the appellant by the proper officer.

(2) A copy of the requisition must be sent by the appellant to the Registrar and every other party to the proceedings.

Time for stating case

5.—(1) A case stated must be settled and sent to the appellant within a period of 6 weeks commencing on the day the requisition was lodged with the proper officer.

(2) The appellant or if there is more than one, the party whose name first appears on the requisition shall be the party having carriage, unless the Court otherwise directs.

Entering case stated

6. The party having carriage of a case stated must within 14 days of receiving the case stated from the proper officer—

(*a*) lodge the case stated with a duly stamped requisition for entering with the Registrar, and

(*b*) serve a copy of the case stated on any other party to the proceedings giving him notice of such entry.

Entering special case stated

7.—(1) The proper officer shall lodge a special case stated by a tribunal under section 13(2) of the Act with the Registrar as soon as it is perfected and send copies of the case stated to the parties.

(2) The Registrar on receipt of the special case stated shall enter the case for hearing not earlier than 8 days after the date of lodgment and notify the parties and the proper officer of the tribunal of such entry.

Service of documents

8.—(1) Any document required by these rules to be served, lodged or sent to any person may be sent by recorded delivery or delivered—

(*a*) in the case of a document directed to the Registrar, to the Royal Courts of Justice (Ulster), Chichester Street, Belfast BT1 3JF,

(*b*) in the case of a document directed to any party, to his address for service or in the absence of such an address to his last known address or place of business in the United Kingdom or if a party is a company to the company's registered office, and

(*c*) in the case of a document directed to the proper officer to the administrative office of the tribunal.

(2) A document sent by recorded delivery shall be deemed, unless the contrary is shown, to have been served on the third day after the day on which it was sent.

(3) In this rule "document" includes a notice.

Application for order to state case

9. Where a tribunal refuses or fails to state a case under section 13(1) of the Act the appellant may, within 21 days after the date of such refusal or failure, apply by summons to the Court for an order directing the tribunal to state a case within the time limited by the order.

Powers of the Court

10. On the hearing of a case stated the Court shall have power—

(*a*) to give any decision which might have been given by the tribunal,

(*b*) to remit the matter with the opinion or direction of the Court for rehearing, determination or if it thinks fit for amendment by the tribunal,

(*c*) to give such directions to the tribunal as the Court may consider appropriate.

Bringing of an appeal by case stated

11. The bringing of an appeal by case stated shall not operate as a stay of proceedings on the judgment, determination or other decision against which the appeal is brought unless the Court or the tribunal by whom the decision was given so orders.

SCHEDULE 2 Rule 5

Forms to be substituted for Forms 1 and 2 in Appendix V of the Rules of the Supreme Court

FORM 1

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION (CROWN SIDE)

IN THE MATTER of[1] ..... an applicant for bail

TAKE NOTICE THAT[1] .....

of ..... [2]hereby applies to the Queen's Bench Division for an order that he be released from custody [pending his trial] [*or* while on remand] [*or* pending the hearing of his appeal] [3]upon such terms and conditions as the Court may think just.

The grounds on which this application is made are as follows[4]:

In the event of the applicant being admitted to bail the following persons would be willing to stand as sureties for the due surrender of the applicant to his bail:

Name[5] .....

Address .....

Occupation .....

Name[5] .....

Address .....

Occupation .....

Dated ..... 197.... Signed .....
[6]Applicant or Solicitor for the Applicant

To:
The Registrar of the Supreme Court[7].

NOTES

(1) Insert full name of applicant.

(2) Here state place in which he is confined.

(3) Delete whichever is not applicable.

(4) Set out the grounds on which the application is made.

(5) The names of a surety or sureties may be inserted here. It is not necessary to give the names of sureties at this stage, but giving their names will facilitate the release of the applicant if the application is successful.

(6) Where the applicant is not represented by a solicitor, the applicant must sign the summons.

(7) *Two copies of this Form must be completed.* Where completed by the applicant in person they must be sent to the Registrar by the Governor of the prison or other place where the applicant is detained.

(8) No affidavit is required in support of this application.

FOR USE BY THE GOVERNOR OF PRISON OR BORSTAL

Name of Applicant .....

Has the applicant engaged a solicitor for this application? .....

If so, state name and address of solicitor .....

.....

Offence .....

Court and Date of committal or remand .....

*Date to which remanded .....

*Date and Court to which committed .....

*Delete whichever not applicable.

Where application is made following an appeal:

(*a*) Is the appeal against conviction or sentence or both? .....

(*b*) Sentence imposed .....

(*c*) Court to which appeal lies .....

Name of Police Officer in charge of case .....

FORM 2

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEEN'S BENCH DIVISION (CROWN SIDE)

_____

day of , 197

_____

IN THE MATTER of

an applicant for bail.

_____

UPON APPLICATION by the above named applicant by summons issued , 197

IT IS ORDERED that be admitted to bail himself in the sum of £ with sufficient surety/ies, each in the sum of £ for the personal appearance of the said before the

Registrar.

EXPLANATORY NOTE

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

These rules make certain miscellaneous amendments to the Rules of the Supreme Court (Northern Ireland) 1936.

Rule 1 amends Order 30, rule 1, which relates to Side Bar Orders, by the deletion of items 22 and 23. Item 22, under which specific delivery of a chattel in default of appearance may be required by means of a Side Bar Order, has not been replaced and item 23, which relates to the carrying on of an action following a death, is specifically delegated under Order 60A, rule 1 as item *(h)*.

Rule 2 inserts a new Order 59G. This Order makes provision for appeals to the High Court by way of case stated from a Value Added Tax Tribunal for Northern Ireland constituted under Schedule 6 of the Finance Act 1972.

Rule 3 substitutes in Order 60A a new rule 1 for the existing rule 1 which delegates certain powers of a Judge to the Registrar. The new rule is a re-enactment of the existing provisions.

Rule 4 substitutes a new rule 82 relating to bail, for the existing rule in Order 84. The new rule makes certain changes in connection with an application for bail to the High Court designed to simplify the procedure in such applications. Where an applicant is granted bail the Court order admitting him to bail will be filed forthwith. A shortened form of order is prescribed as Form 2 of Appendix V. Paragraph (7) of rule 82 enables a recognisance to be entered into in respect of any applicant before any clerk of petty sessions on the production to him of a copy of the order admitting the applicant to bail.

1973. No. 40

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