2. PROCEDURE UNDER THE EXCHANGE CONTROL ACT, 1947

The Chancery of Lancaster (Exchange Control) Rules, 1948

1948 No. 272 (L. 1)

Made - - - - 4*th February*, 1948
Laid before Parliament 17*th February*, 1948
Coming into Operation 20*th February*, 1948

The Right Honourable Francis Aungier Baron Pakenham Chancellor of the Duchy and County Palatine of Lancaster, with the advice and consent of Sir John Bennett, the Vice-Chancellor of the said County Palatine of Lancaster, and with the approval of the Authority empowered to make rules for the Supreme Court in pursuance of the powers and authorities conferred by the Chancery of Lancaster Acts 1850 to 1890(a) and all other powers enabling him in that behalf doth hereby order and direct as follows:—

1.—(1) These Rules may be cited as the Chancery of Lancaster (Exchange Control) Rules, 1948.

(2) These Rules shall come into operation on the 20th day of February, 1948.

2. Order III (which relates to the indorsement of claim) shall be amended as follows:—

The following paragraph shall be added to Rule 4 (which provides that the indorsement shall show the representative capacity of a party), namely:—

"(2) If an action is brought by or on behalf of a person resident outside the scheduled territories, as defined by the Exchange Control Act, 1947(b), the indorsement shall so state and shall state the residence of such person."

Payment out of court of money paid in under 10 & 11 Geo. 6. c. 14.

3. The following Rule shall be added to Order XXI A (which relates to payment into and out of court), and shall stand as Rule 7, namely:—

"7. In any cause or matter any party may apply for payment out of court of any money paid into court pursuant to the Exchange Control Act, 1947, or under any order of the court made thereunder. The application shall be made by summons in the cause or matter, whatever the amount involved, and shall be served upon all parties interested, and if any person in whose favour an order for payment is sought to be made is resident outside the scheduled territories, as defined by the said Act, or will receive payment by order or on behalf of a person so resident, the summons shall so state, and shall state if the permission of the Treasury authorising the proposed payment has been given unconditionally or on conditions which have been complied with. The permission of the Treasury in writing shall be produced on the hearing of the summons."

4. Order XXXVIII (which relates to execution) shall be amended as follows:—

(*a*) The following paragraphs shall be added to Rule 1 (which provides that a judgment or order is to be obeyed without demand), namely:—

"(2) Where any person is directed by any judgment, order, or award, to pay any money to or for the credit of any person resident

(a) 13 & 14 Vict. c. 43: 17 & 18 Vict. c. 82: 53 & 54 Vict. c. 23.
(b) 10 & 11 Geo. 6. c. 14.

outside the scheduled territories, as defined by the Exchange Control Act, 1947, he shall, unless the permission of the Treasury under the said Act has been given unconditionally, or upon conditions which have been complied with, pay such money into court.

(3) Payment into court under the preceding paragraph of this Rule shall, to the extent of the payment, be a good discharge to the person making the payment, and thereafter no steps may be taken to enforce the judgment, order, or award to the extent of the amount paid in notwithstanding the provisions of Rule 3 of this Order or any other Order.

(4) Notice of any payment into court under this Rule shall be given to the plaintiff, his solicitor or agent, and to any other persons specified in the judgment, order, or award, and shall be in Form 2C of Appendix B subject to such modifications as may be necessary."

(*b*) The following paragraphs shall be added to Rule 12 (which provides for the praecipe for a writ of execution):—

" (2) Subject to the provisions of Rule 17 of this Order any party resident, or who is acting by order or on behalf of a person resident, outside the scheduled territories, as defined by the Exchange Control Act, 1947, and who is seeking to issue a writ of fieri facias or other process of execution to enforce a judgment or order, shall cause to be endorsed on the praecipe for the writ a certificate stating that the Treasury's permission under the said Act has been given unconditionally or on conditions which have been complied with.

(3) The praecipe for the writ issued under the preceding paragraph shall be in Form 1A in Appendix G and a certificate under paragraph (2) hereof shall be in Form 1C of the said Appendix.

(4) Where a certificate under paragraph (2) hereof is given the permission of the Treasury in writing shall be produced to the proper officer at the time of issuing execution."

(*c*) The following paragraphs shall be added to Rule 17 (which determines the time when writs of fieri facias and elegit may be issued), namely:—

" (2) Notwithstanding the provisions of paragraph (2) of Rule 12 of this Order, a party seeking to issue execution who has not given the certificate prescribed by that paragraph may issue a writ of fieri facias or other process directing the sheriff to pay the proceeds of the execution into court.

(3) The praecipe for a writ issued under the preceding paragraph shall be in Form 1B in Appendix G.

(4) The form of writ of fieri facias issued under paragraph (2) of this Rule shall be in Form 1A in Appendix H.

(5) Notice of any payment into court under this Rule shall be given by the sheriff to the plaintiff, his solicitor or agent and to any other persons specified in the judgment, order, or award, and shall be in Form 2C of Appendix B subject to such modifications as may be necessary."

5. In Order XL A (which relates to attachment of debts) the following paragraphs shall be added to Rule 3 (which relates to execution against a garnishee):—

" (2) No order absolute shall be made ordering the garnishee to pay any sum to or for the credit of a judgment creditor resident outside

the scheduled territories, as defined by the Exchange Control Act, 1947, unless there is produced by the said judgment creditor a certificate that the Treasury's permission under the said Act has been given unconditionally or upon conditions which have been complied with. The said certificate shall be in Form 1C of Appendix G.

(3) If it appears to the court or a judge that payment by the garnishee to the judgment creditor will contravene the provisions of the said Act, the garnishee may be ordered to pay the amount due, together with the costs of the garnishee proceedings into court, subject to deduction of his costs if the court shall so order."

6. In Order XLIII (which relates to the writ of delivery) Rule 1 shall be amended by the insertion, after the word "plaintiff" in line 4 thereof, of the following:—

"but subject in relation to securities, certificates of title, coupons, and other documents as defined by the Exchange Control Act, 1947, to the provisions of that Act."

7. Order XLIV (which relates to interlocutory orders as to injunctions, etc.), shall be amended as follows:—

(*a*) Rule 8 (which relates to orders for the recovery of specific property other than land, subject to lien) shall be amended by the addition thereto of the following:—

"but subject in relation to certificates of title and coupons and other documents as defined by the Exchange Control Act, 1947, to the provisions of that Act."

(*b*) The following Rule shall be inserted after Rule 12A and shall stand as Rule 12B:—

Payment into court by a receiver pursuant to 10 & 11 Geo. 6. c. 14.

"12B. Where it appears to the court or a judge that the judgment creditor is resident outside the scheduled territories, as defined by the Exchange Control Act, 1947, or is acting by order or on behalf of a person so resident and that the permission of the Treasury under the said Act has not been given unconditionally or upon conditions that have been complied with, any order for the appointment of a receiver by way of equitable execution shall direct that the receiver shall pay into court to the credit of the cause or matter in which he is appointed any balance due from him after deduction of his proper salary or allowance."

8. The Forms in the Appendices shall be amended as follows:—

(*a*) In Appendix B there shall be inserted a new Form to stand as 2C:

No. 2C.

Notice of Payment into Court (O. 38, rr. 1 and 17).

Ledger Credit {

TAKE NOTICE that the sum of £ : : has been paid into Court pursuant to Order , Rule , and the Exchange

Control Act, 1947, being the amount of £ : : due
{to*
{from

†Plaintiff or
A† B of Defendant.
in respect of
the said A†
being (*a*)* a resident outside the scheduled territories, or
(*b*)* a person acting by order or on behalf of a person resident outside the scheduled territories.
together with* the sum of £ : : Costs.
less*

Dated 19

(Signature)

To Solicitor for †

Sheriff.

* delete as required.

(*b*) Appendix G of the Rules of the Chancery of Lancaster shall be amended by the addition of the following Forms:—

No. 1A.

In the Chancery of the
County Palatine of
Lancaster
District.

Praecipe—Writ of Fieri Facias.
Where Certificate given under the Exchange Control Act, 1947 (Order 38, Rule 12 (2)).
19 , , No.

BETWEEN

Plaintiff,

and

Defendant.

Seal a Writ of Fieri Facias directed to the Sheriff of
against
of
in the County of
upon a Judgment (*) dated the day of 19 in the sum of £ debt and £ Costs and interest, etc.

Indorsed to Levy £ and interest thereon at £4* per centum per annum from the day of , 19 , and costs of execution.

* "Order" "Award" sums in judgment.
* Or interest at the rate agreed on as provided by Ord. XXXVIII R. 16.

(Insert here Certificate, Form 1C of this Appendix.)

(Solicitor's name)

(Address)

Solicitor for the

.....

Dated this day of , 19 .

No. 1B.

In the Chancery of the
County Palatine of
Lancaster
District.

Praecipe—Writ of Fieri Facias.

Certificate not given under the Exchange Control Act, 1947 (Order 38, Rule 17 (2)).
19 , , No.

BETWEEN

Plaintiff,

and

Defendant.

Seal a Writ of Fieri Facias directed to the Sheriff of
against
of
in the County of
upon a Judgment (*) dated the day of
19 in the sum of £ debt and £ Costs and interest, etc.

* Or "Order" or "Award" sums in judgment.

Indorsed to Levy £ and interest thereon at £4* per centum per annum from the day of , 19 , and costs of execution and for payment into Court of the proceeds of execution (less Sheriff's Costs and Charges).

* Or interest at the rate agreed on as provided by Ord. XXXVIII R.16.

(Solicitor's name)
(Address)

Solicitor for the

.....

Dated this day of , 19 .

No. 1C.

Certificate verifying permission of the Treasury under the Exchange Control Act, 1947.

(O. 38, r. 12 (3); O. 40A, r. 3 (2).)

I certify that the Treasury's permission under the provisions of the Exchange Control Act, 1947, for the payment to *
of the proceeds of execution has been given unconditionally or upon conditions which have been complied with.

* Judgment creditor or other description

Signed

*

or Solicitors for the *

Address and date.

(*c*) Appendix H shall be amended by the addition of the following Form to stand as No. 1A:—

No. 1A.

In the Chancery of the
County Palatine of
Lancaster
District.

Writ—Fieri Facias.

For payment into Court where Certificate not given pursuant to O. 38, Rule 12 (2) of the Rules of the Chancery of Lancaster (O. 38, Rule 17 (2)).

19 , , No.

BETWEEN

Plaintiff,

and

Defendant.

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, to the Sheriff of
Greeting, WE COMMAND YOU that of the goods and chattels of
.
in your bailiwick you cause to be made the sum of £ and also interest thereon at the rate of £ per centum per annum from the (1) day of , 19 , which said sum of money and interest were lately before Us, in Our Court of Chancery of the County Palatine of Lancaster in a certain (2)
.
wherein
plaintiff and
defendant by a (3) of Our said Court, bearing date the day of , 19 , (4)
to be paid by the
. to
together with certain costs in the said (3)
mentioned, and which costs have been taxed and allowed by one of the Registrars of our said Court at the sum of £
as appears by the certificate of the said Registrar, dated the day of , 19 .

And that of the goods and chattels of the said
. in your bailiwick you further cause to be made the said sum of (5)
together with interest thereon at the rate of £4 per centum per annum from the (1) day of , 19 , and that you have that money and interest before Us in Our said Court immediately after the execution hereof and pay the same into Court in pursuance of Rules of Court made under the Exchange Control Act, 1947, and in the manner provided by the Regulations as to

This Writ must be so moulded as to follow the substance of the order or judgment.

(1) Day of the judgment or order, or day from which money directed to be paid or day from which interest is directed by the order to run, or as the case may be.

(2) Action or matter there depending, intituled "In the matter of, etc.," or as the case may be.

(3) "Judgment" or "order."

(4) "Adjudged," "awarded," or "ordered."

(5) Amount of costs.

Funds in Court and in what manner you shall have executed this Our Writ, make appear to Us in Our said Court immediately after the execution thereof:

And have there then this Writ

Witness,

Ourself at Lancaster this day of , in the year of Our Reign.

Note:—See O. 39, r. 5 as to indorsement.

(*d*) Garnishee Orders (Absolute) shall, if the judgment creditor is resident outside the scheduled territories, as defined by the Exchange Control Act, 1947, or would receive payment of the said sum on behalf of a person so resident, provide that the judgment debt and costs be paid into court, unless the Treasury's permission under the said Act has been given unconditionally or upon conditions which have been complied with.

Dated the 4th day of February, 1948.

Pakenham,
Chancellor.

John Bennett,
Vice-Chancellor.

Approved by the authority for the time being empowered to make Rules of the Supreme Court.

A. E. A. Napier,
Secretary.

LAND, ACQUISITION OF, ENGLAND

[*See* also below LAND CHARGES, E., p. 1685; and TOWN AND COUNTRY PLANNING, E., p. 4091.]

ASSESSMENT OF COMPENSATION

The Acquisition of Land (Claims for adjustment of compensation for War Damaged Land) Regulations, 1948

1948 No. 207

Made - - - -	5*th February*, 1948
Laid before Parliament	10*th February*, 1948
Coming into Operation	11*th February*, 1948

The Treasury, in exercise of the power conferred upon them by sub-paragraph (2) of paragraph 1 of the Seventh Schedule to the Town and Country Planning Act, 1947(a), hereby make the following Regulations:—

1. In these Regulations

(*a*) " the Act " means the Town and Country Planning Act, 1947;

(a) 10 & 11 Geo. 6. c. 51.