PROCEDURE

1959 No. 1251 (L. 7)

The County Court (Amendment) Rules, 1959

Made - - - -	21*st July*, 1959
Coming into Operation	1*st October*, 1959

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1959.

(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 and D mean respectively Appendices A, B and D 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 the County Court Rules, 1936, as amended, for the Roman numerals which designate the number of each Order there shall be substituted the corresponding Arabic numerals.

3.—(1) In Rule 2 of Order 49 in the definition of "The Act" for the words "the County Courts Act, 1934" there shall be substituted the words "the County Courts Act, 1959".

(2) In each of the Rules specified in the first column of the First Schedule to these Rules for the reference to the section and subsection, if any, specified in the second column there shall be substituted a reference to the section and subsection, if any, specified in the third column.

(3) In each of the Rules and Forms specified in the first column of the Second Schedule to these Rules for the words specified in the second column there shall be substituted the words specified in the third column.

(4) In Rule 9 of Order 6 and in Forms 1, 100, 101, 265 and 275 for the words "the County Courts Act, 1934" there shall be substituted the words "the County Courts Act, 1959".

(5) In the Rule and in each of the Forms specified in the first column of the Third Schedule to these Rules for the section and subsection, if any, specified in the second column there shall be substituted the section and subsection, if any, specified in the third column and for the words "the County Courts Act, 1934" there shall be substituted the words "the County Courts Act, 1959".

4. In paragraph (6) of Rule 19 of Order 5 after the words "the judge" there shall be inserted the words "or, with the leave of the judge, the registrar", and the proviso to that paragraph shall be omitted.

5. Rule 1 of Order 11 shall be amended by adding at the end of paragraph (2) and at the end of sub-paragraph (*c*) of paragraph (3) the words "unless the court otherwise orders".

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

6. In paragraph (4) of Rule 13 of Order 16 after the words " the judge " there shall be inserted the words " or, with the leave of the judge, the registrar ", and the proviso to that paragraph shall be omitted.

7. The following sub-paragraph shall be substituted for sub-paragraph (*h*) of paragraph (1) of Rule 2 of Order 19:—

" (*h*) when the report has been filed—

(i) if the further consideration of the proceedings has not been adjourned to a day named, the registrar shall fix a day and give not less than 10 clear days' notice thereof to all parties;

(ii) on the day named or fixed any party may apply to the judge to adopt the report or, on giving not less than 5 days' notice of his intention to do so, may apply to the judge to vary the report or to remit it or any part of it for further inquiry and report, and any such notice shall contain particulars of the variation or remission sought;

(iii) the court may at any time on the application of any party or the referee determine by whom and (if by more than one person) in what proportions the remuneration and expenses of the referee shall be borne, whether or not any payment or deposit has been made for or on account of such remuneration and expenses, and may make all orders and give all directions necessary to give effect to the determination."

8. Order 25 shall be amended as follows:—

(1) The following paragraph shall be added to Rule 8:—

" (3) Nothing in this Rule shall be construed as enabling the registrar to suspend or stay execution of a warrant issued out of another court."

(2) In paragraph (2) of Rule 25 for the words " Where an execution creditor " to " authorising the registrar to re-enter " there shall be substituted the words " Where the request is stated to be made in pursuance of an arrangement between the execution creditor and the execution debtor ", and the words " Form 165 " in the margin shall be omitted.

(3) For paragraph (*b*) of Rule 37 there shall be substituted the following paragraph:—

" (*b*) an affidavit in Form 175; and".

(4) In the margin of paragraph (3) of Rule 39 there shall be inserted the words " Form 176 ".

9. In paragraph (2) of Rule 7 of Order 39 for the words " 3, Birdcage Walk " there shall be substituted the words " 35, Old Queen Street ".

10. The following paragraph shall be added at the end of Rule 17 of Order 46:—

" (20) Where costs are awarded on an application for an attachment of earnings order, the provisions of paragraph (2) of Rule 66 of Order 25 shall apply as if the application were a judgment summons issued in respect of the arrears due under the related maintenance order."

11. Rule 30 of Order 47 shall be amended as follows:—

(1) In paragraphs (2) and (4) there shall be inserted at the beginning the words " Subject to paragraph (5) " and for the words " 3 guineas " there shall be substituted the words " 5 guineas ".

(2) In paragraph (2) for the words " 8 guineas " there shall be substituted the words " 10 guineas ".

(3) The proviso to paragraph (2) shall be omitted.

(4) The following paragraph shall be added after paragraph (4) :—

" (5) If in any particular case the judge certifies that the fee for qualifying to give evidence or for a report in writing or for attending the court ought not to be limited as aforesaid, the fee to be allowed on taxation shall be such larger sum as the registrar thinks reasonable."

12. In paragraph (2) of Rule 21 of Order 48 after the words " by the judge " there shall be inserted the words " or, if the registrar ordered the document to be impounded, by the registrar ".

13. In Form 5 for the words " open from " to the end of the form there shall be substituted the words " open from 10 a.m. till 4 p.m. on Mondays to Fridays only [*or as the case may be*] ".

14. In Form 6 for the words " [*here insert name*[*s*]] " there shall be substituted the words " [*here insert full names where known, otherwise surname*[*s*] *and initial*[*s*]] ".

15. In the following Forms for the words " at the hour of in the noon " there shall be substituted the words " at o'clock ": —

Forms 14, 15, 27 (1), 27 (2), 41, 42, 49, 51, 71, 72, 78, 81, 91, 92, 93, 94, 95, 109, 112, 113, 114, 123, 124, 125, 127, 150, 167, 173, 194, 197, 206, 215, 216, 217, 218, 223, 224, 225, 226, 227, 237, 246, 249, 250, 266, 270, 271, 272, 273, 278, 291, 292, 295, 317, 320, 324, 326, 332, 343, 350, 351, 354, 356, 362, 377, 380, 387 and 388.

16. In the following Forms for the word " holden " there shall be substituted the word " held ": —

Forms 27 (1), 27 (2), 92, 93, 94, 95, 197, 206, 211, 215, 216, 217, 218, 223, 224, 225, 226, 227, 261, 266, 268 (1), 269 (1), 269 (2), 272, 273, 277, 324, 326, 343, 350, 351 and 362.

17. In the last paragraph of Form 51 for the words " postponed till " there shall be substituted the words " adjourned until ".

18. In Forms 124 and 125 for the words " in this court at the Court House, situate at " there shall be substituted the words " at County Court [*here insert address of Court House*] ".

19. In Form 127 for the words " in this court at the Court House situate at " there shall be substituted the words " at [*here insert address of Court House*] ".

20. In the table to Forms 158 and 158A after the words " Amount of judgment [*or* order] " there shall be inserted the words " and costs ", and the entry " Costs " shall be omitted.

21. In the table to Form 158B after the words " Debt/damages " where they first appear there shall be inserted the words " and costs ", and the entry " Costs " shall be omitted.

22. Form 165 shall be revoked.

23. In Form 172 for the words "[*here insert name*[*s*]]" there shall be substituted the words "[*here insert full names where known, otherwise surname*[*s*] *and initial*[*s*]]".

24. In the marginal note to Form 176 after the words "Rule 2 (*c*) (i)" there shall be inserted the words "Order 25, Rule".

25. In Form 186 for the words "such an affidavit as is mentioned in Order 25, Rule 51, of the County Court Rules" there shall be substituted the words "an affidavit in Form 181".

26. In Form 223 the third paragraph shall be omitted.

27. In Forms 224 and 225 for the words "day and hour" there shall be substituted the words "and time".

28. In Forms 231 and 381 for the words "*add, if neither the value nor the rent of the property exceeds £100 a year*" there shall be substituted the words "*add, if the net annual value for rating of the property does not exceed £100*".

29. In Form 326 for the words "3, Birdcage Walk" there shall be substituted the words "35, Old Queen Street".

30. Scales 2, 3 and 4 of Appendix B shall be amended as follows:—

(1) The following paragraph shall be substituted for paragraph (viii) of Item 1:—

"(viii) for preparing any document to which Item 3 (*b*) applies or for making or opposing any application to which Item 9 applies, where in the opinion of the registrar the instructions were necessary".

(2) The following note shall be added to Item 2 after the existing note (which shall stand as *Note 1*):—

"*Note 2.*—Where the document is settled by counsel, Items 3 (*a*) and 4 are allowable and not this item."

(3) The following item shall be substituted for Item 3:—

	Scale 2	*Scale* 3	*Scale* 4
	£ s. d.	£ s. d.	£ s. d.
"3 (*a*) Preparing instructions to counsel to settle any pleading or other document or to advise on evidence or to advise on merits, where counsel's fee is allowed under Item 31	– 5 0 to – 10 0	– 5 0 to 1 0 0	– 15 0 to 1 10 0
(*b*) Preparing any necessary document not otherwise provided for and all necessary copies thereof	– 5 0	– 5 0	– 5 0
And per folio beyond five	– 1 0	– 1 0	– 1 0
Note.—Item 3 (*b*) is not to be allowed for preparing a praecipe or a notice of acceptance or non-acceptance of an admission and proposal as to time of payment."			

(4) In paragraph (*d*) of Item 13 the words " in chambers " shall be omitted.

(5) In Item 35 the letter " (*a*) " shall be inserted before the words " For postages " and the following paragraph shall be added at the end:—

" (*b*) For telegrams and telephone calls, the sum actually and reasonably paid."

31. For the Directions in Part II of Appendix D there shall be substituted the following Directions:—

" Where an amount in respect of solicitors' charges has been entered on the summons under Part I of this Appendix and judgment is entered or given in the circumstances mentioned in one of the paragraphs in Column 1 of the following Table, the amount to be included in the judgment in respect of the plaintiff's solicitors' charges shall be—

(*a*) the amount shown against that paragraph in Column 2 of the following Table under the Scale applicable to the proceedings ; and

(*b*) the amount entered on the summons or the amount which would have been entered had it been fixed by reference to the Scale eventually applicable, as the case may be."

32. Notwithstanding anything in these Rules the Forms amended hereby 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.

Donald Hurst.
Alun Pugh.
W. M. Andrew.
D. O. McKee.
O. Temple-Morris.
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 1st day of October, 1959.

Kilmuir, C

Dated the 21st day of July, 1959.

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

Rule 3 (2) FIRST SCHEDULE

Rule	Section and subsection to be deleted	Section and subsection to be substituted
Order 1, Rule 4 (1)	35	34
Order 3, Rule 2 (1) (*a*)... ...	77	80
Order 5, Rule 11	77	80
Order 5, Rule 19 (9)	77	80
Order 7, Rule 1 (2)	42 (1)	41 (1)
Order 16, Rule 10 (1)	74	77
Order 16, Rule 10 (1)	138	146
Order 16, Rule 10 (2)	74 (1) (*a*)	77 (1) (*a*)
Order 16, Rule 10 (2)	138 (2)	146 (2)
Order 16, Rule 10 (2) (*b*) ...	65	67
Order 16, Rule 10 (3)	74 (1) (*a*)	77 (1) (*a*)
Order 16, Rule 10 (3)	138 (2)	146 (2)
Order 16, Rule 11 (*a*)	74	77
Order 16, Rule 11 (*a*)	138	146
Order 16, Rule 12	74	77
Order 16, Rule 12	138	146
Order 16, Rule 13 (1)	164	174
Order 16, Rule 16	64	66
Order 19, Rule 1 (1)	90	93
Order 22, Rule 1...	37	36
Order 24, Rule 9...	96	99
Order 24, Rule 16 (1)	97	100
Order 24, Rule 30 (3)	116	120
Order 25, Rule 9 (1)	135	138
Order 25, Rule 9 (1)	143	161
Order 25, Rule 25 (2)	116 (3)	120 (3)
Order 25, Rule 31 (1)	129	132
Order 25, Rule 32 (1)	151	150
Order 25, Rule 52	149	148
Order 25, Rule 53 (1)	151	150
Order 25, Rule 57	143	161
Order 28, Rule 6...	132	135
Order 28, Rule 10	132	135
Order 34, Rule 1 (2)	31	30
Order 34, Rule 1 (2)	124	127
Order 34, Rule 2 (1)	145	164
Order 34, Rule 2 (1)	32	31
Order 34, Rule 2 (2)	145	164
Order 34, Rule 2 (2)	32	31
Order 34, Rule 3...	31	30
Order 34, Rule 3...	32	31
Order 34, Rule 3...	124	127
Order 34, Rule 3...	145	164
Order 34, Rule 4...	92 (4)	95 (4)
Order 34, Rule 5...	81	84
Order 34, Rule 6...	92	95
Order 34, Rule 6...	81	84
Order 34, Rule 7...	139	157
Order 34, Rule 7A	31	30
Order 34, Rule 7A	124	127
Order 34, Rule 7A	139	157
Order 35, Rule 38 (2)	80	83
Order 35, Rule 38 (3)	80	83
Order 36, Rule 7...	62	64
Order 36, Rule 8...	61	63
Order 36, Rule 9...	60	62
Order 36, Rule 9...	61	63
Order 37, Rule 7 (1)	89	92
Order 47. Rule 9 (1)	74	77

Rule 3 (3) SECOND SCHEDULE

Rule or Form	Words to be deleted	Words to be substituted
Order 2, Rule 2	section 35 of the Administration of Justice Act, 1956	section 141 of the Act
Order 8, Rule 41A ...	section 4 of the Administration of Justice Act, 1956	section 70 of the Act
Order 8, Rule 41A ...	the said section 4	the said section 70
Order 24, Rule 22 (4) ...	section 27 (4) of the Administration of Justice Act, 1956	section 144 (3) of the Act
Order 25, Rule 7 (1) ...	section 35 of the Administration of Justice Act, 1956	section 141 of the Act
Order 25, Rule 43 (1) ...	subsection (2) of section 27 of the Administration of Justice Act, 1956	subsection (1) of section 144 of the Act
Order 25, Rule 43 (3) ...	subsection (3) of the said section 27	subsection (2) of the said section 144
Order 25, Rule 43 (4) ...	subsection (4) of the said section 27	subsection (3) of the said section 144
Order 25, Rule 43 (5) ...	the said subsection (4)	the said subsection (3)
Order 25, Rule 70... ...	section 27 of the Administration of Justice Act, 1956	section 144 of the Act
Order 27, Rule 1A ...	section 38 of the Administration of Justice Act, 1956	section 143 of the Act
Order 35, Rule 9 (1) (*a*) ...	section 3 (3) of the Administration of Justice Act, 1956	section 57 (2) of the Act
Order 35, Rule 9 (1) (*b*) ...	section 3 (4) of the said Act	section 57 (3) of the Act
Order 35, Rule 9 (1) (*b*) (ii)	section 4 of that Act	section 70 of the Act
Order 47, Rule 40 (1) ...	section 184 of the Act	the Solicitors Act, 1957
Order 47, Rule 40 (9) ...	Solicitors Act, 1932	Solicitors Act, 1957
Form 111	24 & 25 Geo. V. c. 53, s. 89	7 & 8 Eliz. 2. c. 22, s. 92
Form 179A	section 27 of the Administration of Justice Act, 1956	section 144 of the County Courts Act, 1959
Form 179B...	section 27 of the Administration of Justice Act, 1956	section 144 of the County Courts Act, 1959
Form 266	County Courts Acts, 1934 to 1956	County Courts Act, 1959
Form 281	section 3 (3) or (4) of the Administration of Justice Act, 1956	section 57 (2) or (3) of the County Courts Act, 1959
Form 281	section 4 of the Administration of Justice Act, 1956	section 70 of the County Courts Act, 1959
Form 379	24 & 25 Geo. V. c. 53, s. 83	7 & 8 Eliz. 2. c. 22, s. 86
Form 380	24 & 25 Geo. V. c. 63, s. 83	7 & 8 Eliz. 2. c. 22, s. 86

Rule 3 (5) THIRD SCHEDULE

Rule or Form	Section and subsection to be deleted	Section and subsection to be substituted
Order 40, Rule 13	88 (1)	91 (1)
Form 112	90	93
Form 124	92	95
Form 125	92	95
Form 162	129	132
Form 169	149	148
Form 187	143	161
Form 214	132	135
Form 219	134	137
Form 272	145	164
Form 273	32	31
Form 278	92	95
Form 278	81	84
Form 379	83	86
Form 380	83	86

EXPLANATORY NOTE

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

These Rules make amendments in the County Court Rules consequential on the consolidation of the County Courts Acts by the County Courts Act, 1959. They also remove archaisms in the prescribed forms. In addition, they make a number of amendments of substance the most important of which are as follows :—

(*a*) The court is given a discretion to order the payment of taxed costs, instead of the fixed costs stated on the summons, where the defendant satisfies the claim within 8 days after service.

(*b*) The requirement that a creditor who wishes to suspend the execution of a warrant must file the debtor's signed authority to re-enter is abolished.

(*c*) The costs allowable on an application for an attachment of earnings order are equated with the lower amounts allowable on a judgment summons.

(*d*) The fees allowable in respect of expert witnesses are increased to 5 guineas for qualifying to give evidence and 10 guineas for attending court.

(*e*) The scales of costs are amended so as to indicate more clearly which items are allowable where particulars of claim are settled by counsel.

(*f*) A new item is inserted in the scales of costs to enable a reasonable sum to be allowed for telegrams and telephone calls.