

1991 No. 232

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

**The Rules of the Supreme Court (Northern Ireland)
(Amendment No. 2) 1991**

Made 3rd June 1991

Coming into operation in accordance with rule 1

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, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 2) 1991 and shall come into operation on the same day as Article 359 of the Insolvency (Northern Ireland) Order 1989(b) comes into operation.

(2) In these Rules an Order referred to by number or an Appendix referred to by letter means the Order so numbered and the Appendix so lettered in the Rules of the Supreme Court (Northern Ireland) 1980(c).

Business of the Supreme Court

2. Order 1 shall be amended as set out in the Schedule.

Transfer of proceedings

3. Order 4, rule 2, shall be amended by substituting the following rule—
“*Transfer of proceedings after making of order for administration of estate*

2. Where an order for the administration under the direction of the Court of the estate of a deceased person is made in the Chancery Division,

(a) 1978 c. 23
(b) S.I. 1989/2405 (N.I. 19)
(c) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1981 No. 224, S.R. 1983 No. 407 and S.R. 1989 No. 287

then, notwithstanding anything in rule 1, the Chancery Judge may by order transfer to that Division any pending cause or matter brought by or against the executors or administrators of that person and assigned to some other Division.”.

Originating summonses

4. Order 7, rule 5(1), shall be amended by adding after the words “the Chancery Office” the words “or the Bankruptcy and Companies Office where the business has been assigned to that office”.

Appeals to the Court of Appeal

5. Order 59, rule 4(1), shall be amended by substituting for sub-paragraph (b) the following paragraph—

“(b) in the case of an appeal from an order or decision made or given in the matter of any proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1980, Part XX and XXI of the Companies (Northern Ireland) Order 1986 or the Insolvency (Northern Ireland) Order 1989, 28 days;”

The Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984

6. Order 115 shall be amended as follows—

(a) rule 2 is revoked;

(b) by inserting in rule 3(1), after the words “Probate and Matrimonial Office” the words “or the Bankruptcy and Companies Office where the business has been assigned to that office.”.

Revocation

7. Order 96 and Forms 44 to 47 in Appendix A are hereby revoked.

Dated 23rd January 1991.

*Brian Hutton
Donald Murray
J. P. Higgins
Brian Kerr
Owen Catchpole*

I concur,

Mackay of Clashfern, C.

Dated 3rd June, 1991

Amendments to Order 1

Order 1 shall be amended as follows—

(a) in rule 2 for paragraph (2) there shall be substituted the following paragraphs—

“(2) These Rules, other than Part II of this Order, Order 4, Order 59 and Order 62 shall not have effect in relation to:

(a) proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1980(a);

(b) matrimonial proceedings.

(2A) These Rules, other than Part II of this Order, shall not have effect in relation to—

(a) proceedings under Part XVIII of the Companies (Northern Ireland) Order 1986(b);

(b) proceedings under Part XX and XXI of the Companies (Northern Ireland) Order 1986;

(c) proceedings under Part II of the Companies (Northern Ireland) Order 1989(c);

(d) proceedings under the Insolvency (Northern Ireland) Order 1989(d).”

(b) in Rule 2 paragraph (4) for the words “paragraphs (2) and (3)” there shall be substituted the words “paragraphs (2), (2A) and (3)”;

(c) for rule 10 there shall be substituted the following rule—

“*Assignment to Chancery Division*

10. There shall be assigned to the Chancery Division—

(a) all causes and matters (other than Admiralty) in relation to—

(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 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

(a) 1957 c. 60; 1872 c. 57; 1872 c. 58; 1929 c. 1 (N.I.); 1963 c. 23 (N.I.); S.I. 1980/561 (N.I. 4)

(b) S.I. 1986/1032 (N.I. 6)

(c) S.I. 1989/2404 (N.I. 18)

(d) S.I. 1989/2405 (N.I. 19)

- agreement or for the forfeiture or return of any deposit made under such an agreement;
- (ix) the partition or sale of land;
 - (x) copyright;
- (b) proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1980, the Companies (Northern Ireland) Order 1986, Part II of the Companies (Northern Ireland) Order 1989 or the Insolvency (Northern Ireland) Order 1989;
 - (c) applications for an injunction to restrain the presentation of a petition to wind up a company;
 - (d) proceedings taken under Article 4 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984(a) by virtue of Article 309(2) or 310(4) of the Insolvency (Northern Ireland) Order 1989;
 - (e) proceedings under Articles 88(3A) or 90(3A) of the Judgments Enforcement (Northern Ireland) Order 1981(b);
 - (f) all 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 immediately before the coming into force of this Order;
 - (g) all causes and matters which under, by virtue of, or in pursuance of any statutory provision are assigned to the Chancery Judge or the Chancery Division.”.
- (d) In rule 12, after paragraph (b), there shall be inserted the following paragraph—
- “(bb) proceedings under Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984, except where those proceedings have been assigned to the Chancery Division under rule 10”.
- (e) For rule 15 there shall be substituted the following rule—
- “*Bankruptcy and Companies Office*
15. There shall be transacted in the Bankruptcy and Companies Office all business in connection with—
- (a) applications for an injunction to restrain the presentation of a petition to wind up a company;
 - (b) proceedings under the Bankruptcy Acts (Northern Ireland) 1857 to 1980, the Companies (Northern Ireland) Order 1986; Part II of the Companies (Northern Ireland) Order 1989 and the Insolvency (Northern Ireland) Order 1989;
 - (c) suits for partition maintained by the trustee of a bankrupt’s estate in the circumstances mentioned in Article 309(3) of the Insolvency (Northern Ireland) Order 1989;
 - (d) proceedings taken under Article 4 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 by virtue of Article 309(2) or 310(4) of the Insolvency (Northern Ireland) Order 1989;
 - (e) proceedings under Article 88(3A) or 90(3A) of the Judgments Enforcement (Northern Ireland) Order 1981;
- except such business as by rule 13(b) is assigned to the Central Office.”.

(a) S.I. 1984/1984 (N.I. 14)

(b) S.I. 1981/226 (N.I. 6) as inserted by S.I. 1989/2405 (N.I. 19)

(f) In Rule 18 for paragraph (b) there shall be substituted the following paragraph—

“(b) the measurement of remuneration under the Insolvency (Northern Ireland) Rules 1991”.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 in consequence of the Insolvency (Northern Ireland) Order 1989 and Part II of the Companies (Northern Ireland) Order 1989.