PROCEDURE

The County Court (Amendment) Rules, 1951

1951 No. 1354 (L. 7)

Made - - - - 26*th July*, 1951
Coming into Operation 3*rd August*, 1951

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1951.

(2) An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1936(a), as amended.

(3) A Form referred to by number in these Rules means the Form so numbered in the Appendices to the County Court Rules, 1936.

2. Rule 6 of Order VIII shall be amended as follows:—

(*a*) In paragraph (1) before the word "Where" there shall be inserted the words "Subject to the provisions of paragraph (3) of this Rule,".

(*b*) The following paragraph shall be added and shall stand as paragraph (3):—

"(3) Where the court has power under any other Rule to cause the document to be served by post by an officer of the court,—

(i) no Order for substituted service by post shall be made in respect of the document; and

(ii) no Order for substituted service by advertisement or in any other manner shall be made in respect of the document, unless the court considers that service cannot be effected by post."

3. Order XL shall be amended as follows:—

(*a*) Rule 5 shall be amended as follows:—

(i) In paragraph (1) for the words "in triplicate" there shall be substituted the words ", together with a copy thereof for each party to the proceedings".

(ii) In paragraph (3) the words "and on payment of the prescribed fee" shall be deleted.

(*b*) The following paragraph shall be substituted for paragraph (1) of Rule 7 of Order XL:—

"(1) The Remuneration of the referee shall be fixed by the registrar in accordance with the following scale:—

(*a*) Where the sum of money to which the applicant claims to be entitled, or to which failing the grant of a new lease he alleges he would be entitled, as compensation:—	For every day on which the referee sits:— £ *s.* *d.*
Does not exceed £100	5 5 0
Exceeds £100 but does not exceed £200 ...	8 8 0
Exceeds £200 but does not exceed £500 ...	12 12 0
Exceeds £500 but does not exceed £1,000 ...	15 15 0
Exceeds £1,000 but does not exceed £2,000 ...	18 18 0
Exceeds £2,000	21 0 0

(a) S.R. & O. 1936 (No. 626) I, p. 282.

	For every day on which the referee sits:— £ s. d.
(*b*) Where no such claim or allegation is made and the annual rent reserved by the tenancy in respect of which the claim or application is made:—	
Does not exceed £50	5 5 0
Exceeds £50 but does not exceed £100 ...	8 8 0
Exceeds £100 but does not exceed £200 ...	12 12 0
Exceeds £200 but does not exceed £500 ...	15 15 0
Exceeds £500 but does not exceed £1,000 ...	18 18 0
Exceeds £1,000	21 0 0"

4. The following Order shall be added and shall stand as Order XLA:—

"ORDER XLA

THE LEASEHOLD PROPERTY (TEMPORARY PROVISIONS) ACT, 1951

Interpretation. 14 & 15 Geo. 6. c. 38.

1. In this Order "this Act" means the Leasehold Property (Temporary Provisions) Act, 1951.

Commencement of proceedings.

2. Proceedings in a county court under this Act shall be commenced by originating application, and the Rules relating to originating applications shall apply subject to the modifications contained in this Order.

Answer to application for new tenancy.

3.—(1) Where an application is made for the grant of a new tenancy under Part II of this Act, the respondent shall, within 8 days of the service upon him of the application, file in the court office an answer, together with as many copies as there are applicants, stating

(*a*) whether he resists the applicant's claim and, if he does so, his grounds for resisting it; and

(*b*) whether he is a mesne landlord; and

(*c*) the name and nature of the interest in the property of any other person who to the knowledge of the respondent is likely to be affected by the grant or refusal of a new tenancy to the applicant.

(2) If the application relates to a tenancy to which subsection (4) of section 10 of this Act applies, the respondent shall, in addition to the matters set out in the preceding paragraph, state whether, if a new tenancy is granted, he requires the tenancy to be a tenancy of the whole of the subject of the expiring tenancy.

(3) On receipt of the answer and copies the registrar shall send a copy to each applicant.

Mesne and Superior Landlords Form 342C.

4.—(1) On being served with an application under Part II of this Act the respondent, if he is himself a tenant under a lease of the property having less than 18 months unexpired at the date of the application, shall forthwith serve on his landlord a notice in Form 342C; and if that landlord is himself such a tenant as aforesaid he shall forthwith serve a similar notice on his landlord, and so on from landlord to landlord.

(2) In addition to serving a notice in Form 342C on his landlord (if any) the respondent and every landlord upon whom such a notice is served under the preceding paragraph, shall forthwith serve a like notice upon any other person having an interest in the property who to his knowledge is likely to be affected by the grant or refusal of a new tenancy.

(3) Notices under this Rule shall be served in the manner provided for by section 19 of this Act.

Directions.

5. Application to the court for directions may be made

(*a*) by any person within 8 days of the receipt by him of notice in Form 342C, and

(*b*) by any person not served with a notice in accordance with the preceding rule who may be affected by the proceedings at any time before the hearing.

and upon such application the court may order the applicant to be added as a party to the proceedings and may give such other directions as may be just.

Consent order by registrar.

6. If, on the day fixed for the hearing of the application, the registrar is satisfied that

(*a*) the parties to the application have agreed on the subject, period, terms and conditions of the new tenancy;

(*b*) the owner of any reversionary interest in the property consents thereto; and

(*c*) there are no other persons with interests in the property who are likely to be affected,

the registrar shall have power to make an order under Part II of this Act giving effect to the agreement.

Forms of Application, Order and Notice Forms 342A, 342B, 342C.

7. The Forms in the Appendix relating to proceedings under this Act shall be used in the cases to which they are applicable with such variations, if any, as may be required."

5. The following Rule shall be added to Order XLVI and shall stand as Rule 14:—

"*Maintenance Orders Act*, 1950.

14 Geo. 6. c. 37.

14.—(1) In this Rule—

"this Act" means the Maintenance Orders Act, 1950;

"maintenance order" means an order for the payment of weekly or other periodical sums made by a county court under section 3 (2) or 5 (4) of the Guardianship of Infants Act, 1925.

15 & 16 Geo. 5. c. 45.

(2) The prescribed officer of the county court for the purposes of sections 17, 22, 23 and 24 of this Act shall be the registrar.

(3) An application under Part II of this Act for the registration of a maintenance order in the sheriff court in Scotland or the court of summary jurisdiction in Northern Ireland, within the jurisdiction of which the defendant appears to be, shall be made to the registrar of the county court in which the maintenance order was made, by lodging in the office of that

court an affidavit by the applicant (together with a copy thereof) stating:—

(*a*) the date of the maintenance order, the name of the person liable to make payments thereunder, and the amount of the weekly or other periodical payments ordered therein;

(*b*) the address in the United Kingdom of the person liable to make payments under the maintenance order;

(*c*) the reason why it is convenient that the maintenance order should be enforceable in Scotland or in Northern Ireland, as the case may be;

(*d*) the amount of any arrears due to the applicant under the maintenance order; and

(*e*) that the maintenance order is not already registered under this Act.

(4) If it appears to the registrar that the person liable to make payments under the maintenance order resides in Scotland or Northern Ireland and that it is convenient that the maintenance order should be enforceable there, he shall send a certified copy of the maintenance order and the applicant's affidavit to the sheriff-clerk of the sheriff court in Scotland or, as the case may be, to the clerk of the court of summary jurisdiction in Northern Ireland, having jurisdiction in the place in which the person liable to make payments under the maintenance order appears to be.

(5) On being notified of the registration of the maintenance order in the court to which the certified copy has been sent, the registrar shall make a note thereof in the books of the court relating to the maintenance order.

(6) Where a maintenance order registered in a court in Scotland or Northern Ireland is varied or discharged by the court which made it, the registrar shall send a certified copy of the order varying or discharging the maintenance order to the sheriff-clerk or, as the case may be, the clerk of the court in which the maintenance order is registered.

(7) Upon receipt of a notice of variation of the maintenance order or of cancellation of the registration of the maintenance order by the court in which it is registered, the registrar shall make a note thereof in the books of the court relating to the maintenance order.

(8) An application to the county court under section 22 (5) of this Act to adduce evidence in connection with a maintenance order registered in Scotland or Northern Ireland shall be made on notice in accordance with the provisions of Order XIII."

6. The following paragraph shall be substituted for paragraph (2) of Rule 8 of Order XLVII:—

"(2) Where money is paid into court without a denial of liability or without a plea of tender, and the plaintiff does not accept it in satisfaction of his claim or of the cause or causes of action in respect of which

it was paid, the costs incurred after the date of the payment into court shall be on the scale which would have been applicable if no money had been paid into court, or on such lower scale as the court, or the registrar when taxing or fixing and allowing costs, may determine having regard to any saving of expense effected by reason of the payment into court."

7. The Scales of Costs in Appendix B shall be amended as follows:—

(*a*) In Item 3 of Scale 1 for the words "(*a*) if service by solicitor . . . 5/-", there shall be substituted the words:—"(*a*) if service by solicitor . . . 5/- and, if by advertisement, the sum actually and reasonably paid therefor."

(*b*) In Item 5 of Scales 2 and 3 for the word "or" there shall be substituted the word "and".

(*c*) The following item shall be substituted for item 33 of Scales 2 and 3:—

"33 (*a*) For obtaining any documentary evidence or police reports or statements from the police which in the opinion of the registrar it was reasonably necessary to obtain for the purpose of the action or matter,

and

(*b*) for an advertisement in pursuance of an Order for substituted service by advertisement,

the sum actually and reasonably paid".

8. The Tables of Fixed Costs in Appendix D shall be amended as follows:—

(*a*) The following words shall be added to Direction 4 of Part I:—
"or where substituted service has been ordered."

(*b*) From Tables I, II, and III, item (*c*) shall be deleted.

9. The following Forms shall be added to the Forms in Appendix A and shall stand as Forms 342A, 342B and 342C respectively:—

(*a*) "FORM 342A

ORIGINATING APPLICATION FOR NEW TENANCY UNDER PART II OF THE ACT

Order XLA, Rule 7. LEASEHOLD PROPERTY (TEMPORARY PROVISIONS) ACT, 1951

(SEAL)

(*General Title—Form* 1)

1. I of apply to the court for the grant of a new tenancy pursuant to Part II of the above Act.

2. The following are the particulars of the expiring tenancy of the premises:—

(*a*) (Address of premises).

(*b*) (Date of lease or agreement for tenancy).

(*c*) (Names of parties to lease or agreement).

(*d*) (Term granted by lease or agreement).

(*e*) (Rent reserved by lease or agreement).

(*f*) (Date and mode of termination of tenancy).

(*g*) (Nature of the retail trade or business carried on in the premises by the tenant).

(*h*) (If the expiring tenancy includes living accommodation, state

(i) the extent of the accommodation,

and

(ii) whether the accommodation is occupied by the tenant or by a person employed by the tenant for the purposes of the retail trade or business carried on in the shop;

or

(iii) whether the accommodation is occupied wholly, or if not wholly to what extent, by a person other than the tenant or a person employed by him for the said purposes).

[Note: If the premises are divided up into separate parts, the above information must be given in respect of each part separately occupied.]

(*j*) (If the expiring tenancy includes accommodation falling under (*h*) (ii) above which is a separate part of the premises, state whether you are applying for the separate part to be included in the new tenancy).

(*k*) (State period, rent and other terms and conditions of the new tenancy for which you are applying).

3. The following are particulars of steps and proceedings relating to the premises which to my knowledge have been taken under the Landlord and Tenant Act, 1927, and the Landlord and Tenant (Rent Control) Act, 1949:—

4. The names and addresses of the persons upon whom it is intended to serve this application are:—

5. My address for service is:—

Dated this day of , 19 .

Applicant.

Note to Respondent

You must forthwith serve a notice in Form 342C on any person whose interest in the property appears to you to be likely to be affected by the grant or refusal of a new tenancy and in particular if you are a tenant under a lease of the property having less than 18 months unexpired on the date of the application you must forthwith serve a notice in Form 342C on your landlord."

(*b*) "FORM 342B

ORDER GRANTING OR REFUSING NEW TENANCY PURSUANT TO PART II OF THE ACT

Order XLA, Rule 7.

LEASEHOLD PROPERTY (TEMPORARY PROVISIONS) ACT, 1951

(*General Title—Form* 1)

(SEAL)

It is ordered that a new tenancy [and reversionary tenancies] of the premises described in the Schedule to this Order be granted to the applicant [and to the mesne landlords named in the said Schedule] for the period, at the rent and on the terms and conditions set forth in the said Schedule;

or The Court being satisfied that it is not reasonable to grant a new tenancy [*or* that for the reasons stated in the paragraph(s) of subsection(s) of section 12 of the above-mentioned Act a new tenancy should not be granted] it is ordered that a new tenancy of the premises described in the Schedule to this Order be not granted;

And it is ordered that the do pay the costs of these proceedings on Scale and do pay the amount of the said costs when taxed to the registrar of this court on or before the day of , 19 , or, if the costs have not been taxed before the expiration of that day, within 3 days after taxation.

Dated this day of , 19 .

The Schedule"

(*c*) "FORM 342C

NOTICE OF PROCEEDINGS

Order XLA, Rule 7.

LEASEHOLD PROPERTY (TEMPORARY PROVISIONS) ACT, 1951

(*General Title—Form* 1)

To , of .

Take notice that I have received from , my tenant of the premises known as , [notice of] an application dated under Part II of the Leasehold Property (Temporary Provisions) Act, 1951, for the grant of a new tenancy in respect of the said premises [*or* the part of the said premises consisting of] for the term of from , and that the hearing of the application has been fixed for o'clock on the day of , 19 , at the County Court.

Dated the day of , 19 .

(Signature)

Landlord.

Note to Landlords and other interested persons

1. If you wish to be made a party to the proceedings you must within 8 days from the receipt of this notice apply to the court for directions.

2. If you are a landlord of the property you must forthwith serve a similar notice in Form 342C on your superior landlord (if any) and on any person whose interest in the property appears to you to be likely to be affected by the grant or refusal of a new tenancy. You need not, however, serve notice on your landlord if your lease of the property has more than 18 months unexpired at the date of the application."

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 99 of the County Courts Act, 1934(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.

Donald Hurst.
J. Alun Pugh.
William Stewart.
Edgar T. Dale.
W. M. Andrew.
R. T. Monier-Williams.
Gilbert Hicks.

Approved by the Rule Committee of the Supreme Court.

A. E. A. Napier,
Secretary.

I allow these Rules which shall come into force on the third day of August, 1951.

Dated this 26th day of July, 1951.

Jowitt, C.

EXPLANATORY NOTE

(This Note in not part of the Rules, but is intended to indicate their general purport.)

These Rules make various amendments to the County Court Rules, 1936, as amended. The most important amendments provide for rules of procedure in proceedings under the Leasehold Property (Temporary Provisions) Act, 1951, and under the Maintenance Orders Act, 1950.

Other amendments include: (i) the abolition of substituted service by post in the case of documents which the court now has power to order its officers to serve by post; (ii) the abolition of the rule that payment of money into court automatically reduces the scale of costs to that applicable to the amount remaining in dispute; and (iii) the provision of an additional scale for fixing the remuneration of a referee under the Landlord and Tenant Act, 1927.

(a) 24 & 25 Geo. 5. c. 53.