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 to the County Court Rules, 1936, the more significant of which are the following:—(*a*) the court is given power to order payment of agreed costs, which need not then be taxed; (*b*) it is made clear that an application to the judge to set aside a final decision of the registrar is by way of appeal on grounds to be stated and, if the judge orders a new trial, it may be to take place before himself or before the registrar; (*c*) a sum paid into court, within 8 days of service of the summons, in satisfaction of a claim for a greater amount need be accompanied only by the costs appropriate to the sum paid in; (*d*) the time allowed to the plaintiff for accepting such a sum has been extended.

1957 No. 1136 (L. 8)

The County Court (Amendment No. 2) Rules, 1957

Made - - - - 27*th June*, 1957
Coming into Operation 1*st August*, 1957

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules, 1957.

(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) In these Rules Appendices A, B, D and E mean respectively Appendices A, B, D and E to the County Court Rules, 1936.

(4) A form referred to by number in these Rules means the form so numbered in Appendix A.

2. In paragraph (2) (*d*) (ii) of Rule 3 of Order VII for the word "bailiff" there shall be substituted the words "an officer of the court".

3. Order VIII shall be amended as follows:—

(1) In paragraph (1) of Rule 6 the words "(other than a judgment summons) or of any" shall be omitted.

(2) In the proviso to Rule 7 after the words "may, if he thinks fit," there shall be inserted the words "and shall, where a certificate for postal service in Form 6 has been given,".

(3) Rule 8 shall be amended as follows:—

(*a*) In paragraph (1) for the words "paragraphs (1A) and (1B)" there shall be substituted the words "the following paragraphs" and for the word "he" there shall be substituted the words "the defendant".

(*b*) The following paragraphs shall be substituted for paragraphs (1A) and (1B):—

"(2) Where the plaintiff or his solicitor gives a certificate for
Form 6 postal service in Form 6, the summons shall, unless the registrar otherwise directs, be served by an officer of the court sending it by ordinary post to the defendant named in the certificate at the address stated in the praecipe.

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

(3) Where the certificate is not given but the registrar for the district in which the summons is to be served is satisfied by a report of the bailiff or otherwise that there is a reasonable probability that the summons, if sent to the defendant by ordinary post, will come to his knowledge in sufficient time for him to appear at the hearing, the said registrar may cause the summons to be served by an officer of the court sending it to the defendant by ordinary post."

(*c*) Paragraph (2) shall be re-numbered and shall stand as paragraph (4).

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

"(2) Where an ordinary summons is served by post pursuant to paragraph (2) or (3) of Rule 8 of this Order, the officer of the court shall indorse on the copy of the summons retained in the court office the date of posting and the address written on the letter, and shall sign the indorsement and add the name of the court of which he is an officer."

(5) Rule 14 shall be amended as follows:—

(*a*) At the beginning of paragraph (1) there shall be inserted the words "Subject to the following paragraphs of this Rule,".

(*b*) The following paragraphs shall be substituted for paragraph (2):—

"(2) Where the plaintiff or his solicitor gives a certificate for postal service in Form 6 the summons shall, unless the registrar otherwise directs, be served by an officer of the court sending it by ordinary post to the firm at the address stated in the praecipe.

(3) Where the certificate is not given but the registrar for the district in which the summons is to be served is satisfied by a report of the bailiff or otherwise that there is a reasonable probability that the summons, if sent to the firm by ordinary post, will reach one of the persons to whom the summons may be delivered in accordance with paragraph (1) of this Rule in sufficient time for one of the partners to appear at the hearing, the said registrar may cause the summons to be served by an officer of the court sending it to the firm by ordinary post."

(*c*) Paragraph (3) shall be re-numbered and shall stand as paragraph (4).

(6) In paragraph (1) of Rule 24 for the words "paragraph (1A)" there shall be substituted the words "paragraph (3)" and for the words "so served" there shall be substituted the words "served under the said paragraph (1)".

(7) In paragraph (2) of Rule 28 for the words "paragraph (1A)" there shall be substituted the words "paragraph (2) or (3)".

(8) The following Rule shall be substituted for Rule 30:—

Doubtful service

"30. Where by the indorsement on the copy of an ordinary summons it appears that the summons has been delivered in accordance with paragraph (1) (*b*) of Rule 8 of this Order, then—

(*a*) if it is doubtful from the indorsement whether the court will be satisfied that the summons has come to the knowledge of the defendant before the return day, the registrar for the district in which the summons is to be served shall give notice to the plaintiff in Form 37; and, if the defendant does not

Form 37

appear at the hearing, the plaintiff may be required to satisfy the court that the summons has come to the knowledge of the defendant;

(*b*) in any other case the action shall proceed unless the court has reason to believe at the hearing that the summons has not come to the knowledge of the defendant."

(9) Rule 32 shall be amended as follows:—

(*a*) The following paragraphs shall be substituted for paragraphs (1), (1A) and (2):—

"(1) Subject to the following paragraphs of this Rule, service of a default summons shall be effected—

(*a*) by delivering the summons to the defendant personally; or

(*b*) by a bailiff of the court delivering the summons to some person apparently not less than 16 years old at the residence of the defendant or, where the defendant is the proprietor of a business, at his place of business.

(2) Where the registrar for the district in which the summons is to be served is satisfied by a report of the bailiff or otherwise that there is a reasonable probability that the summons, if sent to the defendant by ordinary post, will come to his knowledge in sufficient time for him to deliver a defence, admission or counterclaim within 8 days of the time when the summons would be delivered in the ordinary course of post, inclusive of the day of delivery, the said registrar may cause the summons to be served by an officer of the court sending it to the defendant by ordinary post.

(3) Rules 9, 11, 14 (except paragraph (2) thereof), 15, 16, 25, 26, paragraph (2) of Rule 28 and Rule 29 of this Order shall apply to default summonses as they apply to ordinary summonses:

Provided that in the application of paragraph (3) of Rule 14 to a default summons there shall be substituted for the words "to appear at the hearing" the words "to deliver a defence, admission or counterclaim within 8 days of the time when the summons would be delivered in the ordinary course of post, inclusive of the day of delivery,"."

(*b*) Paragraph (3) shall be re-numbered and shall stand as paragraph (4).

(10) The following Rule shall be substituted for Rule 36:—

Doubtful service.

"36. Where by the indorsement on the copy of a default summons it appears that the summons has been delivered in accordance with paragraph (1) (*b*) of Rule 32 of this Order, then—

(*a*) if it is doubtful from the indorsement whether the summons will come to the knowledge of the defendant in sufficient time for him to deliver a defence, admission or counterclaim within 8 days thereafter, inclusive of the day of delivery, the registrar for the district in which the summons is to be served shall give notice to the plaintiff in Form 39A; and, if the defendant does not deliver a defence, admission or counter-claim, the plaintiff may be required, before entering judgment under Order X, Rule 2, to satisfy the court that the summons came to the defendant's knowledge in sufficient time for him to have done so;

Form 39A.

(*b*) in any other case the action shall proceed unless the court has reason to believe that the summons did not come to the knowledge of the defendant in sufficient time for him to deliver a defence, admission or counter-claim."

(11) In Rule 47 for the words " in the manner in which default summonses are required to be served " there shall be substituted the words " on the respondent by delivering it to him personally ".

4. Rule 1 of Order IX shall be amended as follows:—

(1) The following paragraph shall be inserted after paragraph (4) and shall stand as paragraph (5):—

" (5) Where the amount admitted is £40 or upwards and the plaintiff does not accept the defendant's proposal as to mode of payment, he may, when giving the registrar notice of non-acceptance, request that the defendant be required to give evidence of his means at the hearing of the action, and in any such case—

Form 88. (*a*) the registrar shall send the defendant a notice in Form 88;

(*b*) the defendant's admission shall not be treated as evidence of his means, unless the court otherwise orders; and

(*c*) if in the opinion of the court it is not reasonably practicable for the defendant to appear at the hearing to give evidence of his means, evidence by affidavit shall be admissible on his behalf without the notice required by Order XX, Rule 5 (1), having been given."

(2) The existing paragraph (5) shall be re-numbered and shall stand as paragraph (6) and paragraph (6) shall be omitted.

5. In Rule 4 of Order X the following paragraph shall be added after paragraph (3) and shall stand as paragraph (4):—

" (4) Where the amount admitted is £40 or upwards and the plaintiff does not accept the defendant's proposal as to mode of payment, he may, when giving notice of non-acceptance, request that the defendant be required to give evidence of his means at the disposal or hearing of the action, and in any such case—

(*a*) the registrar shall send the defendant a notice in Form 88;

(*b*) the defendant's admission shall not be treated as evidence of his means, unless the court otherwise orders;

(*c*) if in the opinion of the court it is not reasonably practicable for the defendant to appear at the hearing to give evidence of his means, evidence by affidavit shall be admissible on his behalf without the notice required by Order XX, Rule 5 (1), having been given."

6. Order XXV shall be amended as follows:—

(1) In paragraph (2) of Rule 10 after the words " within one month " there shall be inserted the words " (or, in the case of a warrant of execution for a sum exceeding £20, within a fortnight) " and after the words " every subsequent month " there shall be inserted the words " (or fortnight, as the case may be) ".

(2) The following paragraphs shall be added to Rule 13 and shall stand as paragraphs (5) and (6):—

" (5) Where an order has been made for payment of a sum of money by instalments and default has been made in payment of an instalment according to the order, a warrant of execution may be issued for the whole of the said sum of money and costs

then remaining unpaid or for such part thereof as the judgment creditor may request, not being in the latter case less than £1 or the amount of one monthly instalment or four weekly instalments, as the case may be, whichever is the greater:

Provided that no warrant shall be issued unless at the time when it is issued the whole or part of an instalment which has already become due remains unpaid.

(6) Where a warrant of execution is issued for part of the said sum of money and costs, the registrar for the district in which the warrant is to be executed may direct that a notice in Form 160A. Form 160A be sent to the person against whom the warrant is issued and that the warrant shall not be levied until the expiration of 7 days thereafter."

(3) The following Rule shall be substituted for Rule 39:—

Mode of service. "39.—(1) Subject to the provisions of paragraph (2) of this Rule, a judgment summons shall be served on every debtor personally.

Form 172. (2) Where the judgment creditor or his solicitor gives a certificate for postal service in Form 172 in respect of a debtor residing or carrying on business within the district of the court, the judgment summons shall, unless the registrar otherwise directs, be served on the said debtor by an officer of the court sending it to him by ordinary post at the address stated in the praecipe:

Provided that where the summons has been so served on a debtor, no order of commitment shall be made against him unless—

(*a*) he appears at the hearing, or

(*b*) the judge is satisfied that the summons came to his knowledge in sufficient time for him to appear at the hearing.

(3) Where a judgment summons is served by post pursuant to paragraph (2) of this Rule, the officer of the court shall indorse on the copy of the summons retained in the court office the date of posting and the address written on the letter and shall sign the indorsement and add the name of the court of which he is an officer.

(4) Where a judgment summons is served otherwise than by post, there may, if the judgment creditor so desires, be paid to the debtor at the time of service a sum reasonably sufficient to cover his expenses in travelling to and from the court, with a minimum of one shilling."

(4) Rule 40 shall be amended as follows:—

(*a*) in paragraph (1) for the figure "5" there shall be substituted the figure "10";

(*b*) in paragraph (2) for the figure "3" there shall be substituted the words "6";

(*c*) the following paragraph shall be added as paragraph (4):—

"(4) A notice of non-service under the last foregoing paragraph of this Rule shall be sent in respect of a judgment summons which has been sent by post under paragraph (2) of Rule 39 of this Order and has been returned to the court office undelivered."

(5) Paragraphs (3), (4) and (5) of Rule 56 shall be omitted.

(6) The following sub-paragraph shall be substituted for sub-paragraph (*a*) of paragraph (2) of Rule 66:—

"(*a*) there may be allowed—

(i) a charge of a solicitor for attending the hearing and, if the judge so directs, for serving a successive judgment summons after failure by the bailiff to serve the original judgment summons, and

(ii) if the judge certifies that the case is fit for counsel, a fee to counsel."

7. The following paragraph shall be substituted for paragraph (1) of Rule 6 of Order XXXVII:—

"(1) Where in an action or matter the originating process has been sent by post in accordance with Rule 8 (2) or (3), or Rule 14 (2) or (3), or Rule 32 (2) of Order VIII, and after judgment has been given or entered it appears to the court that the process did not come to the knowledge of the defendant in time, the court may of its own motion set aside the judgment and may give any such direction or make any such order as the court may think just."

8. Sub-paragraph (*b*) (iii) of paragraph (3) of Rule 10 of Order XLVI shall be omitted.

9. In paragraph (3) of Rule 21 of Order XLVII for the words "and 30" there shall be substituted the words "30 and 31".

10. The following new form shall be inserted in Appendix A as Form 6:—

"6

Order VIII, Rules 8(2), 14(2)

CERTIFICATE FOR POSTAL SERVICE OF ORDINARY SUMMONS

[*General Title—Form* 1]

I hereby request that the defendant[s] [*here insert name*[*s*]] be be served with the summons in this action by post and I hereby certify that—

(*a*) I have reason to believe that the summons, if sent to the said defendant[s] at the address[es] stated in the praecipe, will come to his [their] knowledge within 7 days after the day on which the summons would be delivered in the ordinary course of post.

(*b*) I [*or, where the certificate is given by a solicitor,* The plaintiff] understand[s] that if judgment is obtained as a result of postal service and is afterwards set aside on the ground that the service did not give the said defendant[s] adequate notice of the proceedings, I [*or, where the certificate is given by a solicitor,* the plaintiff] may be ordered to pay the costs of setting aside the judgment.

Dated this day of , 19 .

Plaintiff [*or* Plaintiff's solicitor]."

11. The following form shall be substituted for Form 18A:—

"18A

FORM OF ADMISSION, DEFENCE AND COUNTERCLAIM TO ACCOMPANY FORMS 18, 19 AND 22

Order VI, Rule 3(2)(c)

County Court.

No. of Plaint:

——— v. ———

Admission

I ADMIT the plaintiff's claim [1], and I offer to pay the same by instalments of £ : : per month [2].

[1] Or state the amount admitted.

[2] Or state the date on which you can pay the whole sum.

Note. You MUST answer the following questions as to your means, if you want time to pay:—

1. What is your occupation? .....
2. What is your total income from all sources? £ : :
3. What persons, if any, are dependent on you? .....
4. What rent or mortgage instalments have you to pay? £ : :
5. What other regular payments have you to make? .....

[*Add, in an action to which section* 12 *of the Hire-Purchase Act,* 1938, *applies* I understand that if the plaintiff accepts this offer an order will be made for the return of the goods but the plaintiff will not be able to enforce the order so long as I make punctual payment in accordance with my offer.]

or

Defence

I DISPUTE the plaintiff's claim [3], for the following reasons:—

[3] Or state the amount disputed.

or

Counter-claim

I have a COUNTERCLAIM against the plaintiff for £ : : , for—

Note. If your counterclaim *exceeds* the plaintiff's claim, you may have to pay a fee (which can be ascertained from any County Court Office). If this fee is not paid to the Registrar your counterclaim may be struck out.

To be signed here:—

Defendant.

Address to which notices are to be sent:— "

12. In Forms 28 (1), 60 and 61, in the first paragraph of each form, for the word "because" there shall be substituted the following words:—

"The defendant has supplied the following information as to his/her means:—

1. Occupation:
2. Total income from all sources: £ : :
3. Dependants:
4. Rent or mortgage instalments: £ : :
5. Other regular payments to be made by defendant: "

12. Form 31 shall be amended as follows:—

(*a*) In the title, after the word " ordinary " there shall be inserted the words " or default ".

(*b*) In the side note, for the words " Rule 9 (1) and (2) " there shall be substituted the words " Rules 9 (1) and (2), 32 (3) ".

(*c*) In paragraph (*b*), after the words " the order of the Registrar " there shall be inserted the words " [*or in the case of an ordinary summons,* the certificate of the plaintiff or his solicitor] ".

13. Form 32 shall be amended as follows:—

(*a*) In the side note the words " and Rule 32 (1) " shall be omitted.

(*b*) For the words " by me—(*a*) on " there shall be substituted the words " by me on ".

(*c*) Paragraph (*b*) shall be omitted.

14. Form 33 shall be amended as follows:—

(*a*) In the side note, after the figure " 14 " there shall be added the figure " 32 (3) ".

(*b*) In paragraph (*d*), after the words " the order of the Registrar " there shall be inserted the words " [*or in the case of an ordinary summons,* the certificate of the plaintiff or his solicitor] ".

15. The following new form shall be inserted in Appendix A as Form 39A:—

" 39A

Order VIII, Rule 36.

NOTICE OF DOUBTFUL SERVICE OF DEFAULT SUMMONS

[*General Title—Form 1*]

TAKE NOTICE that the summons in this action was, on the day of , 19 , left at the address given by you [*here insert the bailiff's return as indorsed on the copy summons*].

You must therefore be prepared, if the defendant does not deliver a defence, admission or counterclaim, to satisfy the court before entering judgment under Order X, Rule 2, that the summons came to the defendant's knowledge in sufficient time for him to have done so."

16. The following new form shall be inserted in Appendix A as Form 88:—

" 88

Order IX, Rule 1(5); Order X, Rule 4(4).

NOTICE REQUIRING DEFENDANT TO GIVE EVIDENCE OF MEANS

[*General Title—Form 1*] Seal

TAKE NOTICE that, as the Plaintiff has not accepted your offer as to the mode of payment of his claim and costs, you are hereby required to attend the Court at the hearing [*or* disposal] of this action to give evidence of your means.

If it is not reasonably practicable for you to attend, you may give such evidence by an affidavit in which you must also state the reasons why you cannot attend.

WARNING. The admission you have filed will not be accepted as evidence of your means. If you do not attend or submit a satisfactory affidavit, you may be ordered to pay the full amount forthwith."

17. In Forms 130, 132, 144, 192, 193 and 384, in the last paragraph of each form, for the words "as the Court shall order" there shall be substituted the words "as the plaintiff may request".

18. Form 158 shall be amended as follows:—

(*a*) After the paragraph ending with the words "[*or as the case may be*]" there shall be inserted the following new paragraph:—

"[*Add where part execution desired on an instalment order* I desire the warrant to issue for £ : :]."

(*b*) In the Table the words "by leave of the Court" shall be omitted.

19. In Form 160, in the second paragraph, for the words "upon the application of the plaintiff it was on the day of , 19 , ordered" there shall be substituted the words "the plaintiff has requested"; in the third paragraph for the words "the Court has given leave to issue this warrant" there shall be substituted the words "this warrant is issued"; and in the Table the words "by leave of the Court" shall be omitted.

20. The following new form shall be inserted in Appendix A as Form 160A:—

"160A

Order XXV, Rule 13(6).

NOTICE TO DEFENDANT OF ISSUE OF WARRANT FOR PART OF AMOUNT DUE

[*General Title—Form 1*]

Seal

As you have made default in payment as ordered by the Court in the above action, the Plaintiff has issued a WARRANT OF EXECUTION for £ : : (which includes the issue fee).

If you send or bring this sum to the Court Office on or before next, the day of , 19 , it will not be necessary for the bailiffs to call on you. If, however, the money is not paid by noon on that date, the warrant will be handed to the bailiffs with instructions to call upon you and to execute the warrant for the amount stated, together with such further costs as may become due.

After you have satisfied the warrant, £ : : will remain outstanding.

Dated this day of . 19 .

Registrar.

To the Defendant."

21. In the Table to Form 162 the words "by leave of the Court" shall be omitted.

22. The following new form shall be inserted in Appendix A as Form 172:—

"172

Order XXV, Rule 39(2). CERTIFICATE FOR POSTAL SERVICE OF JUDGMENT SUMMONS

[*Title as in Form* 171]

I hereby request that the debtor[s] [*here insert name[s]*] be served with the judgment summons in this action by post and I hereby certify that I have reason to believe that the summons, if sent to the said debtor[s] at the address[es] stated in the praecipe, will come to his [their] knowledge within 4 days after the day on which the summons would be delivered in the ordinary course of post.

I/The judgment creditor understand[s] that no order of commitment will be made against a debtor served by post unless he appears at the hearing of the judgment summons or the judge is satisfied that the summons came to his knowledge in sufficient time for him to appear at the hearing.

Dated this day of , 19 .

Judgment creditor [*or Judgment creditor's solicitor*]."

23. Form 176 shall be amended as follows:—

(*a*) In the marginal note for the words "Rule 2 (*c*) (i)" there shall be substituted the words "Rules 2 (*c*) (i), 39 (3)".

(*b*) After the words "served by me" there shall be inserted the letter "(*a*)".

(*c*) After the words "to and from the Court]" there shall be added the following words:—

"*or* (*b*) by posting the same to the debtor on the day of , 19 , at the address stated in the summons, in accordance with the certificate of the judgment creditor or his solicitor;

or (*c*) on the debtor by [*in accordance with an order for substituted service*]."

24. At the end of paragraph 2 of Form 177 there shall be added the words "*or* by [*in accordance with an order for substituted service*]".

25. The following paragraph shall be substituted for the second paragraph of Form 182:—

"This order will not be put into force if [in addition to the sum of £ : : paid into Court since the issue of the judgment summons] you pay into Court the sum of £ : : [on the day of , 19 , *or*] by instalments of £ : : for every , the first payment to be made on the day of , 19 ."

26. In Forms 184 and 186 the words "*This order remains in force*" to "extended by order of the judge to the day of , 19 " at the end of each form shall be omitted.

27. The scales of costs in Appendix B shall be amended as follows:—

(1) The following item shall be substituted for item 2 of Scale 1:—

	£	s.	d.
"2. In addition to item 1—			
(*a*) for preparing a certificate resulting in postal service of an ordinary summons		2	0
(*b*) for service of summons if served by solicitor		3	0

Note 1.—Where two or more defendants were served at the same address, only one charge is to be allowed under item 2 (*a*).

Note 2.—Item 2 (*b*) is not to be allowed where item 3 (*a*) is applicable."

(2) Scales 2, 3 and 4 shall be amended as follows:—

(*a*) In item 3 after the words "to advise on evidence" there shall be inserted the words "or to advise on merits before action brought".

(*b*) At the end of the note to item 15 there shall be added the words "(unless allowed under Order XXV, Rule 66 (2))".

(*c*) In item 19 after the words "other than a judgment summons" there shall be inserted the words "unless allowed under Order XXV, Rule 66 (2)".

(*d*) The following item shall be substituted for item 20:—

	£	s.	d.	£	s.	d.	£	s.	d.
"20. (*a*) Of any document authorised to be served by post, including copy									
(*b*) For preparing a certificate resulting in postal service of an ordinary summons ...		2	0		2	0		2	0"

(*e*) The following note shall be inserted after *Note* 2 to items 19 and 20 and shall stand as *Note* 3:—

"*Note* 3.—Where two or more defendants were served at the same address, only one charge is to be allowed under item 20 (*b*)".

(*f*) The existing *Note* 3 to items 19 and 20 shall be renumbered and shall stand as *Note* 4.

(*g*) For paragraph (*b*) of item 31 there shall be substituted the following paragraphs:—

	£	s.	d.	£	s.	d.	£	s.	d.
				2	4	6	2	4	6
"(*b*) For advising on evidence ...	2	4	6		to			to	
				3	5	6	3	5	6
				2	4	6	2	4	6
(*c*) For advising on merits before action brought	2	4	6		to			to	
				3	5	6	3	5	6"

(*h*) The following Note shall be inserted after item 31:—

"*Note*.—Items 31 (*b*) and (*c*) may be allowed only if the advice is given in writing and in the opinion of the registrar it was proper to obtain it."

28. The Directions in Part I of Appendix D shall be amended as follows:—

(1) The following new paragraph shall be inserted as paragraph 4:—

"4. Where the solicitor has prepared a certificate for postal service of an ordinary summons, the amount specified in Column 2 of Table I, II, III or IV, as the case may be, opposite paragraph (*a*) in Column I shall be increased by 2*s*."

(2) The existing paragraph 4 shall be re-numbered and shall stand as paragraph 5.

29. At the end of paragraph 2 (iii) of the Directions in Appendix E there shall be added the words "or the preparation of a certificate resulting in postal service".

30. Notwithstanding anything in Rule 25 of these Rules, Form 182 may continue to be used in the form hitherto prescribed until the Lord Chancellor otherwise directs.

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.

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.

3rd May, 1957.

I allow these Rules which shall come into force on the 1st day of August, 1957.

Kilmuir, C.

Dated the 27th day of June, 1957.

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 to the County Court Rules, 1936, the most important of which are as follows:—

(1) An ordinary summons will be served by post where the plaintiff gives a certificate that it is likely to reach the defendant at the address stated.

(2) A default summons, like an ordinary summons, may be served by delivering it to a person at the defendant's address.

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

(3) A defendant applying for leave to pay a claim by instalments will be required to supply certain particulars of his financial position. Where the claim is for £40 or more, the plaintiff will be able to require the defendant to attend and give evidence or submit an affidavit, and the court will then be precluded from treating a letter from the defendant as evidence of his means.

(4) A creditor will be entitled as of right to execute for a part only of the judgment debt, subject to a minimum of £1 or one monthly instalment whichever is the greater. Where execution is issued for part of the debt, the registrar may notify the debtor that the warrant will not be levied if he pays the money into court within seven days.

(5) A judgment summons will be served by post if the creditor gives a certificate as to the debtor's address, but a judgment summons so served will not normally enable the creditor to obtain a committal order unless the debtor attends the hearing.

(6) A judgment summons will have to be served not less than 10, instead of not less than 5, days before the hearing.

(7) A fee may be allowed to counsel for advising on the merits of a claim before proceedings are taken.

COURT OF SESSION, SCOTLAND

FEES, STAMPS AND ACCOUNTS

1957 No. 807 (S. 42)

Act of Sederunt (Rules of Court Amendment) 1957

Made - - - -	3*rd May*, 1957
Coming into Operation	18*th May*, 1957

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act, 1933(a) and of all other powers competent to them in that behalf, considering that it has been agreed by the Treasury that certain fees payable to shorthand writers should be increased, do hereby enact as follows:—

1. The fees prescribed to be charged by shorthand writers in the Court of Session for attending trials, proofs and commissions contained in Part E of Rule 357 of the Rules of Court(b), shall as from the coming into operation of this Act of Sederunt be subject to an increase of 66⅔ per cent. in lieu of the 25 per cent. increase prescribed by the Act of Sederunt (Rules of Court Amendment) 1952(c).

(a) 23 & 24 Geo. 5. c. 41. (b) See S.I. 1948/1691 (1948 I, p. 3778).
(c) S.I. 1952/893 (1952 III, p. 2965).