Place	Division	Day and Time
Stamford House Juvenile Court, Stamford House, 206A, Goldhawk Road, Shepherds Bush, W.12—*continued.*	Knightsbridge to Sloane Street; thence southward along the middle of Sloane Street to Sloane Square; thence southward across Sloane Square to a point in the middle of the roadway on the south of Sloane Square opposite the middle of Lower Sloane Street; thence southward and south-eastward along the middle of Lower Sloane Street and of Chelsea Bridge Road and thence southward along the middle of the roadway of Chelsea Bridge to the middle of the River Thames; and thence westward, southward, westward and northward up the middle of the River Thames to the aforementioned point on the boundary of the county of London.	
Lambeth Juvenile Court, Lambeth Town Hall, Brixton Hill, S.W.2.	The division of the metropolitan police court area for the time being assigned to the Lambeth Police Court.	Friday, 10 a.m.

LANCASTER

COURT OF CHANCERY

1955 No. 1348 (L. 10)

The Chancery of Lancaster Rules, 1955

Made - - - - 14*th August*, 1955
Laid before Parliament 30*th August*, 1955
Coming into Operation 1*st September*, 1955

The Right Honourable Viscount Woolton, C.H., Chancellor of the Duchy and County Palatine of Lancaster with the advice and consent of Sir Leonard Stone, O.B.E., Vice Chancellor of the said County Palatine of Lancaster, and with the approval of the authority empowered to make rules for the Supreme Court and in pursuance of the powers and authorities conferred by the Chancery of Lancaster Acts 1850 to 1952(**a**) and all other powers and authorities enabling him in that behalf doth hereby order and direct as follows:—

1. Rule 5 of Order VIII (which was added by the Chancery of Lancaster Rules (No. 2), 1938(**b**) and provides for the removal of a solicitor from the record at the instance of another party) shall be amended by inserting after the words "or has been struck off the Roll of Solicitors" the words "or has been suspended from practising or has for any other reason ceased to practise".

(**a**) 13 & 14 Vict. c. 43; 17 & 18 Vict. c. 82; 53 & 54 Vict. c. 23; 15 & 16 Geo. 6 & 1 Eliz. 2. c. 49.
(**b**) S.R. & O. 1938/1396 (1938 I, p. 1621).

2. There shall be added at the end of Rule 6 of the said Order VIII (which relates to the withdrawal of a Solicitor who has ceased to act) the following paragraph:

"(5) Notwithstanding anything in paragraph (1) of this Rule, where the certificate of an assisted person within the meaning of the Legal Aid (General) Regulations, 1950(**a**), is revoked or discharged, the Solicitor who has acted for the assisted person shall cease to be the Solicitor acting in the cause or matter as soon as his retainer has determined under paragraph (2) of Regulation 12 of the said Regulations; and if the party whose certificate has been revoked or discharged desires to proceed with the cause or matter without legal aid and appoints the Solicitor or another Solicitor to act on his behalf, the provisions of Rule 3 shall apply as if such party had previously sued or defended in person."

3. In Rule 2 of Order XIV (which requires an Affidavit of Service to be filed before proceeding in default of appearance) after the words "upon default of appearance" there shall be inserted the words "under Order XIVA or".

4. For Order XIVA (which provides for Summary Judgment in actions for specific Performance) there shall be substituted the following Order:

"ORDER XIVA.

Summary Judgment in Actions for Specific Performance

1. In any action commenced by a Writ of Summons endorsed with a claim for specific performance of an agreement, whether in writing or not, for the sale or purchase of property, with or without alternative claims for damage, for rescission or for the forfeiture or return of the deposit, the plaintiff may (whether the Defendant has appeared or not), on Affidavit made by himself, or by any other person who can swear positively to the facts, verifying the cause of action and stating that in his belief there is no defence to the action, apply to the Court or Vice Chancellor for judgment and the Court or Vice Chancellor may thereupon give judgment in the action unless the Defendant by Affidavit, or by his own viva voce evidence or otherwise, satisfies the Court or Vice Chancellor that he has a good defence to the action on the merits, or discloses facts sufficient, in the opinion of the Court or Vice Chancellor to entitle him to defend.

2.—(1) An application by the Plaintiff under Rule 1 of this Order shall be made by summons returnable not less than four clear days after service, accompanied by a copy of the Affidavit and any exhibits referred to therein.

(2) The summons shall set out full minutes of the judgment sought by the Plaintiff.

(3) (*a*) The Defendant may show cause against the application by Affidavit, or the Court or Vice Chancellor may allow the Defendant to be examined on oath.

(*b*) The Court or Vice Chancellor may, if it or he thinks fit, order the Defendant, or, in the case of a corporation, any officer thereof, to attend and be examined upon oath or to produce any document or any copy thereof or extract therefrom.

(4) Leave to defend may be given unconditionally or subject to such terms as to giving security or time or mode of trial or otherwise as the Court or Vice Chancellor may think fit; and where leave to defend is given, the Court or Vice Chancellor shall give directions as to the further

(**a**) S.I. 1950/1359 (1950 I, p. 1199).

conduct of the action and Rules 2 to 7 of Order XXVIIIA shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application for judgment were a summons for directions under that Order.

(5) (*a*) The costs of and incident to all applications under this Order shall be dealt with by the Court or Vice Chancellor on the hearing of the application, and the Court or Vice Chancellor may order by and to whom and when the costs shall be paid or may reserve them to the Vice Chancellor at the trial.

(*b*) If the Plaintiff makes an application under this Order where the case is not within the Order or where the Plaintiff in the opinion of the Court or Vice Chancellor knew that the Defendant relied on a contention which would entitle him to unconditional leave to defend, the application may be dismissed with costs which may, unless the Plaintiff is an assisted person, be ordered to be paid forthwith by the Plaintiff."

5. There shall be inserted after Rule 17 of Order XVI the following rule:

" 17A. Nothing in Rules 16 or 17 of this Order shall prevent a married woman from acting as Next Friend or guardian."

6. For Rule 33 of Order XVI (which relates to representation orders) the following rule shall be substituted:

" 33.—(1) In any proceedings concerning—

(*a*) the administration of an estate; or

(*b*) the property subject to a trust; or

(*c*) the construction of a written instrument (including a statute),

the Court or Vice Chancellor may, if satisfied that it is expedient so to do and that one or more of the conditions specified in paragraph (2) of this Rule are satisfied, appoint one or more persons to represent any person (including an unborn person) or class who is or may be interested (whether presently or for any future, contingent or unascertained interest) in or affected by the proceedings, and the judgment or order of the Court or Vice Chancellor given when the person or persons so appointed are before the Court shall be binding on the person or class represented.

(2) The conditions, for the exercise of the power conferred by paragraph (1) of this Rule are as follows—

(*a*) that the person, the class or some member of the class, cannot be ascertained or cannot readily be ascertained;

(*b*) that the person, the class or some member of the class, though ascertained, cannot be found;

(*c*) that, though the person or the class and the members thereof can be ascertained and found, it appears to the Court or Vice Chancellor expedient (regard being had to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined) to exercise the power for the purpose of saving expense.

(3) If in any proceedings concerning—

(*a*) the administration of an estate; or

(*b*) the property subject to a trust; or

(*c*) the construction of a written instrument (including a statute),

several persons having the same interest in relation to the matter to be determined attend at the hearing by separate solicitors or counsel, then, unless the Court or Vice Chancellor consider that the circumstances justify separate representation, not more than one set of costs of the hearing shall be allowed to those persons, and the judgment or order shall be framed accordingly."

7. There shall be inserted after Rule 59 of Order XVI (which provides for the determination of claims and issues between co-defendants) the following rule:—

"59A. A party to an action, who, either as a third party or as one of two or more tortfeasors liable in respect of the same damage, stands to be held liable in the action to another party to contribute towards any debt or damages which may be recovered by the Plaintiff in the action, and who, at any time before the trial of the action, makes a written offer to that other party (whether absolute or conditional and whether limited or not as respects the time for acceptance thereof) to contribute to a specified extent to the debt or damages, may, in making that offer, while stipulating that it is to be without prejudice to his defence (whether as against the Plaintiff or as against the party to whom the offer is made or as against any other party to the action), nevertheless reserve the right to bring the offer to the attention of the Vice Chancellor at the trial as if it were a payment into Court (that is to say, after all questions of liability and amount of debt or damages have been decided); and if such an offer is so brought to the attention of the Vice Chancellor in pursuance of a right so reserved, the Vice Chancellor shall, to such extent, if any, as he may think appropriate in all the circumstances, take the offer into account in exercising his discretion as to costs."

8.—(1) Order XXIA (which, as amended by the Chancery of Lancaster Rules (No. 1), 1933(a), and the Chancery of Lancaster Rules (No. 2), 1936(b), regulates payment into and out of Court in satisfaction of claims for debt or damages) shall be amended as follows—

(*a*) the following paragraph shall be substituted for paragraph (3) of Rule 1—

"(3) The notice shall be in Form 2A in Appendix B. Receipt of this notice shall be acknowledged in writing by the Plaintiff within three days. The notice may be modified or withdrawn or delivered in an amended form by leave of the Court or Vice Chancellor upon such terms as may be just; provided that the Defendant may without leave deliver a notice increasing the amount of any sum paid into Court."

(*b*) Paragraph (1) of Rule 2 shall be amended by deleting the words "seven days" wherever the same occur and substituting therefor the words "fourteen days";

(*c*) There shall be added to paragraph (2) of the said Rule 2 the following proviso:—

"Provided that where the Plaintiff is a person in respect of whom a certificate is in force entitling him to legal aid under Part I of the Legal Aid and Advice Act, 1949(c), payment shall be made only to his Solicitor, without any authority from the Plaintiff for that purpose."

(2) Form 2A in Appendix B (being the form of notice to be given by a Defendant on paying into Court) shall be amended by deleting therefrom the words "and admits (but denies) liability therefor".

(a) S.R. & O. 1933/894 (1933, p. 998). (b) S.R. & O. 1936/713 (1936 I, p. 1533).
(c) 12, 13 & 14 Geo. 6. c. 51.

9. There shall be inserted after Order XXVIII the following Order:—

"XXVIIIA

Summons for Directions

1.—(1) In every action to which this Rule applies, the Plaintiff shall, with a view to providing an occasion for the consideration by the Court or Vice Chancellor of the preparations for the trial of the action, so that—

(*a*) all matters which must or can be dealt with on interlocutory applications and have not already been dealt with may so far as possible be dealt with; and

(*b*) such directions may be given as to the future course of the action as appear best adapted to secure the just, expeditious and economical disposal thereof,

take out, within seven days from the time when the pleadings are deemed to be closed, a summons (in these Rules referred to as a summons for directions) returnable in not less than twenty-one days.

(2) This Rule applies to all actions commenced by Writ of Summons except—

(*a*) actions in which the Plaintiff has applied for judgment under Order XIVa and directions have been given under that Order;

(*b*) actions in which an Order for accounts has been made under Order XV;

(*c*) actions in which an Order has been made under Rule 20 of Order XXIX for the trial of an issue or question before determining a right to discovery or inspection;

(*d*) actions which have been dealt with under Rule 9 of Order XXXII (which relates to the trial of questions of fact where the parties are agreed as to the questions of fact to be decided between them);

(*e*) actions in which directions have been given under Rule 11A of Order XLIV (which enables directions to be given on applications under that Order for an injunction, for orders for the preservation or inspection of property or for any of the other puropses specified in that Order);

(*f*) actions which have been referred for trial to a referee; and

(*g*) actions for the infringement of a patent.

(3) If the Plaintiff does not take out a summons for directions in accordance with paragraph (1) of this Rule, the Defendant or any Defendant may do so or apply for an Order to dismiss the action.

(4) Upon an application by a Defendant to dismiss the action under paragraph (3) of this Rule, the Court or Vice Chancellor may either dismiss the action on such terms as may be just or deal with the application as if it were a summons for directions.

(5) In the case of an action which is proceeding only as respects a counterclaim, references in this Rule to the Plaintiff and Defendant should be construed respectively as references to the party making the counterclaim and the Defendant to the Counterclaim.

2.—(1) When the summons for directions first comes to be heard, the Court or Vice Chancellor shall consider whether—

(*a*) it is possible to deal then with all the matters which, by the subsequent Rules of this Order, are required to be considered on the hearing of the summons for directions; or

(*b*) it is expedient to adjourn the consideration of all or any of those matters until a later stage, and, in particular, whether those matters or some of them ought or ought not to be dealt with only after there has been discovery.

(2) If, when the summons first comes to be heard, the Court or Vice Chancellor considers that it is possible to deal then with all the said matters, the Court or Vice Chancellor shall deal with them forthwith and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are also then dealt with.

(3) If, when the summons for directions first comes to be heard, the Court or Vice Chancellor considers that it is expedient to adjourn the consideration of all or any of the matters which are by the subsequent Rules of this Order required to be considered on the hearing of the summons for directions, the Court or Vice Chancellor shall deal forthwith with such of those matters as the Court or Vice Chancellor considers can conveniently be dealt with forthwith and adjourn the consideration of the remaining matters and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are dealt with either then or at a resumed hearing of the summons for directions.

(4) If, on the summons for directions, the action or any question or issue therein is ordered to be tried before a referee, nothing in this Order shall be construed as requiring the Court or Vice Chancellor to deal on the summons with any matter which, in the opinion of the Court or Vice Chancellor, can more conveniently be dealt with by the referee.

(5) If the hearing of the summons for directions is adjourned without a day being fixed for the resumed hearing thereof, any party may restore it to the list on two days' notice to the other parties.

3. On the hearing of the summons for directions the Court or Vice Chancellor shall in particular consider, if necessary of its or his own motion, whether, for the purpose of saving costs, any order should be made in the exercise of the powers conferred by any of the following provisions, that is to say—

(*a*) Rule 1 of Order XXVII (which relates to the amendment of pleadings and indorsements);

(*b*) subsection (2) of section 1 of the Evidence Act, 1938(**a**), (which enables the Court to order the admission in evidence of statements in documents notwithstanding that the makers of the statements are not called as witnesses and notwithstanding that the original document is not produced);

(*c*) Rule 1 of Order XXXIV (which relates to the mode in which evidence may be given at the trial and the limitation of evidence in certain cases).

4. At the hearing of the summons, the Court or Vice Chancellor shall endeavour to secure that the parties make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them and may cause the order on the summons to record any admission or agreements so made and (with a view to such special order, if any as to costs as may be just being made at the trial) any refusal to make any admission or agreement.

(**a**) 1 & 2 Geo. 6. c. 28.

5. Nothing in Rule 4 of this Order shall be construed as requiring the Court or Vice Chancellor to endeavour to secure that the parties shall agree to exclude or limit any right of appeal, but the order made on the summons may record any such agreement.

6.—(1) No Affidavit shall be used on the hearing of the summons for directions except by the leave or direction of the Court or Vice Chancellor, but, subject to the provisions of paragraph (4) of this Rule, it shall be the duty of the parties to the action and their advisers to give all such information and produce all such documents to the Court or Vice Chancellor on any hearing of the summons as it or he may reasonably require for the purpose of enabling it or him properly to deal with the summons.

The Court or Vice Chancellor may, if it appears proper so to do in the circumstances, authorise any such information or documents to be given or produced to the Court or Vice Chancellor without being disclosed to the other parties, but, in the absence of such an authority, any information or documents given or produced under this paragraph shall be given or produced to all the parties present or represented on the hearing of the summons as well as to the Court or Vice Chancellor.

(2) No leave shall be required by virtue of paragraph (1) of this Rule for the use of an Affidavit by any party on the hearing of the summons for directions in connection with any application thereat for any order if, under any of these Rules, an application for such an order is required to be supported by an Affidavit.

(3) If the Court or Vice Chancellor on any hearing of the summons for directions requires a party to the action or his Solicitor or Counsel to give any information or produce any document and that information or document is not given or produced, then, subject to the provisions of paragraph (4) of this Rule, the Court or Vice Chancellor may—

(*a*) cause the facts to be recorded in the order with a view to such special order, if any, as to costs as may be just being made at the trial; or

(*b*) if it appears to the Court or Vice Chancellor to be just so to do order the whole or any part of the pleadings of the party concerned to be struck out, or, if the party is Plaintiff or the claimant under a counterclaim, order the action or counterclaim to be dismissed upon such terms as may be just.

(4) Notwithstanding anything in the preceding provisions of this Rule, no information or documents which are privileged from disclosure shall be required to be given or produced under this Rule by or by the Advisers of any party otherwise than with the consent of that party.

7.—(1) Any party to whom the summons for directions is addressed shall so far as practicable apply at the hearing of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory application in the action, and shall, within fourteen days of the service on him of the summons, serve on the other parties a notice in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(2) If the hearing of the summons for directions is adjourned and any party to the proceedings desires to apply at the resumed hearing for any order or directions not asked for by the summons or in any notice given under paragraph (1) of this Rule, he shall, not less than seven days before the resumed hearing of the summons, serve on the other parties a notice

in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice as aforesaid.

(3) Any application subsequent to the summons for directions and before judgment as to any matter capable of being dealt with on an interlocutory application in the action shall be made under the summons by two clear days' notice to the other party stating the grounds of the application; and any application by a party which might have been made at the hearing of the original summons shall, if granted on any subsequent application, be granted at the costs of the party applying unless the Court or Vice Chancellor is of the opinion that there were sufficient reasons for the application not having been made at the hearing of the original summons."

10. There shall be added at the end of Rule 20 of Order XXIX (which authorises a question as to discovery or inspection to be reserved until after determination of an issue) the following paragraph:

"Where an order is made under this Rule for the determination of an issue or question, Rules 2 to 7 of Order XXVIIIA shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application upon which the order was made was a summons for directions under that Order."

11. There shall be added at the end of Rule 9 of Order XXXII (which relates to the trial of questions of fact when the parties are agreed as to the questions of fact which have to be decided between them) the following paragraph:—

"Rules 2 to 7 of Order XXVIIIA shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply in relation to any application for an order under this Rule as if the application were a summons for directions under that Order."

12. The following Rule shall be substituted for Rule 1 of Order XXXIV (which provides that witnesses shall be examined viva voce unless otherwise ordered):—

"1.—(1) Subject to these Rules, to the Evidence Act, 1938, and to any other enactment relating to evidence, any fact required to be proved at the trial of any action commenced by writ of summons by the evidence of witnesses shall be proved by the examination of the witnesses orally and in open court.

(2) The Court or Vice Chancellor may, at or before the trial of an action, order or direct that all or any of the evidence therein shall be given by affidavit.

An order or direction under this paragraph may be made or given on such terms as to the filing and giving of copies of the Affidavits or proposed Affidavits and as to the production of the deponents for cross-examination as the Court or Vice Chancellor may think fit but, subject to any such terms and to any such subsequent order or direction of the Court or Vice Chancellor, the deponents shall not be subject to cross-examination and need not attend the trial for the purpose.

(3) Without prejudice to the last foregoing paragraph, the Court or Vice Chancellor may, at or before the trial of an action, order or direct that evidence of any particular fact shall be given at the trial in such manner as may be specified by the order or direction.

The power conferred by this paragraph extends in particular to ordering or directing that evidence of any particular fact may be given at the trial—

(*a*) by statement on oath of information or belief ;

or

(*b*) by the production of documents or entries in books ;

or

(*c*) by copies of documents or entries in books ;

or

(*d*) in the case of a fact which is or was a matter of common knowledge either generally or in a particular district, by the production of a specified newspaper which contains a statement of that fact.

(4) The Court or Vice Chancellor may, at or before the trial of an action order or direct that the number of expert witnesses who may be called at the trial shall be limited as specified by the order or direction.

(5) Unless, at or before the trial, the Court or Vice Chancellor for special reasons otherwise orders or directs, no plan, photograph or model shall be receivable in evidence at the trial of any action unless at least ten days before the commencement of the trial the parties, other than the party producing it, have been given an opportunity to inspect it and to agree to the admission thereof without further proof.

(6) Any order or direction under this Rule (including an order made on appeal) may, on sufficient cause being shown be revoked or varied by a subsequent order or direction of the Court or Vice Chancellor made or given at or before the trial.

(7) This Rule shall apply to trials of issues, references, inquiries and assessments of damages as it applies to the trial of actions."

13. Rules 25 to 30 of Order XXXV (which relate to trial on affidavit) are hereby revoked, and at the end of Rule 1 of that Order there shall be added the words " and where, after such an order has been made the person in question does not attend, his affidavit shall not be used as evidence unless by special leave of the Court or Vice Chancellor."

14. There shall be added at the end of paragraph (2) of Rule 20 of Order XXXVII (which provides for the supply of duplicate orders) the words " Unless otherwise directed by the Registrar, the duplicate of an order may be a carbon copy of the original."

15. There shall be added at the end of Rule 3 of Order XLIV (which authorises orders for the detention, preservation or inspection of property) the following paragraph:

" If, where an order for the inspection of any property or thing is made on an application under this Rule (including an application made before any pleadings have been delivered in the cause or matter) it appears that inspection was requested in writing by the applicant and was not given, then, except where the respondent is an assisted person, the Court or Vice Chancellor shall order the costs of the application to be taxed and paid forthwith by the respondent unless the Court or Vice Chancellor is satisfied that the respondent did not unreasonably fail or refuse to permit inspection."

16. There shall be inserted after Rule 11 of Order XLIV the following Rule:—

" 11A.—(1) Where an application is made under any of the preceding provisions of this Order, the Court or Vice Chancellor may give directions as to the further proceedings in the cause or matter.

(2) If, in an action commenced by Writ of Summons, not being any such action as is mentioned in subparagraphs (*a*) to (*d*), (*f*) and (*g*) of paragraph (2) of Rule 1 of Order XXVIIIA, the Court or Vice Chancellor thinks fit to give directions under this Rule before the summons for directions, Rules 2 to 7 of that Order shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application were a summons for directions under that Order."

17. Rule 9 of Order XLVI (which relates to service of notice of motion with a Writ of Summons) shall be amended by deleting the words " by leave of the Court or Vice Chancellor to be obtained ex parte " and substituting therefor the words " (without leave) ".

18. There shall be added after Rule 18 of Order XLVI (which relates to affidavits by persons claiming money paid into Court) the following Rule:—

" 19. Every petition, notice of motion or summons for dealing with funds which have been carried over to an account for unclaimed balances shall contain a statement to that effect, and where such funds amount to or exceed in value £300, a copy of the petition, notice of motion or summons shall, unless the Court or Vice Chancellor otherwise direct, be served on the Solicitor for the Affairs of the Duchy of Lancaster."

19. The following Order shall be inserted immediately after Order XLVI and shall stand as Order XLVIA:—

" ORDER XLVIA

Applications under the Trade Marks Act, 1938(**a**)

1. In this Order—

" the Act " means the Trade Marks Act, 1938;

" the Registrar " means the Comptroller-General of Patents, Designs and Trade Marks;

" the Manchester Branch " has the same meaning as in Section 39 of the Act.

2. Application to the Court under the Act may be made by Motion.

3. Appeals to the Court under the Act shall be by Motion notice of which shall be given within one calendar month from the date of the decision appealed against.

4. All applications to the Court under the Act whether by way of appeal or otherwise shall be served on the Registrar.

5. If the Board of Trade or the Registrar decides to refer an application or appeal to the Court, the applicant or appellant shall apply to the Court within one calendar month from the date of the decision so to refer, and unless he so applies he shall be deemed to have abandoned the application or appeal.

6. Where under Section 17 (6) or Section 18 (9) of the Act an applicant becomes entitled and intends to withdraw his application, he shall give notice of the intention in writing to the Registrar and to the other parties, if any, to the appeal within one month after the leave referred to in those subsections has been obtained.

(**a**) 1 & 2 Geo. 6. c. 22.

7. A defendant in an action for infringement may, in regard to any trade mark which is in issue and is registered or proposed to be registered pursuant to an application sent to the Manchester Branch, counterclaim for the rectification of the register and shall within the time limited for the delivery of the counterclaim serve the Registrar with the same and the Registrar shall be entitled to take such part in the action as he may think fit without delivering a defence or other pleading.

8. The times specified in Rules 3 and 5 of this Order may be extended by the Court or Vice Chancellor or by the Registrar upon the application of any party interested and notwithstanding that the time so specified has expired."

20. There shall be substituted for Rule 2 of Order XLVIII (which specifies applications which may not be made by summons) the following new Rule :—

"2. The applications excepted by the last preceding rule are as follows:—

(*a*) Applications for payment or transfer to any person of any cash or securities standing to the credit of any cause or matter where the cash to be paid out exceeds £1,000 or the securities to be transferred exceed £1,000 nominal value, so however that

(i) applications in partnership actions with the consent of all the partners, and

(ii) applications for orders, on the further consideration of any cause or matter, where the order to be made is for the distribution of an insolvent estate

may, in the absence of objection, be heard and determined by the Registrar.

(*b*) Applications for payment to any person of the dividend or interest on any securities standing to the general credit of any cause or matter.

(*c*) Applications under the Infants Settlement Act, 1854(**a**), for the settlement of any property of any infant on marriage.

(*d*) Applications for orders on the further consideration of any cause or matter not commenced by summons, not being applications which under these Rules the Registrar has power to hear and determine."

21. There shall be inserted after Rule 12 of Order XLVIII the following rule:

"12A. An application to remit, or set aside an award or to remove an arbitrator shall be made by motion. All other applications under the Arbitration Act, 1950(**b**), may be made by Summons."

22. Rule 18A of Order XLVIII (which states when appearances need not be entered to originating summonses) shall be amended by deleting from paragraphs (1) and (3) thereof the figures "1843" and "1889" and substituting therefor respectively the figures "1932" and "1950".

23. In Rule 32A of Order XLVIII, (which enables persons upon whom service has been dispensed with to be bound) the words "in person" shall be omitted.

(**a**) 18 & 19 Vict. c. 43. (**b**) 14 Geo. 6. c. 27.

24. Rule 68 of Order XLVIII (which entitles a creditor to the costs of establishing his debt) shall be amended—

(*a*) by inserting after the words "so establishing his debt" the words "unless the Registrar shall otherwise direct", and

(*b*) by adding at the end thereof the words:—

"The Court or Vice Chancellor may order a claimant to pay the costs of any party or parties incurred in opposing any claim or any part of a claim which the claimant has failed to establish."

25. There shall be inserted after Rule 101 of Order XLVIII the following rule:

"101A. Subject to the approval of the Vice Chancellor, the Registrars may from time to time prescribe the use in or for the purpose of their Registries of such forms in modification of or addition to those prescribed by these Rules as may be deemed expedient, and such forms when approved by the Vice Chancellor shall be the forms to be used in and for the purposes of such Registries."

26. Rule 103 of Order XLVIII (which relates to the appointment of guardians and allowance of maintenance of infants) is hereby revoked and the following rules shall be substituted therefor:

"103. Any application under the Guardianship of Infants Act, 1886(**a**), or the Guardianship of Infants Act, 1925(**b**), or for the appointment of guardians and allowance of maintenance of infants may be made as follows:—

(*a*) where there is pending any action or other proceeding by reason whereof the infant is a ward of Court, then by a summons in such action or proceeding, and in the matter of the infant;

(*b*) where there is not pending any such action or other proceeding as aforesaid, then by an originating summons in the matter of the infant;

103A. A summons under the last preceding rule may be taken out by a Next Friend on behalf of the infant or by any other person interested in the relief sought and shall be served on the infant (if not the applicant) and on any other person appearing to be interested in or affected by the relief sought; provided that the Court or Vice Chancellor may dispense with service on any person (including the infant) or may direct service on any person not originally served."

27. Rule 104 of Order XLVIII shall be amended by deleting the words "Upon such applications" and substituting therefor the words "Upon an application under Rule 103".

28. Rule 105 of Order XLVIII (which prescribes the evidence to be produced on applications to sanction infants' marriage settlements) shall be amended by deleting the word "Registrar" in the last line thereof and substituting the words "Court or Vice Chancellor".

29. Rule 8 of Order XLVIIIc(**c**) (which prescribes the form of evidence to be filed on applications under the Inheritance (Family Provision) Act, 1938(**d**), shall be amended by inserting after the words "affidavit verifying" the words "a statement of".

(**a**) 49 & 50 Vict. c. 27.
(**b**) 15 & 16 Geo. 5. c. 45.
(**c**) Added by S.R. & O. 1940/1326 (1940 I, p. 487).
(**d**) 1 & 2 Geo. 6. c. 45.

30. There shall be inserted after Order XLVIIIc the following Orders:

"ORDER XLVIIID

The Landlord and Tenant Acts, 1927 *and* 1954(a)

1.—(1) A claim under Section 1 of the Act of 1927 for compensation in respect of any improvement, or a claim by a mesne landlord under subsection (1) of Section 8 of that Act, shall be made in writing signed by the claimant or his solicitor or agent, and shall contain

(*a*) a statement of the name and address of the claimant and of the landlord against whom the claim is made;

(*b*) a description of the holding in respect of which the claim arises and of the trade or business carried on there;

(*c*) a concise statement of the nature of the claim;

(*d*) particulars of the improvement including the date when it was completed and the costs thereof; and

(*e*) a statement of the amount claimed.

(2) Where any document relating to any proposed improvement, or to any claim, is sent to or served on a mesne landlord in pursuance of Part I of the Act of 1927, he shall forthwith serve on his immediate landlord a copy of the document, together with a notice in writing stating the date when the document was received by the mesne landlord, and if the immediate landlord is himself a mesne landlord, he shall forthwith, on receipt of the documents aforesaid, serve on his immediate landlord a similar copy and notice, and so on from landlord to landlord.

2.—(1) Proceedings under Part I of the Act of 1927 shall be commenced by originating summons stating—

(*a*) the nature of the claim or application or the matter to be determined;

(*b*) the premises in respect of which the claim arises or the application is made and the trade or business carried on there;

(*c*) particulars of the improvement or proposed improvement; and

(*d*) if the claim is for the payment of compensation, the amount claimed.

(2) The Applicant's immediate landlord shall be made respondent to the summons.

3.—(1) An application for a new tenancy under section 24 of the Act of 1954 shall be made by originating summons stating—

(*a*) the premises to which the application relates and the business carried on there:

(*b*) particulars of the applicant's current tenancy of the premises and of every notice or request given or made in respect of the tenancy under section 25 or 26 of the Act; and

(*c*) the applicant's proposals as to the period, rent and other terms of the new tenancy for which he is applying.

(2) The person who is the applicant's landlord as defined in Section 44 of the Act of 1954 shall be made respondent to the Summons.

4.—(1) An application for the determination of any question arising under paragraph 4 of the Sixth Schedule to the Act of 1954 whether the consent of a mesne landlord has been unreasonably withheld, or whether any conditions imposed on the giving of consent are unreasonable, shall be made by originating summons stating the question to be determined.

(a) 17 & 18 Geo. 5. c. 36 and 2 & 3 Eliz. 2. c. 56.

(2) The mesne landlord to whose consent the application relates shall be made respondent to the summons.

5.—(1) An originating summons under any of the preceding Rules shall be intituled in the matter of the property in question and of the Act under which the claim or application is made and no appearance need be entered thereto.

(2) Any such summons shall be served at least fourteen days before the return thereof, and in case it is not so served the provisions of Rule 17 of Order XLVIII shall apply in like manner as they apply to an originating summons required to be served 7 clear days before the return thereof.

(3) No affidavit shall be filed in the first instance in support of or in answer to any such summons, but on the return of the summons or at any subsequent hearing such directions shall be given as to the filing of affidavits and otherwise as to the course of the proceedings (including, if need be, the giving of notice to other persons or the making of other persons parties to the proceedings) as may appear expedient.

6.—(1) Any person affected by any proceedings on any originating summons under rule 2 or rule 3 of this Order may apply in chambers to be made a party to the summons and the Court or Vice Chancellor may give such directions in the matter as may appear necessary.

(2) An application under paragraph (1) of this rule shall in the first instance be made ex parte but the Court or Vice Chancellor may, if it appears expedient, require notice thereof to be given to the parties before making any order.

(3) The preceding provisions of this rule are without prejudice to the power of the Court or Vice Chancellor either with or without any application by any party, to order notice of the proceedings to be given to any person, or any person to be made a party to the proceedings, but nothing in this rule shall be construed as requiring the Court or Vice Chancellor to make any such order and, if it appears that any person, though he is affected by the proceedings, is not sufficiently affected for it to be necessary for him to be made a party to the proceedings or given notice thereof, the Court or Vice Chancellor may refuse to make him a party or, as the case may be, to require him to be given notice of the proceedings and the order of the Court shall nevertheless be binding upon him.

7.—(1) Where, on an application under section 24 of the Act of 1954, the Court is precluded from making an order for the grant of a new tenancy on any grounds specified in section 30 of that Act, the order shall state all the grounds on which the Court is so precluded.

(2) Any application for an order under paragraph (*b*) of subsection (2) of section 31 of the Act of 1954 and any application not made at the hearing for a certificate under subsection (4) of section 37 of that Act shall be made ex parte in chambers without any affidavit.

8. Any certificate under section 3 of the Act of 1927 shall be embodied in an order of the Court.

9.—(1) Where, under subsection (3) or subsection (4) of section 63 of the Act of 1954, proceedings in a County Court are transferred to the Palatine Court, the Registrar of the district of the Palatine Court to which the proceedings are transferred shall forthwith on receipt of the documents referred to in rule 19 of Order XVI of the County Court Rules, 1936—

(*a*) file the said documents and make an entry of the filing thereof in the Cause Book;

(*b*) distinguish the action in the manner in which cases are distinguished in the Cause Book under rule 7 of Order VI of these Rules; and

(*c*) give notice to all parties that the action is proceeding in that district of the Palatine Court.

(2) The applicant shall, within 7 days of the giving to him of the notice referred to in subparagraph (*c*) of the last preceding paragraph, apply at the chambers of the said Registrar for an appointment to proceed with the action.

(3) If the applicant fails to apply for an appointment within the time limited by paragraph (2) of this rule, the respondent may do so.

(4) Thereafter the proceedings shall continue as if they had been commenced by originating summons in the Palatine Court and as if the appointment were the return of the summons.

10. In any proceedings to enforce a right of re-entry or forfeiture or a right to damages in respect of failure to comply with any terms of a tenancy to which section 1 of the Act of 1954 applies, any application for relief under section 16 of that Act or under paragraph 9 or paragraph 10 of the Fifth Schedule to that Act may be made either—

(*a*) in the defence (or reply); or

(*b*) by summons at any time before the hearing; or

(*c*) at the hearing.

11. Where pursuant to subsection (5) of section 37 of the Act of 1954, any dispute as to the rateable value of any premises has been referred to the Commissioners of Inland Revenue for decision by a valuation officer, whether for the purpose of subsection (2) of section 37, or of section 63 of that Act, any document purporting to be a notification by the valuation officer of his decision shall be admissible in any proceedings in the Palatine Court as prima facie evidence of the matters contained therein.

12.—(1) In this Order "the Act of 1927" means the Landlord and Tenant Act, 1927, and "the Act of 1954" means the Landlord and Tenant Act, 1954.

(2) In relation to any proceedings under Part II of the Act of 1954, any reference in this Order to a landlord shall, if the interest of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver appointed by the mortgagee or by the Court is in receipt of the rents and profits, be deemed to be a reference to the mortgagee instead of that landlord.

ORDER XLVIIIE

Applications pursuant to section 9 of the Law Reform (Miscellaneous Provisions) Act, 1949(a)

1. An application to make an infant a ward of Court shall be made by originating summons, or by an ordinary summons in any action to which the infant is a party. The summons shall, in addition to any other relief sought, ask specifically that the infant be made a ward of Court.

2. The summons shall be adjourned to be heard by the Vice Chancellor in person, and unless within 21 days from the date of its issue a date is obtained for it to be so heard the infant shall cease to be a ward of Court at the expiration of the said period of 21 days. Upon the summons

(a) 12, 13 & 14 Geo. 6. c. 100.

being so adjourned as aforesaid the infant shall continue to be a ward of Court until the determination of the application."

31. There shall be inserted after Rule 8 of Order LI the following rule:—

"9. An application to set aside or remit an award may be made at any time within 6 weeks after such award has been made and published to the parties: Provided that the Court may by Order extend the said time either before or after the same has expired."

32. Paragraph (*c*) of Rule 7 of Order LIII (which relates to furnishing copies of printed documents) shall be revoked and the following paragraph substituted therefor:—

"(*c*) the party printing shall, on demand in writing, furnish to any other party any number of printed copies, not exceeding ten, upon payment therefor at the rate of 3d. per folio for every copy. Where any account or charge under this rule results in a fraction of 1d. in the total, such fraction shall be reckoned as 1d."

33. The form in the Schedule to these Rules shall be substituted for the form Nod. 22 in Appendix L.

34. These Rules may be cited as "The Chancery of Lancaster Rules, 1955" and the Chancery of Lancaster Rules 1884 shall have effect as amended by these Rules.

35. These Rules shall come into operation on the first day of September, 1955.

Dated this 14th day of August, 1955.

Woolton,
Chancellor.
Leonard Stone,
Vice Chancellor.

Approved by the Authority empowered to make rules for the Supreme Court.

G. P. Coldstream.

SCHEDULE

"AFFIDAVIT VERIFYING RECEIVER'S ACCOUNT

(*Title*)

I , of
the receiver appointed by order herein dated 19 , make oath and say as follows—

1. The document now shown to me marked A is, as it purports to be, a full and true account of for the period therein specified.

2. and , my sureties named in the guarantee (or undertaking) dated 19 , are both alive and neither of them has become bankrupt or insolvent.

(or

2. The Co. Ltd., my surety named in the guarantee (or undertaking) dated 19 , is still carrying on business and no petition or other proceedings for its winding-up is pending.)"

EXPLANATORY NOTE.

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

These Rules make a number of amendments and additions to the Chancery of Lancaster Rules 1884 so as to bring them closer into line with the current Rules of the Supreme Court regulating procedure and practice in the Chancery Division. They relate to changes of solicitor, actions for specific performance, actions by and against infants, representation orders, third-party procedure, payment into Court in satisfaction of debt or damages, summons for directions, evidence, powers of Registrars to hear applications and sundry minor matters. The additions also include Rules regulating procedure under the Trade Marks Act, 1938, the Guardianship of Infants Acts, 1896 and 1925, Section 9 of the Law Reform (Miscellaneous Provisions) Act, 1949, the Arbitration Act, 1950, and the Landlord and Tenant Acts, 1927 and 1954.

1955 No. 1349 (L. 11)

The Chancery of Lancaster (No. 2) Rules, 1955

Made - - - -	14*th August*, 1955
Laid before Parliament	30*th August*, 1955
Coming into Operation	1*st September*, 1955

The Right Honourable Viscount Woolton, C.H., Chancellor of the Duchy and County Palatine of Lancaster with the advice and consent of Sir Leonard Stone, O.B.E., Vice Chancellor of the said County Palatine of Lancaster, and with the approval of the Authority empowered to make rules for the Supreme Court and in pursuance of the powers and authorities conferred by the Chancery of Lancaster Acts 1850 to 1952(**a**) and all other powers and authorities enabling him in that behalf doth hereby order and direct as follows:—

1. Rule 4 (which provides for the investment of money and dividends on securities lodged in Court under the Trustee Act, 1925(**b**)) of the General Order and Rules of the Court of Chancery of the County Palatine of Lancaster dated the 18th December, 1893(**c**) as amended by the Chancery of Lancaster (Law of Property and other Acts) Rules, 1926(**d**), is hereby revoked.

2. These rules may be cited as "The Chancery of Lancaster (No. 2) Rules, 1955" and shall come into operation on the first day of September, 1955.

Dated this 14th day of August, 1955.

Woolton,
Chancellor.

Leonard Stone,
Vice Chancellor.

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

G. P. Coldstream.

(**a**) 13 & 14 Vict. c. 43; 17 & 18 Vict. c. 82; 53 & 54 Vict. c. 23; 15 & 16 Geo. 6. & 1 Eliz. 2. c. 49.
(**b**) 15 & 16 Geo. 5. c. 19. (**c**) S.R. & O. & S.I. Rev. XI, p. 729.
(**d**) S.R. & O. 1926/922 (Rev. XI, p. 731: 1926, p. 727).