STATUTORY INSTRUMENTS

1964 No. 1974 (L. 16)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1964

Made - - - -	14*th December* 1964
Coming into Operation—	
Rules 8, 18, 20 - -	1*st March* 1965
Rule 13(3) - - -	6*th April* 1965
Remainder - - -	1*st January* 1965

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1964.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(a), as amended(b), "Appendix A" means Appendix A to those Rules and a Form referred to by number means the Form so numbered in that Appendix.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

2. For paragraph (3) of Rule 1 of Order 2 there shall be substituted the following paragraph:—

"(3) Where the plaintiff's claim—

(*a*) is founded on a hire-purchase agreement but is not for the delivery of goods, or

(*b*) is founded on a contract for the sale or hire of goods under which the purchase price or rental is payable otherwise than in one sum,

then, unless the amount claimed (including, in a case falling within paragraph (*b*), the value of any goods of which delivery is claimed) exceeds £100, paragraph (1)(*b*) of this Rule shall have effect as if for the words 'the cause of action wholly or in part arose' there were substituted the words 'the defendant or one of the defendants resided or carried on business when the contract was made'."

3. In paragraph (2)(*e*) of Rule 2 of Order 6 for the words "under a hire-purchase agreement to recover more" there shall be substituted the words "on a claim arising out of a hire-purchase agreement unless the claim is for no more".

4. The following amendments shall be made in Order 7:—

(1) Paragraph (1) of Rule 7A shall be amended as follows:—

(*a*) After the words "hire-purchase agreement" there shall be inserted the words "to a person other than a body corporate".

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

(b) The relevant amending Instruments are S.R. & O. 1938/18, 1475, 1939/815, 1947/2576, S.I. 1950/1231, 1993, 1952/2198, 1954/1675, 1955/1799, 1956/1243, 1851, 1957/174, 1136, 1958/2226, 1960/1275, 1961/1526, 1962/1293 (1938 I, pp. 977, 990; 1939 I, p. 469; 1947 I, p. 366; 1950 I, pp. 400, 440; 1952 I, p. 635; 1954 I, p. 541; 1955 I, p. 530; 1956 I, pp. 541, 545; 1957 I, pp. 512, 517; 1958 I, p. 372; 1960 I, p. 809; 1961 II, p. 3177; 1962 II, p. 1383).

(c) 52 & 53 Vict. c. 63.

(*b*) After sub-paragraph (i) there shall be inserted the following sub-paragraph :—

" (ii) the place where the agreement was signed by the hirer ; ".

(*c*) Sub-paragraphs (ii), (iii), (iv) and (v) shall be re-numbered (iii), (iv), (v) and (vi) respectively and after the last-mentioned sub-paragraph there shall be inserted the following sub-paragraph :—

" (vii) whether a notice of default within the meaning of section 15 of the Hire Purchase Act 1964 has been served on the hirer and, if it has, the date on which it was so served ; ".

1964 c. 53.

(*d*) Sub-paragraphs (vi), (vii) and (viii) shall be re-numbered (viii), (ix) and (x) respectively and in the last-mentioned sub-paragraph for the words " paragraph (vii) " there shall be substituted the words " sub-paragraph (ix) ".

(2) In paragraph (2) of Rule 7A for the words from " Where a plaintiff " to " delivery of goods " there shall be substituted the words " Where a plaintiff's claim arises out of a hire-purchase agreement but is not for the delivery of goods ".

(3) In paragraph (2)(*b*) of Rule 9 for the words " and order " to the end there shall be substituted the words " and direct that the action shall be dismissed, or that anything in the particulars of claim of which further particulars have been ordered shall be struck out, unless the order is obeyed within such time as the court may allow ".

5. In paragraph (8) of Rule 4 of Order 9 for the words from " that " to the end there shall be substituted the words " that the defendant shall be debarred from defending altogether, or that anything in the defence of which further particulars have been ordered shall be struck out, unless the order is obeyed within such time as the court may allow ".

6. In paragraph (2) of Rule 3 of Order 13 for the word " direct " there shall be substituted the word " order " and for the words " order that " to the end there shall be substituted the words " direct that the action shall be dismissed or, as the case may be, the defendant shall be debarred from defending altogether, or that anything in any pleading of which particulars have been ordered shall be struck out, unless the order is obeyed within such time as the court may allow ".

7. Paragraph (2) of Rule 6 of Order 16 shall be amended as follows :—

(1) The words " or Form 299, whichever is applicable " shall be omitted.

(2) For the marginal note " Forms 90, 299 " there shall be substituted the marginal note " Form 90 ".

8. Rule 48 of Order 25 shall be amended as follows : —

(1) In paragraph (3), sub-paragraph (*c*) shall be omitted and sub-paragraph (*d*) shall stand as sub-paragraph (*c*).

(2) In paragraph (4) for the words from " When the proceedings " to " Rule 33 of this Order " there shall be substituted the following words : —

" When the proceedings have been transferred to the other court—

(*a*) the registrar of that other court shall give to the judgment creditor and the judgment debtor notice of the transfer in Form 90A ;

Form 90A.

(*b*) payments under the judgment or order shall be made into that court, and

(*c*) subject to Rule 33 of this Order ".

9. Rule 7 of Order 27 shall be amended as follows:—

(1) In paragraph (3) for the words from " within 4 days " to " a notice of acceptance " there shall be substituted the words " within 7 days of the receipt by him of the notice of payment into court or, if the notice is received by him less than 7 days before the return day, before the hearing of the proceedings begins, give notice of acceptance to the registrar and to the garnishee ".

(2) In paragraph (5) for the word " subsequently " there shall be substituted the words " at any subsequent time before the hearing of the proceedings begins ".

10. In paragraph (1)(*d*) of Rule 5 of Order 37 for the words " before the judge " there shall be substituted the words " before himself or another judge of the court on a day to be fixed ".

11. In paragraph (2)(*c*) of Rule 1 of Order 39 for the words " any county court in the County of London " there shall be substituted the words " the Westminster County Court ".

12. At the end of paragraph (2)(*a*) of Rule 20 of Order 40 there shall be added the words " and accordingly the notice in Form 26 which is served on the respondent pursuant to Order 6, Rule 4(2)(*c*), shall contain a notice in Form 342 requiring him to file an answer as aforesaid ".

13. The following amendments shall be made in Order 46:—

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

(*a*) In the title for the words " The Licensing Act, 1963 " there shall be substituted the words " Licensing Act 1964 ".

(*b*) For the words " section 17(5) of the Licensing Act, 1953 " there shall be substituted the words " section 14(5) of the Licensing Act 1964 ".

(*c*) For the marginal note " 1 & 2 Eliz. 2, c. 46 " there shall be substituted the marginal note " 1964 c. 26 ".

(2) Rule 10 shall be amended as follows:—

(*a*) In the title of the Rule for the words " *Act*, 1938 " there shall be substituted the words " *Acts* 1938 to 1964 ".

(*b*) In paragraph (1) for the words " referred to as ' the Act ' " there shall be substituted the words " referred to as ' the Act of 1938 ' ".

(*c*) In paragraph (2) after the words " the Act " there shall be inserted the words " of 1938 ".

(*d*) In paragraph (3) after the words " the Act " there shall be inserted the words " of 1938 ".

(*e*) For paragraph (4) there shall be substituted the following paragraph:—

" (4) In an action in which an order under section 12(4) of the Act of 1938 has been made by the registrar, any application
1964 c. 53. under section 13 of that Act or section 18 of the Hire-Purchase Act 1964 (in this Rule referred to as ' the Act of 1964 ') may be heard and determined by the registrar."

(*f*) The following paragraphs shall be added after paragraph (4):—

" (5) Where an application is made in pursuance of section 17(7) of the Act of 1964 for the issue of a warrant of delivery, the application shall be made on notice to be served personally

on the person in possession of the goods and no leave to issue the warrant shall be required under Order 25, Rule 6.

(6) Where, after the making of an order under paragraph (*a*) or paragraph (*b*) of section 12(4) of the Act of 1938, the plaintiff proposes, in pursuance of section 19(1) of the Act of 1964, to make or proceed with a claim for the payment of money, he shall apply on notice to the defendant for an order for payment of the money and, if the claim has not already been made in the action, particulars of the claim shall be given in or annexed to the notice.

(7) In this Rule 'guarantor' includes a person who, at the request (express or implied) of the hirer under a hire-purchase agreement, has entered into a contract to indemnify the owner against loss which he may incur in respect of the agreement."

(3) The following paragraphs shall be substituted for paragraphs (7) and (8) of Rule 13:—

"(7) In the case of proceedings for the recovery of income tax, the cause of action shall, for the purposes of Order 2, Rule 1(1)(*b*), be deemed to have arisen in part at the office of any collector of taxes by whom demand of the sum claimed has been made from the defendant.

(8) Where proceedings are brought by or against the Crown, Orders 9 and 10 shall have effect subject to the following modifications:—

(*a*) In proceedings by the Crown for the recovery of taxes, duties or penalties the defendant shall not be entitled to avail himself of any set-off or counterclaim and accordingly—

(i) in Forms 18 and 19 paragraph (3) of the Instructions shall be deleted,

(ii) in Form 18A the words from '*or* I have a COUNTERCLAIM' to 'may be struck out' shall be deleted, and

(iii) in Form 22 for the words 'Defence or Counterclaim' there shall be substituted the words 'or Defence' and paragraph (3) of the Instructions shall be deleted.

(*b*) In proceedings of any other nature by the Crown the defendant shall not be entitled to avail himself of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties.

(*c*) In any proceedings by the Crown the defendant shall not be entitled, and in any proceedings against the Crown the Crown shall not be entitled, without the leave of the judge to be obtained on application of which not less than seven clear days' notice has been given to the plaintiff, to avail himself or itself of any set-off or counterclaim—

(i) if the Crown sues or is sued in the name of a Government department and the subject-matter of the set-off or counterclaim does not relate to that department; or

(ii) if the Crown sues or is sued in the name of the Attorney-General."

14. The following amendments shall be made in Order 49:—

(1) In Rule 2 in the definition of "Hire-purchase agreement" the words from "and also" to the end shall be omitted.

(2) The following Rule shall be added after Rule 2:—

"3. The provisions of these Rules relating to hire-purchase agreements shall have effect in relation to conditional sale agreements within the meaning of section 21(5) of the Hire-Purchase
1964 c. 53. Act 1964, subject to the modifications specified in paragraph 2(1) of Schedule 1 to that Act."

15.—(1) The following paragraph shall be added to the Instructions in Forms 18 and 19 and shall be inserted in the Instructions in Form 22 after paragraph (5):—

"(6) If you have paid the amount of the claim since the date of issue of the summons, you should inform the Court on the attached form, stating the date of payment, and pay the costs into Court within the 8 days mentioned in the foregoing Instructions".

(2) In Forms 18 and 19, as so amended—

(*a*) the words "Dated this day of 19 REGISTRAR" shall be omitted;

(*b*) immediately above the word "INSTRUCTIONS" there shall be inserted the following words:—

"Issued this day of 19 .

Registrar

IMPORTANT—FOR INSTRUCTIONS TURN OVER

[*Back*]";

(*c*) the word "INFORMATION" shall be deleted and paragraphs (1), (2) and (3) appearing under that heading shall be added to the Instructions as paragraphs (7), (8) and (9) respectively.

(3) In Form 22, as so amended—

(*a*) for the words "Dated this" there shall be substituted the words "Issued this";

(*b*) immediately above the word "INSTRUCTIONS" there shall be inserted the following words:—

"IMPORTANT—FOR INSTRUCTIONS TURN OVER

[*Back*]";

(*c*) paragraphs (6) and (7) of the Instructions shall be re-numbered (7) and (8) respectively.

16. In the marginal note to Form 68 for the figure "9(*d*)" there shall be substituted the figure "9(*c*)".

17. The following form shall be substituted for Form 90:—

"90

Order 16, Rule 6(2). ORDER FOR TRANSFER OF PROCEEDINGS TO ANOTHER COUNTY COURT

[*General Title—Form* 2] Seal

WHEREAS [on the *ex parte* application of the defendant] it appears that the above action [*or* matter] can be more conveniently or fairly tried in the County Court [*or* that it would be a hardship

on the defendant for the above action to proceed in this Court] [*or as the case may be*]

IT IS ORDERED that the above action [*or* matter] be transferred to the County Court."

18. In Form 90A for the words from " to the County Court " to the end there shall be substituted the words " from the County Court to this Court and have been allotted the above Plaint Number. [*Add where notice addressed to judgment debtor* All future payments under the judgment or order must be made to the Registrar of this Court and accompanied by this notice.] "

19. The following form shall be inserted in Appendix A after Form 139(5):—

" 139(6)

Order 24, Rule 2(1). ORDER ON APPLICATION UNDER SECTION 18 OF THE HIRE PURCHASE ACT 1964

[*General Title—Form* 2] Seal

IT IS ORDERED that the order [in the judgment] in this action dated the day of 19 , for the return of the goods specified in the judgment [*or* order] be revoked and that the defendant do pay the sum of £ in respect of the balance of the price of the goods and £ for costs to the registrar of this Court on the day of 19 [*or* by instalments of for every calendar month [*or* 28 days], the first instalment to be paid on the day of 19]."

20. In Form 141A the words from " Notice of the transfer " to the end shall be omitted.

21. In Form 158 the entry " Folio in ledger . . . " shall be omitted.

22. In Form 170 the entry " Fol. Ledger " shall be omitted.

23. In Forms 179A, 184, 186 and 196 for the words " all peace officers within the jurisdiction of the Court ", where they appear in each form, there shall be substituted the words " every constable within his jurisdiction ".

24. In Form 209 for the words from " send to the registrar " to " receipt by you of this notice " there shall be substituted the words " give written notice of such acceptance by hand or by post to the registrar of this Court and to the garnishee so as to reach them within seven days of the receipt by you of this notice [*or* before the hearing of these proceedings begins] ".

25. Form 299 shall be omitted.

26. The following form shall be inserted in Appendix A after Form 341:—

" 342

Order 40, Rule 20(2)(*a*). NOTICE TO RESPONDENT IN APPLICATION UNDER SECTION 53 OF THE LANDLORD AND TENANT ACT 1954

If you wish to oppose the application or to dispute any allegation contained therein, you must, within eight days after service of this notice on you, inclusive of the day of service, file in the court office an answer,

together with as many copies as there are other parties to the proceedings, specifying the allegations which you dispute and stating the grounds of your opposition."

27. In Form 362 for the words "Licensing Act, 1953" there shall be substituted the words "Licensing Act 1964".

28. Notwithstanding anything in Rules 15 and 23 of these Rules, Forms 18, 19, 22, 179A, 184, 186 and 196 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 102 of the County Courts Act 1959(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.

Alun Pugh.
D. O. McKee.
O. Temple-Morris.
S. Granville Smith.
Connolly H. Gage.
D. Freeman Coutts.
W. Ralph Davies.
Michael Hoare.
Philip J. Cox.
Arthur J. Driver.
A. F. Stapleton Cotton.

I allow these Rules and I direct that, with the exception of Rules 8, 13(3), 18 and 20, they shall come into operation on 1st January 1965, Rules 8, 18 and 20 shall come into operation on 1st March 1965 and Rule 13(3) shall come into operation on 6th April 1965.

Gardiner, C.

Dated 14th December 1964.

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, of which the following are the most important:—

(1) The Rules relating to actions founded on hire-purchase agreements are amended so as to take account of the provisions of the Hire-Purchase Act 1964 (c. 53) (Rules 2, 3, 4(1) and (2), 13(2), 14 and 19).

(2) Special provision is made for the venue in proceedings for the recovery of income tax brought under section 8 of the Income Tax Management Act 1964 (c. 37) and the Rule relating to Crown proceedings is recast (Rule 13(3)).

(3) Where proceedings are transferred from one county court to another for the issue of a judgment summons, the registrar of that other court (instead of the registrar of the transferring court) is to give notice of the transfer and the notice is to be given to the judgment creditor as well as to the debtor (Rules 8, 18 and 20).

(a) 7 & 8 Eliz. 2. c. 22.

(4) The court is given power to strike out part of a pleading on failure to comply with an order to give further particulars of it (Rules 4(3), 5 and 6).

(5) Where, on an appeal from the registrar, the judge orders a new trial, he must direct it to take place on a day to be fixed and he may direct it to take place before another judge of the court (Rule 10).

(6) The forms of ordinary and default summons are amended so as to instruct the defendant, if he has paid the amount claimed to the plaintiff since the issue of the summons, to pay the costs on the summons into court (Rule 15(1)). The instructions on the ordinary summons are transferred to the back of the summons (Rule 15(2)).

(7) The general form of order for the transfer of proceedings from one county court to another is made more informative and the separate form for Admiralty proceedings is abolished (Rules 17 and 25).