STATUTORY INSTRUMENTS

1975 No. 1345 (L. 17)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1975

Made - - - -	31*st July* 1975
Coming into Operation	1*st October* 1975

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1975.

(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)**, and a form referred to by number means the form so numbered in 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. Order 19, Rule 1, shall be amended as follows:—

(1) In paragraph (2) the words from "if the sum claimed" to the end of the paragraph shall be omitted.

(2) After paragraph (2) there shall be inserted the following paragraph:—

"(2A) Where an application for an order is made in proceedings in which the sum claimed or amount involved exceeds the sum mentioned in Order 23, Rule 1(1)(*a*), any party may, at any time before the application is heard, request the registrar in writing to refer the application to the judge and thereupon the registrar shall fix a day for the hearing of the application by the judge and give notice thereof to the parties."

(3) In paragraph (7)(*a*), after the words "in his particulars of claim" there shall be added the words "or praecipe".

3. Order 25 shall be amended as follows:—

(1) In Rule 13(5), for "£3" there shall be substituted "£10".

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

(b) The relevant amending instruments are S.I. 1950/1231, 1993, 1952/2198, 1953/1728, 1955/1799, 1956/1243, 1958/2226, 1959/1251, 1960/1275, 1961/1526, 1963/403, 1964/353, 1974, 1969/585, 1970/1871, 1971/781, 836, 2152, 1972/1156, 1973/847, 1412, 1974/1138 (1950 I, pp. 400, 440; 1952 I, p. 635; 1953 I, p. 404; 1955 I, p. 530; 1956 I, p. 541; 1958 I, p. 372; 1959 I, p. 795; 1960 I, p. 809; 1961 II, p. 3177; 1963 I, p. 475; 1964 I, p. 543; III, p. 4477; 1969 I, p. 1551; 1970 III, p. 6154; 1971 II, pp. 2247, 2393; III, p. 6305; 1972 II, p. 3430; 1973 II, pp. 2645, 4335; 1974 II, p. 4361).

(c) 1889 c. 63.

(2) In Rule 81 for the words "an ordinary", wherever they appear in paragraphs (1) and (3), there shall be substituted the words "a default" and paragraph (2) shall be omitted.

(3) The following paragraphs shall be inserted in Rule 83 after paragraph (2):—

"(2A) Where in the opinion of the registrar sufficient information has been given by the debtor or his employer to enable an attachment of earnings order to be made without the attendance of the parties, the registrar may give notice to the parties that he will make an order in terms specified in the notice unless either party within a time so specified requests the registrar to fix a date for the hearing of the application.

(2B) Where no notice is given by the registrar under the last foregoing paragraph, the creditor may, within one month after the expiration of the time prescribed by Rule 81(4) for filing a reply, request the registrar in writing to fix a date and time for the hearing of the application and thereupon the registrar shall fix a date and time and give not less than seven days' notice thereof to the parties."

(4) In Rule 94 after paragraph (4) there shall be inserted the following paragraph:—

"(4A) Rule 81 shall apply to a creditor's application as if for the references to a default summons there were substituted references to an ordinary summons and as if in paragraph (1) after the words "on the debtor" there were inserted the words "not less than 21 clear days before the return day"."

(5) At the beginning of paragraph (5) of Rule 94 there shall be inserted the words "Rule 83 shall apply with the omission of paragraphs (2A) and (2B) and".

4. In Order 31, Rule 5, for the words "each day's attendance a fee of 15 guineas" there shall be substituted the words "each half day's attendance a fee of £15".

5. Order 35, Rule 5, shall be amended as follows:—

(1) The present Rule shall stand as paragraph (1) and at the end there shall be added the following paragraph:—

"(2) Where by any convention or treaty the United Kingdom has undertaken to minimise the possibility of arrest of ships of another State, no warrant of arrest in an action *in rem* against a ship owned by that State shall be issued until notice in Form 299 has been served on a consular officer at the consular office of that State in London or the port at which it is intended to cause the ship to be arrested:

Provided that no notice need be served under this paragraph where notice of the commencement of the action has been given under paragraph (1) of this Rule."

(2) In the marginal note the words "of commencement of action" shall be omitted.

(3) In the margin opposite paragraph (2) there shall be inserted the note "Form 299".

6. Order 46 shall be amended as follows:—

(1) In Rule 2—

(*a*) in the title for "1957" there shall be substituted "1974";

(*b*) in paragraph (1) for "69", "70" and "1957" there shall be substituted "70", "71" and "1974" respectively and for the marginal note "5 & 6 Eliz. 2. c. 27" there shall be substituted "1974 c. 47";

(*c*) in paragraph (2) after the word "application" there shall be inserted the words "to the court".

(2) In Rule 6(2), for the words "each day's attendance such fee not exceeding £3 3s" there shall be substituted the words "each half day's attendance such fee not exceeding £15".

(3) In Rule 11(2), after the words "determine it" there shall be added the words "subject to the right of appeal conferred by Order 37, Rule 5."

7. Order 47 shall be amended as follows:—

(1) In Rule 5(4)—

(*a*) for the figure "£75" there shall be substituted the figure "£100";

(*b*) for the words "as in the opinion of the court" there shall be substituted the words "as are certified by the court to";

(*c*) after sub-paragraph (*b*) there shall be added the following sub-paragraph:—

"(*c*) a claim is made in the proceedings for damages for personal injuries exceeding £5".

(2) In Rule 40(10), for "1957" there shall be substituted "1974".

(3) In Rule 49, for "73(4)" and "1957" there shall be substituted "74(3)" and "1974" respectively.

8. Order 48 shall be amended as follows:—

(1) In Rule 22, for "£500" there shall be substituted "£1,500".

(2) In Rule 24(1), the words "a postal or money order for" in sub-paragraph (*b*) and "and sufficiently stamped" in sub-paragraph (*c*) shall be omitted.

9. Order 49, Rule 5, shall be amended as follows:—

(1) In paragraph (1)—

(*a*) after the words "a vehicle" there shall be inserted the words "or to any property in, on or abutting a highway";

(*b*) the words "on land" shall be omitted;

(*c*) after the words "the vehicle" there shall be inserted the words "or property".

(2) In paragraph (2) after the words "a vehicle" there shall be inserted the words "or any property".

10. In Forms 7 and 10 after the item "Solicitor's costs" there shall be inserted the following paragraph:—

"[*Strike out if inappropriate* I apply for this action, if defended, to be referred to arbitration.]"

11. The Instructions on Forms 18(1), 18(2), 19 and 22 shall be amended as follows:—

(1) The penultimate paragraph shall be omitted and the final paragraph shall be renumbered accordingly.

(2) After the last paragraph there shall be inserted the following paragraph, appropriately numbered:—

"[( ) *Add where appropriate* The Plaintiff has asked for these proceedings, if defended, to be referred to arbitration. If you complete the form of DEFENCE OR COUNTERCLAIM, you should state whether or not you agree.]"

12. In Forms 18(2) and 27(1) for the words "securing the just, expeditious and economical disposal" there shall be substituted the words "the determination" and in Form 27(1) the words from "If you intend" to "the action" shall be omitted.

13. In Forms 20, 21(1) and (2) for the words "[*Information as in paragraph* 8, 9 *and* 10 *of the Instructions on Form* 18(1)]" there shall be substituted the words "[*Information as in paragraphs* 8 *and* 9 *of the Instructions on Form* 18(1)]".

14. In Forms 171 and 348A the words from "Remittances to the Court" to "for receipt" shall be omitted.

15. The following form shall be inserted in Appendix A after Form 298:—

"299

NOTICE TO CONSULAR OFFICE OF INTENTION TO ASK FOR WARRANT OF ARREST

ADMIRALTY JURISDICTION

Order 35, Rule 5(2) [*Title as in Form* 282]

TAKE NOTICE that I [*or* we as solicitors for] [*name and address of plaintiff*] did on day of 19 commence proceedings in the County Court against the above-named ship in respect of a claim by me [*or* the said [*name of plaintiff*]] for [*state nature of claim as in request*] and I [*or* we] intend to ask the Court to arrest the said ship.

Dated this day of 19 .

Plaintiff [*or* Plaintiff's solicitors]"

16. In Form 402 after the word "*sought*" there shall be inserted the words "*together with such of the following particulars as are known to the Plaintiff*" and the words "[*add if known*]" shall be omitted.

17. In Form 403 for the words "on 19 " to "matter" there shall be substituted the words "[*where maintenance order sought to be enforced* on 19 at o'clock] [*in any other case* on a day to be fixed. Unless you pay into court the sum necessary to satisfy this matter,]".

18. In Form 410 paragraph (3) of the Instructions shall be omitted.

19. Notwithstanding anything in Rules 10 and 12, Forms 7, 10, 18(2) and 27(1) 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.

Conolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Granville Wingate.
T. Richard Nevin.
E. A. Everett.
A. A. Hibbert.
Arnold Russell Vick.
E. Somerset Jones.
D. A. Marshall.
Emyr O. Parry.

I allow these Rules, which shall come into operation on 1st October 1975.

Dated 31st July 1975.

Elwyn-Jones, C.

(a) 1959 c. 22.

EXPLANATORY NOTE

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

These Rules amend the County Court Rules so as to enable an application for arbitration to be made in the request for a summons (Rules 2(3), 10 and 11(2)) and to empower the registrar to deal with such an application even if the claim exceeds £100 unless the other party requires it to be referred to the judge (Rule 2(2)). The forms of notice and summons for a pre-trial review are simplified (Rule 12). The amount below which a claim normally carries no costs (except the costs on the summons) is raised from £75 to £100 but an exception is made for cases in which the claim is for damages for personal injuries exceeding £5 (Rule 7(1)).

A claim for damage to property in, on or abutting a highway or to a vehicle, wherever situated, through an accident due to the defendant's negligence is to be treated as a liquidated demand in respect of which a default action will lie (Rule 9).

The minimum sum for which a warrant of execution may issue to recover part of a judgment debt payable by instalments is raised from £3 to £10 (Rule 3(1)).

A creditor applying for an attachment of earnings order will have to give the name and address of the defendant's employer only if known to him and a date for the hearing of the application will be fixed only on a request by the creditor after sufficient time has elapsed for information to be obtained as to the debtor's means (Rules 3(2) to (5), 16 and 17).

Changes are made in the Rules consequential on the coming into operation of the Solicitors Act 1974 (Rules 6(1) and 7(2) and (3)) and the raising by the Administration of Estates (Small Payments) (Increase of Limits) Order 1975 (S.I. 1975/1137) of the amount below which an estate may be distributed without a grant of representation (Rule 8(1)).

A number of other minor amendments are made with regard to the remuneration of assessors (Rules 4 and 6(2)), the arrest of ships belonging to a foreign State (Rules 5 and 15), appeals under section 17 of the Married Women's Property Act 1882 (c. 75) (Rule 6(3)) and the transaction of business by post (Rules 8(2), 11(1), 13, 14 and 18).

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