

1989 No. 288

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment No. 4) 1989

Made 21st July 1989

Coming into operation 1st September 1989

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 and all other powers enabling us in that behalf as follows:

Citation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 4) 1989 and shall come into operation on 1st September 1989.

Amendment of Principal Rules

2. After Order 115 of the Rules of the Supreme Court (Northern Ireland) 1980(b) there shall be inserted the Order set out in the Schedule to these Rules.

Dated 21st June 1989.

Brian Hutton
Donald Murray
J. P. Higgins
Brian Kerr

(a) 1978 c. 23
(b) S.R. 1980 No. 346

1356

Supreme Court

No. 288

I concur,

Mackay of Clashfern, C.

Dated 21st July 1989.

ORDER 116

PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT 1989

Interpretation

1. In this Order—

“the Act” means the Prevention of Terrorism (Temporary Provisions) Act 1989 and a section or Schedule referred to by number means the section or Schedule so numbered in the Act;

“defendant” includes a person charged with an offence under Part III of the Act and a person who is to be charged with such an offence;

expressions used have the same meanings as in Part III of and Schedule 4 to the Act;

“Master” means the Master (Queen’s Bench and Appeals).

Assignment of proceedings

2. The jurisdiction of the High Court under the Act shall be assigned to the Queen’s Bench Division and, subject to Rule 8, shall be exercised by a judge in chambers.

Application for restraint order

3.—(1) An application for a restraint order under paragraphs 23 and 24 of Schedule 4 may be made by the prosecution ex parte by originating summons in Form No. 8 in Appendix A.

(2) An application under paragraph (1) shall be supported by an affidavit, which shall:—

- (a) state either that proceedings have been instituted against a person for an offence under Part III of the Act and that they have not been concluded or that, whether by the laying of a complaint or otherwise, a person is to be charged with such an offence, as the case may be;
- (b) give particulars of the said offence;
- (c) state either that a forfeiture order has been made or the grounds for believing that such an order may be made, as the case may be;
- (d) to the best of the deponent’s ability, give full particulars of the property in respect of which the order is sought and specify the person or persons holding such property;
- (e) where proceedings have not been instituted, verify that the applicant is to have the conduct of the proposed proceedings;
- (f) where proceedings have not been instituted, indicate when it is intended that they should be instituted.

(3) An originating summons under paragraph (1) shall be entitled in the matter of the defendant, naming him, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(4) Unless the Court otherwise directs, an affidavit under paragraph (2) may contain statements of information or belief with the sources and grounds thereof.

Restraint order

4.—(1) A restraint order may be made subject to conditions and exceptions, including but not limited to conditions relating to the indemnifying of third parties

against expenses incurred in complying with the order, and exceptions relating to living expenses and legal expenses of the defendant or other person, but the applicant shall not be required to give an undertaking to abide by an order as to damages sustained by the defendant or other person as a result of the restraint order.

(2) Unless the Court otherwise directs, a restraint order made *ex parte* shall have effect until a day which shall be fixed for the hearing *inter partes* of the application.

(3) Where a restraint order is made the applicant shall serve copies of the order and of the affidavit in support on the defendant and on all other named persons restrained by the order and shall notify all other persons or bodies affected by the order of its terms.

Discharge or variation of restraint order

5.—(1) Any person or body on whom a restraint order is served or who is notified of such an order may apply by summons to discharge or vary the order.

(2) The summons and any affidavit in support shall be lodged with the court and served on the prosecution and, where he is not the applicant, on the defendant, not less than two clear days before the date fixed for the hearing of the summons.

(3) Upon the court being satisfied that proceedings for the offences have been concluded any restraint order shall be discharged.

Further application by the prosecution

6.—(1) Where a restraint order has been made the prosecution may apply by summons or, where the case is one of urgency, *ex parte* to discharge or vary such order.

(2) An application under paragraph (1) shall be supported by an affidavit, which shall give full particulars of the grounds of the application.

(3) The summons and affidavit in support shall be lodged with the court and served on the defendant not less than two clear days before the date fixed for hearing of the summons.

(4) Rule 4(3) shall apply to the service of an order discharging or varying a restraint order on persons other than the defendant and to the notification of all other persons or bodies affected thereby.

Application for Compensation Order

7. An application for an order under paragraph 27 of Schedule 4 shall be made by summons, which shall be served, with any supporting evidence, on the person alleged to be in default (where known) and on the appropriate body mentioned in paragraph 27(5).

Exercise of powers under Schedule 4, paragraphs 28 and 29

8. Notwithstanding the provisions of Order 32 rule 11(1)(a), the powers conferred on the High Court by paragraph 29 of Schedule 4 may be exercised by a judge in chambers or the Master.

Application for registration

9. An application for registration of an England and Wales order, a Scottish order or an Islands order may be made *ex parte*.

Evidence in support of application

10. An application for registration of an order under Rule 9 must be supported by an affidavit—

- (i) exhibiting the order or a certified copy thereof, and

- (ii) stating, to the best of the deponent's knowledge, particulars of what property in respect of which the order was made is in Northern Ireland and specifying the person or persons holding such property.

Register of orders

11.—(1) There shall be kept in the Central Office under the direction of the Master a register of the orders registered under the Act.

(2) There shall be included in such register particulars of any variation or setting aside of a registration, of any variation, satisfaction or discharge of a registered order, and of any execution issued on the order.

Notice of registration

12.—(1) Notice of the registration of an order must be served on the person or persons holding the property in Northern Ireland in respect of which the order was made by delivering it to him personally or by sending it to him at his usual or last known address or place of business or in such other manner as the Court may direct.

(2) Service of such a notice out of the jurisdiction is permissible without leave, and Order 11, rules 5, 6 and 8 shall apply in relation to such a notice as they apply in relation to a writ.

(3) The notice shall state the period fixed by the court within which an application may be made to vary or set aside the registration and, unless the Court has otherwise ordered, that the order will not be enforced until after the expiration of that period.

Application to vary or set aside registration

13. An application to vary or set aside the registration of an order must be made to a judge by summons supported by affidavit.

Enforcement of order

14.—(1) An order registered under the Act shall not, unless the Court otherwise orders, be enforced until after the expiration of the period specified in accordance with rule 12(3) or, if that period has been extended by the Court, until after the expiration of the period so extended.

(2) If an application is made under rule 13, an order shall not, unless the Court otherwise orders, be enforced until after such application is determined.

Variation and cancellation of registration

15. If effect is given (whether in Northern Ireland or elsewhere) to an England and Wales, Scottish or Islands order, or if the order is varied or discharged by the court by which it was made, the applicant for registration shall inform the court and—

- (a) if such effect has been given in respect of all the money or other property to which the order applies, or if the order has been discharged by the court by which it was made, registration of the order shall be cancelled;
- (b) if such effect has been given in respect of only part of the money or other property, or if the order has been varied by the court by which it was made, registration of the order shall be varied accordingly.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules provide, as Order 116 of the Rules of the Supreme Court (Northern Ireland) 1980, for the procedures to be followed in applications to the High Court under the Prevention of Terrorism (Temporary Provisions) Act 1989.