
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 33

Decrees

Record of decrees

1. The chief clerk shall enter in the books of the court a minute of every decree made by the court.

Interest amount awarded by decree

2. Subject to Article 127 of the Judgement Enforcement (Northern Ireland) Order 1981 the amount awarded by decree (not being a penal sum for securing principal and interest) including any interest and costs thereby awarded shall, subject to any direction by the judge, carry interest at the rate of 15 per centum per annum from the date on which the decree was made.

Recovery of value added tax

- 3.—(1) Subject to paragraph (2), in a decree there shall be added after the words "witnesses' expenses" the words "and, in addition, any sum for value added tax recoverable by the plaintiff [or (in the case of a dismissal) defendant]".

(2) Paragraph (1) shall not apply to a summary or default decree or a decree in undefended or in equity proceedings or where value added tax is not recoverable by the successful party under Rule 4 of Order 55.

(3) Before serving notice of intent under the Judgment Enforcement Rules (Northern Ireland) 1981 to enforce a decree which orders the recovery of value added tax as provided for in Rule 4 of Order 55, the party in whose favour the decree was given shall forward the decree together with a certificate in Form 153 to the Office and the chief clerk shall endorse on the decree a statement to the effect that value added tax in the appropriate amount has been certified.

Lodgment of decree

- 4.—(1) It shall be; the duty of the party in whose favour any order is made by the judge to forward the appropriate form of decree to the Office for signing and sealing; and, in the event of an appeal, such form of decree shall be lodged a reasonable time before the hearing.

(2) Where the court makes an attachment of earnings order or an order under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 or stays enforcement of any decree or order on the ground of the debtor's inability to pay, the party in whose favour such order or decree is made shall, in addition to complying with paragraph (1), at the same time forward a copy thereof to the Office.

(3) The chief clerk shall, after comparing the form of order or decree referred to in paragraph (1) with the copy forwarded under paragraph (2), certify such copy before transmitting it to the Enforcement of Judgments Office in accordance with Article 116 of the said Order of 1981.

Amounts for which decree issued to be in decimal currency

5. A decree for the payment of a sum of money must state the sum in decimal currency.

Issue of decree

6.—(1) Unless by special order of the judge no decree shall issue until the time for appeal or the time for making an application for case stated (whichever period is the longer) has expired. An application to the judge for expedited issue of a decree may be made *ex parte* in accordance with Order 14.

(2) For the purpose of enabling all parties in whose favour a decree is given, either wholly or in part to secure execution thereon, the chief clerk may issue to the parties so entitled such number of decrees as may appear to him requisite to implement the orders of the court; and where more than one decree is or is to be issued there shall be endorsed on the face of every decree issued the words "Issued to enable A.B. to obtain the relief provided for him herein".

Decrees for debt or damages

7.—(1) A decree for debt or damages (not being a decree in a default or summary action) shall be in Form 138.

(2) A decree where a counterclaim has been established shall be in Form 139.

(3) A decree for debt or damages in favour of a minor shall be in Form 140 and an order appointing a guardian to a minor and approving settlement of claims shall be in Form 141.

(4) A dismissal of a civil bill for debt or damages shall be in Form 142.

Decrees for recovery of land

8.—(1) A decree for the recovery of land shall be in Form 143 or Form 144 as appropriate.

(2) A dismissal of a civil bill claiming recovery of land shall be in Form 145.

Stay of execution of decrees in ejectment

9. In all cases of decrees in ejectment, the judge may grant such stay of execution as he considers reasonable in the circumstances.

Stay of execution and removal thereof

10.—(1) The chief clerk shall endorse or cause to be endorsed on a decree the terms of any stay of execution granted by the court.

(2) A decree shall not issue until such stay be removed.

(3) A party seeking to remove a stay of execution upon default in complying with such terms shall lodge in the Office an affidavit setting out particulars of the default.

(4) Where such default is in the payment of a sum by instalments or some or one of them, the affidavit shall set out particulars of and the amounts of the several instalments (if any) which have been paid and particulars of the default including the amount then due on foot of the decree.

(5) The chief clerk shall, before issuing a decree, write and sign or cause to be written and signed on the face of the decree a statement that the stay of execution has been removed.

(6) Where the decree is such as is referred to in paragraph (4), the statement shall specify the total amount of the instalments (if any) paid to the date of the affidavit lodged under paragraph (3) and the decree shall issue for the whole amount remaining due on foot of the decree after deducting such instalments (if any) as have been paid thereunder as shown in the said affidavit but with the addition to the costs therein stated of a sum of £1.50 as the costs and outlay of the said affidavit.

Decree for balance of rent and costs under section 61 of the Landlord and Tenant Law Amendment Act, Ireland, 1860

11. A decree for the balance of rent and costs under section 61 of the Landlord and Tenant Law Amendment Act, Ireland 1860(1) shall be in Form 146.

Decree for payment of legacy or a distributive portion of the assets of an intestate

12. A decree for payment of a legacy shall be in Form 147 and a decree for payment of a distributive portion of the assets of an intestate shall be in Form 148.

Decrees in action of detinue

13. In actions of detinue the decree, if for the plaintiff—

- (a) may be in Form 149 and may be for the value of the goods detained together with a sum to be stated in the decree by way of damages for the detention and costs, but it may be part of the decree that the decree shall not issue if the defendant on or before a named day pays a specified sum for damages for the detention and costs and also returns the goods to the plaintiff and if the plaintiff accepts the same;
- (b) may be in Form 150 and may order the return of the goods detained together with a sum to be stated in the decree by way of damages for the detention and costs.

Decree rectifying or setting aside deed

14. A decree rectifying a deed shall be in Form 151 and a decree setting aside a deed shall be in Form 152.

Order for preparation and execution of a deed

15. Where an order directs any deed to be prepared and executed, it shall state by what party the deed is to be prepared and to whom it is to be submitted for approval and who is to bear the costs thereof; and if the parties cannot agree as to the form of the deed, the judge may, on the application of either party, settle the same himself or name counsel by whom the same is to be settled, subject to the final approval of the judge and his discretion as to costs.

Sale of land

16.—(1) Where any land is ordered to be sold, the order shall direct who is to have the conduct of the sale, where the sale is to be held and by whom the conditions and contracts of sale and the abstract of title, if any such are necessary, is to be prepared.

(2) Where any land is ordered to be sold, any party bound by the order and in possession of the estate, or in receipt of the rents or profits thereof, shall be compelled to deliver up possession or receipt to the purchaser, or such other person as may be named in the order.

(3) Unless otherwise ordered, where an order is made directing any land to be sold—

- (a) the land shall be sold with the approval of the judge or subject to a reserved price fixed by the court at the best price that can be got;
 - (b) all such parties as the judge directs shall join in the sale and conveyance and, where any party refuses or neglects to sign any necessary document, the judge may make an order vesting the land or authorising a specified person to sign such document on behalf of the party so refusing or neglecting; and
 - (c) the person authorised by the conditions of sale to receive the purchaser's deposit shall forthwith upon the privity of the Accountant General lodge the amount of such deposit in accordance with Court Funds Rules and when the sale is complete the balance of the purchase money shall be lodged in like manner.
- (4) A sale retained within the court shall be conducted in accordance with this Rule and Rule 18 and Order 34.

Sale of personal property

17.—(1) Where an order directs any personal property to be sold, the property shall be sold by public auction or private contract as the judge directs and shall, unless otherwise ordered, be sold with the approval of the judge at the best price that can be got.

(2) Where any personal property is directed to be sold by public auction or to be detained or preserved, a receiver or such other person as the judge directs shall, if the judge so directs, superintend the sale, detention or preservation, and, where such property is directed to be sold by private contract, it shall be the duty of the receiver or other person as aforesaid unless the judge otherwise directs, to see that the directions of the judge are carried out.

(3) This Rule shall not apply to an execution which is required to be made by the Enforcement of Judgments Office under a decree to which the Judgments Enforcement (Northern Ireland) Order 1981 applies.

Form of affidavit of value

18. Where an affidavit is made for the purpose of enabling the court to fix reserve biddings, the value of the property shall be stated in an exhibit so as not to be disclosed by the affidavit when filed.

Proof of payment of duty payable

19. Before making any payment under or issuing an order directing the payment or transfer of any fund in respect of which any death duties are payable to the revenue it shall be the duty of the chief clerk to require a certificate from the proper officer of, or the production of the receipt for, the payment of the duty chargeable in respect of the fund.

Order of High Court

20. Where the High Court has heard and determined an appeal from a decree of a county court, the party entitled to the benefit of the order made on appeal shall deposit in the Office the order of the High Court or an office copy thereof.