PROCEDURE

1953 No. 1728 (L. 13)

The County Court (Amendment) Rules, 1953

Made - - - - *26th November*, 1953
Coming into Operation *1st January*, 1954

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1953.

(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. Order VII shall be amended as follows:—

(*a*) The following paragraph shall be substituted for paragraph (2) of Rule 1:—

"(2) Where a plaintiff desires to abandon, under subsection (1) of section 42 of the Act, the excess of his claim over £200, or, under subsection (2) of that section, the excess of his claim over £100, the abandonment of the excess shall be entered at the end of the particulars."

(*b*) Rule 4 shall be omitted.

3. For Rule 14 of Order VIII there shall be substituted the following Rule:—

"Partners

14.—(1) Where partners are sued in the name of their firm, service of a summons shall be good service on all the partners, whether any of them is out of England and Wales or not, if the summons is delivered—

(*a*) to a partner personally, or

(*b*) at the principal place of the partnership business within the district within which the summons is to be served, to any person having or appearing to have, at the time of service, the control or management of the business there:

Provided that, where the partnership has to the knowledge of the plaintiff been dissolved before the commencement of the action, the summons shall be served upon every person within England and Wales sought to be made liable.

(2) Where, in the opinion of the court, a summons cannot be served in accordance with paragraph (1) of this Rule, the registrar

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

may cause the summons to be served by an officer of the court sending it by pre-paid post (registered or otherwise) addressed to the firm:

Provided that the summons shall not be sent by post unless the court is satisfied by a report of the bailiff or otherwise that there is a reasonable probability that the summons, if sent by post as proposed, will reach one of the persons to whom a summons may be delivered in accordance with paragraph (1) of this Rule in sufficient time for any defendant to have an opportunity—

(*a*) in the case of an ordinary summons, of appearing at the hearing, or

(*b*) in the case of a default summons, of delivering a defence, admission or counterclaim within 8 days of the time when the summons would be delivered in the ordinary course of post, inclusive of the day of delivery.

(3) Where a person carrying on a business in a name other than his own is sued in that name as if it were a firm name, the summons may be served in accordance with the foregoing provisions of this Rule as if he were a partner sued in the name of a firm and his business were a partnership business."

4. Order XI shall be amended as follows:—

(*a*) The following Rule shall be substituted for Rule 1:—

"Payment into court with costs within 8 days of service

1.—(1) Where the only relief claimed is the payment of money, a defendant may, within 8 days of the service of the summons on him inclusive of the day of service, pay into court in satisfaction of the claim—

(*a*) the whole amount of the claim and costs stated on the summons; or

(*b*) so much of the claim as he admits to be due from him to the plaintiff together with the costs stated on the summons.

(2) Where the whole amount of the claim and costs is so paid into court the action shall be stayed and the defendant shall not be liable for any costs except those stated on the summons.

(3) Where the amount so paid into court is less than the amount of the claim and costs—

(*a*) if the plaintiff accepts the amount paid into court, he shall within 3 days after receipt by him of the notice of payment into court deliver at the court office a notice of acceptance; and

Form 67

(*b*) on receipt of the notice of acceptance the registrar shall give notice to the defendant in Form 67 and the action shall be stayed, and the defendant shall not be liable for any costs except those stated on the summons.

(4) The plaintiff shall be entitled to have money paid into court under paragraph (1) (*a*) of this Rule, or money paid into

court under paragraph (1) (*b*) and accepted by him, paid out to him without any order of the court except in a case to which Rule 10 of this Order applies."

(*b*) Rule 8 shall be amended as follows:—

(i) At the beginning for the word "Where" there shall be substituted the words "Where, in any case to which Rule 1 (1) (*a*) of this Order does not apply,".

(ii) The words "with or without costs" shall be omitted.

(iii) For the words in the margin there shall be substituted the words "Where whole claim paid after 8 days or without costs".

(*c*) At the beginning of Rule 9 for the word "Where" there shall be substituted the words "Where, in any case to which Rule 1 (1) (*b*) of this Order does not apply,".

(*d*) In Rule 11 after the words "limited by" there shall be inserted the words "Rule 1 or".

5. Order XV shall be amended as follows:—

(*a*) In Rule 7 for the figure "£100" there shall be substituted the figure "£200".

(*b*) In Rule 8 for the figure "£100" wherever it occurs there shall be substituted the figure "£200".

(*c*) In paragraph (1) of Rule 9 for the words "Section 9 of the Air Navigation Act, 1920," there shall be substituted the words "sections 40 and 49 (2) of the Civil Aviation Act, 1949," and, in the marginal note thereto, for the words "Air Navigation Act, 1920" there shall be substituted the words "Civil Aviation Act, 1949".

6. Rule 14 of Order XXIV shall be amended as follows:—

(*a*) Rule 14 shall stand as Rule 14 (1).

(*b*) The following new paragraph shall be added and shall stand as paragraph (2):—

"(2) Where under a judgment or order for the delivery of goods or for payment of their value the goods are returned or a warrant in Form 204 is issued, money paid into court since the date of the judgment or order shall be appropriated first to any sum of money and costs awarded."

7. Order XXV shall be amended as follows:—

(*a*) The following new Rule shall be inserted after Rule 10 and shall stand as Rule 11:—

"Return of suspended warrants to home court

11. Where a warrant of execution which has been sent to a foreign court for execution is suspended, the registrar of the foreign court may, if it appears to him that the execution creditor is not likely to be prejudiced thereby, return the warrant to the home court, and thereupon he shall give notice of his having done so to the execution creditor and to the execution debtor in Form 154A.

Form 154A

Form 154A."

(*b*) Paragraph (3) of Rule 14 shall be omitted.

(*c*) Rule 75 shall be amended as follows:—

(i) In paragraph (1) for the words "the plaintiff shall be entitled" to the end of the paragraph there shall be substituted the words "the plaintiff may apply for the issue of a warrant in Form 203 or 203A.", and in the margin the figures "202" and "204" shall be omitted.

(ii) In paragraph (2) for the words "the plaintiff shall be entitled" to the end of the paragraph there shall be substituted the words "the plaintiff may apply for the issue of a warrant in Form 204.", and in the margin there shall be inserted a reference to "Form 204".

(iii) In paragraph (4) for the words "Form 158 adapted" to the end of the paragraph there shall be substituted the words "Form 158B.", and in the margin for the reference to "Form 158" there shall be substituted a reference to "Form 158B".

(*d*) In Rule 76 there shall be inserted in the margin the words:—

"Execution out of district
Form 153".

8. The following sub-paragraph shall be substituted for sub-paragraph (*d*) of paragraph (3) of Rule 16 of Order XXVIII:—

"(*d*) the subject matter, if it is a debt or other legal thing in action, does not exceed in value the sum of £100 and, in any other case, does not exceed in value the sum of £200;".

9. Order XLI shall be amended as follows:—

(*a*) In the Title and in Rules 1 and 7 for the words "Agricultural Holdings Act, 1923" there shall be substituted the words "Agricultural Holdings Act, 1948".

(*b*) In the marginal notes to Rules 1 and 7 for the words and figures "13 & 14 Geo. 5 c. 9" there shall be substituted the words and figures "11 & 12 Geo. 6 c. 63".

10. The following proviso shall be added at the end of sub-paragraph (*e*) of paragraph (4) of Rule 13 of Order XLVI:—

"Provided that the said stay of proceedings shall cease to have effect forthwith if the Crown files in the Court Office a statement that no such demand will be made."

11. The following proviso shall be added to paragraph (1) of Rule 15 of Order XLVII:—

"Provided that, where notice of discontinuance has been given in respect of the proceedings, the registrar shall have power on taxation to determine the Scale on which costs shall be taxed under Rule 2 of Order XVIII."

12. The Forms in Appendix A shall be amended as follows:—

(*a*) In Form 7 for the words "Companies Act, 1929,", wherever they occur, there shall be substituted the words "Companies Act, 1948,".

(*b*) Form 25A shall be amended as follows:—

(i) For the reference to Rule 13 (4) (*c*) (xii) there shall be substituted a reference to Rule 13 (4) (*b*) (ii).

(ii) For the paragraph beginning with the words "And take notice" there shall be substituted the following paragraph:—

"And Take Notice that, if further information is required by the Crown, you should within 28 days from the service of this notice upon you file in the Court Office two copies of a demand for further information specifying what information you require. If you are satisfied that you already have sufficient information, you may file two copies of a statement that no demand for further information will be made, whereupon the stay of proceedings imposed by Rule 13 (4) (*c*) shall cease to have effect."

(iii) For the words "or (the person acting as solicitor for the Crown) or (*where the Attorney General is made defendant*) (*the Solicitor to H.M. Treasury*)" there shall be substituted the words "for the Crown (*who may be ascertained from the list published by the Treasury under s.* 17 *of the Crown Proceedings Act,* 1947)."

(*c*) In Forms 27 (1) and (2) for the word and figures "Rules 3, 7" there shall be substituted the word and figures "Rules 3, 6".

(*d*) In Form 33 after the words and figures "Rules 2 (*c*) (i), 9 (1) and (2)" there shall be added the figure ", 14".

(*e*) Form 64 shall be amended as follows:—

(i) In the title the words "with or without Costs" shall be omitted.

(ii) For the reference to "Order XI, Rule 1 (*b*), 7" there shall be substituted a reference to "Order XI, Rule 7".

(*f*) Form 65 shall be amended as follows:—

(i) At the end of the first paragraph there shall be added the words "[together with the sum of £ : : for costs]."

(ii) In the second paragraph the sentence beginning with the words "Your acceptance" shall be omitted.

(iii) The following words shall be added at the end:—

"No. Received of the Registrar £ : :
this day of , 19 .
[Stamp 2d. if £2 or more]".

(*g*) In Form 79 for the words "The Defendant in this Action, his servants, agents, and workmen are" there shall be substituted the words "The Defendant in this action by himself, his servants, agents or otherwise is".

(*h*) The following new Form shall be inserted after Form 154 and shall stand as Form 154A:—

"154A

NOTICE OF RETURN OF WARRANT OF EXECUTION TO HOME COURT

[*General Title—Form* 1]

Order XXV, Rule 11

TAKE NOTICE that, the warrant of execution issued in this action having been suspended, the warrant has this day been returned to the County Court and any payment of money in this action should henceforth be made to the registrar of that court.

Dated this day of , 19 .

Registrar of the County Court."

(*j*) The following new Form shall be inserted after Form 158A and shall stand as Form 158B:—

"158B

PRAECIPE FOR WARRANT OF DELIVERY OF GOODS

Order XXV, Rule 75(4)

Plaintiff's name in full .....

Plaintiff's residence and occupation.....

Full names and addresses [*or other sufficient identification*] of all defendants, with their occupations, if known.....

I apply for the issue of a warrant of delivery of goods against the defendant/s in respect of a judgment [*or* order] of this court for the delivery of the goods specified in the schedule hereto.

Plaintiff['s Solicitor]

[Solicitor's Address]

SCHEDULE

[*To be filled up by the registrar*]

Date of judgment [*or* order]

Assessed value of the specified goods/balance of hire-purchase price..... £ : :

[Specific delivery in days] [postponed [under s. 12 (4) (*b*) of the Hire-Purchase Act, 1938] on payment of £ : : every 28 days/calendar month]

[Return or value in days] [postponed on payment of £ : : every 28 days/calendar month]

Date and time of application for warrant: the day of , 19 , at h. m.

	£ s. d.
*Assessed value of the specified goods/balance of hire-purchase price	_____
Debt/damages	
Costs	
Subsequent costs	_____
[Paid into court	_____
*Balance of assessed value of specified goods	
Balance of debt/damages and costs ...]	_____
Fee on issue of warrant	
Solicitor's costs of issue	
[*Where the warrant is against a farmer* Paid for certificate of search in the Land Registry ... ...]	_____

* *Delete where specific delivery ordered*".

(*k*) In the third paragraph of Form 160 for the words "due to the plaintiff under the said judgment [*or* order]," there shall be substituted the words "for which the court has given leave to issue this warrant,".

(*l*) In Form 163 for the words "subsection (2) of Section 269 of the Companies Act, 1929" there shall be substituted the words "subsection (2) of section 326 of the Companies Act, 1948".

(*m*) In Form 164 for the words "Companies Act, 1929" there shall be substituted the words "Companies Act, 1948".

(*n*) Form 202 shall be revoked.

(*o*) The following Form shall be substituted for Form 203:—

"203

WARRANT OF DELIVERY AND OF EXECUTION FOR DAMAGES AND COSTS

[*General Title—Form* 1]

(Seal)

Order XXV, Rule 75(1)

Whereas on the day of 19 , the plaintiff obtained a judgment [*or* order] against the defendant for the recovery of the goods specified in the schedule hereto and for the payment of [£ : : for debt/damages and of] £ : : for costs, [amounting together to the sum of £ : :] and it was ordered that the defendant should return the said goods to the plaintiff on the day of 19 , and that in default of his so doing a warrant of delivery should issue, and it was further ordered that the defendant should pay the said sum of £ : : for debt/damages and costs to the registrar of this court on the day of 19 [or by instalments of £ : : for every 28 days/calendar month];

And whereas the defendant did not so return the goods to the plaintiff, and default has been made in payment according to the said order:

You are therefore ordered forthwith to seize the specified goods wheresoever they may be found within the district of this court, and to deliver them to the plaintiff;

And you are further ordered forthwith to levy the amount due to the plaintiff under the said judgment [*or* order], together with the costs of this warrant and the costs of executing the same, by distress and sale of the goods and chattels of the defendant, wheresoever they may be found within the district of this court (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade to the value of pounds) and also by seizing any money, bank notes, bills of exchange, promissory notes, bonds, specialties, or securities for money belonging to the defendant which may there be found, or so much thereof as may be sufficient to satisfy this execution, and to bring the proceeds of the levy into court, and to make a return of what you have done under this warrant immediately upon the execution thereof.

Dated this day of 19 .

Registrar.

SCHEDULE

To the registrar and bailiffs of the court

	£ s. d.
Debt/damages	
Costs	
Subsequent costs	_____
Paid into court	_____
Balance	
Fee for issuing this warrant	
Solicitor's costs of issue	
[*Where the warrant is against a farmer* Paid for certificate of search in the Land Registry ... ...]	_____
Total amount to be levied, with fees for execution of warrant as endorsed hereon ...	_____

Application was made to the registrar for this warrant at minutes past the hour of in the noon of the day last above mentioned.

NOTICE.—The goods and chattels are not to be sold until after the end of 5 days next following the day on which they were seized, unless they are of a perishable nature, or at the request of the said defendant.

[*See back.*]

[*For indorsement of fees for execution of warrant see Form* 159.]"

(*p*) Form 203A shall be amended as follows:—

(i) In the title the words "for Costs" shall be omitted.

(ii) In the first paragraph for the words "£ : : for costs" there shall be substituted the words "[£ : : for debt/damages and] £ : : for costs [amounting together to the sum of £ : :]".

(iii) In the third paragraph after the words "the said" there shall be inserted the words "[debt/damages and]".

(iv) In the fourth paragraph after the words "hire-purchase price" there shall be inserted the words "[debt/damages]".

(v) The sixth paragraph beginning with the words "And if you cannot" shall be omitted.

(vi) For the first item in the table there shall be substituted the following items:—

"Debt/damages
Costs".

(*q*) In Forms 270 and 271 for the references to "25 & 26 Geo. 5, c. 46, s. 1 (3)" there shall be substituted references to "15 & 16 Geo. 6 and 1 Eliz. 2, c. 55, s. 69".

(*r*) In Form 343 for the words "Agricultural Holdings Act, 1923" there shall be substituted the words "Agricultural Holdings Act, 1948", and for the figure "XLVI" there shall be substituted the figure "XLI".

(*s*) In Form 344 for the words "Agricultural Holdings Act, 1923" there shall be substituted the words "Agricultural Holdings Act, 1948", and for the figure "XLII" there shall be substituted the figure "XLI".

(*t*) In Forms 345 and 346 for the words " Agricultural Holdings Act, 1923 ", wherever they occur, there shall be substituted the words " Agricultural Holdings Act, 1948 ".

(*u*) Notwithstanding the provisions of the foregoing paragraphs of this Rule, Forms 7, 25A, 27 (1) and (2), 33, 64, 79, 160, 163, 164, 203, 203A, 270, 271, 343, 344, 345 and 346 may continue to be used in the form hitherto prescribed until the Lord Chancellor otherwise directs.

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.

J. Alun Pugh.
W. M. Andrew.
R. C. Essenhigh.
R. T. Monier-Williams.
Roland Marshall.
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 1st day of January, 1954.

Dated the 26th November, 1953.

Simonds, C.

COURTS-MARTIAL (APPEALS)

1953 No. 574

The Courts-Martial Appeal Court (Witnesses' Allowances, etc.) Regulations, 1953

Made - - - -	30*th March,* 1953
Laid before Parliament	31*st March,* 1953
Coming into Operation	1*st April,* 1953

I, Gavin Turnbull, Baron Simonds, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by section 8 (2) of the Courts-Martial (Appeals) Act, 1951(b), and all other powers enabling me in this behalf, do hereby make the following regulations :—

1. There may be paid to any witness attending on the order of the Courts-Martial Appeal Court or examined in any proceedings incidental to an appeal such travelling and subsistence allowances as are for the time being authorised

(a) 24 & 25 Geo. 5. c. 53. (b) 14 & 15 Geo. 6. c. 46.