STATUTORY INSTRUMENTS

1974 No. 1138 (L.16)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 3) Rules 1974

Made - - -	1*st July* 1974
Coming into Operation	1*st September* 1974

1.—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules 1974.

(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. In Order 6, Rule 4(2)(*e*), for the words "Rule 31" there shall be substituted the words "Rule 32".

3. In Order 19, Rule 1, the following paragraph shall be inserted after paragraph (7) and the existing paragraphs (8), (9) and (10) shall be renumbered accordingly:—

"(8) In any proceedings in which the sum claimed or amount involved does not exceed the sum mentioned in Order 23, Rule 1(1)(*a*), the court may, if it thinks fit, deal with an application for an order without hearing any party to the proceedings and in that case, if an order is made, it shall contain a notice in Form 111A and—

(*a*) any party who did not apply for the order may, within ten days after the making of the order, apply to the court to rescind it;

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

(b) The relevant amending instruments are S.R. & O. 1945/762, S.I. 1950/1231, 1952/2198, 1953/1728, 1956/1851, 1957/1136, 1961/1526, 1964/1974, 1967/276, 1969/585, 1971/781, 2152, 1973/1412 (1945 I, p. 131; 1950 I, p. 400; 1952 I, p. 635; 1953 I, p. 404; 1956 I, p. 545; 1957 I, p. 517; 1961 II, p. 3177; 1964 III, p. 4477; 1967 I, p. 990; 1969 I, p. 1551; 1971 II, p. 2247; III, p. 6305; 1973 II, p. 4335).

(c) 1889 c. 63.

(*b*) any party who objects to any term of the order may, within the like period, apply to the court to vary that term."

4. In Order 20, Rule 8(5)(*b*), and Order 25, Rule 39(4), for the words "one shilling" there shall in each case be substituted the words "ten new pence".

5. The following Rules shall be added to Order 20 after Rule 30:—

Evidence of findings on foreign law 1972 c. 30

"31.—(1) Subject to the provisions of this Rule, a party who intends to adduce in evidence a finding or decision on a question of foreign law by virtue of section 4(2) of the Civil Evidence Act 1972 shall, not less than 14 clear days before the day fixed for the trial or hearing or within such other period as the court may specify, serve notice of his intention on every other party to the proceedings.

(2) The notice shall specify the question on which the finding or decision was given or made and specify the document in which it is reported or recorded in citable form.

(3) In any action or matter in which evidence may be given by affidavit, an affidavit specifying the matters contained in paragraph (2) shall constitute notice under paragraph (1) if served within the period mentioned in that paragraph.

(4) Unless in any particular case the court otherwise directs, paragraph (1) shall not apply to an action or matter in which no defence or answer has been filed.

Statements of opinion

32. Where a party to an action or matter desires to give in evidence by virtue of Part I of the Act, as extended by section 1(1) of the Civil Evidence Act 1972, a statement of opinion other than a statement to which Part III of this Order applies, the provisions of Rules 20 to 30 of this Order (except so much of Rule 22 as applies Order 38, rule 24, of the Rules of the Supreme Court) shall apply with such modifications as the court may direct or the circumstances of the case may require.

PART III

EXPERT EVIDENCE

Restrictions on adducing expert evidence

33.—(1) Except with the leave of the court or where all parties agree, no expert evidence may be adduced at the trial or hearing of any action or matter unless the party seeking to adduce the evidence has applied to the court to determine whether a direction should be given under rule 37, 38 or 41 (whichever is appropriate) of Order 38 of the Rules of the Supreme Court, as applied by Rule 34 of this Order, and has complied with any direction given on the application.

(2) Nothing in paragraph (1) shall apply to evidence which is permitted to be given by affidavit or which is to be adduced in an action or matter in which no defence or answer has been filed or in which the sum claimed or amount involved does not exceed £200.

(3) Nothing in paragraph (1) shall affect the enforcement under any other provision of these Rules (except Order 25, Rule 67) of a direction given under this Part of this Order.

Application of Rules of Supreme Court

34. Order 38, rules 37, 38, 39 and 41 to 44, of the Rules of the Supreme Court shall apply with the necessary modifications in relation to an application under rule 33 of this Order as they apply in relation to an application under rule 36(1) of the said Order 38."

6. In Order 29, Rule 3, for the words "Rule 2(1)" there shall be substituted the words "Rule 2(3)".

7. In the second marginal note to Order 30, Rule 1, after the number "244" there shall be added the number "245".

8. In Order 35, Rule 52(1), for the words "Rule 2" there shall be substituted the words "Rule 3".

9. Order 38, Rule 4, and Form 322A shall be revoked.

10. In Order 40, Rule 8(1A), for the words "Rule 38" there shall be substituted the words "Rule 35".

11. The following Rule shall be added to Order 46 after Rule 25:—

"LOCAL GOVERNMENT ACT 1972

1972 c. 70

26.—(1) In this Rule a section referred to by number means the section so numbered in the Local Government Act 1972.

(2) Proceedings in a county court under section 161 shall be commenced in the court for the district in which the principal office of the body to whose accounts the application relates (in this Rule referred to as "the body concerned") is situated.

(3) The originating application by which an application for a declaration under section 161(1) is made shall state the facts on which the applicant intends to rely at the hearing of the application and the respondents to the application shall be the body concerned and any person against whom an order is sought under section 161(2).

(4) (*a*) An appeal under section 161(6) against a decision of a district auditor shall be brought within 28 days of the receipt by the appellant of the district auditor's statement of the reasons for his decision.

(*b*) The request for entry of the appeal shall state—

(i) the reasons stated by the district auditor for his decision;

(ii) the date on which the appellant received the district auditor's statement;

(iii) the facts on which the appellant intends to rely at the hearing of the appeal; and

(iv) in the case of a decision not to apply for a declaration, such facts within the appellant's knowledge as will enable the court to consider whether to exercise the powers conferred on it by section 161(2).

(*c*) The respondents to the appeal shall be:—

(i) the district auditor who for the time being has responsibility for the audit of the accounts of the body concerned;

(ii) the body concerned; and

(iii) in the case of an appeal against a decision not to certify under section 161(4) that a sum or amount is due from any person, that person.

(5) Without prejudice to its powers under Order 15, the court may at any stage of an application or appeal under section 161 direct that any officer or member of the body concerned be joined as a respondent."

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

13. In Form 79 for the words from "The plaintiff undertaking" to "Now, therefore, the defendant" there shall be substituted the following words:—

"The [plaintiff undertaking by his counsel [*or* solicitor] to abide by any order this Court may make for the payment of damages in case this Court shall hereafter find that the defendant has sustained any loss or damage by reason of this Order.

Now, therefore, the] defendant."

14. The following form shall be inserted in Appendix A after Form 111:—

"111A

NOTICE TO BE INCORPORATED IN ARBITRATION ORDER MADE WITHOUT HEARING PARTIES

[*In the case of a party who did not apply for the Order* If you object to the proceedings being referred to arbitration, you may apply to the court within ten days to rescind this Order].

If you object to any term of this Order, you may apply to the court within ten days to vary the term."

15. In Form 245 for the words "Rule 12" there shall be substituted the words "Rules 1 and 12".

16. In Form 342 for the words "eight days" there shall be substituted the words "14 days".

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.

D. O. McKee.
Conolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Granville Wingate.
E. A. Everett.
A. A. Hibbert.
K. W. Mellor.
Arnold Russell Vick.
D. A. Marshall.
D. P. Tomlin.

I allow these Rules, which shall come into operation on 1st September 1974, so however that nothing in Rule 5 shall apply in relation to any action or matter a day for the trial or hearing of which has been fixed before that day.

Dated 1st July 1974.

Elwyn-Jones, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules so as to make provision for the proof of findings of foreign law and the admission of expert evidence under the Civil Evidence Act 1972 (Rule 5). Following the corresponding practice in the High Court a party seeking to adduce expert evidence will have to apply to the court to determine whether there should be prior disclosure; but this requirement will not apply if no defence or answer has been filed or the sum claimed does not exceed £200. Provision is also made for applications and appeals to the county court in connection with the auditing of accounts under the Local Government Act 1972 (Rule 11). The court is given power in an action for a sum not exceeding £75 to deal with an application for arbitration under Order 19, Rule 1, without hearing the parties (Rules 3 and 14), and a number of minor amendments, mostly of a drafting character, are made in other rules and forms (Rules 2, 4, 6 to 10, 12 and 13).

(a) 1959 c. 22.

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