**1962. No. 88** **[NC]**

## SUPREME COURT, NORTHERN IRELAND: PROCEDURE

### The Supreme Court Rules (Northern Ireland) Order in Council, 1962

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

I, John de Vere, Baron Wakehurst, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Governor of Northern Ireland, by and with the advice of the Privy Council of Northern Ireland, in pursuance and by virtue of section sixty-one of the Supreme Court of Judicature Act (Ireland), 1877(a), as that enactment applies to the Supreme Court of Judicature of Northern Ireland(b) and of 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 applied as aforesaid, do by this Order make the Rules of Court set out in the Schedule hereto (which amend the Rules of the Supreme Court of Northern Ireland(c) in the manner appearing in that Schedule).

This Order may be cited as the Supreme Court Rules (Northern Ireland) Order in Council, 1962, and shall come into force on the 21st day of May, 1962.

Given at Government House, Hillsborough, this 7th day of May, 1962.

*MacDermott*
*Brian Faulkner*
*Brian Maginess*
*Arthur Black*

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SCHEDULE

PART I

For Order LXXVIII (which relates to the deposit of powers of attorney pursuant to Section 48 of the Conveyancing Act, 1881), there shall be substituted the following Order:—

"ORDER LXXVIII

DEPOSIT OF POWERS OF ATTORNEY

1. In this Order 'Instrument' means any instrument creating a power of attorney which may be or is required to be deposited in or filed at the Central Office under—

(a) 40 & 41 Vict. c. 57.
(b) S.R. & O. 1921 (No. 1802), p. 1,332.
(c) S.R. & O. 1936 (No. 70) II, p. 2,559.

(i) section 48 of the Conveyancing Act, 1881, or

(ii) section 26 of the Trustee Act (Northern Ireland), 1958.

2. The Central Office shall be the proper office of the Supreme Court for the deposit or filing of any instrument.

3. An instrument presented for filing under sub-section (4) of section 26 of the Trustee Act (Northern Ireland), 1958, shall be

(i) filed at the Central Office; and

(ii) accompanied by the statutory declaration required by that sub-section as to the intention of the donor to remain out of the United Kingdom.

4. An instrument presented for filing shall not be filed unless the execution of the instrument has been verified in accordance with Rule 5 of this Order, and the instrument is accompanied by the affidavit, declaration or other document or documents (if any) by which the execution has been verified.

5. The execution of an instrument may be verified

(*a*) by an affidavit or statutory declaration sworn or made by the attesting witness or some other person in whose presence the instrument was executed, or, if no such person is available, by some impartial person who knows the signature of the donor; or

(*b*) if the instrument was executed abroad before a Notary, by a notarial certificate, annexed to the instrument and purporting to bear the signature and seal of the notary; or

(*c*) by any other evidence which, in the opinion of the Registrar, is sufficient.

6.—(1) An alphabetical index of the names of the donors of all powers of attorney deposited or filed in the Central Office under this Order shall be prepared and kept by the proper officer and any person may search the index upon payment of the prescribed fee.

(2) Documents filed under this Order shall be open to inspection on payment of the prescribed fee, but no person shall take a copy of or an extract from any document produced for inspection. Office copies of such documents shall be supplied on application and on payment of the prescribed fee.

(3) The fees payable for search and inspection and for office copies shall be such of the fees prescribed by the Supreme Court Fees Order dated 16th September, 1926, or any Order amending or replacing that Order as may be applicable."

PART II

After Order LIV D, there shall be inserted the following Order:—

"ORDER LIV E

APPLICATIONS UNDER THE INHERITANCE (FAMILY PROVISION) ACT (NORTHERN IRELAND), 1960

1.—(1) An application to the High Court under section 1 of the Inheritance (Family Provision) Act (Northern Ireland), 1960, (in this Order called 'the Act') shall be made in the Chancery Division by Originating Summons and shall be intituled in the matter of the estate of the deceased to which the summons related and in the matter of the Act.

(2) If such application is made after the expiration of the period specified in section 3(1) of the Act, such Summons shall contain a request for an extension of time under section 3(2).

2. On an application under section 1 of the Act the person applying shall be plaintiff and the executor or other personal representative of the deceased (except where such executor or personal representative is the plaintiff or where there is no executor or other personal representative) and such other person or persons, if any, as may appear to the applicant to be interested in the relief claimed or a representative of persons so interested shall be defendants. In the event of the plaintiff being the sole executor or sole personal representative, or where there is no executor or other personal representative, some person having a substantial interest in opposing the application shall be a defendant.

3. Where two or more persons are joined as plaintiffs, the Court or a Judge may, if it appears that their respective interests are or may be in conflict, allow such persons to be separately represented at the hearing without making any of such persons a defendant.

4. Where there are other persons having the same or a similar interest to any defendant, the Court or a Judge may order that such defendant be authorised to defend on behalf of or for the benefit of all persons so interested and that all persons so interested shall be bound by any order made in the proceedings.

5. The application shall be supported by such evidence as the Court or Judge may require.

6. The Court or a Judge may at any stage of the proceedings, whether before or after an order has been made, direct that any other person shall be made a party or direct that notice of the application be served on any person.

7. The Court or a Judge may require evidence in regard to any matter which the Court or a Judge considers to be relevant to the application and may direct any party to the proceedings or any person on whom notice of the proceedings has been served to attend on the hearing of the application and give evidence orally or to be cross-examined on any affidavit made by him.

8. When an order has been made under section 1 of the Act, any subsequent application whether made by a party to the proceedings or by a person on whom notice of the application has been served or by any person referred to in section 4(4) of the Act, shall be made by an ordinary summons to be taken out in the existing proceedings.

9.—(1) The executor or other personal representative shall produce in Court on the hearing of the application the probate or letters of administration under which the estate is being administered and, if an order is made, it shall remain in the custody of the Court for the purpose of being transmitted to the Principal Probate Registry.

(2) The office copy of the order referred to in section 5(4) of the Act, together with the probate or letters of administration, shall be transmitted to the Principal Probate Registry by the Chancery Registrar and the Chief Registrar of Principal Probate Registry shall endorse on or permanently annex to the probate or letters of administration the memorandum of the order as required by section 5(4) of the Act.