STATUTORY INSTRUMENTS

1980 No. 1807 (L. 24)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 3) Rules 1980

Made - - -	23*rd October* 1980
Coming into Operation	
All provisions except Rules 6, 7, 8, 13, 14 and 18	1*st January* 1981
Rules 6, 7, 8, 14 and 18	21*st April* 1981

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules 1980.

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

State immunity

2. Order 8, Rule 46 shall be amended by adding, after paragraph (6), the following paragraph:—

"(7) Where the respondent is a State, as defined in section 14 of the State Immunity Act 1978(**b**), service shall be effected through the court, except where the State has agreed to some other method of service.".

3. Order 8, Rule 48 shall be amended by inserting, after paragraph (2), the following paragraph:—

"(3) Where the party to be served is a State, as defined in section 14 of the State Immunity Act 1978, the terms of the praecipe shall indicate this fact and that the applicant is willing for service to be effected by whatever method the Secretary of State may choose.".

4. Order 10 shall be amended by inserting, after rule 2, the following rule:—

"*Judgment against a State*

2A.—(1) Where the defendant is a State, as defined in section 14 of the State Immunity Act 1978, the plaintiff may not enter judgment in default under the last preceding Rule without the leave of the court, and may not enforce a judgement entered in default until two months after a copy of it has been served on the State.

(**a**) S.R. & O. 1936/626; relevant amending instruments are S.R. & O. 1936/1312, 1947/2576; S.I. 1950/1231, 1993, 1953/1728, 1954/1394, 1675, 1955/1799, 1956/1851, 1957/174, 1136, 1959/1251, 1960/1275, 1961/1526, 1964/353, 1974, 1965/2147, 1967/276, 1812, 1969/585, 1970/204, 673, 1201, 1871, 1971/781, 2152, 1972/208, 1973/847, 1412, 1974/1138, 1975/1345, 1977/604, 1206, 2194, 1978/794, 1943 and 1980/329.

(**b**) 1978 c. 33.

(2) An application for leave to enter judgment against a State shall be made to the judge, and the provisions of Order 13, Rule 7A of the Rules of the Supreme Court shall apply to such an application, with such modifications as may be necessary, as they apply to an application for leave to enter judgment against a State in the High Court.".

Counterclaim against person other than the plaintiff

5. Order 9, Rule 10 shall be amended by inserting, after the words "some other person,", the words "whether jointly, severally or in the alternative,".

Arbitration procedure for small claims

6. Order 19, Rule 1 shall be amended as follows:—

(1) At the beginning of paragraph (2), there shall be inserted the words "Save as provided by paragraph (4),".

(2) For paragraphs (4) and (5) there shall be substituted the following paragraphs:—

"(4) Any proceedings in which the sum claimed or amount involved does not exceed £500 shall stand referred for arbitration by the registrar upon the receipt by the court of a defence to the claim, but the registrar may, on the application of any party, refer the proceedings for arbitration by the judge or by an outside arbitrator.

(5) Where any proceedings are referred for arbitration by the registrar under paragraph (4), he may, on the application of any party, rescind the reference if he is satisfied—

(*a*) that a difficult question of law or a question of fact of exceptional complexity is involved; or

(*b*) that a charge of fraud is in issue; or

(*c*) that the parties are agreed that the dispute should be tried in court; or

(*d*) that it would be unreasonable for the claim to proceed to arbitration having regard to its subject matter, the circumstances of the parties or the interests of any other person likely to be affected by the award.".

(3) In paragraph (6)(*b*) the words "Where the sum claimed or amount involved in the proceedings exceeds the sum mentioned in Order 23, Rule 1(1)(*a*)," shall be omitted.

(4) For paragraph (10) there shall be substituted the following paragraph:—

"(10) Any proceedings referred to arbitration under this rule shall be referred on the terms set out below unless the court otherwise directs:—

TERMS OF REFERENCE

(1) The arbitrator shall appoint a date for the preliminary consideration of the dispute and ways of resolving it, unless the size or nature of the claim or other circumstances make such a course undesirable or unnecessary.

(2) At or after the preliminary appointment, if there is one, the arbitrator shall fix a date for the dispute to be heard (unless the parties consent to his deciding it on the statements and documents submitted to him) and shall give such directions regarding the steps to be taken before and at the hearing as may appear to him to be necessary or desirable.

(3) Any hearing shall be informal and the strict rules of evidence shall not apply.

(4) At the hearing the arbitrator may adopt any method of procedure which he may consider to be convenient and to afford a fair and equal opportunity to each party to present his case.

(5) If any party does not appear at the arbitration, the arbitrator may make an award on hearing any other party to the proceedings who may be present.

(6) Where an award has been given in the absence of a party, the arbitrator shall have power, on that party's application, to set the award aside and to order a fresh hearing, as if the award were a judgment and the application were made pursuant to Order 37, Rule 2.

(7) With the consent of the parties and at any time before giving his decision and either before or after the hearing, the arbitrator may consult any expert or call for an expert report on any matter in dispute or invite an expert to attend the hearing as assessor.

(8) Subject to the provisions of Order 19, Rule 1(11), in respect of claims involving £500 or less, the costs of the action up to and including the entry of judgment shall be in the discretion of the arbitrator to be exercised in the same manner as the discretion of the court under the provisions of the County Court Rules.".

(5) After paragraph (10) there shall be added the following paragraph:—

"(11) No solicitor's charges shall be allowed as between party and party in respect of any proceedings referred to arbitration under Order 19, Rule 1(4), except for

(*a*) the costs stated on the summons;

(*b*) the costs of enforcing the award; and

(*c*) such costs as are certified by the arbitrator to have been incurred through the unreasonable conduct of the opposite party in relation to the proceedings or the claim therein.".

7. Forms 7 and 10 shall be amended by inserting, at the conclusion of each, the following Notes:—

"**NOTES**

1. Any claim for £500 or less which is defended will be referred to arbitration automatically, but the reference may be rescinded on application.
2. Where a defended claim is arbitrated the right of appeal against the arbitrator's award is very limited.".

8. Form 111 shall be amended by omitting the words "on the application of" and by substituting for the concluding sentence the following sentence:—

"If you object to the reference to arbitration, or to any of the terms, you may apply to the Court in writing for the reference to be rescinded or for the terms to be varied, stating in either case the grounds of your application.".

Charging orders

9. Order 2 shall be amended as follows:—

(1) The last paragraph of Rule 2 shall be omitted.

(2) Rule 2A shall be revoked.

(3) Rule 17(*b*) shall be amended by inserting, at the end, a comma and the following words:—

"unless the proceedings have been transferred to another court, in which case the application to obtain the charging order shall be made in that court".

10. Order 25 shall be amended by inserting, after Rule 7A, the following Rule:—

"*Enforcement of charging order by sale*

7B.—(1) Proceedings in a county court for the enforcement of a charging order by sale of the property charged shall be commenced by originating application, which shall be filed in the office of the appropriate court, together with an affidavit and a copy thereof—

(*a*) identifying the charging order sought to be enforced and the subject matter of the charge;

(*b*) specifying the amount in respect of which the charge was imposed and the balance outstanding at the date of the application;

(*c*) verifying, so far as known, the debtor's title to the property charged;

(*d*) identifying any prior incumbrances on the property charged, with, so far as known, the names and addresses of the incumbrancers and the amounts owing to them; and

(*e*) giving an estimate of the price which would be obtained on sale of the property.

(2) The appropriate court shall be—

(*a*) if the charging order was made by the county court, that court;

(*b*) in any other case, the court for the district in which the debtor resides or carries on business or, if there is no such district, the court for the district in which the judgment creditor resides or carries on business.

(3) A copy of the affidavit filed under paragraph (1) shall be served on the respondent with the documents mentioned in Order 6, Rule 4(2)(*c*)(ii).

(4) The proceedings may be heard and determined by the registrar.".

Landlord and Tenant Act 1954

11. Order 40, Rule 19, shall be amended by the insertion at the beginning of the figure "(1)" and by the addition of the following paragraph as paragraph (2):—

"(2) An application under section 38(4) of the Act of 1954 for the authorisation of an agreement may be heard and determined in chambers by the registrar or by the judge.".

Tax adjustments

12. Order 46, Rule 13 shall be amended by inserting after paragraph (7) the following paragraph:—

"(7A) Where the Crown has obtained a judgment for taxes, but subsequently the tax liability is reduced, whether by reason of an appeal against an assessment or otherwise, and the Crown has given notice of the reduction to the court and to the debtor, the sum remaining unsatisfied under the judgment shall be reduced accordingly, but the amount of the reduction shall not rank as a payment under the judgment.".

Leasehold valuation tribunals

13. Order 46, Rule 20(3) shall be amended by substituting, for the words "the Lands Tribunal" and "the registrar of the Lands Tribunal", the words "a leasehold valuation tribunal" and "the leasehold valuation tribunal" respectively.

The 'no costs' rule

14. Order 47, Rule 5 shall be amended by substituting for paragraphs (4) and (4A) the following paragraph:—

"(4) Where the sum of money does not exceed £5, no solicitor's charges shall be allowed as between party and party unless a certificate is granted under Rule 13 of this Order.".

Fixed costs

15. Appendix D shall be amended as follows:—

(1) In Part I, paragraph 4 shall be omitted, and the figures in the Tables of Fixed Costs, under the heading *Amount of Charges*, shall be amended by substituting the figures set out below as follows:—

" 8.00" for " 2.00"
" 9.00" for " 3.00"
"10.00" for " 4.00"
"12.00" for " 5.00"
"18.00" for " 9.00"
"21.00" for "10.00"
"30.00" for "13.00" and
"33.00" for "15.00".

(2) For the figures in Column 2 of the Table in Part II, which show the amounts to be included in the judgment in respect of the plaintiff's solicitor's charges for the work described in paragraphs (*a*), (*b*), (*c*) and (*d*) of Column 1 where the sum for which judgment is given is as described in sub-columns A, B and C of Column 2, there shall be substituted the figures set out below, as follows:—

Column 1	*Column 2*		
	Sum of money		
	A Exceeding £5 but not exceeding £100	B Exceeding £100 but not exceeding £1000	C Exceeding £1000
(*a*)	"4"	"6"	"10"
(*b*)	"6"	"12"	"20"
(*c*)	"10"	"15"	"25"
(*d*)	"15"	"20"	"28"

(3) In Part III, for the amounts to be allowed for the work described in paragraphs 2 and 3, there shall be substituted "£6" in each case.

Assessed costs

16. Appendix E shall be amended by omitting sub-paragraphs (iii) and (iv) of paragraph 2, and by substituting, for the existing Table, the following Table:—

"

Column 1 Scale	*Column 2* Amount of Charges
Lower Scale	£23 to £ 35
Scale 1	£25 to £ 50
Scale 2	£38 to £ 80
Scale 3	£38 to £ 100
Scale 4	£58 to £ 200

"

17.—(1) Where costs fall to be fixed or assessed under Appendix D or E by virtue of a judgment or order given, entered or made after the date of the coming into operation of the two preceding Rules, they may be fixed, or assessed, as the case may be, as if all the work to which they relate had been done after that date.

(2) Except as provided in paragraph (1), nothing in these Rules shall apply in relation to anything done before the date of the coming into operation of these Rules.

Form of Admission, Defence and Counterclaim

18. For the existing Form 18A there shall be substituted the following form:—

"18A

FORM OF ADMISSION, DEFENCE AND COUNTERCLAIM TO ACCOMPANY FORMS 18 AND 22

Order 6, Rule 3(2)(*c*)

.....County Court

Case No. .....

.....v .....

ADMISSION

Read the instructions on the back of the summons carefully before completing this form. Immediately after you have filled in this form, send it by post or take it to the Court Office as stated on the summons.

1. Do you admit the plaintiff's claim in full?	YES/NO
2. Do you admit *part* of the plaintiff's claim?	YES/NO
If so, how much do you admit?	£.....
(Put your reasons for disputing the balance overleaf)	

3. **If you wish the court to consider whether to make an instalment order you should answer the following questions:—**

PAY AND MEANS:–

(*a*) What is your occupation? .....

(*b*) What is the name and address of your employer?
.....
.....
.....

(*c*) What is your pay before deductions? £..... per week/month

(*d*) What overtime, bonuses, fees, allowances or commission do you receive? £.....

(*e*) What is your usual take-home pay? £..... per week/month

(*f*) Do you receive a pension or any other income YES/NO
Please give details:—
.....
.....

(*g*) What contributions, if any, are made by any member of your household?

LIABILITIES:–

(*a*) What persons, if any, are financially dependent on you? Please give details including the ages of any dependent children:—

(*b*) What rent or mortgage instalments do you have to pay? £..... per week/month

(*c*) What rates, if any, do you have to pay? £..... per week/month

(*d*) Do you have to pay under any Court Orders? Please give details including name of court and case number.

(*e*) What other regular payments do you have to make?

(*f*) Have you any other liabilities which you would like the court to take into account? Please give details:—

[In an action to which section 35 of the Hire-Purchase Act 1965 applies add:—

4. Are the goods in your possession? YES/NO

I understand that if the plaintiff accepts my offer of payment by instalments, the Court will make an order for the return of the goods but the plaintiff will not be able to enforce this order so long as I pay the instalments punctually.]

WHAT OFFER OF PAYMENT DO YOU MAKE?

Payment in full on the day of 19

or by instalments of £.....per month

SIGN HERE .....Date.....

Where should notices about this case be sent to you? .....

DEFENCE

1. Do you dispute the plaintiff's claim or any part of it? YES/NO

2. If so, how much do you dispute and what are your reasons?

.....

.....

.....

.....

COUNTERCLAIM

1. Do you wish to make a claim against the plaintiff? YES/NO

2. If so, for how much? £.....

3. What is the nature of the claim?

.....

.....

[*To be completed where the sum claimed or amount involved exceeds £500*

If you dispute the plaintiff's claim or wish to make a claim against him, do you want the proceedings to be referred to arbitration? YES/NO]

SIGN HERE: .....

Date .....

Where should notices about this case be sent to you? .....

.....

.....

NOTES

(1) Any claim for £500 or less which is defended will be referred to arbitration automatically, but the reference may be rescinded on application.

(2) When a defended claim is arbitrated the right of appeal against the arbitrator's award is very limited.

(3) If your claim against the plaintiff is bigger than his claim against you, you may have to pay a fee before it can be dealt with. You can find out whether a fee is payable by enquiring at any county court office."

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.

Henry Ruttle.
A. C. Goodall.
David Peck.
S. S. Gill.
J. B. Taylor.
M. A. W. Grundy.
M. Birks.
Fielding Hatton.
Andrew Smith.
Norman Cooper.
E. J. D. Evans.

(a) 1959 c. 22.

I allow these Rules, which shall come into operation as follows:—

(*a*) All the Rules except Rules 6, 7, 8, 13, 14 and 18 shall come into operation on 1st January 1981;

(*b*) Rules 6, 7, 8, 14 and 18 shall come into operation on 21st April 1981;

(*c*) Rule 13 shall come into operation on the day appointed for the coming into operation of section 142 of the Housing Act 1980(**a**).

Dated 23rd October 1980. *Hailsham of St. Marylebone,* C.

EXPLANATORY NOTE

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

These Rules amend the County Court Rules so as—

(*a*) to provide for the service of process on a State (as defined in section 14 of the State Immunity Act 1978) and for the recovery and enforcement against a State of a default judgement (Rules 2, 3 and 4);

(*b*) to enable the joinder of a person as an alternative defendant to a counterclaim against the plaintiff (Rule 5);

(*c*) to make further provision for the arbitration of disputes involving £500 or less (Rules 6, 7 and 8);

(*d*) to provide a procedure for enforcing a charging order by sale and to amend the relevant provisions regarding venue (Rules 9 and 10);

(*e*) to allow proceedings under section 38(4) of the Landlord and Tenant Act 1954 (c.56) to be heard by the registrar (Rule 11);

(*f*) to provide for credit to be given against a judgment for tax where the tax liability is subsequently reduced (Rule 12);

(*g*) to provide for proceedings under the Leasehold Reform Act 1967 (c.88) which might hitherto have been transferred to the Lands Tribunal to be transferred to a leasehold valuation tribunal instead (Rule 13);

(*h*) to reduce the ambit of the 'no costs' rule (Rule 14);

(*i*) to increase the fixed costs recoverable in uncontested cases (Rules 15 and 17);

(*j*) to allow the court more latitude in assessing costs (Rules 16 and 17); and

(*k*) to revise the Form of Admission, Defence and Counterclaim (Rule 18).

(**a**) 1980 c. 51.

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