STATUTORY INSTRUMENTS

1976 No. 2137 (L. 37)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1976

Made - - - - 9th December 1976

Coming into Operation in accordance with Rule 11

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1976.

(2) In these Rules, unless the context otherwise requires, 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 2, Rule 11, shall be revoked.

3. In Order 6, Rule 2(1), sub-paragraphs (*b*) and (*d*) shall be revoked and sub-paragraphs (*c*) and (*e*) shall stand as sub-paragraphs (*b*) and (*c*) respectively.

4. Order 7, Rule 6, shall be revoked.

5. In Order 31, Rule 12, for the words "under section 19 of the Race Relations Act 1968" there shall be substituted the words "in a designated county court under the Race Relations Act 1976(**d**)".

6. Order 46, Rule 4, shall be amended as follows:—

(1) In the title after "1975" there shall be added the words "AND RACE RELATIONS ACT 1976".

(2) For paragraph (1) there shall be substituted the following paragraph:—

> "(1) In this Rule "the Act of 1975" and "the Act of 1976" mean respectively the Sex Discrimination Act 1975 and the Race Relations Act 1976 and in relation to proceedings under either of those Acts expressions which are used in that Act have the same meaning in this Rule as they have in that Act." 1975 c. 65 1976 c. 74

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

(**b**) The relevant amending instruments are S.R. & O. 1943/1120, S.I. 1955/1799, 1957/174, 1959/1251, 1965/2147, 1968/2010, 1970/673, 1971/2127, 2152, 1975/2040 (1943 I, p. 121; 1955 I, p. 530; 1957 I. p. 512; 1959 I, p. 795; 1965 III, p. 6292; 1968 III, p. 5448; 1970 II, p. 2180; 1971 III, pp. 6276, 6305; 1975 III, p. 7481).

(**c**) 1889 c. 63.

(**d**) 1976 c. 74.

(3) In paragraph (2) after the words "section 66" there shall be inserted the words "of the Act of 1975 or section 57 of the Act of 1976".

(4) In paragraph (3) after the words "section 66" there shall be inserted the words "of the Act of 1975".

(5) After paragraph (3) there shall be inserted the following paragraph: —

"(4) Proceedings under section 66, 71 or 72 of the Act of 1975 or section 57, 62 or 63 of the Act of 1976 may be commenced—

(*a*) in the court for the district in which the defendant resides or carries on business, or

(*b*) in the court for the district in which the act or any of the acts in respect of which the proceedings are brought took place."

(6) Paragraphs (4), (5), (6) and (7) shall stand as paragraphs (5), (6), (7) and (8) respectively.

(7) In paragraph (5) as so re-numbered after the words "section 68" there shall be inserted the words "of the Act of 1975 or section 59 of the Act of 1976".

(8) In paragraph (6) as so re-numbered the words "in contravention of the Act" shall be omitted and after the words "section 74" there shall be inserted the words "of the Act of 1975 or section 65 of the Act of 1976".

(9) In paragraph (7) as so re-numbered after the words "section 75" there shall be inserted the words "of the Act of 1975 or section 66 of the Act of 1976".

(10) In paragraph (8) as so re-numbered after the words "section 77(2)" there shall be inserted the words "of the Act of 1975 or section 72(2) of the Act of 1976" and at the end there shall be added the words "and the proceedings may be commenced—

(*a*) in the court for the district in which the respondent or any of the respondents resides or carries on business, or

(*b*) in the court for the district in which the contract was made."

(11) After paragraph (8) as so re-numbered there shall be added the following paragraph: —

"(9) In this Rule, in relation to proceedings under the Act of 1976, "court" means a designated county court and "district" means the district assigned to such a court for the purposes of the Act."

7. The following Rule shall be inserted in Order 46 after Rule 21:—

"CONSUMER CREDIT ACT 1974

22.—(1) An application to a county court under section 139(1)(*a*) of the 1974 c. 39 Consumer Credit Act 1974 for a credit agreement to be re-opened shall be made by originating application.

(2) Where in any such proceedings in a county court as are mentioned in section 139(1)(*b*) or (*c*) of the said Act the debtor or a surety desires to have a credit agreement re-opened, he shall, within 14 days of the service of the originating process on him, inclusive of the day of the service, give

notice to that effect to the registrar and to every other party to the proceedings and thereafter the debtor or surety, as the case may be, shall be treated as having delivered a defence or answer and accordingly, if the proceedings are a default action, no judgment shall be entered under Order 10, Rule 2."

8. The following Rule shall be added to Order 46 after Rule 26:—

"LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

27. A person who appeals against a notice under section 21, 23 or 35 of the Local Government (Miscellaneous Provisions) Act 1976 shall state 1976 c. 57
in his notice of appeal the grounds of the appeal and where one of those grounds is that it would have been fairer to serve the notice on another person or, as the case may be, that it would be reasonable for the whole or part of the expenses to which the notice relates to be paid by some other person, that person shall be made a respondent to the appeal, unless the court on the *ex parte* application of the appellant otherwise directs."

9. The following paragraph shall be inserted in Form 205 after paragraph 4:—

"[*Add, where appropriate*

5. That the garnishee is a bank having more than one place of business [and the name and address of the branch at which the debtor's account is believed to be held is] [*or* but I do not know at which branch the debtor's account is held].]"

10. In Form 206 the following paragraph shall be inserted immediately above the words "Dated this day of 19 ":—

"[*Add, where appropriate* The name and address of the branch of the garnishee bank at which the debtor's account is believed to be held is .]"

11.—(1) Rules 2, 5 and 6 of these Rules shall come into force on the day appointed for the coming into operation of section 57 of the Race Relations Act 1976.

(2) Rules 3, 4 and 7 of these Rules shall come into force on the day appointed for the coming into operation of sections 137 to 140 of the Consumer Credit Act 1974 so, however, that nothing in Rules 4 and 7 shall apply in relation to any agreement entered into before that day which is not a personal credit agreement within the meaning of section 8(1) of that Act.

(3) Rule 8 of these Rules shall come into force on the day appointed for the coming into operation of section 21 of the Local Government (Miscellaneous Provisions) Act 1976.

(4) The remainder of these Rules shall come into force on 12th January 1977.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Acts 1959(a), having by virtue of the powers vested in us in this behalf made the foregoing Rules,

(a) 1959 c. 22.

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 in accordance with Rule 11.

Dated 9th December 1976.

Elwyn-Jones, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules 1936 so as to make provision for proceedings under the Race Relations Act 1976 (Rules 2, 5 and 6), the re-opening of credit agreements under the Consumer Credit Act 1974 (Rules 3, 4 and 7) and appeals to the county court under the Local Government (Miscellaneous Provisions) Act 1976 (Rule 8). They also require the applicant for a garnishee order against a bank to state the name and address of the branch at which the judgment debtor's account is believed to be held (Rules 9 and 10).

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