

1983 No. 407

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland)
(Amendment No. 4) 1983*Made* 1st December 1983*Coming into operation* 1st January 1984*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 practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:

Citation, interpretation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 4) 1983 and shall come into operation on 1st January 1984.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court (Northern Ireland) 1980(b).

Assignment to Chancery Division

2. Order 1, rule 10(a) shall be amended as follows:—

(1) For the words “for any of the following purposes” there shall be substituted the words “in relation to”.

(2) For sub-paragraph (viii) there shall be substituted the following:—

“(viii) the specific performance of an agreement for the sale, purchase, exchange, mortgage or charge of any property or for the assignment of a lease of any property with or without an alternative claim for damages, or for rescission of such an agreement or for the forfeiture or return of any deposit made under such an agreement.”

(3) The following sub-paragraph shall be added:—

“(x) copyright.”

Assignment to Queen’s Bench Division

3. Order 1, rule 11, shall be amended as follows:—

(1) By the substitution for paragraph (d) of the following paragraph—

(a) 1978 c. 23

(b) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1980 No. 433; S.R. 1981 No. 224; S.R. 1983 No. 183

- “(d) applications for writs of habeas corpus;”
- (2) By the addition of the following paragraphs:—
- “(e) applications for judicial review;
- (f) all causes and matters which under by virtue of or in pursuance of any statutory provision are assigned to the Queen’s Bench Division.”

Choice of Division

4. The following rule shall be inserted in Order 1:—

“Choice of Division by plaintiff

12A.—(1) Without prejudice to the power of transfer under Order 4, rules 1 or 2, the person by whom any cause or matter is commenced in the High Court shall allocate it to whatever Division he thinks fit by marking the document by which the cause or matter is commenced with the name of that Division.

(2) All interlocutory or other steps or proceedings taken in a cause or matter shall be taken in the Division to which the cause or matter is for the time being allocated or transferred.

(3) The fact that a cause or matter falls within a class of business assigned by these Rules to a particular Division does not make it obligatory for it to be allocated to that Division.”

Companies Acts (N.I.) 1960 to 1982

5.—(1) In rules 10(b) and 15 of Order 1, for the words “the Companies Acts (Northern Ireland) 1960 and 1978” there shall be substituted the words “the Companies Acts (Northern Ireland) 1960 to 1982”.

(2) In rule 18, for paragraphs (b) and (c) there shall be substituted the following paragraph:—

“(b) the measurement of the remuneration of accountants in bankruptcy and of accountants and liquidators in the winding-up of companies by the Court.”

Transfer between Divisions

6. Order 4, rule 1, shall stand as paragraph (1) of that rule and the following paragraph shall be added as paragraph (2):—

“(2) The fact that a cause or matter falls within a class of business assigned by these Rules to a particular Division does not make it obligatory for it to be transferred to that Division.”

Appeals from Social Security Commissioner

7. Order 94, rule 2, shall stand as paragraph (1) of that rule, with the insertion at the beginning of the words “Subject to paragraph (2)”, and the following paragraph shall be added as paragraph (2):—

“(2) On an appeal under section 14 of the Social Security Act 1980 the requisition to state a case must be lodged in the Office of the Social Security Commissioners within 6 weeks commencing on the date leave to appeal was granted.”

Companies Acts (Northern Ireland) 1960 to 1982

8. Order 102 shall be amended as follows:—

(1) For the title there shall be substituted the title “THE COMPANIES ACTS (NORTHERN IRELAND) 1960 to 1982”;

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

“Definitions

1. In this Order—

“the Act” means the Companies Act (Northern Ireland) 1960(a);

“the 1978 Order” means the Companies (Northern Ireland) Order 1978(b);

“the 1981 Order” means the Companies (Northern Ireland) Order 1981(c);

“the 1982 Order” means the Companies (Northern Ireland) Order 1982(d);

“the Court”, without prejudice to Order 1, rule 4(2), includes the Master (Bankruptcy).”

(3) In rule 2(1) for the words “the Order of 1978” there shall be substituted the words “the 1978 Order or the 1981 Order or the 1982 Order”;

(4) In rule 2(2) there shall be inserted, after sub-paragraph (c), the following sub-paragraphs:—

“(d) an application under Article 7 of the 1978 Order for an order directing the directors of a company or any of them to make good any such default as is mentioned in that Article, or

(e) an application under Article 78(1) of the 1982 Order for an order directing that any shares in a company shall be subject to the restrictions imposed by section 165C of the Act.”

(5) In rule 2(3) the words “161(4) or” shall be omitted.

(6) For rule 3 there shall be substituted the following rule:—

“Applications to be made by originating motion

3.—(1) The following applications under the Act must be made by originating motion, namely, applications—

(a) under section 52(4) for an order extending the time for delivery to the registrar of companies of any documents required by that section to be delivered,

(b) under section 159 for an order declaring that the affairs of a company ought to be investigated by an inspector appointed by the Department of Economic Development,

(c) under section 161(3) for an inquiry into any such case as is therein mentioned,

(d) under section 165C(3) for an order directing that any shares in or debentures of a company shall cease to be subject to restrictions imposed by that section,

(e) under section 165C(3B) for an order directing that any shares in or debentures of a company shall, on a sale, cease to be subject to restrictions imposed by that section; and

(f) under section 315 for an order declaring a dissolution of a company which has not been wound up to have been void.

(2) An application under Article 78(3) of the 1982 Order must be made by originating motion.”

(7) Rule 4 shall be amended as follows:—

(a) the rule shall stand as paragraph (1):

(a) 1960 c. 22 (N.I.)

(b) S.I. 1978/1042 (N.I. 12)

(c) S.I. 1981/838 (N.I. 19)

(d) S.I. 1982/1534 (N.I. 17)

(b) sub-paragraphs (d) and (e) shall be omitted;

(c) after paragraph (1) there shall be inserted the following paragraph:—

“(2) An application under Article 13(2) of the 1981 Order or Article 45(2) or Article 58(1) of the 1982 Order to cancel a special resolution to which any of those Articles applies, or under Article 54 of the 1982 Order in relation to the reduction of capital redemption reserve, must be made by petition.”.

(8) Rule 5 shall be amended as follows:—

(a) for paragraph (4) there shall be substituted the following paragraph:—

“(4) Every originating summons, notice of originating motion and petition by which any such proceedings are begun and all affidavits, notices and other documents in those proceedings must be entitled in the matter of the company in question and in the matter of the Companies Acts (Northern Ireland) 1960 to 1982.”;

(b) paragraph (5) shall be omitted.

(9) Rule 6 shall be amended as follows:—

(a) in paragraph (2), sub-paragraph (a), the word “and” at the end of sub-paragraph (b) and the full stop at the end of sub-paragraph (c) shall be omitted;

(b) after sub-paragraph (c) there shall be inserted the following sub-paragraphs—

“(d) an application under Article 13(2) of the 1981 Order for an order cancelling a special resolution to which that Article applies, and

(e) an application under Article 45(2) or 58(1) of the 1982 Order for an order cancelling a special resolution to which those Articles apply.”;

(10) In rule 6(4) the word “fund” after the words “capital redemption reserve” shall be omitted.

(11) Rule 16 shall be revoked.

Reference to Order 88 of RSC (N.I.) 1936

9. The references to Order 88 of and to Part I of Appendix Y to the Rules of the Supreme Court (Northern Ireland) 1936(a) in Part II of Schedule 2 to the Rules of the Supreme Court (Northern Ireland) (Revision) 1980(b) shall be deleted.

Arrangement of Orders

10. In the Arrangement of Orders the entry relating to Order 102 shall be amended by substituting for the words “The Companies Acts (Northern Ireland) 1960 and 1978” the words “The Companies Acts (Northern Ireland) 1960 to 1982”.

Dated 22nd November 1983

Lowry
John MacDermott
Donald Murray

J. B. E. Hutton
R. D. Carswell
James McFarland

I concur

Hailsham of St. Marylebone, C.

Dated 1st December 1983

(a) S.R. & O. 1936 No. 74 (II, p. 2554); the relevant amending instrument is S.R. & O. (N.I.) 1970 No. 163

(b) S.R. 1980 No. 346

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend the Rules of the Supreme Court (Northern Ireland) 1980 so as—

- (a) to make fresh provision for the assignment of business among the Divisions of the High Court (rules 2, 3, 4 and 6);
- (b) to extend the time for appealing to the Court of Appeal by way of case stated from certain decisions of a Social Security Commissioner (rule 7);
- (c) to take account of various provisions of the Companies (N.I.) Order 1978, the Companies (N.I.) Order 1981 and the Companies (N.I.) Order 1982 which are now in operation (rules 5, 8 and 10).

They also amend the Rules of the Supreme Court (Northern Ireland) (Revision) 1980 to take account of the revocation of Order 88 of the Rules of the Supreme Court (Northern Ireland) 1936 by the Bankruptcy Rules (Northern Ireland) 1983 (rule 9).

1983 No. 408

This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.

1983 No. 409

This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROAD TRAFFIC AND VEHICLES.