1967 No. 1812 (L. 18)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1967

Made - - - - *5th December* 1967
Coming into Operation *1st January* 1968

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1967.

(2) In these Rules "Order 46" means Order 46 of the County Court Rules 1936(a), as amended(b), and "Appendix A" means Appendix A to those Rules.

(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 the definition of "maintenance order" in Order 46, Rule 14(1), there shall be substituted the following definition:—

"'maintenance order' means an order made by a county court to which section 16 of this Act applies".

3. The following Rules shall be added to Order 46:—

"*Matrimonial Homes Act* 1967

1967 c. 75. **19.**—(1) Every application under section 1 of the Matrimonial Homes Act 1967 shall be heard and determined in chambers unless the court otherwise directs.

(2) The application may be heard and determined by the registrar.

(3) Where the application is for an order terminating the respondent's rights of occupation and it appears to the registrar, on the ex parte application of the applicant, that the respondent is not in occupation of the dwelling house to which the application relates and his whereabouts cannot after reasonable inquiries be ascertained, the registrar may dispense with service of the originating application on the respondent.

(4) This rule shall apply to an application for an order vacating the registration of a land charge of Class F, whether or not it is joined with an application under the said section 1, as it applies to an application under that section."

"*Leasehold Reform Act* 1967

1967 c. 88. **20.**—(1) In this Rule a section referred to by number means the section so numbered in the Leasehold Reform Act 1967.

(a) S.R. & O. 1936/626 (1936 I, p. 282).
(b) The relevant amending instruments are 1951/1354, 1960/1275 (1951 I, p. 357; 1960 I, p. 809).
(c) 1889 c. 63.

(2) Where a tenant of a house and premises desires to pay money into court pursuant to subsection (4) of section 11 or subsection (1) or (3) of section 13—

(*a*) he shall file in the office of the appropriate court an affidavit stating—

(i) the reasons for the payment into court,

(ii) the house and premises to which the payment relates and the name and address of the landlord, and

(iii) so far as they are known to the tenant, the name and address of every person who is or may be interested in or entitled to the money;

(*b*) on the filing of the affidavit the tenant shall pay the money into court and the registrar shall enter the matter in the books of the court and send notice of the payment to the landlord and to every person whose name and address are given in the affidavit pursuant to sub-paragraph (*a*)(iii);

(*c*) any subsequent payment into court by the landlord pursuant to section 11(4) shall be made to the credit of the same account as the payment into court by the tenant and sub-paragraphs (*a*) and (*b*) shall apply as if for the references to the tenant and the landlord there were substituted references to the landlord and the tenant respectively;

(*d*) the appropriate court for the purposes of sub-paragraph (*a*) shall be the court for the district in which the property is situated or, if the payment into court is made by reason of a notice under section 13(3), any other county court specified in the notice.

(3) Where the proceedings on an application are ordered to be transferred to the Lands Tribunal under section 21(3), the registrar shall—

(*a*) send notice of the transfer to all parties to the application and

(*b*) make and certify copies of all entries in the books relating to the application and send them to the registrar of the Lands Tribunal, together with the order of transfer and all documents filed in the proceedings.

(4) Where an application is made under section 17 or 18 for an order for possession of a house and premises—

(*a*) the respondent shall—

(i) forthwith after being served with the application, serve a notice of the proceedings in Form 396 on every person in occupation of the property or part of it under an immediate or derivative sub-tenancy, and Form 396.

(ii) within 8 days after being served with the application, inclusive of the day of service, file an answer stating the grounds, if any, on which he intends to oppose the application and giving particulars of every such sub-tenancy, together with a copy for every other party to the proceedings,

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 397; Form 397.

(*b*) on receipt of the answer the registrar shall send a copy to the applicant and to every other party to the proceedings."

4. The following Forms shall be added to Appendix A:—

"396

Order 46, Rule 20(4).

NOTICE OF PROCEEDINGS

[*General Title—Form 1*]

To of

TAKE NOTICE that the landlord of the house and premises known as has made an application to the County Court under the Leasehold Reform Act 1967 for an order that he may resume possession of the property on the ground that [*here state the ground of the application*] and that the application has been fixed for hearing at on 19 , at o'clock.

The Act provides that on the termination of a tenancy under an order for possession there shall be terminated also any immediate or derivative sub-tenancy. If you are a person in occupation of the property or part of it under such a sub-tenancy you may, with the leave of the court, appear and be heard in the proceedings."

"397

Order 46, Rule 20(4).

NOTICE TO RESPONDENT IN APPLICATION UNDER SECTION 17 OR 18 OF THE LEASEHOLD REFORM ACT 1967

If any person is in occupation of the property or part of the property to which this originating application relates under an immediate or derivative sub-tenancy, you must forthwith serve on him a notice in the form prescribed by the County Court Rules (Form 396).

Within 8 days of the service of this application on you, inclusive of the day of service, you must also file in the court office an answer stating the grounds, if any, on which you intend to oppose the application and giving particulars of every such sub-tenancy, together with a copy for every other party to the proceedings."

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.

Owen Temple-Morris.
D. O. McKee.
S. Granville Smith.
Connolly H. Gage.
Hugh Mais.
W. Ralph Davies.
E. A. Everett.
Philip J. Cox.
Arthur Figgis.
A. F. Stapleton Cotton.
D. A. Marshall.

(a) 1959 c. 22.

I allow these Rules, which shall come into force on 1st January 1968.

Dated 5th December 1967. *Gardiner*, C.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend the County Court Rules so as to make provision for proceedings under the Matrimonial Homes Act 1967 and the Leasehold Reform Act 1967. They also extend the definition of "maintenance order" in the Rule relating to the Maintenance Orders Act 1950.