1970 No. 673 (L.15)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 3) Rules 1970

Made - - -	30*th April* 1970
Coming into Operation	26*th May* 1970

1.—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules 1970.

(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**); Appendices B and D mean respectively Appendices B and D to those Rules, 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. In each of the following Rules, for the words "£500" wherever they appear there shall be substituted the words "£750" :—

Order 7, Rules 1(2) and 2 ;

Order 15, Rule 8 ;

Order 27, Rules 2 and 3 ; and

Order 28, Rule 16(3)(*d*).

3. Order 13 shall be amended as follows :—

(1) For paragraph (1) of Rule 4A, there shall be substituted the following paragraph :—

"(1) Where the same judge is the judge for two or more districts and proceedings which are to be heard and determined by him are pending in the court for one of those districts, the judge or, by leave of the judge, the registrar of that court may at any time, upon application or of his own motion, direct that the

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

(**b**) The relevant amending instruments are S.R. & O. 1937/239, 1938/18,731, 1475, 1939/815, 1942/1070, S.I. 1950/1231, 1993, 1951/1354, 1952/2198, 1953/1728, 1955/1799, 1956/1851, 1957/174, 1136, 1958/2226, 1959/1251, 1960/1275, 1961/1526, 1965/2147, 1969/585, 1970/204 (1937 I, p. 532; 1938 I, pp. 977, 986, 990; 1939 I, p. 469; 1942 I, p. 91; 1950 I, pp. 400, 440; 1951 I, p. 357; 1952 I, p. 635; 1953 I, p. 404; 1955 I, p. 530; 1956 I, p. 545; 1957 I, pp. 512, 517; 1958 I, p. 372; 1959 I, p. 795; 1960 I, p. 809; 1961 II, p. 3177; 1965 III, p. 6292; 1969 I, p. 1551; 1970 I, p. 911).

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

hearing in those proceedings shall take place in the court for another of those districts".

(2) For Rule 8, there shall be substituted the following Rule :—

Application for injunction

"8.—(1) An application for the grant of an injunction may be made to the judge by any party to an action or matter before or after the trial or hearing, whether or not a claim for the injunction was included in that party's particulars of claim, originating application, petition, counterclaim or third party notice, as the case may be.

(2) Where the applicant is the plaintiff and the case is one of urgency, the application may be made *ex parte* on affidavit but, except as aforesaid, the application must be made on notice.

(3) The plaintiff may not make an application before the issue of the summons, originating application or petition by which the action or matter is to be commenced except where the case is one of urgency and in that case—

(*a*) the affidavit on which the application is made shall show that the action or matter is one which the court to which the application is made has jurisdiction to hear and determine, and

(*b*) the injunction applied for shall, if granted, be on terms providing for the issue of the summons, originating application or petition in the court granting the application and on such other terms, if any, as the judge thinks fit."

4. In Order 22, Rules 3 and 6, for the words "£30" wherever they appear there shall be substituted the words "£75".

5. Order 23 shall be amended as follows :—

(1) In Rules 1, 4 and 5, for the words "£30" wherever they appear there shall be substituted the words "£75" ;

(2) Rule 13 shall be revoked.

6. In Order 25, Rule 24(2), for the words "£10" there shall be substituted the words "£20".

7. At the end of Order 31, Rule 12, there shall be added the words "or, except as provided by Order 47, Rule 42(6), to a review of taxation where the judge exercises his power to appoint assessors without any application being made by any party to the proceedings."

8. Order 47 shall be amended as follows :—

(1) In Rule 5(1) for the words "three Higher Scales, namely Scale 1, Scale 2 and Scale 3" there shall be substituted the words "four Higher Scales, namely Scale 1, Scale 2, Scale 3 and Scale 4".

(2) For the table set out in Rule 5(3) there shall be substituted the following table :—

" Sum of Money	Scale applicable
Exceeding £5 and not exceeding £20	Lower Scale
Exceeding £20 and not exceeding £50	Scale 1
Exceeding £50 and not exceeding £200	Scale 2
Exceeding £200 and not exceeding £500	Scale 3
Exceeding £500	Scale 4 "

(3) For the words "Scale 2 or 3" in paragraph (1) of Rule 21 there shall be substituted the words "Scale 2, 3 or 4" and for the words "Scale 3" in paragraph (5) of that Rule there shall be substituted the words "Scale 3 or 4".

(4) In Rule 29(2) for the words "Scale 3" there shall be substituted the words "Scale 3 or 4".

(5) For paragraph (4) of Rule 42 there shall be substituted the following paragraph :—

"(4) Any party who is dissatisfied with the registrar's decision to allow or disallow any item in whole or in part, or with the amount allowed by the registrar, on his reconsideration of a taxation may apply for a review of the taxation by the judge."

(6) After paragraph (5) of Rule 42 there shall be inserted the following paragraph :—

"(6) If the judge sees fit to exercise in relation to the application his power to appoint assessors under section 91 of the Act without any application being made by any party to the proceedings, he shall appoint not less than two assessors, of whom one shall be a registrar, and Order 31, Rules 7 and 9, shall apply as if the assessors had been summoned on the application of a party."

(7) The existing paragraph (6) of Rule 42 shall stand as paragraph (7).

(8) The following Rule shall be added after Rule 49 :—

Personal liability of solicitor for costs

"50.—(1) Subject to the following provisions of this Rule, where in any proceedings costs are incurred improperly or without reasonable cause or are wasted by undue delay or by any other misconduct or default, the judge may make against any solicitor whom he considers to be responsible (whether personally or through a servant or agent) an order—

(*a*) disallowing the costs as between the solicitor and his client, and

(*b*) directing the solicitor to repay to his client costs which the client has been ordered to pay to other parties to the proceedings ; or

(*c*) directing the solicitor personally to indemnify such other parties against costs payable by them.

(2) No order under this Rule shall be made against a solicitor unless he has been given a reasonable opportunity to appear before the judge and show cause why the order should not be made, except where any proceeding in court or in chambers cannot conveniently proceed, and fails or is adjourned without useful progress being made,—

(*a*) because of the failure of the solicitor to attend in person or by a proper representative ; or

(*b*) because of the failure of the solicitor to deliver any document for the use of the court which ought to have been delivered or to be prepared with any proper evidence or account or otherwise to proceed.

(3) Before making an order under this Rule the judge may, if he thinks fit, refer the matter (save in the cases excepted from paragraph (2)) to the registrar for inquiry and report and direct the solicitor in the first place to show cause before the registrar.

(4) The judge may direct that notice of any proceedings or order against a solicitor under this Rule shall be given to his client in such manner as may be specified in the direction."

9. In Form 87 after the words "the Judge" there shall be inserted the words "[*or* Registrar]".

10. In the recital in Form 98, for the words "£500" there shall be substituted the words "£5,000".

11. In Forms 113, 114 and 273, for the words "£10" wherever they appear there shall be substituted the words "£50".

12. In Form 124 and Form 125, for the words "£5" wherever they appear there shall be substituted the words "£20".

13. In Form 205 and Form 222, for the words "£500" wherever they appear there shall be substituted the words "£750".

14. In Forms 231 and 381, for the words "£100" wherever they appear there shall be substituted the words "£400".

15. Form 266 shall be amended—

(*a*) by substituting for the words "twenty pounds" the words "£50 [*or in the case of rescuing goods* £20]" ; and

(*b*) by deleting the word "(and)" appearing before the words "for rescuing".

16. Appendix B shall be amended as follows :—

(1) In items 29(*a*) and (*b*), for the figures "10 0" in Scale 2 there shall be substituted the figures "13 0".

(2) For items 35, 36 and 37, there shall be substituted the following item :—

	Scale 1	*Scale* 2	*Scale* 3
	£ s.	£ s.	£ s.
"35. Where the solicitor does not carry on business within two miles of the place of trial of an action or matter, the place of hearing of an application to which item 8 relates, the place of inspection of documents or the place where a taxation is carried out—			
(*a*) the travelling and out of pocket expenses reasonably incurred by him in attending that place; or ...	—	—	—
(*b*) if an agent is employed, for correspondence with the agent ...	1 0	2 0	3 0
Note. Where in the opinion of the registrar, it would have been reasonable to employ a solicitor carrying on business nearer to the relevant place, he shall not allow under paragraph (*a*) more than he would have allowed to such a solicitor."			

(3) There shall be inserted on the right-hand side of the column headed "*Scale* 3" an additional column headed "*Scale* 4" and the following amounts shall be inserted in that column opposite the items to which they relate:—

Item No.	*Amount to be inserted*
1	£2 to £8
2(*a*)	£1.10 to £4
(*b*)	10s.
and for every folio or part thereof beyond 5	2s.
3(*a*)	—
(*b*)	1s.
(*c*)	1s.
4	5s.
and per folio beyond 5	1s.
5	Such sum as is fair and reasonable in all the circumstances *not exceeding* £125
6(*a*)	£5 to £35
(*b*)	£3 to £12
7(*a*)	£5 to £15
(*b*)	£1.10 to £8
8(*a*)	£3 to £15
(*b*)	£3 to £7
9	£2.10
10(*a*)	£3 to £5
(*b*)	£3
11	£2 to £4
12(*a*)	£1.10
(*b*)	£1.10
(*c*)	£1
(*d*)	£2
13(*a*)	£3 to £10
(*b*)	£2 to £5
14(*a*)	£3
(*b*)	£2
15	15s.
16	15s.
17	15s.
18	£1 to £2
19(*a*), (*b*)	5s.
20(*a*)	£3.10 to £5
(*b*)	£1.10
21	—
22	10s.
23	15s.
24	5s.
25(*a*)	£3 to £12
(*b*)	£2 to £5

Item No.	*Amount to be inserted*
26	£9 to £45
27	£4
28	£2.10
and for leading counsel if case certified fit for more counsel than one	£3.10
29(*a*) (*b*)	£3 to £23
(*c*)	£3 to £14
30(*a*)	£4 to £6
(*b*)	£4 to £6
31	—
32(*a*)	
(*b*)	
(*c*)	—
33	—
34(*a*)	£5
(*b*)	—
35(*a*)	—
(*b*)	£4.

(4) After the number of each of the following items there shall be inserted an asterisk:—

items 1, 2, 5, 6, 7, 8, 18, 26, 29 and 30;

and at the end of the Appendix there shall be inserted the following note:—

"*These items are subject to increase under Order 47, Rule 21(3)."

17. Appendix D shall be amended as follows:—

(1) In paragraph 4 of Part I for the words "3*s*." there shall be substituted the words "5*s*.".

(2) The following new Part shall be added at the end:—

"PART III

JUDGMENT SUMMONSES AND APPLICATIONS ON LOWER SCALE

The following Table shows the amount to be allowed where costs awarded on the Lower Scale fall to be fixed and allowed without taxation under Order 25, Rule 66(2)(*b*), or Order 47, Rule 37(4).

	Amount to be allowed
1. For each attendance on the hearing of a judgment summons	£1
2. For making or opposing an application in the course of or relating to the proceedings.	£1
3. For making or opposing an application for a new trial or to set aside a judgment	£1. 10s"

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 hand and submit them to the Lord Chancellor accordingly.

D. O. McKee.
Connolly H. Gage.
Hugh Mais.
H. S. Ruttle.
David Pennant.
W. Ralph Davies.
E. A. Everett.
Arthur Figgis.
A. F. Stapleton Cotton.
D. A. Marshall.

I allow these Rules, which shall come into operation on 26th May 1970.

Dated 30th April 1970.

Gardiner, C.

EXPLANATORY NOTE

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

Most of the provisions of these Rules are occasioned by the coming into force of those sections of the Administration of Justice Act 1969 which specially affect county courts and, in particular, increase their jurisdiction. A new Higher Scale 4 is prescribed for costs on claims exceeding £500, and appropriate changes are made in the relevant rules and forms (Rules 2, 8, 10, 13 and 16). The limit of the registrar's jurisdiction is raised from £30 to £75 (Rules 4 and 5). Fresh provision is made with respect to applications for injunctions, including applications made before the commencement of proceedings (Rules 3(2) and 5(2)). The judge is enabled to review a taxation of costs on a question of quantum, and provision is made for the summoning of assessors on a review (Rule 8(5) and (6)). The registrar is given power, by leave of the judge, to direct proceedings to be heard at another court of the same judge (Rule 3(1)). A solicitor may be made personally responsible for costs incurred through his misconduct or default (Rule 8(8)). Various forms are amended to reflect increases in some of the fines which may be imposed under the County Courts Act 1959 (Rules 11, 12 and 15). Among the remaining miscellaneous amendments the most important are those relating to the costs of judgment summonses and other proceedings on the Lower Scale (Rules 6 and 17(2)).

(a) 1959 c. 22.

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