1956 No. 1243 (L. 13)

The County Court (Amendment No. 2) Rules, 1956

Made - - - - *8th August*, 1956
Coming into Operation *1st September*, 1956

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules, 1956.

(2) An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1936(a), as amended.

(3) A Form referred to by number in these Rules means the Form so numbered in Appendix A to the County Court Rules, 1936.

2. Paragraph (1) of Rule 2 of Order I shall be amended as follows:—

(1) In sub-paragraph (*a*) for the words "every week-day except one" to "12 noon" there shall be substituted the words "every week-day, except Saturday, from 10 a.m. to 4 p.m.".

(2) In sub-paragraph (*b*) for the words "every day of the week" there shall be substituted the words "every week-day except Saturday".

3. The following new Rule shall be inserted in Order XXVII after Rule 1 and shall stand as Rule 1A:—

"1A. Among the conditions mentioned in subsection (1) of s. 38 of the Administration of Justice Act, 1956 (which enables any sum standing to the credit of a person in a deposit account in a bank to be attached notwithstanding that certain conditions applicable to the account have not been satisfied) there shall be included any condition that a receipt for money deposited in the account must be produced before any money is withdrawn."

4. Order XLII shall be amended as follows:—

(1) The following Rule shall be substituted for Rule 8:—

Production of certificate. "8. A person producing a certificate of a judgment for registration in a county court shall at the same time produce a copy of the certificate for sealing and, where he desires a warrant of execution or a judgment summons to issue for the enforcement of the judgment, a praecipe in Form 158 or Form 170, whichever is appropriate."

(2) The following Rule shall be substituted for Rule 9:—

Registration of certificate. "9.—(1) On the production of the documents required by the last preceding Rule the registrar shall, if the place at which execution is to be levied or, as the case may be, the place where the debtor resides or carries on business is within the district of the court, register the certificate by entering it in the books of the court.

(a) S.R. & O. 1936/626 (1936 I, p. 282).

(2) The registrar shall then seal and date the copy certificate and return it to the person producing it."

(3) The following Rule shall be substituted for Rule 11:—

Warrant and judgment summons Forms 348 and 348A

"11. A warrant of execution shall be in Form 348 and a judgment summons shall be in Form 348A."

(4) In Rule 12 the words "levied under an execution" shall be omitted.

5. Rule 10 of Order XLVI shall be amended as follows:—

(1) The following new paragraph shall be inserted at the beginning and shall stand as paragraph (1):—

"(1) Where in an action to which section 12 of the Hire-Purchase Act, 1938 (in this Rule referred to as "the Act") applies a guarantor named as a defendant has not been served with the summons, the court may, on the *ex parte* application of the plaintiff made at or before the hearing of the action, dispense with the requirement that the guarantor be made a party to the action."

(2) In paragraph (1) for the words "the Hire-Purchase Act, 1938" there shall be substituted the words "the Act".

(3) In paragraph (2) for the words "the said Act" there shall be substituted the words "the Act".

(4) In paragraph (3) for the words "the Hire-Purchase Act, 1938" and "the said Act" there shall be substituted in each case the words "the Act".

(5) Paragraphs (1), (2) and (3) shall be re-numbered and shall stand as paragraphs (2), (3) and (4) respectively.

6. In paragraph (2) of Rule 10 of Order XLVIII for the words "48 hours" in the two places where they appear, there shall be substituted the words "3 days".

7. In the marginal note to Form 61 for the words "Rule 10 (1) (*a*)" there shall be substituted the words "Rule 10 (3) (*a*)".

8. In Form 347 the words "The goods of the Defendant [*or* Plaintiff] are stated to be at:—" shall be omitted.

9. The following new Form shall be inserted in Appendix A after Form 348 and shall stand as Form 348A:—

"348A

Order XLII, Rule 11.

JUDGMENT SUMMONS

THE INFERIOR COURTS JUDGMENTS EXTENSION ACT, 1882

JUDGE'S COURT. County Court.

Mention { Plaint No. / Judgt. Sums. No.

BETWEEN [*name, address and description*] (Seal)

Judgment Creditor.

AND [*name, present address, description and, if known, place of employment*]

Judgment Debtor.

TO THE JUDGMENT DEBTOR.

WHEREAS on the day of , 19 , the judgment creditor obtained a judgment against the judgment debtor in [*name of Court*] for the payment of the sum of £ for debt [*or* damages] and costs and it was thereupon ordered by the said Court that the judgment debtor should pay the same on [*recite order*].

AND WHEREAS the said judgment has been duly registered in this Court pursuant to the Inferior Courts Judgments Extension Act, 1882.

AND WHEREAS default has been made in payment of the sum of £ payable in pursuance of the said judgment, and the judgment creditor has required this judgment summons to be issued against you.

YOU ARE THEREFORE HEREBY SUMMONED to appear personally in this Court at , on the day of , 19 , at o'clock, to be examined on oath touching the means you have or have had since the date of the said judgment to satisfy the sum payable in pursuance of the said judgment; and also to show cause why you should not be committed to prison for such default, or why a receiving order should not be made against you pursuant to subsection (4) of section 107 of the Bankruptcy Act, 1914.

Dated this day of , 19 .

Registrar.

	£	*s.*	*d.*
Sum in payment of which judgment debtor has made default			
Costs of obtaining and registering certificate of the judgment			
Fee for issue of this summons			
Travelling expenses to be paid or tendered to the judgment debtor			
Sum on payment of which this summons will be satisfied ...			

NOTE.—If payment is made too late to prevent the judgment creditor's attendance on the day of hearing, you may be liable for further costs.

	£	*s.*	*d.*
Amount, if any, which will still remain outstanding when the above sum has been paid			

Remittances to the Court by post must be by POSTAL OR MONEY ORDER ONLY, payable to the Registrar and crossed *& Co.* (Cheques and Stamps are not accepted). POSTAGE MUST BE PREPAID. This paper must also be sent and a stamped envelope for receipt.

Payment otherwise than in cash at the Court Office is made at the payer's risk."

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 99 of the County Courts Act, 1934(a), having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

Donald Hurst
J. Alun Pugh
Edgar T. Dale
W. M. Andrew
D. O. McKee
D. Freeman Coutts
W. Ralph Davies
R. T. Monier-Williams
Roger B. Willis
Arthur J. Driver
W. O. Carter

24th July, 1956.

I allow these Rules which shall come into force on the 1st day of September, 1956.

Dated the 8th day of August, 1956.

Kilmuir, C.

EXPLANATORY NOTE

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

These Rules amend the County Court Rules, 1936, for the following main purposes:—

(1) To make it unnecessary to open County Court Offices on Saturdays but to provide that on other week-days Offices which must at present be open until 3.30 p.m. shall remain open until 4 p.m.

(2) To add another condition to those mentioned in s. 38 of the Administration of Justice Act, 1956, which enables money in a deposit account in a bank to be attached notwithstanding that any of the conditions mentioned has not been satisfied.

(3) To give effect to s. 40 of the Administration of Justice Act, 1956, which enables Scottish and Northern Irish judgments registered in a county court in England to be enforced by judgment summons or bankruptcy proceedings as well as by execution.

(4) To enable an action for the return of goods under s. 12 of the Hire-Purchase Act, 1938, to proceed against the hirer notwithstanding failure to serve the summons on a guarantor.

(a) 24 & 25 Geo. 5. c. 53.