

1978 No. 180

**SUPREME COURT, NORTHERN IRELAND  
PROCEDURE**

**Rules of the Supreme Court (Northern Ireland) (Capital Transfer  
Tax Appeals) 1978**

*Made . . . . . 26th June 1978*

*Coming into operation . . . . 4th September 1978*

*To be laid before Parliament*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:

1. In Order 11 of the Rules of the Supreme Court (Northern Ireland) 1936(b) in rule 1 after paragraph (j) there shall be added the following paragraph:

“(k) the action is brought against a defendant not domiciled or ordinarily resident in England and Wales or Scotland in respect of a claim by the Commissioners of Inland Revenue for estate duty or capital transfer tax.”.

2. After Order 59I there shall be inserted the Order 59J set out in the Schedule hereto.

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Capital Transfer Tax Appeals) 1978 and shall come into operation on 4th September 1978.

Dated 26th June 1978.

(Signed) *Robert Lowry*  
*John MacDermott*  
*Donald Murray*  
*R. D. Carswell*  
*E. M. Doris*

(a) 1962 c. 30

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

## SCHEDULE

Rule 2

## Order to be inserted after Order 59I of the Rules of the Supreme Court

## "ORDER 59J

## APPEALS UNDER SCHEDULE 4 TO THE FINANCE ACT 1975

## PART I

## Appeals under paragraph 7 of Schedule 4 to the Act

*Chancery Judge to hear appeals: appeal to be by originating summons*

1. An appeal or application for leave to appeal to a Judge of the High Court under paragraph 7(3) of Schedule 4 to the Finance Act 1975 (in this Order referred to as "the Act") shall be heard and determined by the Chancery Judge or by such other Judge as the Lord Chief Justice may nominate from time to time as occasion may require.

*Contents of originating summons*

2. Such appeal must be brought by originating summons which must—

- (a) state the date on which the Commissioners of Inland Revenue (in this Order referred to as "the Board") gave notice to the appellant under paragraph 6 of the said Schedule of the determination which is the subject of the appeal;
- (b) state the date on which the appellant gave to the Board notice of appeal under paragraph 7(1) of the said Schedule and, if the notice was not given within the time limited, whether the Board or the Special Commissioners have given consent to the appeal being brought out of time and, if such consent has been given, specifying the date of such consent; and
- (c) either state that the appellant and the Board have agreed that the appeal may be to the High Court or contain an application for leave to appeal to the High Court.

*Issue and service of summons*

3.—(1) The originating summons shall be issued and served on the Board within 30 days of the date on which the appellant gave to the Board notice of appeal under paragraph 7(1) of the said Schedule or, if the Board or the Special Commissioners have consented to the appeal being brought out of time, within 30 days of the date on which they so consented.

(2) At the time of issuing the originating summons the appellant shall lodge in the office of the Chancery Registrar—

- (a) two copies of the notice referred to in rule 2(a);
- (b) two copies of the notice of appeal referred to in rule 2(b); and
- (c) where the originating summons contains an application for leave to appeal, a copy of an affidavit setting out the grounds on which it is alleged that the matters to be decided on the appeal are likely to be substantially confined to questions of law.

(3) No appearance need be entered to the originating summons, but it must specify a date of hearing being not less than 40 days from the issue of the summons.

(4) Where the originating summons contains an application for leave to appeal to the High Court, a copy of the affidavit referred to in paragraph (2)(c) shall be served on the Board with the originating summons and the Board may, within 30 days after service, file an affidavit in answer and a copy of such affidavit shall be served by the Board on the appellant and a copy thereof shall be lodged in the office of the Chancery Registrar.

(5) Except with the leave of the court, the appellant shall not be entitled on the hearing of an appeal to rely on any grounds of appeal not specified in the notice referred in rule 2(b).

## PART II

Appeals by way of case stated under paragraph 10 of Schedule 4 to the Act

*Party having carriage*

4. The appellant or if there is more than one, the party whose name first appears on the requisition shall be the party having carriage, unless the court otherwise directs.

*Entering case stated*

5. The party having carriage of a case stated must within 30 days of receiving the case stated from the Special Commissioners—

- (a) lodge the case stated with a duly stamped requisition for entering with the Registrar; and
- (b) send a copy of the case stated to any other party to the proceedings giving him notice of such entry.

*Delivery of documents*

6.—(1) Any document required by these Rules to be lodged or sent to any person may be sent by recorded delivery, or delivered—

- (a) in the case of a document directed to the Registrar, to the Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF;
- (b) in the case of a document directed to any party, to his address for service, or, in the absence of such an address, to his last known address or place of business in the United Kingdom, or if a party is a company, to the company's registered office.

(2) A document sent by recorded delivery shall be deemed, unless the contrary is shown, to have been delivered on the third day after the day on which it was sent.

- (3) In this rule "document" includes a notice.

## PART III

Appeals under paragraph 32(3) or 35(2) of Schedule 4 to the Act

*Chancery Judge to hear appeals*

7. An appeal to a Judge of the High Court under paragraph 32(3) or 35(2) of Schedule 4 to the Act shall be heard and determined by the Chancery Judge or by such other Judge as the Lord Chief Justice may nominate from time to time as occasion may require.

*Notice of appeal*

8.—(1) An appeal shall be brought by notice of motion issued out of the Central Office.

(2) The notice of motion shall specify the grounds of appeal and shall state whether the whole or a part only of the decision of the Special Commissioners is complained of and if against a part only must specify that part.

*Service of notice of motion*

9. The notice of motion shall be served on the Special Commissioners within 30 days after the date of the decision complained of.

*Findings of Special Commissioners to be filed*

10. The Special Commissioners shall file in the Central Office, within 30 days after being served with the notice of motion, two copies of a note of their findings and of the reasons for their decision and shall serve a copy of such note on every other party to the appeal.

*Service of documents on Special Commissioners*

11. Any document required or authorised to be served on the Special Commissioners in proceedings under this Order may be served by sending it by recorded delivery to the Controller, Capital Taxes Office, Law Courts Building, Chichester Street, Belfast, BT1 3NU.

*Application of Order 59A*

12. Subject to the provisions of this Order, rules 4A, 7 and 8 of Order 59A shall, with the necessary modifications, apply to an appeal under this Order.”

---

**EXPLANATORY NOTE**

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

These rules amend Order 11 of the Rules of the Supreme Court (Northern Ireland) 1936 so as to permit service out of the jurisdiction, with leave of the court, in proceedings for the recovery of estate duty and capital transfer tax.

They also add Order 59J governing the procedure on appeal to a Judge of the High Court under paragraph 7 of Schedule 4 to the Finance Act 1975 against a determination of the Commissioners of Inland Revenue under paragraph 6 of that Schedule relating to capital transfer tax as well as the procedure for entry of a case stated under paragraph 10 and on appeals under paragraph 32(3) or 35(2) of that Schedule against the imposition of penalties by the Special Commissioners.