

1979 No. 86

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

**Rules of the Supreme Court (Northern Ireland)
(Transitional Rules) 1979**

Made 21st March 1979

Coming into operation 18th April 1979

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. In the Rules of the Supreme Court (Northern Ireland) 1936(b), the Orders specified in column 1 of Schedule 1 hereto are hereby revoked to the extent specified in column 2 of that Schedule.

2. The Orders set out in Schedule 2 hereto shall be inserted in the Rules of the Supreme Court (Northern Ireland) 1936 in the places appropriate to their number and shall have effect accordingly.

3. The Rules of the Supreme Court (Northern Ireland) 1936 and the Criminal Appeal (Northern Ireland) Rules 1968(c) shall have effect subject to the amendments set out in Schedule 3 hereto.

4. The General Orders made by the Lord Chief Justice under section 118 of the Lunacy Regulation (Ireland) Act 1871(d) (which Orders, by virtue of paragraph 4 of Schedule 6 to the said Act, become rules of court) shall have effect subject to the amendments set out in Schedule 4 hereto.

5. Where immediately before the date of the commencement of these Rules, any cause or matter was pending—

(a) in a division of the High Court of Justice in Northern Ireland, such cause or matter shall be treated as pending on that date in the division to which it would have been assigned by Order 94 set out in Schedule 2 hereto;

(b) in the Department of the Affairs of Patients, such cause or matter shall be treated as pending on that date in the Family Division.

6. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Transitional Rules) 1979 and shall come into operation on 18th April 1979.

(a) 1978 c. 23

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

(c) S.R. & O. (N.I.) 1968 No. 218 (p. 918)

(d) 1871 c. 22

Dated the 21st day of March 1979.

Signed :

Robert Lowry
E. W. Jones
A. McGonigal
John MacDermott
Donald Murray
J. B. E. Hutton
R. D. Carswell
E. M. Doris
Owen Catchpole

I concur

Elwyn-Jones, C.

23rd March 1979.

SCHEDULE 1

Part revocation of Rules of the Supreme Court (Northern Ireland) 1936

Column 1 <i>Order</i>	Column 2 <i>Extent of Revocation</i>
Order 1	Rule 3
Order 5	Rule 2
Order 11	In rule 6, the words from "and 'In the matter'" to the end
Order 22	In rule 1(1), the word "and" in sub-paragraph (a) and the whole of sub-paragraph (b)
Order 34	Rule 8
Order 36	Rules 51, 52 and 54 to 58
Order 41	The whole Order
Order 43	The whole Order
Order 49	Rule 7
Order 54	Rules 19 to 21
Order 55	Rule 2
Order 59	In rule 1, the words "Judge of Assize or", "as the case may be" and "or sub-section (4)" Rules 8(1)(a), 10 and 12
Order 60A	Rule 3
Order 62	Rules 1 to 33, 36 to 70 and 72 to 85
Order 65	Rule 1 In rule 19 the words "or any Divisional or other Courts thereof" Rule 64 Appendix S, Part II
Order 70	Rules 1 to 68 and 69 to 81
Order 74	Rules 4, 10 and 26
Order 84	Rules 1, 3, 4, 5, 7, 8 to 20, 22, 23, 25, 33 to 50, 52 to 67, 88 to 93, 98 to 141, 148 to 158, 161 to 169, 199 to 215 and 217
Order 88A	In rule 1(1), the words from "the Judge" to "such Judge". the words from "Messenger" to "assistant messenger". In rule 14, the words "the Registrar shall give notice thereof to the judgment creditor". "the Registrar shall inform" and "who" Rule 24
Order 91	In rule 1(1): the first sentence; the words from "Admiralty Registrar" to the words "Clerk of the Crown and Peace", where those words last occur; the words from "Lord Chief Justice" to the words "King's Coroner and Attorney"; the words from "the Acts" to the words "the Supreme Court of Judicature (Ireland) Act, 1877 (40 and 41 Vict. c. 57)"

SCHEDULE 2

ORDER 41

JUDGMENTS

Interpretation

1. In this Order “judgment” includes order, decision or direction.

Drawing up judgments

2.—(1) Every judgment shall—

- (a) subject to rules 3 and 7(1), be drawn up and signed by the proper officer of the appropriate office; and
- (b) be sealed and filed by an officer of that office and such officer shall at the time of filing enter such judgment in the book kept for the purpose and the date of filing shall be deemed to be the date of such entry.

(2) The officer shall at the time of filing make a note in the cause book that a judgment has been filed in the cause or matter.

(3) Where a judgment is given by a judge a note of the judgment shall be made by the officer present at the time it is given.

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

Judgments required to be drawn up

3.—(1) Subject to paragraph (2), every judgment of the Court shall be drawn up unless the Court otherwise directs.

(2) An order—

(a) which—

- (i) extends the period within which a person is required or authorised by these Rules, or by any judgment, to do any act, or
- (ii) grants leave for the doing of any of the acts mentioned in paragraph (3), and

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

need not be drawn up unless the Court otherwise directs.

(3) The acts referred to in paragraph (2)(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.

Judgment requiring act to be done: time for doing it

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

(2) Where the act which any person is required by any judgment 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 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.

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

5.—(1) Notwithstanding that a judgment which requires a person to do an act specifies a time within which the act is to be done, the Court shall, without prejudice to Order 64, 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 4(1), or by reason of rule 4(2), a judgment requiring a person to do an act does not specify a time within which the act is to be done, the Court 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.

Judgment in favour of reversioner for detention of goods

6.—(1) Where a claim relating to the detention of goods is made by a partial owner whose right of action is not founded on a possessory title, any judgment given in respect of the claim shall, notwithstanding anything in section 3(3) of the Torts (Interference with Goods) Act 1977(a), be for the payment of damages only.

In this paragraph "partial owner" means one of two or more persons having interest in the goods, unless he has the written authority of every other such person to sue on the latter's behalf.

(2) This rule is without prejudice to the remedies and jurisdiction mentioned in section 3(8) of the said Act of 1977.

Judgment in default of appearance or defence

7.—(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 certificate of no defence delivered, as the case may be;
- (c) any affidavit filed under Order 13, rule 16, or Order 27, rule 8, and
- (d) a judgment duly drawn up by the party.

(2) Where the provisions of any statutory provision 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 sign 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 takes effect

8.—(1) A judgment of the Court takes effect from the day of its date.

(2) Such a judgment shall be dated as of the day on which it is given, unless the Court orders it to be dated as of some other earlier or later day, in which case it shall be dated as of that other day.

Copies of judgments

9. 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.

ORDER 94

BUSINESS IN THE SUPREME COURT

PART I

DISTRIBUTIONS AMONGST DIVISIONS OF THE HIGH COURT

Assignment to Chancery Division

1. There shall be assigned to the Chancery Division—
 - (a) all causes and matters for any of the following purposes—
 - (i) the administration of the estates of deceased persons;
 - (ii) the dissolution of partnerships or the taking of partnership or other accounts;
 - (iii) the redemption or foreclosure of mortgages;
 - (iv) the raising of portions or other charges on land;
 - (v) the sale and distribution of the proceeds of property subject to any lien or charge;
 - (vi) the execution of trusts, charitable or private;
 - (vii) the rectification, setting aside or cancellation of deeds or other written instruments;
 - (viii) the specific performance of contracts between vendors and purchasers of land, including contracts for leases;
 - (ix) the partition or sale of land;
 - (b) proceedings under section 17 of the Married Women's Property Act 1882(a);
 - (c) all proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1977 and the Companies Acts (Northern Ireland) 1960 and 1978;
 - (d) all other causes and matters which under, by virtue of or in pursuance of any statutory provision were assigned to the Chancery Judge or the Chancery Division of the High Court of Justice in Northern Ireland.

Assignment to Queen's Bench Division

2. There shall be assigned to the Queen's Bench Division—
 - (a) all causes and matters civil and criminal which were within the jurisdiction of the Queen's Bench Division of the High Court of Justice in Northern Ireland immediately before the coming into force of Part II of the Act, except such as by this Order are assigned to the Chancery Division or the Family Division;
 - (b) the Admiralty jurisdiction of the High Court;
 - (c) proceedings under Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969(b), except such proceedings as by this Order are assigned to the Family Division;
 - (d) all causes and matters not assigned by this Order or any other statutory provision to another division.

Assignment to Family Division

3. There shall be assigned to the Family Division—
 - (a) all causes and matters in relation to—
 - (i) the grant and revocation of probate of wills and letters of administration of estates of deceased persons;

- (ii) divorce, nullity of marriage, judicial separation, or jactitation of marriage, or, subject to rule 1, any matter arising therefrom or connected therewith; a decree of presumption of death and dissolution of marriage; and any other matters with respect to which rules of court may be made by virtue of Article 54(1) of the Matrimonial Causes (Northern Ireland) Order 1978(c);
 - (iii) wardship, adoption and guardianship of minors:
- (b) proceedings under—
- (i) the Maintenance Orders (Facilities for Enforcement) Act 1920(d), Part II of the Maintenance Orders Act 1950(e) and the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(f);
 - (ii) the Legitimacy Declaration Act (Ireland) 1868(g);
 - (iii) section 13(8) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966;
 - (iv) Part VII of the Judgments (Enforcement) Act (Northern Ireland) 1969 in relation to orders made in matrimonial proceedings for the payment of money or by the Enforcement of Judgments Office in relation to the enforcement of such orders;
- (c) proceedings for a declaration with respect to a person's matrimonial status;
- (d) all jurisdiction in relation to patients exercisable before the coming into force of section 28 of the Act by the Lord Chief Justice or any other person under the Lunacy Regulation (Ireland) Act 1871(h) or any other statutory provision or by virtue of Her Majesty's Sign Manual.

PART II

ASSIGNMENT OF BUSINESS TO DEPARTMENTS

Central Office

4. There shall be transacted in the Central Office—

- (a) all business in connection with causes and matters assigned to the Queen's Bench Division;
- (b) all business in connection with the jurisdiction of the Court of Appeal;
- (c) all the business heretofore transacted in the Registrar's Department of the Supreme Court of Judicature of Northern Ireland, except such business as by this Order is assigned to any other department.

Chancery Office

5. There shall be transacted in the Chancery Office all business in connection with causes and matters assigned to the Chancery Division, except such business as by this Order is assigned to the Central Office or the Bankruptcy and Companies Office.

Bankruptcy and Companies Office

6. There shall be transacted in the Bankruptcy and Companies Office all business in connection with proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1977 and the Companies Acts (Northern Ireland) 1960 and 1978, except such business as by this Order is assigned to the Central Office.

(c) S.I. 1978 1045 (N.I. 15)

(d) 1920 c. 33

(e) 1950 c. 37

(f) 1966 c. 35 (N.I.)

(g) 1868 c. 20

(h) 1871 c. 22

Probate and Matrimonial Office

7. There shall be transacted in the Probate and Matrimonial Office all business in connection with causes and matters assigned to the Family Division, except such business as by this Order is assigned to the Central Office or the Office of Care and Protection.

Office of Care and Protection

8. There shall be transacted in the Office of Care and Protection all business in connection with causes or matters assigned to the Family Division under rule 3(a)(iii) or (d).

Taxing Office

9. There shall be transacted in the Taxing Office—

(a) the taxation of—

- (i) all costs in civil proceedings in the High Court and Court of Appeal;
 - (ii) all costs in criminal proceedings in the Crown Court and Court of Appeal;
 - (iii) all costs of or incidental to any proceedings before an arbitrator or umpire or before a tribunal or other body constituted by or under any statutory provision (not being proceedings in the Supreme Court) where such costs are, by virtue of any statutory provision, taxable in the High Court;
 - (iv) all costs taxable pursuant to an order made by the Taxing Master under the Solicitors (Ireland) Act 1849(i) or Article 66(2) of the Solicitors (Northern Ireland) Order 1976(j);
 - (v) all other costs which under any statutory provision are required to be taxed or assessed by the Master (Taxing Office);
- (b) the measurement of a liquidator's remuneration pursuant to Order 74, rule 33;
- (c) the measurement of an accountant's remuneration pursuant to Order 88, rule 200.

(i) 1849 c. 53

(j) S.I. 1976 582 (N.I. 12)

ORDER 95

APPLICATIONS AND PROCEEDINGS IN CHAMBERS

Powers of judge in chambers

1. A judge of the High Court may exercise in chambers all or any part of the jurisdiction vested in the High Court in all such causes and matters and in all such proceedings in any causes or matters as may be directed or authorised by these Rules or by or in pursuance of any statutory provision to be heard in chambers.

Adjournment of hearing

2.—(1) The hearing of a summons may be adjourned from time to time, either generally or to a particular date, as may be appropriate.

(2) If the hearing is adjourned generally, the party by whom the summons was taken out may restore it to the list on 2 clear days' notice to all the other parties on whom the summons was served.

Proceedings in absence of party failing to attend

3.—(1) Where any party to a summons fails to attend on the first or any resumed hearing thereof, the Court may proceed in his absence if, having regard to the nature of the application, it thinks it expedient so to do.

(2) Before proceeding in the absence of any party the Court may require to be satisfied that the summons or, as the case may be, notice of the time appointed for the resumed hearing was duly served on that party.

(3) Where the Court hearing a summons proceeded in the absence of a party, then, provided that any order made on the hearing has not been perfected, the Court, if satisfied that it is just to do so, may re-hear the summons.

(4) Where an application made by summons has been dismissed without a hearing by reason of the failure of the party who took out the summons to attend the hearing, the Court, if satisfied that it is just to do so, may allow the summons to be restored to the list.

Order made ex parte may be set aside

4. The Court may set aside an order made ex parte.

Subpoena for attendance of witness

5.—(1) A writ of subpoena ad testificandum or a writ of subpoena duces tecum to compel the attendance of a witness for the purpose of proceedings in chambers may be issued out of the Central Office or the Probate and Matrimonial Office, as the case may be, if the party who desires the attendance of the witness produces a note from a judge or master, authorising the issue of the writ.

(2) Any master may give such a note or may direct that the application for it be made to the judge before whom the proceedings are to be heard.

Application to make order of House of Lords order of High Court

6. An application to make an order of the House of Lords an order of the High Court may be made ex parte by affidavit to a master.

Jurisdiction of masters

7.—(1) A master shall have power to transact all such business and exercise all such jurisdiction as may be transacted and exercised by a judge in chambers, except in respect of the following matters and proceedings, that is to say—

- (a) matters relating to criminal proceedings;
- (b) matters relating to the liberty of the subject;
- (c) applications to review any taxation of costs;
- (d) applications under section 32 of the Act for leave to institute or continue legal proceedings;
- (e) applications for approval of transactions under the inherent jurisdiction of the court;
- (f) the granting of an injunction, except in the terms agreed by the parties to the proceedings in which the injunction is sought;
- (g) application to sanction a compromise, arrangement or transaction on behalf of a person under disability;
- (h) applications concerning charities;
- (i) applications under section 40 of the Trustee Act (Northern Ireland) 1958(a) for the appointment of a trustee in substitution for an existing trustee without his consent;
- (j) applications to authorise transactions relating to trust property under section 56 of the Trustee Act (Northern Ireland) 1958;
- (k) applications to vary trusts under section 57 of the Trustee Act (Northern Ireland) 1958;
- (l) applications by trustees to be relieved from personal liability under section 61 of the Trustee Act (Northern Ireland) 1958;
- (m) applications under section 111(2) of the Mental Health Act (Northern Ireland) 1961(b) to bring proceedings against a person;
- (n) any other matter or proceeding which by any of these Rules or under any general or special directions of the Lord Chief Justice or, in the case of the Master (Chancery) or the Master (Bankruptcy), the Chancery Judge, is required to be heard only by a judge.

(2) Where an originating summons raises for the determination of the Court a question as to the construction of a document or a question of law, nothing in paragraph (1) shall authorise a master to determine that question.

Reference of matter to judge

8.—(1) A master may refer to a judge any matter which he thinks should properly be decided by a judge, and the judge may either dispose of the matter or, after or without hearing the parties, refer it back to the master, with such directions as he thinks fit.

(2) 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.

Power to direct hearing in court

9.—(1) The judge in chambers may direct that any summons, application or appeal shall be heard in court or shall be adjourned into court to be so heard if he considers that by reason of its importance or for any other reason it should be so heard.

(a) 1958 c. 23 (N.I.)

(b) 1961 c. 15 (N.I.)

(2) Any matter heard in court by virtue of a direction under paragraph (1) may be adjourned from court into chambers.

Masters may summon parties, etc.

- 10.—(1) For the purpose of any proceedings before him, a master may
- (a) issue a summons requiring any party to the proceedings to attend before him,
 - (b) at the request of any such party, issue a summons requiring any person to attend him as a witness,
 - (c) require the production of documents, and
 - (d) examine any party or witness either orally or on interrogatories.

(2) A summons under paragraph (1)(b) must be served personally on the person against whom it is issued.

(3) If a person refuses or fails to obey a summons duly served on him under this rule the master may make an order requiring that person to attend before him.

Obtaining assistance of experts

11. If the Court thinks it expedient in order to enable it better to determine any matter arising in proceedings in chambers, it may obtain the assistance of any person specially qualified to advise on that matter and may act upon his opinion.

Adjournment into or from court

12. The hearing of any summons or other application in chambers may be adjourned from chambers into court and subsequently from court into chambers.

Disposal of matters in chambers

13. The judge may by any judgment or order made in court in any proceedings direct that such matters (if any) in the proceedings as he may specify shall be disposed of in chambers.

Papers for use of Court, etc.

14. The original of any document which is to be used in evidence in proceedings in chambers must, if it is available, be brought in and copies of any such document or of any part thereof shall not be made unless the Court directs that copies of that document or part be supplied for the use of the Court or be given to the other parties to the proceedings.

ORDER 96

APPEALS FROM MASTERS, CIRCUIT REGISTRARS AND JUDGES

Appeals from certain decisions of masters, etc., to judge in chambers

1.—(1) Without prejudice to Order 55, rules 74 and 75, and except as provided by rule 2, an appeal shall lie to a judge in chambers from any judgment, order or decision of a master, or, in the exercise of any probate or matrimonial jurisdiction, a circuit registrar.

(2) The appeal shall be brought by serving on every other party to the proceedings in which the judgment, order or decision was given or made a notice to attend before the judge on a day specified in the notice.

(3) Unless the Court otherwise orders, the notice must be issued within 5 days after the judgment, order or decision appealed against was given or made and served not less than 2 clear days before the day fixed for hearing the appeal.

(4) Except so far as the Court may otherwise direct, an appeal under this rule shall not operate as a stay of the proceedings in which the appeal is brought.

Appeals from certain decisions of the Master (Queen's Bench and Appeals)

2. An appeal shall lie to the Court of Appeal from any judgment, order or decision of the Master (Queen's Bench and Appeals) given or made on an assessment of damages under Order 36, rule 46, or otherwise.

Appeal from a judge in chambers

3. Subject to section 35 of the Act (which restricts appeals) and without prejudice to section 44 of the Act (which provides for an appeal in cases of contempt of court) an appeal shall lie to the Court of Appeal from any judgment, order or decision of a judge in chambers.

Appeal from judgment, etc., of judge in interpleader proceedings

4.—(1) Any judgment, order or decision of a judge given or made in summarily determining under Order 57, rule 8 or 9, any question at issue between claimants in interpleader proceedings shall be final and conclusive against the claimants and all persons claiming under them unless leave to appeal to the Court of Appeal is given by the judge or the Court of Appeal.

(2) Where an interpleader issue is tried by a judge (with or without a jury), an appeal shall lie to the Court of Appeal, without the leave of the judge or that Court, from any judgment, order or decision given or made by the judge on the trial.

(3) The time within which notice of appeal under this rule must be served shall be the same as in the case of an appeal from an interlocutory order.

ORDER 97

APPLICATIONS FOR JUDICIAL REVIEW

Procedure for application for judicial review

1. There shall be a procedure, to be known as an application for judicial review, under which application may be made to the Court for one or more of the following forms of relief, that is to say, relief by way of—

- (a) an order of mandamus;
- (b) an order of certiorari;
- (c) an order of prohibition;
- (d) a declaration;
- (e) an injunction.

Exercise of jurisdiction in a criminal case or matter

2.—(1) Save as otherwise provided by this Order and subject to paragraph (3) and to rules 3(3) and 8(1), in a criminal cause or matter the jurisdiction of the Court or in connection with an application for judicial review shall be exercised by three judges sitting together.

(2) Where the Lord Chief Justice so directs, such jurisdiction may be exercised by two judges.

(3) In vacation any jurisdiction under this rule may, where necessary, be exercised by a single judge.

(4) No appeal shall lie from an order made by a judge exercising jurisdiction under paragraph (3), but an application may be made by motion within 10 days to the Court, constituted in accordance with paragraph (1) or (2), to set aside or discharge the order and to substitute such other order as the Court may think fit.

(5) Where in accordance with paragraph (2) a matter is heard before two judges and those judges differ in opinion, it shall be re-heard and determined by three judges.

(6) Notwithstanding this rule, any jurisdiction on consent may be exercised by a single judge in accordance with section 16(5) of the Act.

Grant of leave to apply for judicial review

3.—(1) Leave of the Court shall be obtained in accordance with this rule before any application for judicial review, other than an application for an order of certiorari by the Attorney General acting on behalf of the Crown, is made.

(2) An application for leave must be made *ex parte* by lodging in the Central Office—

- (a) a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought, and
- (b) an affidavit or affidavits, as the case may require, verifying the facts relied on.

(3) The jurisdiction of the Court to consider and determine an application for leave may be exercised by a judge while sitting in chambers.

(4) Without prejudice to its powers under Order 28, rule 12, the Court hearing an application for leave may direct or allow the applicant's statement to be amended, whether by specifying different or additional grounds or relief or otherwise, on such terms, if any, as it thinks fit.

(5) The Court shall not, having regard to section 18(4) of the Act, grant leave unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

(6) Such leave shall not be granted if, having regard to the nature of the persons and bodies against whom relief may be granted by way of an order of mandamus, prohibition or certiorari, the Court is satisfied that the case is one in respect of which relief could not be granted by way of any such order.

(7) Where leave is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgment, order, conviction or other proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the Court may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

(8) If the Court grants leave, it may impose such terms as to costs and as to giving security as it thinks fit.

(9) The Court on considering an application for leave may make an order granting relief by way of an order of mandamus, certiorari or prohibition where it considers that in the special circumstances of the case such an order should be made forthwith.

(10) Upon consideration of an application for leave the Court may direct the applicant to appear before it and no application for leave shall be refused without first giving the applicant an opportunity of being heard.

(11) In a criminal cause or matter the Court shall, for the purposes of paragraph (9), or a refusal of leave under paragraph (10), be constituted in accordance with rule 2.

(12) The applicant shall be informed of the result of the application, unless it has been decided in his presence.

(13) Where leave to apply for judicial review is granted, then (without prejudice to the generality of section 19 of the Act)—

- (a) if the relief sought is an order of prohibition or certiorari and the Court so directs, the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the Court otherwise orders;
- (b) if any other relief is sought, the Court may at any time grant in the proceedings such interim relief as could be granted in an action begun by writ.

Delay in applying for relief

4. Without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made, where leave to apply for relief by way of judicial review has not been sought within three months after the date of the proceeding, act or omission complained of, the Court shall not grant such leave or relief unless it is satisfied that the granting of the relief sought would not cause hardship to or unfairly prejudice the rights of any person.

Mode of applying for judicial review

5.—(1) Where leave has been granted to make an application for judicial review, the application shall be made to the Court by originating motion, and the grounds relied on and the relief granted shall only be one or more of those specified in the application.

(2) The application shall be grounded on the original statement and affidavit or affidavits lodged in support of the application for leave.

(3) The notice of motion must be served on all persons directly affected and, where it relates to any proceedings in or before a court and the object of the application is either to compel the court or an officer of the court to do any act in relation to the proceedings or to quash them or any order made therein, the notice must also be served on the clerk or registrar of the court and, where any objection to the conduct of the judge is to be made, on the judge. For the purpose of this paragraph the expression "court" and "judge" shall be deemed to include a tribunal and the president or chairman of a tribunal respectively.

(4) Unless the Court granting leave has otherwise directed, there must be at least 10 days between the service of the notice of motion and the day named therein for hearing.

(5) The originating motion must be issued within 14 days after the grant of leave or else leave shall lapse.

(6) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the notice of motion must be filed before the motion is entered for hearing and, if any person who ought to be served under this rule has not been served, the affidavit must state that fact and the reason for it; and the affidavit shall be before the Court on the hearing of the motion.

(7) If on the hearing of the motion the Court is of opinion that any person who ought, whether under this rule or otherwise, to have been served has not been served, the Court may adjourn the hearing on such terms (if any) as it may direct in order that the notice may be served on that person.

(8) Except in a criminal cause or matter, the Court of Appeal may hear and determine an application for an order under this rule where it has granted leave under rule 3 on appeal from the refusal of such leave by the Court.

Statements and affidavits

6.—(1) Copies of the statement in support of the application for leave under rule 3 must be served with the notice motion and, subject to paragraph (2), no grounds shall be relied upon nor any relief sought at the hearing except the grounds and relief set out in the statement.

(2) Without prejudice to its powers under Order 28, rule 12, the Court may on the hearing of the motion direct or allow the applicant to amend his statement, whether by specifying different or additional grounds or relief or otherwise, on such terms, if any, as it thinks fit and may allow further affidavits to be used if they deal with new matters arising out of an affidavit of any other party to the application.

(3) Where the applicant intends to ask to be allowed to amend his statement or to use further affidavits, he shall give notice of his intention and of any proposed amendment to every other party.

(4) Each party to the application must apply to every other party on demand and on payment of the proper charges, copies of every affidavit which he proposes to use at the hearing including, in the case of the applicant, the affidavit or affidavits in support of the application for leave under rule 3.

Claim for damages

7.—(1) On an application for judicial review the Court may, subject to paragraph (2), award damages to the applicant if—

- (a) he has included in the statement in support of his application for leave under rule 3 a claim for damages arising from any matter to which the application relates, and
- (b) the Court is satisfied that, if the claim had been made in a separate action begun by the applicant at the time of making his application, he would have been entitled to such damages.

(2) Order 19 shall apply to a statement relating to a claim for damages as it applies to a pleading.

Application for discovery, interrogatories, cross-examination, etc.

8.—(1) Unless the Court otherwise directs, any interlocutory application in proceedings on an application for judicial review may be made to a judge in chambers.

In this paragraph “interlocutory application” includes an application for an order under Order 31 or Order 37, rule 1, or for an order dismissing the proceedings by consent of the parties.

(2) In relation to an order made by a master pursuant to paragraph (1), Order 96, rule 1, shall have effect as if a reference to the Court were substituted for the reference to a judge in chambers.

(3) In a criminal cause or matter no appeal shall lie from an order made by a judge pursuant to paragraph (1), but an application may be made by motion within 5 days to the Court, constituted in accordance with rule 2, to set aside or discharge the order and to substitute such other order as the Court may think fit.

(4) This rule is without prejudice to any statutory provision or rule of law restricting the making of an order against the Crown.

Hearing of application for judicial review

9.—(1) On the hearing of any motion under rule 5, any person who desires to be heard in opposition to the motion, and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that he has not been served with notice of the motion.

(2) Where the relief sought is or includes an order of certiorari to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the motion he has lodged in the Central Office a copy thereof verified by affidavit or accounts for his failure to do so to the satisfaction of the Court hearing the motion.

(3) Where an order of certiorari is made in any such case as is referred to in paragraph (2), the order shall, subject to paragraph (4), direct that the proceedings shall be quashed forthwith on their removal into the Queen's Bench Division.

- (4) Where
- (a) the relief sought is an order of certiorari, and
 - (b) the Court is satisfied that there are grounds for quashing the decision in issue,

the Court may, instead of quashing the decision, remit the matter to the lower deciding authority concerned, with a direction to reconsider it and reach a decision in accordance with the ruling of the Court, or may reverse or vary the decision of the lower deciding authority.

(5) Subject to section 18(6) of the Act, the Court may direct pleadings to be delivered or authorise or require oral evidence to be given where this appears to the Court to be necessary or desirable.

(6) Where the Court directs pleadings to be delivered, it may order the proceedings to continue as if they had been begun by writ.

Right of appeal

10. Leave shall not be required for an appeal to the Court of Appeal from—

- (a) an order refusing an application for leave under rule 3; or
- (b) an order granting or refusing an application for judicial review.

Injunction concerning public office

11. The provisions of this Order shall apply to an application under section 24 of the Act as they apply to an application for judicial review.

ORDER 98

APPLICATIONS FOR WRIT OF HABEAS CORPUS

Application for writ of habeas corpus ad subjiciendum

1.—(1) Subject to paragraph (2), an application for a writ of habeas corpus ad subjiciendum shall be made ex parte or by originating notice of motion to the Court.

(2) An application for a writ of habeas corpus ad subjiciendum relative to the custody, care or control of a minor shall be made ex parte or by originating summons to a judge in chambers who shall for this purpose be deemed to constitute the Court.

(3) The application must, subject to paragraph (4), be supported by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(4) Where the person restrained is unable for any reason to make the affidavit required by paragraph (3), the affidavit may be made by some other person on his behalf and that affidavit must state that the person restrained is unable to make the affidavit himself and for what reason.

Power of court to which ex parte application made

2.—(1) Where an application is made ex parte, the court may make an order forthwith for the writ to issue or may direct that an application be made—

- (a) by originating motion where the application is made in court, or
- (b) by originating summons where the application is made in chambers.

(2) The summons or notice of motion must be served on the person against whom the issue of the writ is sought and on such other persons as the Court may direct, and, unless the Court otherwise directs, there must be at least 8 clear days between the service of the summons or notice and the date named therein for the hearing of the application.

Copies of affidavits to be supplied

3. Every party to an application under rule 1 must supply to every other party on demand and on payment of the proper charges copies of the affidavits which he proposes to use at the hearing of the application.

Power to order release of person restrained

4.—(1) Without prejudice to rule 2(1), the Court hearing an application for a writ of habeas corpus ad subjiciendum may in its discretion order that the person restrained be released, and such order shall be a sufficient warrant to any governor of a prison, constable or other person for the release of the person under restraint.

(2) Where such an application in a criminal cause or matter is heard by a single judge and the judge does not order the release of the person restrained, he shall direct that the application be made by originating motion to a court consisting of two or more judges.

Directions as to return of writ

5. Where a writ of habeas corpus ad subjiciendum is ordered to issue, the Court by which the order is made shall give directions as to the Court before which, and the date on which, the writ is returnable.

Service of writ and notice

6.—(1) Subject to paragraphs (2) and (3), a writ of habeas corpus ad subjiciendum must be served personally on the person to whom it is directed.

(2) If it is not possible to serve such writ personally, or if it is directed to a governor of a prison or other public official, it must be served by leaving it with a servant or agent of the person to whom the writ is directed at the place where the person restrained is confined or restrained.

(3) If the writ is directed to more than one person, the writ must be served in manner provided by this rule on the person first named in the writ, and copies must be served on each of the other persons in the same manner as the writ.

(4) There must be served with the writ a notice, in Form No. 75A in Appendix V, stating the Court before which and the date on which the person restrained is to be brought and that in default of obedience proceedings for committal of the party disobeying will be taken.

Return to the writ

7.—(1) The return to a writ of habeas corpus ad subjiciendum must be indorsed on or annexed to the writ and must state all the causes of the detainer of the person restrained.

(2) The return may be amended, or another return substituted therefor, by leave of the Court before which the writ is returnable.

Procedure at hearing of writ

8. When a return to a writ of habeas corpus ad subjiciendum is made, the return shall first be read, and motion then made for discharging or remanding the person restrained or amending or quashing the return, and where that person is brought up in accordance with the writ, his counsel shall be heard first, then the counsel for the opposite party, and then one counsel for the person restrained in reply.

Bringing up prisoner to give evidence, etc.

9.—(1) An application for a writ of habeas corpus ad testificandum or of habeas corpus ad respondendum must be made ex parte on affidavit to a judge in chambers.

(2) An application for an order to bring up a prisoner, otherwise than by writ of habeas corpus, to give evidence in any cause or matter, civil or criminal, before any court or tribunal must be made ex parte on affidavit to a judge in chambers.

Form of writ

10. A writ of habeas corpus must be as nearly as possible in Form No. 75, 76 or 77 in Appendix V.

ORDER 99

CO-ORDINATION OF EXERCISE OF JURISDICTION IN RELATION TO PERSONS UNDER
DISABILITY*Application*

1. The rules of this Order shall apply for the purposes of avoiding conflict and of co-ordinating jurisdiction exercised in relation to any person under disability.

Interpretation

2. In this Order—

“the assigned judge” includes any judge who exercises jurisdiction in a cause or matter assigned to the assigned judge referred to in section 29 of the Act;

“the seised judge” means any judge, including the assigned judge, referred to in section 29 of the Act, who exercises jurisdiction in any other cause or matter;

the expressions “the assigned judge” and “the seised judge” include a master when exercising the corresponding jurisdiction;

“patient” means a person under disability, other than minority, the management of whose affairs is under the control of the Court;

“person under disability” means a person who is a minor or a person who by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961(a) is incapable of managing and administering his property and affairs.

Powers of seised judge

3.—(1) Where a cause or matter affecting a person under disability is brought before the seised judge or any question affecting such a person arises in a cause or matter so brought, the seised judge may—

(a) make an order making a minor a ward of court, if he considers it proper to do so, and shall thereupon transfer the matter of the wardship to the assigned judge;

(b) refer the question of wardship to the assigned judge;

(c) where a question arising in the proceedings affects the welfare (including the care, custody and control) or property of a person under disability either—

(i) refer the question to the assigned judge; or

(ii) make such order as he considers necessary to dispose of the question (not being an order which conflicts with an order previously made in wardship proceedings in Northern Ireland affecting a minor).

(2) Any order made under paragraph (1)(c)(ii) may be varied or discharged by the seised judge or the assigned judge.

Report by seised judge

4. The seised judge shall, when he makes an order under rule 3(1), furnish to the Office of Care and Protection for the use of the assigned judge a report on the relevant facts and proceedings together with such observations and recommendations as he thinks fit.

Powers of assigned judge

5. The assigned judge, when a cause or matter is transferred to him or a question is referred to him, may proceed as if it had originated before him.

Disability to be indorsed on writ etc.

6.—(1) Where a person under disability who is a party to or otherwise affected by a cause or matter, other than a wardship application or a matter relating to patients, is a ward of court or a patient, this must be stated in the indorsement on the writ of summons or in the petition, originating summons or originating motion, as the case may be.

(2) Where a person becomes a ward of court or a patient while a cause or matter is pending, the party acting on behalf of that person must amend the proceedings so as to comply with paragraph (1) and give notice of the amendment to any other party.

Transmission of order

7. If the seised judge makes an order—

- (a) which relates to a person under disability and which brings him within the jurisdiction of the Office of Care and Protection;
- (b) which makes a minor a ward of court;
- (c) which relates to or affects a ward of court or a patient; or
- (d) which the judge directs to be transmitted pursuant to this rule,

a copy of the order shall be transmitted by the department in which the order is drawn up to the Office of Care and Protection.

ORDER 100

THE OFFICIAL SOLICITOR

Duties of Official Solicitor

1.—(1) The Official Solicitor shall conduct such investigations and render such assistance as may be authorised under these Rules or required by any direction of a court for the purpose of assisting the court in the due administration of justice:

(2) The Official Solicitor shall perform such duties as have heretofore been discharged by the General Solicitor for Northern Ireland.

(3) The Official Solicitor may discharge any functions analogous to those performed by the Official Solicitor in England and Wales, which are not the responsibility of some other officer or person in Northern Ireland.

Remuneration of Official Solicitor

2.—(1) The remuneration of the Official Solicitor shall be paid out of such fund to which the proceedings relate or by such parties as the court may by order direct.

(2) Where there is no fund out of which such remuneration may be paid and there is no party to the proceedings against whom an effective order for the payment of such remuneration may be made the Court may order such remuneration to be paid by the Lord Chancellor.

(3) Such remuneration shall be ascertained on taxation or measured.

ORDER 101

COMMISSIONERS FOR OATHS AND NOTARIES PUBLIC

I. GENERAL

Interpretation

1. In this Order—

“District” means a petty sessions district within the meaning of section 21 of the Magistrates’ Courts Act (Northern Ireland) 1964(a) and any order made thereunder.

“Principal Secretary” means the Principal Secretary to the Lord Chief Justice.

II. COMMISSIONERS FOR OATHS

Application for appointment

2.—(1) An application for appointment as a commissioner for oaths shall be made by sending to the Principal Secretary a memorial in Form 1 in the Schedule hereto, together with two certificates in Form 2 in the Schedule hereto, signed respectively by—

(a) at least 6 solicitors practising in the district for which the appointment is sought, and

(b) magistrates, traders and residents in such district.

(2) The applicant shall send a copy of his memorial to every commissioner for oaths for such district.

Objections to appointment

3. A commissioner for oaths for the district to which the application relates may object to the appointment sought in a letter to the Principal Secretary, setting forth the grounds of his objection and, before making any appointment, the Lord Chief Justice shall have regard to any such objection.

Other considerations affecting appointment

4. The Lord Chief Justice shall in any case, before making any appointment, have regard to—

(a) the population of the district to which the application relates,

(b) the number of commissioners for oaths already in office for such district, and

(c) any other circumstances which he considers to be relevant.

Warrant of appointment

5.—(1) A warrant of appointment as a commissioner for oaths shall be in Form No. 3 in the Schedule hereto, and shall issue from the Lord Chief Justice’s Office.

(2) A person appointed a commissioner for oaths shall not enter upon the duties of his office until his warrant of appointment has issued.

Conditions of appointment

6. Subject to the right of the Lord Chief Justice to specify the conditions, territory, duration or purpose of an appointment in a particular case, appointment as a commissioner for oaths shall be made in accordance with the following rules in this Part.

Revocation and variation of appointment

7.—(1) The Lord Chief Justice may at any time revoke the appointment of a commissioner for oaths or vary the conditions or limits of any such appointment.

(2) A commissioner for oaths shall forthwith be informed in writing by the Principal Secretary of any revocation or variation of his appointment.

Solicitors and clerks of petty sessions

8.—(1) A solicitor already in office as a commissioner for oaths who does not hold a current practising certificate shall cease to be a commissioner for oaths.

(2) A clerk of petty sessions who is a commissioner for oaths shall, on ceasing to act as clerk of petty sessions for a district specified in his warrant of appointment, cease to be a commissioner for oaths for that district.

(3) A clerk of petty sessions in office as a commissioner for oaths at the time of his appointment to another district may apply to the Lord Chief Justice for the issue of a new warrant of appointment entitling him to act as a commissioner for oaths for that district.

(4) Such application shall be made by letter addressed to the Principal Secretary.

III. NOTARIES PUBLIC

Application for appointment

9.—(1) An application for appointment as a notary public shall be made by sending to the Principal Secretary a memorial in Form No. 4 in the Schedule hereto, together with a certificate in Form No. 5 in the Schedule hereto, signed by magistrates, traders and residents in a district in which the applicant carries on practice.

(2) The applicant shall send a copy of his memorial to every notary public practising in Northern Ireland.

Objection to appointment

10. A notary public practising in Northern Ireland may object to the appointment sought in letter to the Principal Secretary, setting forth the grounds of his objection and, before making any appointment, the Lord Chief Justice shall have regard to any such objection.

Other considerations affecting appointment

11. The Lord Chief Justice shall in any case, before making any appointment, have regard to—

(a) the number of notaries public already practising in Northern Ireland, and

(b) any other circumstances which he considers to be relevant.

Warrant of appointment

12.—(1) A warrant of appointment as a notary public shall be in Form No. 6 in the Schedule hereto, and shall issue from the Lord Chief Justice's Office.

(2) A person appointed a notary public shall not enter upon the duties of his office until his warrant of appointment has issued.

Conditions of appointment

13. Subject to the right of the Lord Chief Justice to specify the conditions, territory, duration or purpose of an appointment in a particular case, appointment as a notary public shall be made in accordance with the following rules in this Part.

Qualification

14. A notary public must be a practising solicitor of at least 6 years' standing.

Extent of appointment

15.—(1) A notary public may exercise his notarial functions anywhere in Northern Ireland.

(2) Notwithstanding any territorial limitation imposed by the terms of his appointment, paragraph (1) shall apply to any notary public who is in practice as such at the date of the commencement of this Order.

Revocation and variation of appointment

16.—(1) The Lord Chief Justice may at any time revoke the appointment of a notary public or vary the conditions or limits of any such appointment.

(2) A notary public shall forthwith be informed in writing by the Principal Secretary of any revocation or variation of his appointment.

Solicitor ceasing to practise

17. A solicitor who ceases to practise as a solicitor shall cease to be a notary public.

SCHEDULE

FORM NO. 1

**Memorial for appointment as a Commissioner for Oaths
Judicature (Northern Ireland) Act 1978**

IN THE MATTER of [name of applicant] seeking to be appointed a commissioner for oaths for the petty sessions district of

AND IN THE MATTER of the Judicature (Northern Ireland) Act 1978.

To: The Right Honourable the Lord Chief Justice of Northern Ireland.

The Memorial of [name of applicant] sheweth:—

1. That [name of applicant] (hereinafter referred to as “the applicant”) is a [here describe applicant’s profession or employment] and has his principal address for business at [state where].

2. That the applicant was admitted as a solicitor in [state when] and has practised at [state where] [or that the applicant has carried on business as a [state since] (give particulars)].

3. That the population of [name petty sessions district to which the application relates] is now about [state population].

4. That the names and addresses of the commissioners for oaths in [refer to the petty sessions district to which the application relates] are as follows:—

5. [Give any further particulars which support the application].

The applicant therefore prays that the Lord Chief Justice will be pleased to appoint him as a commissioner for oaths under and by virtue of the Judicature (Northern Ireland) Act 1978 for [here refer to the area to which the application relates].

Dated the [] day of [] 19 []

[Signature of applicant].

FORM NO. 2

**Certificate in support of Memorial : Commissioner for Oaths
Judicature (Northern Ireland) Act 1978**

We, the undersigned, whose names, descriptions and residences are hereto attached, do certify that a commissioner for oaths is much needed for the [specify relevant petty sessions district], and we further specify that [name of applicant], of [address and description] is personally known to us, and we verily believe that he is a person well qualified by his skill and trustworthiness to fill the above-mentioned office.

FORM NO. 3

**Warrant of appointment as Commissioner for Oaths
Judicature (Northern Ireland) Act 1978**

I, Lord Chief Justice of Northern Ireland,
pursuant to the powers conferred on me by the Judicature (Northern Ireland)
Act 1978, and all other powers thereunto me enabling do hereby appoint
of in the county of a
commissioner for oaths in and for the petty sessions district of
to hold the said office until further Order, subject to the rules of court governing
such appointments.

Dated this day of 19

Lord Chief Justice.

FORM NO. 4

**Memorial for appointment as a Notary Public
Judicature (Northern Ireland) Act 1978**

IN THE MATTER of [name of applicant] seeking to be appointed a notary
public.

AND IN THE MATTER of the Judicature (Northern Ireland) Act 1978.

To: The Right Honourable the Lord Chief Justice of Northern Ireland.

The Memorial of [name of applicant] sheweth:—

(1) That [name of applicant] (hereinafter referred to as “the
applicant”) is a solicitor of the Supreme Court and practises at [state where]
and was admitted to practise in [state when].

(2) That since the date of the admission of the applicant to practise as a
solicitor he has carried on practice in, among others, the petty sessions district
of [state where].

(3) That the number of notaries practising in Northern Ireland is, to the
best of the applicant’s knowledge and belief, [state number].

(4) That the appointment of the applicant as a notary public would be in
the public interest for the following, among other, reasons:—

*[State reasons, e.g. increase in demand, growth of mercantile activity, deaths
or retirements of notaries public in the area which would be served by
the applicant].*

The applicant therefore prays that the Lord Chief Justice will be pleased to
admit him a notary public under and by virtue of the Judicature (Northern
Ireland) Act 1978 to practise throughout Northern Ireland.

Dated the day of 19

[Signature of applicant].

FORM NO. 5

**Certificate in support of Memorial : Notary Public
Judicature (Northern Ireland) Act 1978**

We, the undersigned magistrates, bankers, merchants and others residing in and about the petty sessions district of [state where] have read the foregoing memorial of [name of applicant] and believe that the statements therein are true and that he is a fit and proper person to be appointed a Notary Public, and we join in the prayer thereof.

<i>Name and address of the signatories</i>	<i>Profession or occupation of the signatories</i>	<i>Name and address of the firms of which the signatories are members</i>	<i>Signatures</i>

FORM NO. 6

**Warrant of appointment as Notary Public
Judicature (Northern Ireland) Act 1978**

I, _____, Lord Chief Justice of Northern Ireland, pursuant to the powers conferred on me by the Judicature (Northern Ireland) Act 1978, and all other powers thereunto me enabling, do hereby admit of _____ in the county of _____ a Notary Public for Northern Ireland, to hold the said office, together with all fees, profits, and advantages to the same belonging or in any wise appertaining until further order, subject to the rules of court governing such admission.

Dated this _____ day of _____ 19 .

Lord Chief Justice.

ORDER 102

Court Bonds*Application*

1. This Order applies to bonds given for the purposes of any proceedings in the High Court or the Court of Appeal.

Persons to whom bonds may be given

2. Bonds may be given to any master by his official title.

Approved surety companies

3. Bonds may be given by any of the surety companies listed in Part I of the Schedule hereto.

Form of bond

4. A bond shall be in the form in Part II of the Schedule hereto with such variations and additions as may be approved by the master to whom it is given.

SCHEDULE

PART I

Approved Surety Companies

Bank of Ireland
Commercial Union Assurance Company Limited
Eagle Star Insurance Company Limited
Gresham Fire and Accident Insurance Society Limited
Guardian, Royal Exchange Assurance Limited
Legal & General Assurance Society Limited
Norwich Union Fire Insurance Society Limited
Phoenix Assurance Company Limited
Provincial Insurance Company Limited
Royal Insurance Company Limited
Scottish Union and National Insurance Company
The Century Insurance Company Limited
The Insurance Corporation of Ireland Limited
The Liverpool & London & Globe Insurance Company Limited
The London & Lancashire Insurance Company Limited
The Prudential Assurance Company Limited
The Sun Alliance & London Insurance Limited
The Guarantee Society Limited

PART II

Bond

ORDER 102, RULE 4

19 No.

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
DIVISION

[Title]

KNOW ALL MEN BY THESE PRESENTS THAT WE [full name, address and description of principal and name and registered office of surety company] are jointly and severally bound unto [appropriate master, by his official title] in the sum of _____ pounds, for the payment of which I [the principal] for myself and my executors and administrators and we [the surety company] for ourselves and our successors, jointly and severally bind ourselves by these presents.

SEALED with our seals this _____ day of _____ 19 .

[WHEREAS—recital of order appointing principal, if appropriate, or other order requiring bond to be given]

NOW THEREFORE THE CONDITION of this bond or obligation is such that if the above-named [principal] [here set out conditions of the bond] then this bond or obligation shall be void and of no effect, but shall otherwise remain in full force and effect

PROVIDED ALWAYS [here set out provisions for determination of liability of surety company in the event of default of payment of annual premium, if applicable, and any other special provisions as may be appropriate]

PROVIDED ALWAYS and it is further agreed between [the principal] and [the surety company] that he [the principal] his executors or administrators shall and will from time to time and at all times save defend and keep harmless [the surety company] and their successors from and against all loss and damage costs and expenses which [the surety company] shall or may or otherwise might at any time sustain or be put unto for or by reason or in consequence of [the surety company] having entered into this bond for and at the request of [the principal].

SIGNED, SEALED AND DELIVERED

by [the principal] in the
presence of

SEALED with the Common Seal of [the surety company]

SCHEDULE 3

PART I

Amendments to Rules of the Supreme Court (Northern Ireland) 1936

1. In Order 13, for rule 5 there shall be substituted the following rule:

“5. Where the writ is indorsed with a claim for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages, and the defendant fails, or all the defendants, if more than one, fail to appear the plaintiff may enter interlocutory judgment. The value of the goods and the damages, or either of them; may without any order be ascertained by inquiry at Chambers or, on an application of the plaintiff to a judge by summons, by a judge with or without a jury in accordance with section 62 of the Act.”
2. In Order 19, at the end of rule 29 there shall be added the following paragraph:

“(2) Where an application is made for an order making a minor a ward of court, the minor shall become a ward of court on the making of the application, but shall cease to be a ward at the expiration of 21 days, unless within that period an order is made in accordance with the application.”
3. In Order 27, for rule 4 there shall be substituted the following rule:

“4. If the plaintiff's claim be for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages and the defendant or all the defendants, if more than one, make default as mentioned in rule 2, the plaintiff may enter interlocutory judgment against the defendant or defendants. The value of the goods and the damages, or either of them, may be ascertained by inquiry at Chambers or, on an application of a party to a judge by summons, by a judge with or without a jury in accordance with section 62 of the Act.”
4. In Order 36, for rule 46 there shall be substituted the following rule:

“46. The Court before which any action in which damages are claimed is tried may, subject to section 62 of the Act, order that the damages or any part thereof be ascertained by inquiry at Chambers.”
5. In Order 50, rule 7, for the words “under section 28, sub-section 8 of the principal Act” there shall be substituted the words “under section 91 of the Act”.
6. In Order 55, for the title there shall be substituted the words “Chambers in the Chancery and Family Divisions.”
- 7.—(1) In Order 59, rule 1, for the words “Clerk of the Crown and Peace” there shall be substituted the words “chief clerk of the appropriate county court division.”

(2) In Order 59, rule 8(1)(b), for the words “section 1(4)” there shall be substituted the words “section 1(3) and (4)”.
8. In Order 59A, rule 4, for the words “Divisional Court” there shall be substituted the words “court of the High Court consisting of two or more judges”.
9. In Order 60A, rule 1(1), before the words “The Registrar” there shall be inserted the words “Without prejudice to Order 95”.
10. In Order 63, rule 7, for the words “Divisional Court” there shall be substituted the words “court of the High Court consisting of two or more judges”.

11. In Order 65—

- (a) in rule 21(3), for the figure “II” there shall be substituted the figure “III”.
(b) in rule 62, for paragraph (4) there shall be substituted the following paragraphs:—

“(4) Unless the Judge otherwise directs, no further evidence shall be received on the hearing of an application under this rule, and no ground of objection shall be raised which was not raised on the review by the Taxing Master but, save as aforesaid, on the hearing of any such application the Judge may exercise all such powers and discretion as are vested in the Taxing Master in relation to the subject matter of the application.

(5) On an application under this rule the Judge may make such order as the circumstances require, and in particular may order the Taxing Master’s certificate to be amended or, except where the dispute as to the item under review is as to amount only, order the item to be remitted to the Taxing Master for taxation”.

12. In Order 73, rule 8, for the words “Clerk of the Crown and Peace” there shall be substituted the words “chief clerk of the appropriate county court division”.

13. In Order 74, rule 1, for the definition of “Registrar” there shall be substituted the words “Registrar means the Master (Bankruptcy)”, and after the definition of “the bank” there shall be added the words “the Chambers of the Judge’ means the Bankruptcy and Companies Office”.

14. In Order 75, rule 1, after the definition of “the Act” there shall be added the words “the Chambers of the Judge’ means the Bankruptcy and Companies Office”.

15. In Order 75, rule 4, for the words “rules 10 and 11” there shall be substituted the words “rule 11”.

16. In Order 81, rule 4, for the words “Clerk of the Crown and Peace” there shall be substituted the words “chief clerk of the appropriate county court division”.

17. In Order 83, rule 8, for the words “Clerks of the Crown and Peace” there shall be substituted the words “chief clerks of the county court divisions”.

18. In Order 84, rule 82, the following paragraph shall be added—

“(8) This rule shall apply, in so far as it may be applicable, to an application for bail under section 25(4) and (6) or section 44(3) of the Act, or paragraph 6(1)(b) of Schedule 1 to the Act”.

19. In Order 88, rule 1(1), for the definition of “Judge” there shall be substituted the words “‘Judge’ means the Chancery Judge or any judge of the High Court for the time being acting as Chancery Judge”.

20. In Order 88A—

(a) in rule 1(1)—

- (i) after the words “any Division of the High Court” there shall be inserted the words “(other than an order made in matrimonial proceedings)”, and
(ii) for the words from “Bankruptcy Registrar” to “Deputy Registrar” there shall be substituted the words “Master (Queen’s Bench and Appeals)”.
- (b) in rule 11(5) for the word “Messenger”, where it occurs, there shall be substituted the words “any Police officer or such other person as the Court may direct”.
- (c) in rules 15, 16 and 19(1) for the word “Messenger” there shall be substituted the words “person executing the order”.

21.—(1) In Order 91, rule 1,

(a) after the words “include the meanings following” there shall be inserted the following:

“the Act” means the Judicature (Northern Ireland) Act 1978 and, where the context so permits, a reference in these Rules to the Principal Act shall be construed as a reference to the corresponding provisions of the Act;

(b) after the definition of “Lord Chief Justice” there shall be inserted the following:

“Master” means a master or registrar of the Supreme Court mentioned in the first column of Schedule 3 to the Act other than the Master (Taxing Office).

(2) In Order 91, after rule 1(3), the following paragraph shall be added:

“(4) For a reference in these Rules to the Principal Probate Registry or the Principal Registry there shall be substituted a reference to the Probate and Matrimonial Office”.

22. For the Note immediately preceding Appendix A in the Appendices to these Rules, there shall be substituted the following:

“The Forms in these Appendices may be used in the cases in which they are applicable with such alteration as the nature of the cause or matter, the character of the parties, the circumstances of the case, the Judicature (Northern Ireland) Act 1978, or the Rules of the Supreme Court (Northern Ireland) (Transitional Rules) 1979 may render necessary; but any variance therefrom, not being in a matter of substance, shall not affect their validity or regularity.”

23. Appendix Y, Part I, shall be amended as follows:

In note [9] to Form 97 (Affidavit of proof of debt (General Form)) the words “or a Justice of the Peace within his County” and the words “section 366 of the Irish Bankrupt and Insolvency Act, 1857 or” shall be deleted.

PART II

Amendment of the Criminal Appeal (Northern Ireland) Rules 1968

In rule 25, for the words “Lord Chief Justice” there shall be substituted the words “Lord Chancellor”.

SCHEDULE 4

**Amendments to the General Orders made by the Lord Chief Justice
under section 118 of the Lunacy Regulation (Ireland) Act 1871**

The Mental Patients Affairs Order (Northern Ireland) 1949 (as amended by the Mental Patients Affairs (Amendment) Order 1963(a)), shall be amended as follows:

1. In the definitions in Article 5—
 - (i) for the words "Department for the Affairs of Patients" there shall be substituted the words "the Office of Care and Protection";
 - (ii) for the words "General Solicitor in Northern Ireland for minors and persons of unsound mind" there shall be substituted the words "Official Solicitor".
 - (iii) for the definition of "Judge in Lunacy" there shall be substituted the words "judge to whom the business of the Office of Care and Protection is assigned (the 'assigned judge') and, where the context so permits, the Master";
 - (iv) for the word "Registrar" there shall be substituted the words "the Master" and for the words from "Registrar in Lunacy" to "Assistant Registrar in Lunacy" there shall be substituted the words "Master (Care and Protection) and in relation to any duties of the Master for the time being delegated by the assigned judge under paragraph (3) of Article 12 of this Order, includes the Registrar (Care and Protection)".
2. After Article 158(3) there shall be added the following paragraph:
“(4) The title of all forms used in the Office of Care and Protection shall be—

‘In the High Court of Justice in Northern Ireland
Family Division
Office of Care and Protection.’”

EXPLANATORY NOTE

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

Pending the complete revision of the Rules of the Supreme Court (Northern Ireland) 1936, these amending provisions adapt the 1936 code, introduce certain new rules and make temporary provision for that part of the procedure in the High Court and the Court of Appeal directly affected by the coming into force of the Judicature (Northern Ireland) Act 1978.

The following are the more important matters dealt with in the Transitional Rules:

1. Order 41 replaces the existing Order 41 in the 1936 Rules. The new Order follows the provisions of the old in relation to judgments, but a Registrar is no longer required to countersign all orders.

2. Order 94 provides for the distribution of business amongst the Chancery, Queen's Bench and Family Divisions of the High Court and the assignment of business to the Departments of the Supreme Court.

3. A wide delegation to the various masters of the Supreme Court of jurisdiction hitherto exercised only by the judges of the High Court, mainly in relation to interlocutory matters, is provided for in Order 95. Order 96 provides for appeals from the masters.

4. Order 97 gives effect to the judicial review procedure established by section 18 of the Act. This procedure enables an application to be made to the Court for relief by means of a prerogative order (mandamus, certiorari or prohibition), a declaration or injunction.

The former rules relating to an application for a prerogative order have been adapted to the judicial review procedure. Provision has been made which ensures that in a criminal cause or matter the application shall be heard by a court consisting of two or more judges.

5. Order 98 makes provision in one order for the procedure on an application for habeas corpus. This order takes the place of Order 84, rules 148 to 158. The procedure under the new order follows the former procedure under Order 84.

6. Rules relating to the co-ordination of the exercise of jurisdiction in relation to persons under disability are found in Order 99. These rules implement section 29 of the Act.

7. Order 100 implements section 75 of the Act and deals with the powers and duties of the Official Solicitor.

8. Order 101 deals with the appointment of commissioners for oaths and notaries public.

9. The Schedule to Order 102 lists approved surety companies which may give bonds for the purposes of proceedings in the High Court or the Court of Appeal.

10. Schedule 3 amends Order 65 by providing for an appeal from the Taxing Master on a question of quantum.

11. These rules also amend the General Orders formerly made by the Lord Chief Justice of Northern Ireland in relation to the business of the Department of the Affairs of Patients. The business of this Department will be transacted in the Office of Care and Protection.

The remainder of these transitional provisions relate to minor and consequential matters.