
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 39

Actions by and against firms and persons carrying on business in firm names

Partners may sue and be sued in name of their firm

1.—(1) Two or more persons claiming or alleged to be liable as partners and carrying on business within Northern Ireland may sue and be sued in the name of the firm in which they were partners when the cause of action arose.

(2) Where partners sue or are sued in the name of their firm in accordance with this Rule, a statement that the plaintiffs are suing or the defendants are sued as a firm shall be included in the civil bill and in the title of the action.

(3) Where partners sue or are sued in the name of their firm, the partners shall, on demand made in writing by or on behalf of any other party, forthwith deliver to the party making the demand a statement of the names and places of residence of all the persons constituting the firm.

(4) If the partners fail to comply with the demand, the judge may, on application by any other party, order them to furnish and verify by oath or otherwise a statement of the names and places of residence of the persons who were partners in the firm when the cause of action arose.

(5) If the partners fail to comply with the order, the judge may—

- (a) if the partners are plaintiffs, direct the proceedings to be stayed until the order is complied with;
- (b) if the partners are defendants, order that they be debarred from defending the action.

(6) When the names and places of residence of the partners have been stated, proceedings shall continue in the name of the firm.

Action not in firm name

2. Nothing in Rule 1 shall prevent partners from suing or being sued otherwise than in the firm name.

Actions between a firm and its members

3. The provisions of these Rules as to actions by or against firms shall apply to actions between a firm and one or more of its members, and between firms having one or more members in common, if the firm carries on business within Northern Ireland, but no enforcement proceedings shall be taken without leave of the judge, and on an application for leave to take such proceedings all such accounts and inquiries may be directed to be taken and made and all such directions may be given as may be just.

Individuals carrying on business

4. A person carrying on business in any name may be sued in that name as if it were a firm name, and so far as the nature of the case will permit, all the provisions of these Rules relating to actions against firms shall apply.

Service of civil bill on partners

5.—(1) Subject to the following paragraphs of this Rule, where partners are sued in the name of their firm, service of a civil bill shall be good service on all the partners, whether any of them is out of Northern Ireland or not, if the civil bill is served—

- (a) on a partner personally; or
- (b) at the principal place of the partnership business in Northern Ireland, on any person having, or appearing to have, at the time of service, the control and management of the business there;

but where the partnership has, to the knowledge of the plaintiff, been dissolved before the commencement of the action, the civil bill shall be served upon every person within Northern Ireland sought to be made liable.

(2) Where a person carrying on business in a name other than his own is sued in that name as if it were a firm name, the civil bill may be served in accordance with the foregoing provisions of this Rule as if he were a partner sued in the name of a firm and his business were a partnership business.

(3) Where a civil bill is served in accordance with this Rule, the endorsement or affidavit of service shall state whether the person served was served—

- (a) as a partner; or
- (b) as a person carrying on business in a name other than his own; or
- (c) as a person having, or appearing to have; the control or management of the business; or
- (d) as a person occupying a dual position.

Execution of decree against a firm

6.—(1) A decree against a firm may be enforced—

- (a) against any property of the partnership in Northern Ireland;
- (b) against any person who has been adjudged to be liable as a partner;
- (c) against any person who was individually served with the civil bill as a partner or person sought to be made liable—
 - (i) in a default action, where the decree is made under Order 12, Rule 6;
 - (ii) in a summary action; where a decree is issued under Order 12, Rule 12(a);
 - (iii) in any other action, where he has failed to appear at the hearing.

(2) If the person who has obtained the decree claims to be entitled to enforce it against a partner or otherwise, he may apply to the judge for leave so to do, and the following provisions shall apply—

- (a) he shall give to the alleged partner not less than three days' notice of his application;
- (b) the notice shall be served on the alleged partner personally;
- (c) on the hearing of the application, the judge—
 - (i) if liability is not disputed, may give leave for application to be made for enforcement under the Judgments Enforcement (Northern Ireland) Order 1981(1);

- (ii) if liability is disputed, may order the issue of liability to be tried in such manner as he thinks fit and may give any necessary directions for that purpose.

Proceedings under Articles 106 to 110 of the Judgments Enforcement (Northern Ireland) Order 1981

7. In Order 40, Part III, the expression “debtor” includes any person liable to execution under the foregoing provisions of this Order.