1957 No. 2094 (L. 20)

The County Court Funds (Amendment) Rules, 1957

Made - - - -	*2nd December*, 1957
Laid before Parliament	*5th December*, 1957
Coming into Operation	*1st January*, 1958

I, David Viscount Kilmuir, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of Her Majesty's Treasury and in pursuance of the powers contained in section 158 of the County Courts Act, 1934(a), hereby make the following Rules:—

1.—(1) These Rules may be cited as the County Court Funds (Amendment) Rules, 1957.

(2) In these Rules a Rule referred to by number means the Rule so numbered in the County Court Funds Rules, 1953(b), as amended(c).

(3) These Rules shall come into operation on the 1st day of January, 1958.

2. In paragraph (1) of Rule 24 for the words "three and a quarter" there shall be substituted the words "three and a half".

Dated the 2nd day of December, 1957.

Kilmuir, C.

We concur.

Harwood Harrison,
Anthony Barber, } Lords Commissioners of Her Majesty's Treasury.

EXPLANATORY NOTE

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

These Rules increase the rate of interest allowed on money standing in an investment account in the county court from 3¼ per cent. to 3½ per cent. per annum.

PROCEDURE

1957 No. 174 (L. 1)

The County Court (Amendment) Rules, 1957

Made - - - -	*5th February*, 1957
Coming into Operation	*1st March*, 1957

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1957.

(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(d), as amended.

(a) 24 & 25 Geo. 5. c. 53. (b) S.I. 1953/1710 (1953 I, p. 382.)
(c) S.I. 1954/1505, 1955/1141, 1956/1345, 2011 (1954 I, p. 525; 1955 I, p. 529; 1956 I, p. 538). (d) S.R. & O. 1936/626 (1936 I, p. 282).

(3) In these Rules "Appendix A" and "Appendix D" mean respectively Appendix A and Appendix D to the County Court Rules, 1936, and a form referred to by number means the form so numbered in Appendix A.

2. Order XI shall be amended as follows:—

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

Payment with costs within 8 days of service.

"1.—(1) Where the only relief claimed in an action is the payment of money, the 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 the 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 (including court fees) which would be entered on a summons for that amount under Part I of Appendix D.

(2) Where the whole amount of the claim and the costs stated on the summons are paid into court under paragraph (1) (*a*) of this Rule, the action shall be stayed and the defendant shall not be liable for any further costs.

(3) Where a lesser amount is paid into court, together with the appropriate costs under paragraph (1) (*b*) of this Rule, and the plaintiff elects to accept that amount in satisfaction of his claim—

(*a*) he shall within 4 days after receipt by him of notice of payment into court deliver or send by pre-paid post to the registrar and to every defendant a notice of acceptance;

(*b*) on receipt by the registrar of the notice of acceptance the action shall be stayed; and

(*c*) the defendant shall not be liable for any further costs.

(4) Except in a case to which Rule 10 of this Order applies, 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 within the time prescribed by paragraph (3), paid out to him without an order of the court."

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

(i) At the beginning of paragraph (*c*) before the word "if" there shall be inserted the words "subject as hereinafter provided".

(ii) At the beginning of paragraph (*d*) before the word "if" there shall be inserted the words "subject as hereinafter provided".

(iii) The following new paragraph shall be added and shall stand as paragraph (*e*)—

"(*e*) If a certificate is in force entitling a party to legal aid under Part I of the Legal Aid and Advice Act, 1949, and—

(i) the amount of the costs entered on the summons is not paid into court with the amount of the claim, or

(ii) the plaintiff claims any additional costs,

the plaintiff may apply to the court for an order for such costs."

(*c*) Rule 9 shall be amended as follows:—

(i) The following paragraph shall be substituted for paragraph (*a*):—

"(*a*) The plaintiff shall within 4 days after receipt by him of the notice of payment into court deliver or send by pre-paid post

to the registrar and to every defendant a notice of acceptance, and on receipt thereof by the registrar proceedings in the action or in respect of any cause of action to which the notice relates shall be stayed (except as provided by this Rule)".

(ii) Paragraph (*b*) shall be omitted and paragraph (*c*) shall be renumbered and shall stand as paragraph (*b*).

(iii) In paragraph (*d*), which shall be re-numbered and shall stand as paragraph (*c*), for the figure "3" there shall be substituted the figure "4", and for the words "he may, except in a case to which the next succeeding Rule applies, lodge for taxation" there shall be substituted the following words:—

"he may—

(i) where paragraph (1) of the next succeeding Rule applies or a certificate is in force entitling a party to legal aid under Part I of the Legal Aid and Advice Act, 1949, apply for an order for the costs incurred by him before the receipt of notice of payment into court;

(ii) in any other case, lodge for taxation".

3. Order XVI shall be amended as follows:—

(*a*) The following words shall be added at the end of paragraph (2) of Rule 10:—

"and

(*e*) where money has been paid into the High Court, a copy of the notice of payment into court; and

(*f*) a copy of any pleading delivered in the High Court."

(*b*) Rule 14 shall be amended as follows:—

(i) For the words "transferred to the county court" there shall be substituted the words "received by the county court", and for the words "money transferred" there shall be substituted the words "money received".

(ii) For the words in the side-note there shall be substituted the words "Costs payable out of money received".

4. Paragraph (3) of Rule 7 of Order XXVII shall be amended as follows:—

(*a*) For the figure "3" there shall be substituted the figure "4".

(*b*) For the words "deliver at the court office a notice of acceptance" there shall be substituted the words "deliver or send by pre-paid post to the registrar and to the garnishee a notice of acceptance".

(*c*) After the words "on receipt" there shall be inserted the words "by the registrar".

(*d*) The words "the registrar shall give notice thereof to the garnishee in Form 67 and" shall be omitted.

5. The following Rule shall be substituted for Rule 5 of Order XXXVII:—

Appeal from registrar.

"5.—(1) Any party affected by a judgment or final order of the registrar may, except where he has consented to the terms thereof, appeal therefrom to the judge, who may upon such terms as he thinks just—

(*a*) set aside or vary the judgment or order or any part thereof, or

(*b*) give any other judgment or make any other order in substitution therefor, or

(*c*) remit the action or matter or any question therein to the registrar for re-trial or further consideration, or

(*d*) order a new trial to take place before the judge.

(2) The appeal shall be made on notice stating the grounds of the appeal and the notice shall be served within 6 days of the judgment or order appealed from.

(3) The court may stay execution under the judgment or order pending the hearing of the appeal and may in consequence of any order made on the appeal suspend or set aside any warrant of execution issued in the proceedings."

6. Rule 2 of Order XLVI shall be revoked.

7. The following paragraph shall be added to Rule 37 of Order XLVII and shall stand as paragraph (5):—

"(5) Where the sum to be paid by one party to another party in respect of the costs of an action or matter has been agreed between them, the court may direct payment of that sum in lieu of taxed costs."

8. Rule 11 of Order XLVIII shall be amended as follows:—

(*a*) In paragraph (1) for the words "or notice of change of solicitor is given in accordance with this Rule" there shall be substituted the words "or notice is given under paragraph (3) or (4) of this Rule or an order is made under paragraph (5)".

(*b*) Paragraphs (5) and (6) shall be re-numbered and shall stand as paragraphs (6) and (7) respectively.

(*c*) The following paragraph shall be inserted after paragraph (4) and shall stand as paragraph (5):—

"(5) Where a solicitor has ceased to act for a party in an action and notice has not been given of the appointment of a new solicitor or of the party's intention to act in person, the solicitor may apply, on notice to the party stating the grounds of the application, for an order declaring that he has ceased to act as the solicitor for that party in the action, and a copy of any such order shall be served by the registrar on every party to the action."

9. In Form 18A at the end of the first paragraph there shall be inserted the following paragraph:—

"[*Add, in an action to which section 12 of the Hire-Purchase Act, 1938, applies* I understand that if the plaintiff accepts this offer an order will be made for the return of the goods but the plaintiff will not be able to enforce the order so long as I make punctual payment in accordance with my offer.]"

10. Form 65 shall be amended as follows:—

(*a*) For the words "three days" there shall be substituted the words "four days".

(*b*) For the words "to the Court Office by post or otherwise a written notice of acceptance" there shall be substituted the words "a written notice of acceptance to every defendant and to the Court Office, by pre-paid post or by hand."

11. Form 67 shall be revoked.

12. Form 97 shall be amended as follows:—

(*a*) In the title for the words "Transferred from High Court" there shall be substituted the words "Received for Administration on Order of High Court".

(*b*) In the first paragraph for the words "transferred from" there shall be substituted the words "received for administration pursuant to an order of".

(*c*) In the second paragraph the words "paid into the High Court for the benefit of" shall be omitted; after the words "transferred to" there shall be inserted the words "[*or* paid into]"; and for the words "for the benefit of the said person [*or* persons]" there shall be substituted the words "for the benefit of ".

13. In the second paragraph of the Note to Form 142 the words "[Saturdays and]" shall be omitted.

14. In paragraph 2 of Form 177 the words "[*Add, if so,* to which a notice in Form 179 had been annexed.]" shall be omitted.

15. In paragraph 3 of Form 205, for the words "in the sum of £" there shall be substituted the words "[*add if known,* in the sum of £ : :]".

16. In Forms 206 and 211, in the second paragraph of each form, for the words "in the sum of £ : : " there shall be substituted the words "[*add if stated in affidavit,* in the sum of £ : :]".

17. In the second paragraph of Form 209 for the words "three days" there shall be substituted the words "four days".

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

(*a*) In the second column of Table II, for the figures "2.0.0." there shall be substituted the figures "1.15.0."

(*b*) In the second column of Table IV, for the figures "4.8.0." there shall be substituted the figures "4.10.0.".

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.
Edgar T. Dale.
W. M. Andrew.
D. O. McKee.
D. Freeman Coutts.
W. Ralph Davies.
R. T. Monier-Williams.
Roger B. Willis.
Arthur J. Driver.
W. O. Carter.

14*th December,* 1956.

I allow these Rules which shall come into force on the 1st day of March, 1957.

Kilmuir, C.

Dated the 5th day of February, 1957.

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

EXPLANATORY NOTE

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

These Rules make a number of amendments to the County Court Rules, 1936, the more significant of which are the following:—(*a*) the court is given power to order payment of agreed costs, which need not then be taxed; (*b*) it is made clear that an application to the judge to set aside a final decision of the registrar is by way of appeal on grounds to be stated and, if the judge orders a new trial, it may be to take place before himself or before the registrar; (*c*) a sum paid into court, within 8 days of service of the summons, in satisfaction of a claim for a greater amount need be accompanied only by the costs appropriate to the sum paid in; (*d*) the time allowed to the plaintiff for accepting such a sum has been extended.

1957 No. 1136 (L. 8)

The County Court (Amendment No. 2) Rules, 1957

Made - - - - 27*th June*, 1957
Coming into Operation 1*st August*, 1957

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules, 1957.

(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) In these Rules Appendices A, B, D and E mean respectively Appendices A, B, D and E to the County Court Rules, 1936.

(4) A form referred to by number in these Rules means the form so numbered in Appendix A.

2. In paragraph (2) (*d*) (ii) of Rule 3 of Order VII for the word "bailiff" there shall be substituted the words "an officer of the court".

3. Order VIII shall be amended as follows:—

(1) In paragraph (1) of Rule 6 the words "(other than a judgment summons) or of any" shall be omitted.

(2) In the proviso to Rule 7 after the words "may, if he thinks fit," there shall be inserted the words "and shall, where a certificate for postal service in Form 6 has been given,".

(3) Rule 8 shall be amended as follows:—

(*a*) In paragraph (1) for the words "paragraphs (1A) and (1B)" there shall be substituted the words "the following paragraphs" and for the word "he" there shall be substituted the words "the defendant".

(*b*) The following paragraphs shall be substituted for paragraphs (1A) and (1B):—

"(2) Where the plaintiff or his solicitor gives a certificate for
Form 6 postal service in Form 6, the summons shall, unless the registrar otherwise directs, be served by an officer of the court sending it by ordinary post to the defendant named in the certificate at the address stated in the praecipe.

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