SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Supreme Court Rules (Exchange Control) (Northern Ireland) Order in Council, 1948

1948 No. 540

Made - - - -	15*th March*, 1948
Laid before Parliament	18*th March*, 1948
Coming into Operation	1*st April*, 1948

By the Governor in the Privy Council of Northern Ireland.

Granville.

I, William Spencer, Earl Granville, Knight Commander of the Royal Victorian Order, Companion of the Most Honourable Order of the Bath, Companion of the Distinguished Service Order, Vice-Admiral, Governor of Northern Ireland, by and with the advice of the Privy Council in Northern Ireland, in pursuance and by virtue of section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877(**a**), as amended by section twelve of the Supreme Court of Judicature (Ireland) (No. 2) Act, 1897(**b**), as those enactments apply to the Supreme Court of Judicature of Northern Ireland(**c**), paragraphs three and eight of the Fourth Schedule to the Exchange Control Act, 1947(**d**), and all other powers enabling me in this behalf upon the recommendation and with the concurrence of a majority of all the Judges of the said Supreme Court of Judicature for the time being (of which majority the Lord Chief Justice of Northern Ireland was one) and the other persons mentioned in the said section sixty-one as amended and applied as aforesaid, do by this Order make the Rules of Court set out in the Schedule hereto and alter and annul certain Rules of the Rules of the Supreme Court of Northern Ireland, 1936(**e**), as in the manner appearing in that Schedule.

This Order may be cited as the Supreme Court Rules (Exchange Control) (Northern Ireland) Order in Council, 1948, and shall come into force on the first day of April, 1948.

Given at Government House, Hillsborough, this fifteenth day of March, 1948.

J. M. Sinclair.
Edmond Warnock.
A. B. Babington.

(**a**) 40 & 41 Vict. c. 57. (**b**) 60 & 61 Vict. c. 66.
(**c**) S.R. & O. 1921 (No. 1802) p. 1332. (**d**) 10 & 11 Geo. 6. c. 14.
(**e**) S.R. & O. 1936 (No. 70) II, p. 2559.

SCHEDULE

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

(*a*) 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."

(*b*) The following Rule shall be substituted for Rule 8 (which prescribes the indorsement on a writ where the claim is liquidated), namely:—

" 8.—(1) Wherever the plaintiff's claim is for a debt or liquidated demand only, the indorsement, besides stating the nature of the claim, shall state the amount claimed for debt, or in respect of such demand, and for costs respectively, and shall further state that the defendant can pay the amount claimed and costs—

(*a*) into Court if the plaintiff or one of two or more co-plaintiffs 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, or if the defendant is making the payment by order or on behalf of a person so resident, or

(*b*) in all other cases to the plaintiff, his solicitor or agent;

and that any such payment must be made within four days after service, or in the case of a writ not for service within the jurisdiction within the time allowed for appearance, and that upon such payment further proceedings will be stayed:

Provided that where the defendant pays the amount into Court under this Rule he shall give notice of such payment in to the plaintiff, his solicitor or agent in Form 4A of Appendix B.

(2) The amount to be so claimed for costs in all such cases where there has not been any order for service of the writ, or of notice thereof, out of the jurisdiction, or for substituted or other service, or for the substitution of notice for service, or declaring service effected sufficient, or any notice by advertisement of the issuing of the writ, shall be as follows:—

	£	s.	d.
If the plaintiff's claim be settled by payment in respect of the demand of a sum not exceeding £10 ...	0	17	6
If exceeding £10 and not exceeding £20	2	5	0
If exceeding £20	4	3	0
With seven shillings and sixpence for each additional service after the first service.			

(3) The indorsement for costs required by paragraph (1) of this Rule shall be in the Form in Appendix A, Part III, Section III.

(4) The defendant may, notwithstanding a payment under this Rule, have the costs taxed, and if more than one-sixth shall be disallowed, the plaintiff's solicitor shall pay the costs of taxation."

2. The following rule shall be added to Order XXII(c) (which relates to payment into and out of Court), and shall stand as Rule 13, namely:—

" 13. 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

(a) *See* S.R. & O. 1944 (No. 268) I, p. 990. (b) 10 & 11 Geo. 6. c. 14.
(c) *See* S.R. & O. 1943 (No. 944) I, p. 946.

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."

3. Order XLII(a) (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 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 4A of Appendix B subject to such modifications as may be necessary."

(*b*) The following paragraphs shall be added to Rule 11 (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 indorsed 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 may be issued), namely:—

" (2) Notwithstanding the provisions of paragraph (2) of Rule 11 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 Under Sheriff to the plaintiff, his solicitor or agent and to any other person specified in the judgment, order, or award, and shall be in Form 4A of Appendix B subject to such modifications as may be necessary."

(a) *See* S.R. & O. 1943 (No. 944) I, 946.

4. In Order XLV (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 or a Judge shall so order."

5. In Order XLVIII (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 ".

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

(*a*) Rule 9 (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 18 and shall stand as Rule 18A:—

" 18A. 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."

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

(*a*) The Form of the " Indorsement for Costs " in Appendix A, Part III, Section III, shall be amended by the insertion after the words " will be stayed " of the following:—

" Provided that if it appears from the indorsement of the writ that the plaintiff 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, or if the defendant is acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed is paid into Court within the said time and notice of such payment in is given to the plaintiff or his solicitor."

(*b*) In Appendix B there shall be inserted a new Form to stand as 4A:

" No. 4A

NOTICE OF PAYMENT INTO COURT

(O. 3, r. 8; O. 42, 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 £ : :

* Delete as required. † Plaintiff or Defendant.

due { to* / from* A.B.†

of

in respect of

the said A.B.†

being { a resident outside the scheduled territories* / a person acting by order or on behalf of a person resident outside the scheduled territories*

together with* / less* } the sum of £ : : Costs.

Dated 19 .

(Signature)

Solicitor for †

To

Under Sheriff.

BANK RECEIPT

Received the above sum of pounds shillings and pence into Court for the above credit.

£ : :

Dated the day of 19 .

BANK OF IRELAND."

(c) Appendix G of the Rules of the Supreme Court shall be amended by the addition of the following Forms:—

" No. 1A

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

Praecipe—Writ of Fieri Facias.

Where Certificate given under the Exchange Control Act, 1947 (Order 42, Rule 11 (2)).

DIVISION 19 , No.

BETWEEN

Plaintiff,

and

Defendant.

Seal a Writ of Fieri Facias directed to the under sheriff of to levy against C.D.
the sum of £ and interest thereon at the rate of £ per centum per annum from the day of [and £ costs] to
Judgment [or order] dated day of .
[Taxing Master's Certificate dated day of]

[Insert here Certificate, Form 1C of this Appendix]

X.Y., solicitor for [party on whose behalf writ is to issue].

.....

No. 1B

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

Praecipe—Writ of Fieri Facias.

Certificate not given under the Exchange Control Act, 1947 (Order 42, Rule 17 (2)).

DIVISION 19 , No.

BETWEEN

Plaintiff,

and

Defendant.

Seal a Writ of Fieri Facias directed to the under sheriff of to levy against C.D.
the sum of £ and interest thereon at the rate of £ per centum per annum from the day of [and £ costs] to
Judgment [or order] dated day of
and for payment into Court of the proceeds of execution (less under sheriff's Costs and Charges).
[Taxing Master's certificate dated day of .]

X.Y., solicitor for [party on whose behalf writ is to issue]

.....

No. 1C

CERTIFICATE VERIFYING PERMISSION OF THE TREASURY UNDER THE EXCHANGE CONTROL ACT, 1947

(O. 42, r. 11 (3); O. 45, 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 Solicitor for the*
Address and date.

"

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

"No. 1A

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

Writ—Fieri Facias.

For payment into Court where Certificate not given pursuant to O. 42, Rule 11 (2), of the Rules of the Supreme Court (O. 42, Rule 17 (2)).

DIVISION 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 Under Sheriff of
Greeting, We command you that of the goods and chattels of C.D.
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 day of *,
which said sum of money and interest were lately before Us, in Our High Court of Justice in Northern Ireland in a certain action [actions] wherein A.B.
is plaintiff and C.D. defendant
[*or* in a certain matter there depending intituled "In the matter of E.F." as the case may be] by a judgment [*or* order] of Our said Court, bearing date the day of 19 , adjudged [*or* ordered] to be paid by the said C.D. to A.B. together with certain costs in the said judgment [*or* order] mentioned, and which costs have been taxed and allowed by the Taxing Master of Our said Court at the sum of £ as appears by the certificate of the said Taxing Master dated the day of 19 .
And that of the goods and chattels of the said C.D. in your bailiwick you further cause to be made the said sum of £ (costs) together with interest thereon at the rate of £4 per centum per annum from the 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 Rules of the Supreme Court (Northern Ireland): 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, etc.

Levy £ and £ for costs of execution, etc.:
and also interest on £ at £4 per centum per annum, from the day of , 19 , until payment besides under sheriff's poundage, officers' fees, cost of levying, and all other legal incidental expenses.

This Writ was issued by
of (registered place of business)
solicitor for the who resides at .
The said C.D. is a and his place of abode is
at in your bailiwick."

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