

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order prescribes the manner of painting and of repainting inside walls and ceilings of factories and the intervals for repainting or revarnishing those walls and ceilings. The Order also exempts certain factories from requirements as to the periodical washing, painting or varnishing, or whitewashing or colour-washing, of inside walls and ceilings; but, as a result of revoking previous Orders, reimposes those requirements in the case of certain factories and parts of factories.

1964. No. 17

[NC]

**SUPREME COURT, NORTHERN IRELAND
PROCEDURE**

The Rules of the Supreme Court (Northern Ireland) (No. 1) 1964

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:—

PART I

EXECUTION

1. In Order XLII of the Rules of the Supreme Court (Northern Ireland) 1936(b), which relates to execution, the following amendments shall be made:—

(1) To rule 8 there shall be added the following paragraph—

“(2) All writs of execution for the enforcement of a judgment or order for the payment of money shall issue out of the Central Office.”

(2) The following paragraph shall be added to rule 9—

“(2) An application under this rule shall be made by summons (Form 51, Appendix B) supported by an affidavit of facts.”

(3) For paragraph (1) of rule 17 there shall be substituted the following paragraph—

“(1) Every person to whom any sum of money or any costs shall be payable under a judgment or order shall, so soon as the money or costs shall be payable, be entitled to sue out one or more writ or writs of fieri facias to enforce payment thereof; but if the judgment or order is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period.”

(a) 10 & 11 Eliz. 2, c. 30;

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

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(a) 10 & 11 Eliz. 2, c. 30;

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

(4) Immediately after rule 17 there shall be inserted the following rule—

“17A.—(1) Where a judgment is given or an order made for the payment of money by any person and the Court or a Judge is satisfied on application made at the time of the judgment or order or at any time thereafter by the judgment debtor or other party liable to execution that there are special circumstances which render it inexpedient to enforce the judgment or order or that the judgment debtor is unable from any cause to pay the money, then, notwithstanding anything in rules 17 or 18 of this Order, the Court or Judge may by order stay execution of the judgment or order by writ of fieri facias either absolutely or for such period and subject to such conditions as the Court or Judge thinks fit.

(2) An application under this rule if not made at the time the judgment is given or the order made shall be made by summons (Form 52, Appendix B) and may be so made notwithstanding that an appearance has not been entered.

(3) The evidence in support of an application made by summons may be given orally or by affidavit made by or on behalf of the applicant. An affidavit in support of such application shall state the grounds of the application and the facts necessary to substantiate them and, in particular, shall, in the case of an application on the grounds of the applicant's inability to pay, disclose his income, the amount of any debts due to him, the nature and value of any property of his and the amount of any other liabilities of his.

(4) A summons under this rule and a copy of the affidavit in support (if any) shall be served not less than two clear days before the return day, on the party entitled to enforce the judgment or order or his solicitor and may, without prejudice to any other mode of service be so served by ordinary prepaid post. Any document served by post under this paragraph shall be deemed to have been served at the time at which it would have been delivered in the ordinary course of post.

(5) Any order staying execution under this rule may be varied or revoked by a subsequent order.”

(5) For rule 24 the following rule shall be substituted—

“24.—(1) In the following cases, viz:—

- (a) Where six years have elapsed since the judgment or date of the order, or any change has taken place by death or otherwise in the parties entitled or liable to execution;
- (b) Where a husband is entitled or liable to execution upon a judgment or order for or against a wife;
- (c) Where a party is entitled to execution upon a judgment of assets in futuro;
- (d) Where a party is entitled to execution against any of the shareholders of a joint-stock company upon a judgment recorded against such company, or against a public officer or other person representing such company;

the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly. And the Court or Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or

question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in an action may be tried. And in either case the Court or Judge may impose such terms as to costs or otherwise as shall be just.

(2) Unless otherwise ordered by the Court or a Judge, an application under this rule may be made *ex parte*, grounded on an affidavit of facts.

(3) Notwithstanding any provision in this Order, where default in payment of any sum of money at the time appointed for payment thereof by any judgment or order made in a matrimonial cause or matter has been made, the writ of *fieri facias* may be issued as of course in the Central Office upon an affidavit of service of the judgment or order and non-payment."

(6) The following Part shall be substituted for Part II—

"II. PROCEEDINGS IN AID OF EXECUTION

34. If any difficulty shall arise in or about the execution or enforcement of any judgment or order other than for the recovery or payment of money, any party interested may apply to the Court or a Judge *ex parte*, and the Court or a Judge may make such order thereon for the attendance and examination of any party or otherwise as may be just.

35.—(1) Any party entitled to enforce any judgment or order for the recovery or payment of money may issue and serve a summons on the debtor liable under such judgment or order, or in the case of a corporation on any officer thereof, or on any other person, requiring him to attend before the Court or a Judge to be orally examined as to whether any and what debts are owing to the debtor, and whether the debtor has any and what other property or means of satisfying the judgment or order.

(2) The summons shall be in Form No. 53 in Appendix B or as near thereto as the circumstances of the case may render necessary and shall be served personally on the debtor.

(3) If the debtor shall fail to attend in pursuance of the summons the Court or a Judge may make an order for the attendance of the debtor or any other person and for the production of any books or documents.

(4) An order for attendance under the preceding paragraph shall be served personally on such person or persons and within such time as the Court or a Judge shall direct.

36.—(1) Upon the examination the Court or a Judge may make all or any of the following orders:—

- (a) An order staying execution absolutely or upon terms under rule 17A of this Order;
- (b) A conditional order of garnishee under Order XLV of these Rules;
- (c) A charging or stop order or any order ancillary thereto under Order XLV of these Rules;
- (d) An order for the appointment of a receiver by way of equitable execution under Order L of these Rules.

(2) The evidence given on the examination shall be taken down in writing, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the examinee.

(3) A copy of the note of such evidence shall, on payment of the appropriate fees, be made available to the parties to any such examination, but save as aforesaid no person shall, without leave of the Court or a Judge, be entitled to examine such note or to obtain a copy thereof."

PART II

GARNISHEE PROCEEDINGS

2. In Order XLV, which relates to attachment of debts, the following amendments shall be made:—

(1) The following rule shall be substituted for rule 2—

"2.—(1) An application under the preceding rule may be made *ex parte* by lodging with the Registrar the affidavit referred to in the preceding rule and, unless otherwise ordered by the Court or a Judge, no formal hearing shall be necessary.

(2) A copy of the order nisi shall be served on the garnishee and, unless otherwise ordered, on the debtor within the time limited by Order LII, rule 12, of these Rules and at least seven clear days before the day fixed for the hearing.

(3) Service of the order nisi on the garnishee in the manner prescribed by Order LXVII of these Rules shall bind the debts, due or accruing to the debtor, in the hands of the garnishee."

(2) After rule 2 there shall be inserted the following rule—

"2A.—(1) If the garnishee pays into Court the amount due from him to the debtor liable under a judgment or order, or an amount equal to the judgment or order and does not dispute the debt due or claimed to be due from him to such debtor, or, if the garnishee indicates his willingness to pay the amount or the appropriate proportion thereof, the Court or a Judge may make the order absolute and, where the money has been paid into Court, may order the same to be paid to the applicant.

(2) In making the order absolute the Court or a Judge may make such order for the payment or recovery of the applicant's or garnishee's costs as to the Court or Judge shall seem meet."

(3) Rule 9 shall be deleted.

PART III

CHARGING AND STOP ORDERS

3. In Order XLVI, which relates to charging and stop orders, the following amendments shall be made:—

(1) The following rule shall be substituted for rule 1—

"1.—(1) An order charging stock or shares may be made by the Court or a Judge and the effect shall be such as is provided by the Debtors (Ireland) Act 1840(a) and the Common Law Procedure Amendment Act (Ireland) 1853(b).

(a) 3 & 4 Vict. c. 105.

(b) 16 & 17 Vict. c. 113.

(2) The application shall be made *ex parte*, supported by an affidavit of facts in the Form No. 54 in Appendix B or as near thereto as the circumstances of the case shall require, for a conditional order to show cause.

(3) Copies of the order shall be served on the judgment debtor and on the Bank of Ireland at its principal office in Belfast or on the company concerned, as the case may be, within the time limited by Order LII, rule 12, of these Rules and at least seven clear days before the day fixed for the hearing.

(4) Cause may be shown by application to discharge or vary the conditional order and such application shall be made by summons in the form No. 55 in Appendix B, returnable for the day fixed for the hearing and served at least two clear days before that day.

(5) Upon the hearing of any application to which the last foregoing paragraph relates the conditional order may be discharged, varied or made absolute.

(6) If cause be not shown on the day fixed for hearing the conditional order may be made absolute."

(2) The following rule shall be inserted after rule 1—

"1A. An application for an order in pursuance of the Common Law Procedure Amendment Act (Ireland) 1853, section 133, for the transfer of stock, funds, securities or shares or the payment of the dividends, interest and annual produce thereof to the sheriff shall be made by summons (Form No. 56, Appendix B) to the defendant and all persons whose act or consent is thereto necessary."

(3) The following paragraphs shall be added to rule 2—

"(2) The summons and affidavit shall be in Forms No. 57 and 58 in Appendix B or as near thereto as the circumstances of the case shall require.

(3) If it is apprehended that the judgment debtor on being served with the summons will dispose of or deal with his interest in the property, an *ex parte* application, supported by an affidavit of facts, may be made, at the time of the issue of the summons, for an order restraining him from so doing pending the hearing of the summons."

(4) The following rule shall be substituted for rule 14—

"14. An application for any order under the last preceding rule may be made by summons in Form No. 59 in Appendix B, supported by an affidavit of facts. The summons shall be served upon the persons interested in such parts of the monies or securities as are sought to be affected by any such order."

PART IV

APPOINTMENT OF RECEIVER BY WAY OF EQUITABLE EXECUTION

4. The following paragraphs shall be added to rule 27 of Order L, which relates to the appointment of receivers by way of equitable execution:—

"(2) An application under the preceding paragraph shall be made by summons in Form No. 60, Appendix B, supported by an affidavit of facts.

(3) An application for a restraining order or for leave to sue in the name of the judgment debtor shall, unless otherwise ordered, be made *ex parte*, supported by an affidavit of facts, and may be disposed of without any formal hearing."

PART V

COSTS

5. In Order LXV, which relates to costs, after rule 60 there shall be added the following rule:—

“60A. Notwithstanding anything in the rules of this Order, costs shall, unless the Court or a Judge otherwise orders, be allowed in the cases to which Appendix S, Part VI, applies in accordance with the provisions of that Part.”

6. In Part VI of Appendix S immediately after Scale II there shall be added the following scale:—

“SCALE III

MISCELLANEOUS

1. Where an order is made in proceedings under section 6 of the Debtors Act (Ireland) 1872(a), there shall be allowed—

- (a) where the judgment or order, not being a judgment or order made in a matrimonial cause or matter, in respect of which the proceedings are taken does not exceed £40 Nil
- (b) where the judgment or order in respect of which the proceedings are taken is made in a matrimonial cause or matter, or exceeds £40—
- (1) where there is no hearing and the judgment summons has been issued and served £3 10 0
- (2) where an order is obtained on foot of a judgment summons £7 18 0
- (3) And in addition—
- (i) the reasonable viaticum actually paid to the judgment debtor;
- (ii) where the Judge certifies that, owing to special circumstances, it was proper to engage counsel, counsel's fee £3 3 0
- (iii) where an attendance order is made £2 5 0
- (iv) where an order is made granting leave to issue an order of commitment to the Bankruptcy Messenger £2 0 0

2. Where upon the application of any person who has obtained a judgment or order against a debtor for the recovery or payment of money a garnishee order is made under Order XLV, rule 1, against a garnishee attaching debts owing or accruing from him to the debtor, the following costs shall be allowed—

- (a) to the garnishee to be deducted by him from any debt owing by him as aforesaid before payments to the applicant—
- If no affidavit is filed £2 10 0
- If affidavit is filed £3 3 0
- (b) to the applicant to be retained, unless the Court or a Judge otherwise orders, out of the money recovered by him under the garnishee order and in priority to the amount of the debt owing to him under the judgment or order—

If the amount recovered by the applicant from the garnishee is—

| | |
|--|---------|
| less than £5 | Nil |
| not less than £5 but more than £10 | £1 10 0 |
| more than £10 | £7 0 0 |

And in addition where the garnishee fails to attend the hearing of the application and an affidavit of service is required £1 0 0

3. Where a charging order is made—

(a) in respect of any stock, funds, annuities or shares, or any dividends, or interest thereon or produce thereof, under Order XLVI, rule 1; or

(b) in respect of any partnership property or profits, under section 23 of the Partnership Act 1890(a);

there shall be allowed—

| | |
|--|--------|
| Basic costs | £8 0 0 |
| In addition, where an affidavit of service is required | £1 0 0 |

4. The costs of applications to appoint a receiver by way of equitable execution under Order L, rule 27, shall be in the discretion of the Registrar who may—

(a) where a restraining order is not sought, award costs of £3 3 0;

(b) where a restraining order is made, measure the costs at such sum not more than £6 6 0 and not less than £3 3 0 as may be just.

5. Where an application is made by a judgment debtor under Order XLII, rule 17A, there shall be payable to the judgment creditor who appears on such application—

(a) where an order is obtained, the sum of £2 2 0;

(b) where an order is not obtained, such sum not exceeding £5 5 0 and not less than £2 2 0 as may be just.

6. Notwithstanding any provision in the rules of this Part a party who is not a solicitor and who appears or has appeared in person shall not be entitled to any costs other than the outlay necessarily or properly incurred by him.

7. In any proceedings taken pursuant to Order XLII, Part II, the costs of the application and of any order made thereunder including the examination of a debtor or other person shall be in the discretion of the Registrar who may award costs of £3 3 0 in respect of such application, order and examination and may, if satisfied that it is reasonable to do so, increase the costs to such sum not exceeding £10 10 0 as shall appear to him to be just and proper and, where a garnishee order is made, any costs awarded under this rule may be retained by the applicant in the same manner as if such costs had been allowed under rule 2(b) of this Part.

8. The costs of taking out a side bar order shall be £2 2 0.

9. The costs in proceedings before a Registrar shall, subject to the provisions of this Part, be such as the Registrar may measure, being not less than £3 3 0 nor more than £9 9 0 according to the nature and circumstances of the case."

PART VI

MISCELLANEOUS

7. In rule 1 of Order XXX, which relates to side bar orders, the following amendments shall be made:—

(1) Item 15 shall be deleted.

(2) The following new items shall be added after item 21—

“(22) To require specific delivery of a chattel in default of appearance under Order XIII, rule 8;

(23) To continue an action under Order XVII, rule 4.”

8. In Order LXX, which relates to matrimonial causes and matters, paragraphs (1) and (2) of rule 68 shall be annulled.

9. In Order LXXXVIII the following amendments shall be made:—

(a) In rule 5 the word and figure “Part I” shall be added before the words “Appendix Y”.

(b) The following rule shall be substituted for rule 94—

“94. The Rules of the Supreme Court for the time being as to execution and writs of execution shall, so far as applicable, apply to executions and writs of execution to enforce orders of the Court.”

10. In Order XCI, which relates to interpretation, immediately after the definition of “Receiver” there shall be inserted the following definition:—

““recorded delivery” means delivery by the postal recorded delivery service.”

11. At the commencement of Appendix Y, and before the words “BANKRUPTCY FORMS”, there shall be inserted the word and figure “PART I”.

PART VII

FORMS

12. In Form No. 1 in Appendix A, after the notification of entering of appearance there shall be inserted the following paragraph:—

“If judgment is entered against you and there are special circumstances which make it inexpedient to enforce the judgment or you are unable to pay the amount due you may apply to the Central Office (Room 53), Royal Courts of Justice (Ulster), Chichester Street, Belfast, to have execution stayed either absolutely or on such terms, including payment of the amount of the judgment by instalments, as the Court may direct.”

13. The following forms shall be added to Appendix B immediately after Form 50:—

No. 51

Summons under O. XLII, r. 9(2)*(Heading as in Form 1 Appendix A)*

LET all parties concerned attend a Registrar at Room _____, Royal
 Courts of Justice (Ulster), Chichester Street, Belfast, on _____ day, the _____ day
 of _____ 19____ at _____ o'clock in the _____ noon,
 on the hearing of an application on the part of the plaintiff for an order that
 execution of the judgment/order made in the above proceedings do issue.

Dated this _____ day of _____ 19____

Signed: _____

This summons was taken out by _____

To: _____

No. 52

Summons under O. XLII, r. 17A(2)*(Heading as in Form 1 Appendix A)*

LET all parties concerned attend a Registrar at Room _____, Royal
 Courts of Justice (Ulster), Chichester Street, Belfast, on _____ day, the _____ day
 of _____ 19____ at _____ o'clock in the _____ noon,
 on the hearing of an application on the part of the defendant for an order
 that execution of the judgment/order made in the above proceedings be
 stayed.

Dated this _____ day of _____ 19____

Signed: _____

This summons was taken out by _____

To: _____

No. 53

Summons under O. XLII, r. 35*(Heading as in Form 1 Appendix A)*

Whereas the plaintiff obtained a judgment/order against the above-named
 defendant _____ on the _____ day
 of _____ 19____ for the sum of £ _____ and
 there is now due and payable under the said judgment/order the sum
 of £ _____.

You are therefore hereby SUMMONED to appear personally before a Registrar
 in Room _____ at the Royal Courts of Justice (Ulster), Chichester Street,
 Belfast, on _____ day, the _____ day of _____ 19____ at _____ o'clock
 in the _____ noon to be examined as to whether any and what debts are
 owing to you, and whether you have any and what other property or means of
 satisfying the above mentioned judgment/order.

Dated this _____ day of _____ 19____

Registrar.

To: _____

No. 54

**Affidavit grounding application for Charging Order Nisi,
O. XLVI, r. 1(2)**

I _____ of _____
make oath and say as follows

(1) On the _____ day of _____ 19____ I/the
above-named _____ obtained a judgment/order
against the above-named _____
for the recovery/payment of a sum of _____

[(2) A writ of fieri facias was issued on the _____ day of
19____.]

(3) The said judgment/order remains unsatisfied to the extent of £ _____

(4) I am informed by my solicitor and believe that the above-named _____
has a beneficial interest
in the following viz:

[Here set out particulars of stocks or shares]

Except where otherwise stated I depose to the foregoing from my own
knowledge.

Sworn etc.

No. 55

**Summons to discharge or vary Charging Order Nisi,
O. XLVI, r. 1(4)**

(Heading as in Form 1 Appendix A)

LET all parties concerned attend a Registrar at Room _____, Royal
Courts of Justice (Ulster), Chichester Street, Belfast, on _____ day,
the _____ day of _____ 19____ at _____ o'clock
in the _____ noon, on the hearing of an application on the part
of _____ for an order that the order nisi
made herein on the _____ day of _____ 19____ attaching
the beneficial interest of _____ in _____
be discharged (varied by _____).

Dated this _____ day of _____ 19____

Signed: _____

This summons was taken out by _____

To: _____

No. 56

Summons under O. XLVI, r. 1A*(Heading as in Form 1 Appendix A)*

LET all parties concerned attend a Registrar at Room _____, Royal
 Courts of Justice (Ulster), Chichester Street, Belfast, on _____ day,
 the _____ day of _____ 19____, at _____ o'clock
 in the _____ noon, on the hearing of an application on the part of
 _____ for an order for the transfer to the
 Sheriff of* _____ standing in the defendant's name.

Dated this _____ day of _____ 19____.

Signed: _____

**Set out particulars of stock, shares, etc.*

This summons was taken out by

To: _____

No. 57

Summons to charge partnership assets, O. XLVI, r. 2(2)*(Heading as in Form 1 Appendix A)*

LET all parties concerned attend a Registrar at Room _____, Royal
 Courts of Justice (Ulster), Chichester Street, Belfast, on _____ day,
 the _____ day of _____ 19____, at _____ o'clock
 in the _____ noon on the hearing of an application by
 _____ for an order that the beneficial interest
 of _____ in the assets of the
 partnership firm of _____ be attached to
 answer a debt of £ _____ due from the said
 _____ under a judgment/order herein

dated the _____ day of _____ 19____, and
 £ _____ costs.

AND that _____ of
 or some other person be appointed receiver, with all usual directions, of the
 share and profits of the said _____
 in the said partnership whether already declared or accruing and any other money
 which may be coming to the said _____ in
 respect of his said interest in the said firm.

AND that necessary accounts and inquiries (if any) may be directed.

Dated this _____ day of _____ 19____.

Signed: _____

This summons was taken out by

To: _____

No. 58

Affidavit to ground Summons in Form 57

(Heading as in Form 1 Appendix A)

I _____ of _____ make oath
and say as follows:

1. I am _____ *(state occupation)*

2. [I have for _____ years past had frequent dealings with the said
firm of _____ and in such dealings I have often
transacted business with _____ who on all such
occasions purported to act on behalf of the said firm and he always held himself
out to be a partner in the said firm.]

3. [The letter now produced to me marked A.B. is a letter dated
_____, received by me from the said firm and on the printed
heading of such letter the said _____ is represented
to be one of the partners.]

(Add such other evidence as may be available to show that defendant
is represented to be one of the partners)

Sworn etc.

No. 59

Summons for Stop Order, O. XLVI, r. 14

(Heading as in Form 1 Appendix A)

LET all parties concerned attend a Registrar at Room _____, Royal
Courts of Justice (Ulster), Chichester Street, Belfast, on _____ day,
the _____ day of _____ 19____, at _____ o'clock
in the _____ noon on the hearing of an application on the part
of _____ that no part of the

_____ *[describe fund]* _____ in Court to
the credit of an action entitled
Record No. _____ to which
is or may become entitled may be sold, transferred, or otherwise dealt with,
without notice to the said

Dated this _____ day of _____ 19____

Signed:

This summons was taken out by

To:

No. 60

**Summons to appoint receiver by way of equitable execution,
O. L, r. 27(2)**

(Heading as in Form 1 Appendix A)

LET _____ attend a Registrar at Room _____,
Royal Courts of Justice (Ulster), Chichester Street, Belfast, on _____,
the _____ day of _____ 19____, at _____ o'clock
in the _____ noon, on the hearing of an application on the part
of _____ for the appointment
of _____ as receiver by way of equitable execution, on all
usual terms, over _____

_____ in or towards satisfaction of
the sum of £ _____ debt and £ _____
costs due under the judgment in this action dated the _____ day
of _____, 19____.

Dated the _____ day of _____ 19____
This summons was taken out by _____ Solicitors.

To:

14. These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 1) 1964 and shall come into force on the 15th day of September, 1964.

Dated this 7th day of February, 1964.

(Signed)

MacDermott

Arthur Black

H. A. McVeigh

Brian Maginess

Leonard I. G. Fox

James J. Napier

EXPLANATORY NOTE

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

These rules classify and amend the procedure in applications for leave to issue execution, staying execution, garnishee, charging and stop orders and for the appointment of a receiver by way of equitable execution. The circumstances in which execution may be stayed either absolutely or on terms is extended to include inability to pay.

The costs of the proceedings to which these rules apply are reduced by the introduction of a table of fixed costs. It is also provided that all writs of execution shall issue out of the Central Office.