STATUTORY INSTRUMENTS

1977 No. 1206 (L. 24)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 3) Rules 1977.

Made - - - *20th July* 1977

Coming into Operation *22nd August* 1977

1.—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules 1977.

(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**); Appendices A and D mean Appendices A and D to those Rules, and a form referred to by number means the form so numbered in Appendix A.

(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. Part I of Order 26 shall be amended as follows:—

(1) For paragraph (3) of Rule 1 there shall be substituted the following paragraph:—

"(3) Where the applicant does not know the name of every person occupying the land for the purpose of making him a respondent, the conclusion of Form 26 shall be in Form 399 instead of Form 3."

Form 39

(2) For paragraph (*c*) of Rule 2 there shall be substituted the following paragraph:—

"(*c*) in a case to which Rule 1(3) relates, that he does not know the name of any person occupying the land who is not named in the originating application."

(3) In Rule 3(1) for the words from the beginning to "originating application" there shall be substituted the words "Where any person in occupation of the land is named in the originating application, the application".

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

(**b**) The relevant amending instruments are S.I. 1950/1993, 1970/673, 1201, 1871, 1971/2152 (1950 I p. 440; 1970 II, pp. 2180, 3984; III, p. 6154; 1971 III, p. 6305).

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

(4) For paragraph (2) of Rule 3 there shall be substituted the following paragraph:—

"(2) In a case to which Rule 1(3) relates, the originating application shall, in addition to being served on the named respondents (if any) in accordance with paragraph (1), be served, unless the court otherwise directs, by—

(*a*) affixing a copy of the originating application to the main door or other conspicuous part of the premises, and

(*b*) if practicable, inserting through the letterbox at the premises a copy of the originating application enclosed in a sealed envelope addressed to "the occupiers."

(5) In Rule 5(1) for the words "7 clear days" there shall be substituted the words "5 clear days".

(6) In Rule 6 at the beginning of paragraph (1) there shall be inserted the words "Subject to paragraph (3)" and at the end of the Rule there shall be added the following paragraph:—

"(3) No warrant of possession shall be issued after the expiry of 3 months from the date of the order without the leave of the court, and an application for such leave may be made *ex parte* unless the court otherwise directs."

3. Form 398 shall be amended as follows:—

(1) In the title after the word "*Respondent*" there shall be inserted the words "*if any*".

(2) For the words "*whom the applicant has identified*" there shall be substituted the words "*whose name the applicant knows*".

(3) For the words "whom I have been unable to identify" there shall be substituted the words "whose names I do not know".

4. In Form 399 for the words "To all persons concerned" there shall be substituted the words "To [*named respondent* and] every [other] person in occupation of ".

5. Part III of Appendix D shall be amended as follows:—

(1) For the words "Rule 66(2)(*b*)" there shall be substituted the words "Rule 24(2) or 66(2)(*b*)".

(2) After item 3 there shall be added the following item:—

"4. For attending at the court office to issue a warrant of execution for a sum exceeding £20.....£0.50".

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, 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 22nd August 1977.

Dated 20th July 1977.

Elwyn-Jones, C.

EXPLANATORY NOTE

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

These Rules simplify and expedite the summary procedure in the county court for the recovery of land against trespassers. The amendments follow those recently made by the Rules of the Supreme Court (Amendment No. 2) 1977 (S.I. 1977/960) to the corresponding procedure in the High Court. Their principal effect is to substitute for the requirement to take reasonable steps to identify the occupiers an obligation to name those who are known to the applicant.

The Rules also insert in the lower scale of costs a charge for a solicitor's attendance at the court office to issue a warrant of execution for a sum exceeding £20.

(a) 1959 c. 22.

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