THIRD SCHEDULE

Parishes	County Court Districts
Barry	Barry
Bonvilston	
Lavernock	
Llancarfan	
Llantrithyd	
Llanvithyn	
Penmark	
Porthkerry	
St. Andrew's Major	
St. Lythan's	
St. Nicholas	
Sully	
Wenvoe...	
Cardiff	Cardiff
Leckwith	
Lisvane	
Llanedeyrn	
Llanilltern	
Llanvedw	
Michaelston le Pit	
Penarth	
Pendoylan	
Pentyrch	
Peterston super Ely	
Radyr	
St. Bride's super Ely	
St. Fagans	
St. George's	
St. Mellons	
Welsh St. Donat's	
Whitchurch	

PROCEDURE

1958 No. 2226 (L. 17)

The County Court (Amendment) Rules, 1958

Made - - - - 23*rd December*, 1958
Coming into Operation 16*th February*, 1959

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1958.

(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 "Appendix A" means Appendix A to the County Court Rules, 1936, and a Form referred to by number means the Form so numbered in that Appendix.

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

PART I

MAINTENANCE ORDERS ACT, 1958

2. The following Rule shall be added to Order XLVI :—

"*Maintenance Orders Act, 1958*

6 & 7 Eliz. 2. c. 39. 17.—(1) In this Rule "the Act of 1958" means the Maintenance Orders Act, 1958, and, unless the context otherwise requires, expressions used in the Act of 1958 have the same meanings as in that Act and any reference to a maintenance order of the High Court is a reference to a maintenance order made by the High Court or registered in the High Court under Part I of the Act of 1958 or Part II of the Maintenance Orders Act, 1950, or the Maintenance Orders (Facilities for Enforcement) Act, 1920.

Registration of maintenance orders in magistrates' courts

(2) An application for the registration of a maintenance order in a magistrates' court shall be made to the registrar of the county court in which the 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 order, and the amount of the weekly or other periodical payments ordered to be made ;

(*b*) the address and occupation of the person liable to make payments under the order ;

(*c*) the grounds on which registration of the order in a magistrates' court is desired ;

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

(*e*) that the order is not already registered under the Act of 1958, and

(*f*) whether any proceedings are pending, or any warrant or other process is in force, for the enforcement of the order.

(3) Where the application is granted—

(*a*) no proceedings shall be begun, and no warrant or other process shall be issued, for the enforcement of the order before the registration of the order or before the expiration of 14 days from the grant of the application, whichever first occurs ;

(*b*) the registrar shall, on being satisfied within the said period of 14 days that no such proceedings or process begun or issued before the grant of the application remain pending or in force, send a certified copy of the order (together with the copy of the applicant's affidavit) to the clerk of the magistrates' court acting for the petty sessions area in which the person liable to make payments under the order appears to be ;

(*c*) on receipt of notice that the order has been duly registered in the magistrates' court, the registrar shall make a note of the registration against the entry in the books of the court relating to the maintenance order.

(4) An order of a county court varying or discharging a maintenance order registered in a magistrates' court shall be served on the clerk of the magistrates' court as well as on the person liable to make payments under the maintenance order.

(5) Where a county court, on varying or discharging a maintenance order registered in a magistrates' court, decides to give notice under section 5 (2) of the Act of 1958, the registrar shall endorse the notice on the order required by the last foregoing paragraph of this Rule to be served on the clerk of the magistrates' court.

(6) Where a certified copy of an order of a magistrates' court varying a maintenance order registered in that court is received by the registrar, he shall file the copy and make a note of the variation against the entry in the books of the court relating to the maintenance order.

(7) On receipt of notice that the registration of a county court order in a magistrates' court has been cancelled, the registrar shall make a note of the cancellation against the entry in the books of the court relating to the maintenance order.

Attachment of earnings orders

(8) An application for an attachment of earnings order by a person entitled to receive payments under a maintenance order made by a county court shall be made to the judge or, with the leave of the judge, to the registrar, on notice to the person liable to make those payments.

(9) Where a person entitled to receive payments under a maintenance order of the High Court desires to apply to a county court for an attachment of earnings order, the application shall be made by originating application to the judge or, with the leave of the judge, to the registrar and the person liable to make those payments shall be the respondent. The application may be filed in the court for the district in which the respondent resides or is employed.

(10) An application under paragraph (8) or paragraph (9) of this Rule shall state—

(*a*) particulars of the maintenance order;

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

(*c*) particulars of any proceedings which have been taken for the enforcement of the maintenance order;

(*d*) the name and address of any person whom the applicant believes to be the respondent's employer;

(*e*) such of the following particulars of the respondent as are known to the applicant, that is to say—

(i) his full name and address;

(ii) his age;

(iii) his national insurance number;

(iv) his place of work;

(v) the nature of his work and his works number, if any;

and the applicant shall file with the application an affidavit verifying the facts stated therein and, where the maintenance order is an order of the High Court, exhibiting an office copy of the order.

(11) An order to the respondent under section 11 (1) (*a*) of the Act of 1958 may specify any of the particulars referred to in sub-paragraph (*e*) of the last foregoing paragraph of this Rule, and an attachment of earnings order shall contain such of those particulars as are known to the court.

Form 390. (12) An attachment of earnings order shall be in Form 390.

(13) An attachment of earnings order and any order varying or discharging such an order shall be served on the person to whom the order is directed and on the respondent, and the provisions of Order VIII, Rule 39, shall apply with the modification contained in Order XXIV, Rule 8(3), and with the further modification that where the order is directed to a corporation which has requested the court that any communication relating to the respondent or to the class of persons to which he belongs shall be directed to the corporation at a particular address, service may, if the registrar thinks fit, be effected on the corporation at that address.

(14) Where an attachment of earnings order is made by a county court for the enforcement of a maintenance order of the High
Form 391. Court, notice in Form 391 of the making of the attachment of earnings order and of any order discharging it shall be sent by the registrar to the proper officer of the High Court.

(15) Where an attachment of earnings order made by the High Court designates the registrar of a county court as the officer to whom any payment under the Schedule to the Act of 1958 is to be made, the registrar shall, on receipt of a certified copy of the order from the proper officer of the High Court, send notice in
Form 392. Form 392 to the person to whom the order is directed.

(16) Where an attachment of earnings order made by a county court ceases to have effect and—

(*a*) the related maintenance order was made by that Court, or

(*b*) the related maintenance order was an order of the High Court and—

(i) the registrar of the county court has received notice of the cessation from the proper officer of the High Court, or

(ii) an order of commitment has been made in the county court for the enforcement of the related maintenance order,

the registrar of the county court shall give notice of the cessation to the person to whom the attachment of earnings order was directed.

(17) Where an attachment of earnings order has been made by a county court, notice to the applicant and the respondent
Form 393. under section 9 (4) of the Act of 1958 shall be in Form 393, and within 14 days after the date of the notice the respondent

may request the court to proceed under paragraph (ii) of the said section 9 (4) by applying, on notice to the applicant for the attachment of earnings order, for an order discharging or varying that order.

(18) Notice under section 10 (4) of the Act of 1958 by a person to whom an attachment of earnings order made by a county court is directed shall be in Form 394, and on the discharge of the order in pursuance of section 9 (3) of the Act of 1958, the registrar shall inform the applicant thereof.

Form 394.

(19) Where an attachment of earnings order has been made by a county court, an application under section 12 (1) of the Act of 1958 may be made to the registrar in writing without fee and the registrar shall thereupon fix a date and time for the hearing of the application by the court and give notice thereof to the person to whom the attachment of earnings order is directed and to the parties to that order."

3. The following forms shall be added to Appendix A.:—

"390

ATTACHMENT OF EARNINGS ORDER

THE MAINTENANCE ORDERS ACT, 1958

Seal

Order XLVI Rule 17(12).

[General Title—Form 1]

Whereas the respondent, of , aged years, whose national insurance number is and who works at as a (Works No.), is required under a maintenance order made on the day of , 19 , by this Court [*or* by the High Court of Justice] to make payments of £ : : a week [*or as the case may be*] to the applicant, ;

And it appears that at the time when an application by the said applicant was made an amount equal to not less than four [*or, if payments not weekly,* not less than two] of the payments was in arrear;

And it further appears that earnings fall to be paid by to the respondent:

It is hereby ordered that the said make payments out of those earnings in accordance with the Maintenance Orders Act, 1958, to the registrar of this Court for transmission to the said applicant;

And it is further ordered that for the purpose of calculating the said payments the normal deduction rate shall be £ : : a week [*or as the case may be*] and the protected earnings rate shall be £ : : a week [*or as the case may be*].

NOTE: This order does not come into force until one week after its service on the said ."

"391

NOTICE TO HIGH COURT OF MAKING OR DISCHARGE OF ATTACHMENT OF EARNINGS ORDER

Order XLVI Rule 17(14)

In the County Court

Seal

In the matter of a maintenance order made by the High Court of Justice (Probate, Divorce and Admiralty Division) (19 , (D) No.) [*or as the case may be*] on the day of , 19 , in favour of against [*insert full names*].

Take notice that an attachment of earnings order has this day been made by this court for the enforcement of the above-mentioned maintenance order [*or* that the attachment of earnings order made by this court on the day of , 19 , for the enforcement of the above-mentioned maintenance order has this day been discharged]."

"392

NOTICE AS TO PAYMENT UNDER ATTACHMENT OF EARNINGS ORDER MADE BY HIGH COURT

Order XLVI Rule 17(15); C.C. Funds Rule 4.

In the County Court

Seal

Whereas on the day of , 19 , an attachment of earnings order was made by the High Court of Justice requiring you to make payments to the registrar of this Court out of the earnings falling to be paid by you to of , aged years, whose national insurance number is and who works at as a (Works No.):

Take notice that the said payments may be made in cash at the office of this Court or may be sent by post, at the payer's risk, by postal or money order payable to the registrar and crossed "& Co." Postage must be prepaid. This notice must be sent with each payment and will be returned to you with receipt endorsed."

"393

NOTICE UNDER SECTION 9 (4) OF THE MAINTENANCE ORDERS ACT, 1958

Order XLVI Rule 17 (17).

[*General Title—Form* 1]

Seal

Whereas by an attachment of earnings order dated the day of , 19 , was required, out of earnings falling to be paid by him to , to make

payments to the registrar of this Court in or towards satisfaction of the payments due to under a maintenance order made by this Court [*or* by the High Court of Justice (Probate, Divorce and Admiralty Division) (19 , (D) No.) [*or as the case may be*]] on the day of , 19 ;

And it appears that—

(*a*) the aggregate of the payments made for the purposes of the maintenance order exceeds the aggregate of the payments required by that order ; and

(*b*) the normal deduction rate specified by the attachment of earnings order exceeds the rate of payments required by the maintenance order ; and

(*c*) no proceedings for the variation or discharge of the attachment of earnings order are pending :

Take notice that unless the said applies to this court, within 14 days after the date of this notice, for an order discharging the attachment of earnings order or varying it in some other manner, the court will make an order varying the attachment of earnings order by reducing the normal deduction rate to the rate of payments required by the maintenance order or such lower rate as the court thinks fit having regard to the amount of the excess mentioned in paragraph (*a*) of this notice."

"394

NOTICE THAT PERSON SERVED WITH ATTACHMENT OF EARNINGS ORDER IS NOT THE RESPONDENT'S EMPLOYER

Order XLVI Rule 17 (18).

[*General Title—Form* 1]

Whereas by an attachment of earnings order made by the above-named court on the day of , 19 , I was directed to make payments to the Registrar of the said court out of earnings falling to be paid by me to the respondent, :

I hereby give notice under section 10 (4) of the Maintenance Orders Act, 1958, that on no occasion during the period of four weeks immediately preceding the day of , 19 , [*insert date of service of attachment of earnings order or such later date as may be appropriate*] was I the respondent's employer within the meaning of that Act.

Signed [*to be signed by the person to whom the attachment of earnings order was directed*]

To the Registrar of the above-named court."

PART II

MISCELLANEOUS

4. For paragraph (2) of Rule 2 of Order I, there shall be substituted the following paragraph:—

"(2) Every office shall be closed on Sundays, Bank Holidays and the following days—

(*a*) New Year's Day, or where New Year's Day falls on a Saturday or a Sunday, the following Monday ;

(*b*) the Thursday before Good Friday (from 12 noon) and Good Friday ;

(*c*) the Friday before Whit Sunday ;

(*d*) the day before Christmas Day, Christmas Day and, if Christmas Day falls on a Sunday or a Monday, the day after the Bank Holiday following Christmas Day ;

(*e*) any day appointed for public thanksgiving or mourning."

5. Paragraphs (1) and (2) of Rule 7 of Order VII shall each be amended as follows:—

(1) The following new sub-paragraph shall be inserted before sub-paragraph (i):—

" (i) the date of the mortgage or charge ; and ".

(2) The existing sub-paragraphs (i), (ii) and (iii) shall stand as sub-paragraphs (ii), (iii) and (iv) respectively.

6. Rule 1 of Order XII shall be amended as follows:—

(1) In paragraph (1) for the words " leave to issue and serve " there shall be substituted the words " leave to issue ".

(2) The following paragraph shall be substituted for paragraph (5):—

" (5) The notice, accompanied by a copy of the summons in the action and of the particulars annexed thereto, shall, subject to any directions as to the time for service, be served on the third party in accordance with the rules applicable to the service of an ordinary summons."

7. The following paragraph shall be substituted for paragraph (2) of Rule 1 of Order XIV:—

" (2) A copy of the interrogatories which it is proposed to deliver shall be served with the notice of application and filed in the court office."

8. Order XXVIII shall be amended as follows:—

(1) In Rule 1 after the words " seized in execution " there shall be inserted the words " or in respect of the proceeds or value thereof " and for the words " are situate " there shall be substituted the words " were seized ".

(2) In Rule 2 after the words " in Form 213 and " there shall be inserted the words " except where the claim is to the proceeds or value of the goods ".

(3) In paragraph (1) of Rule 3 for the words " title of the claimant " there shall be substituted the word " claim ".

9. Order XL shall be amended as follows:—

(1) The following new Rule shall be inserted after Rule 19:—

Refusal of licence or consent to assignment, etc.

" 20.—(1) An application for a declaration that a landlord has unreasonably withheld his licence or consent—

(*a*) to an assignment of the tenancy or a subletting, charging or parting with the possession of the demised property or any part thereof, or

(*b*) to the making of an improvement on the demised property or any part thereof, or

(*c*) to a change in the use of the demised property or any part thereof, or the making of a specified use of that property,

shall be made by originating application.

(2) (*a*) A respondent who wishes to oppose the application or to dispute an allegation contained therein shall, within 8 days after service of the application on him, inclusive of the day of service, file in the court office an answer, together with as many copies therof as there are other parties to the proceedings, specifying the allegations which he disputes and stating the grounds of his opposition.

(*b*) On receipt of the answer and copies the registrar shall send a copy to the applicant and to every other party to the proceedings."

(2) The existing Rule 20 shall be re-numbered and shall stand as Rule 21.

10. The following rule shall be added to Order XLI :—

Enforcement of order under s. 29.

" 8.—(1) Subject to the provisions of any Act or Rule relating to the enforcement of judgments or orders, proceedings for the enforcement of an order under section 29 of the Agricultural Holdings Act, 1948, shall be taken in the court for the district in which the party against whom the order was made resides or carries on business.

(2) When taking any such proceedings the party in whose favour the order was made shall file in the court office—

(*a*) a certified copy of the order, and

(*b*) an affidavit verifying the amount due under the order and stating whether any previous proceedings have been taken for its enforcement and, if so, the nature of the proceedings and their result."

11. Order XLVI shall be amended as follows :—

(1) The following Rule shall be inserted after Rule 1 :—

" *Solicitors Act*, 1957

5 & 6 Eliz. 2, c. 27.

2.—(1) An application under section 69 or section 70 of the Solicitors Act, 1957, for an order for the taxation of a bill of costs may be heard and determined by the registrar.

(2) Any other application under the said Act may be referred by the judge to the registrar, who shall thereupon have power to hear and determine it."

(2) In paragraph (1) of Rule 8 after the word " reference " there shall be inserted the words " or application ".

(3) The following Rule shall be substituted for Rule 11 :—

" *Married Women's Property Act*, 1882

45 & 46 Vict. c. 75.

11.—(1) (*a*) A respondent to an application under section 17 of the Married Women's Property Act, 1882, shall within 8 days of the service of the application on him, inclusive of the day of service, file in the court office an answer with as many copies as there are other parties to the proceedings, specifying the allegations which he disputes and stating the grounds of his opposition.

(*b*) On receipt of the answer and copies the registrar shall send a copy to the applicant and to every other party to the proceedings.

(2) The judge may refer the application to the registrar who shall thereupon have power to hear and determine it."

12. In paragraph (*c*) of Rule 17 of Order XLVIII for the word "judge" there shall be substituted the word "court" and for the word "he" there shall be substituted the word "it".

13. Order L shall be revoked.

14. Form 26 shall be amended as follows:—

(1) in the marginal note for the words "Rule 6 (1) (*c*) (ii)" there shall be substituted the words "Rules 4 (2) (*c*) (ii), 6 (1) (*c*) (ii)".

(2) The following paragraph shall be substituted for the first paragraph:—

"TAKE NOTICE that this matter will be heard at
County Court
[*insert here the address of court house*]
on the day of 19 , at o'clock, and that if you do not attend at the time and place above-mentioned such order will be made as the court thinks just."

15. In Forms 31 and 33 the words "[*or in the case of an ordinary summons,* the certificate of the plaintiff or his solicitor]" shall appear after instead of before the words "dated the day of 19 ".

16. In the Notes to Forms 64 and 142 there shall be substituted for the words "in person" the words "at the Court Office".

17. In the third paragraph of Form 162 after the words "ten shillings per day" there shall be inserted the words "or, where a possession man is employed, seventeen shillings and sixpence per day".

18. In Form 184 the words "Bailiff [*or* gaoler]" and "Registrar" at the end of the Table shall be omitted.

19. In Form 186 the word "Registrar" at the end of the Table shall be omitted.

20. Form 203A shall be amended as follows:—

(1) In the second paragraph for the word "namely" there shall be substituted the words "then amounting to".

(2) At the end of the fifth paragraph after the words "to the plaintiff" there shall be added the words "unless the unpaid balance of the hire purchase price now amounting to £ : : shall sooner be paid".

21. Form 213 shall be amended as follows—

(1) After the words "has claimed" there shall be inserted the words "[the proceeds of sale or value of]";

(2) for the words " the title of the said to the said goods " there shall be substituted the words " the claim of the said ";

(3) for the words " the title of to the goods " there shall be substituted the words " the claim of in respect of the goods ".

22. Notwithstanding anything in Rules 14, 16 and 21 of these Rules, Forms 26, 64, 142 and 213 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.
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.

I allow these Rules which shall come into force on the 16th day of February, 1959.

Kilmuir, C.

Dated the 23rd day of December, 1958.

EXPLANATORY NOTE

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

Part I of these Rules prescribes the procedure to be followed in proceedings in the county courts under the Maintenance Orders Act, 1958.

Part II makes a number of miscellaneous amendments to the County Court Rules with the principal objects of (*a*) reducing and restating the days on which the court offices are to be closed, (*b*) enabling a third party notice to be served in the same manner as an ordinary summons, (*c*) requiring an application for leave to administer interrogatories to be accompanied by the interrogatories proposed, (*d*) providing that an application for a declaration that a landlord has unreasonably refused his consent to an assignment or subletting shall be made by originating application and that the respondent in such a case (and in the case of an application under section 17 of the Married Women's Property Act, 1882) shall file an answer, (*e*) providing for the exercise by the registrar of the court's jurisdiction under the Solicitors Act, 1957, and (*f*) making alterations for the purposes of the Agriculture Act, 1958.

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