

1979 No. 432

JUDICATURE, NORTHERN IRELAND
SUPREME COURT, NORTHERN IRELAND
PROCEDURE

Rules of the Supreme Court (Northern Ireland) (Amendment No. 4) 1979

Made 7th December 1979
Coming into operation 2nd January 1980
To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(a) to make, amend or revoke rules regulating the pleading, practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise these powers and all other powers enabling us in that behalf as follows:

1. Order 74 of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended as follows:—

(1) in rules 5, 6, 8, 16, 49(3), and 50(2), for the words “the Central Office” there shall be substituted the words “the Bankruptcy and Companies Office”;

(2) after rule 9 there shall be inserted the following rule:—

“Jurisdiction of Master (Bankruptcy) in relation to winding-up petitions

10.—(1) Subject to any general or special directions of the Chancery Judge the Master (Bankruptcy) may hear a petition for the winding-up of a company where the substantial ground of the petition is the inability of the company to pay its debts, and may make a winding-up order thereon.

(2) The Master (Bankruptcy) may refer to a Judge any such petition which he thinks should be heard by a Judge and the Judge may either hear the petition or, after or without hearing the parties, refer it back to the Master, with such directions as he thinks fit.

(3) A matter referred under this rule shall, in accordance with the directions of the Judge, either be listed for hearing by the Judge or be restored to the Master’s list.

(4) Any person affected by an order of the Master in the exercise of his jurisdiction under this rule may appeal to a Judge.

(5) Order 96, rule 1, shall apply to an appeal under this rule with the substitution of the words “in court” for the words “in chambers” in paragraph (1).”;

(3) in rule 12 the following paragraph shall be added after paragraph (2)—

“(3) The notice of the motion or the summons by which an application is made shall be issued out of the Bankruptcy and Companies Office.”;

(a) 1978 c. 23

(b) S.R. & O. 1936 No. 70 (II, p. 2559)

(4) in rule 17 for the words from "Every petition" to "hearing" there shall be substituted the words,

Unless the Court otherwise directs, every petition shall be advertised not less than seven clear days after it has been served on the company (where such service is required) and not less than seven clear days before the day fixed for the hearing,";

(5) in rule 29, for the words "in the Central Office and leave a copy thereof at the Chambers of the Judge", there shall be substituted the words "in the Bankruptcy and Companies Office";

(6) in rule 126—

(a) in paragraph (1) the item relating to costs and expenses of enforcement of a judgment against the company shall be deleted;

(b) in paragraph (2) the words "subject to paragraph (2A)" shall be added at the commencement and the words "under the Act or the rules" shall be deleted;

(c) after paragraph (2) there shall be added the following rule—

"(2A). The costs, charges and expenses of any person employed by a liquidator may, if they do not exceed the sum of £200, be paid and allowed by the liquidator without taxation; so, however, that the Court may require such costs, charges and expenses to be taxed."

(7) Rule 130B shall be revoked.

2. Order 75 shall be amended as follows:—

(1) in rule 5 there shall be added the following paragraph—

"(2) The petition shall be presented in the Bankruptcy and Companies Office.";

(2) in rule 6 there shall be added the following paragraph—

"(3) The summons shall be issued out of the Bankruptcy and Companies Office.";

(3) in rule 9—

(a) in paragraph A, for the words "Central Office of the High Court" there shall be substituted the words "Bankruptcy and Companies Office";

(b) in paragraph F, for the words "Central Office" there shall be substituted the words "Bankruptcy and Companies Office".

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 4) 1979 and shall come into force on 2nd January 1980.

Dated the 22nd day of November 1979.

*Lowry
Donald Murray
J. B. E. Hutton
E. M. Doris
Owen Catchpole*

I concur

Hailsham of St. Marylebone, C.

Dated the 7th day of December 1979.

EXPLANATORY NOTE

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

1. These rules amend Order 74 of the Rules of the Supreme Court (Northern Ireland) 1936 relating to the winding-up of companies and Order 75 relating to other proceedings under the Companies Act (Northern Ireland) 1960.

2. Provision is made for a petition to wind-up a company on the ground of inability to pay its debts to be heard by the Master (Bankruptcy), subject to the right to adjourn the hearing to a Judge.

3. A winding-up petition against a company is not to be advertised until 7 clear days after service of the petition on the company.

4. Provision is made for a liquidator to pay costs and expenses of a person employed by him, up to a sum of £200, without taxation.

5. Amendments are made to Order 74 consequential upon the repeal of section 84(1) of the Judgments (Enforcement) Act 1969 (costs and expenses of enforcement in bankruptcy of company winding-up) by the Judgments Enforcement and Debts Recovery (Northern Ireland) Order 1979.

6. Other amendments to Order 74 and the amendments to Order 75 effect the transfer of functions in relation to companies from the Central Office to the Bankruptcy and Companies Office.