STATUTORY INSTRUMENTS

1961 No. 1526

COUNTY COURTS

PROCEDURE

The County Court (Amendment) Rules, 1961

Made - - - - 2*nd August*, 1961
Coming into Operation 15*th September*, 1961

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1961.

(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 C mean respectively Appendices A, B and C 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. Rule 1 of Order 2 shall be amended as follows:—

(1) The following paragraph shall be substituted for paragraph (3):—

"(3) Where the action is founded on a hire-purchase agreement, or on a contract for the sale or hire of goods under which the purchase-price or rental is payable otherwise than in one sum, then, unless the amount claimed exceeds £100 (including the value of any goods sought to be recovered) paragraph (1) (*b*) of this Rule shall have effect as if for the words "the cause of action wholly or in part arose" there were substituted the words "the defendant or one of the defendants resided or carried on business when the contract was made".

(2) Paragraph (4) shall be omitted and paragraph (5) shall stand as paragraph (4).

3. In paragraph (2) of Rule 2 of Order 6 sub-paragraph (*a*) shall be omitted and sub-paragraphs (*b*), (*c*), (*d*) and (*e*) shall stand as sub-paragraphs (*a*), (*b*), (*c*) and (*d*) respectively.

4. In sub-paragraph (*b*) of paragraph (2) of Rule 9 of Order 7 the word "further" shall be omitted.

5. Rule 4 of Order 9 shall be amended as follows:—

(1) In paragraph (4) the words "subject to paragraph (8) of this Rule" shall be omitted and at the beginning of the paragraph there shall be inserted the words "Subject to paragraph (8) of this Rule and paragraph (2) of Order 13, Rule 3".

(2) The following paragraph shall be substituted for paragraph (8):—

"(8) On or at any time after the making of an order under paragraph (5) or (7) of this Rule the court may direct that if the defendant fails to comply with the order he shall be debarred from defending altogether."

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

6. Order 13 shall be amended as follows:—

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

(*a*) At the end of paragraph (2) there shall be added the words "and may at the same or any subsequent time order that, if the direction is not complied with, the action be dismissed or, as the case may be, the defendant be debarred from defending altogether".

(*b*) The following paragraphs shall be added after paragraph (2):—

"(3) In every action or matter which is to be heard by the judge the registrar shall, after the time for filing a defence or an answer has expired, consider whether it is necessary or desirable to exercise of his own motion any of the powers conferred on him by this Rule in order to secure the just, expeditious and economical disposal of the proceedings, and he may, with a view to obtaining assistance in such consideration, give to the parties notice in Form 367, requiring them to appear before him on a day named in the notice.

Form 367.

(4) Any party given such notice who wishes to apply on the day named for any particular direction shall give to the registrar and to every other party two clear days' notice indicating the direction he desires.

(5) An order for directions shall be in Form 368."

Form 368.

(2) Rule 4 shall be amended as follows:—

(*a*) In paragraph (1) after the word "adjourn" there shall be inserted the words "or advance the date of".

(*b*) In paragraph (2) after the word "adjournment" there shall be inserted the words "or advancement of the date of the hearing".

7. Rule 9 of Order 16 shall be amended as follows:—

(1) In paragraph (1) after the word "judge" there shall be inserted the words "or registrar of any county court" and for the words "which is being administered under Rule 13 of this Order" there shall be substituted the words "which has been received by that court under Order 5, Rule 19 (2) (*c*), or section 174 of the Act".

(2) In paragraph (2) for the words from "a certified copy" to the end of the paragraph there shall be substituted the words "to the registrar of the other court a certified copy of the record of the proceedings and, if so requested by that registrar, all the documents in his custody relating to the proceedings".

8. For sub-paragraphs (*b*) and (*c*) of paragraph (8) of Rule 16 of Order 24 there shall be substituted the following sub-paragraph:—

"(*b*) where any sums are ordered to be set off, the registrar shall on receipt of a copy of the order act in accordance with paragraph (6) of this Rule."

9. The following new Rule shall be inserted in Order 25 after Rule 7:—

Enforcement of award of tribunal.

"7A.—(1) Where by any Act or statutory instrument other than the County Court Rules a sum of money is, if the county court so orders, recoverable as if payable under an order of that court, an application for such an order shall be made by originating application.

(2) Unless otherwise provided, the application shall be filed in the court for the district in which the person by whom the sum is payable resides or carries on business.

(3) The application may be made ex parte.

(4) At the hearing of the application the applicant shall produce any award, order or agreement under which the sum is payable to him, or a duplicate thereof, and shall file a copy thereof, together with an affidavit verifying the amount remaining due to him.

(5) The order on the application may be made by the registrar and shall be in Form 165." Form 165.

10. In Rule 5 of Order 31 for the words "according to the following scale" there shall be substituted the words "of 15 guineas", and the scale at the end of the Rule shall be omitted.

11. In Rule 8 of Order 40 after paragraph (1) there shall be inserted the following new paragraph:—

"(1A) Order 8, Rule 38, shall apply in relation to an originating application under this Rule as it applies in relation to a default summons but with the substitution for the references to 12 months of references to one month."

12. Rules 5 and 6 of Order 41 and Rules 7 and 8 of Order 46 shall be revoked.

13. The following new Rule shall be inserted in Order 47 after Rule 40:—

Taxation of costs awarded by tribunal.

"41.—(1) An application for the taxation of any costs, fees or expenses which by or under any Act or statutory instrument other than the County Court Rules fall to be taxed by a county court shall be made by originating application.

(2) The applicant shall lodge with his originating application a bill of the costs, fees or expenses to be taxed and annex a copy of the bill to every copy of the originating application for service.

(3) The application may be made to the registrar and the Rules relating to originating applications shall apply as if the taxation were the hearing of the application.

(4) On the completion of the taxation or, in the case of a review by the judge, after the review the registrar shall send to every party a certificate of the result of the taxation.

(5) Nothing in this Rule shall apply to an application for the taxation of a returning officer's charges under section 20 of the Representation of the People Act, 1949."

14. Form 7 shall be amended as follows:—

(1) For paragraph 8 there shall be substituted the following paragraph:—

"8. Defendant's surname and (where known) his or her initials or names in full; defendant's residence or place of business (if a proprietor of the business)."

(2) In paragraph 9 for the words "whether married, single or a widow" there shall be substituted the words "whether Mrs. or Miss".

(3) In paragraph 11 after the word "Occupation" there shall be added the words "(where known)".

15. Forms 8 and 11 shall be amended as follows:—

(1) For the first paragraph beginning with the word "Where" there shall be substituted the following paragraphs:—

"Where the claim is founded on a hire-purchase agreement and does not exceed £100, Question 3 must be answered.

Where the claim is founded on a contract for the sale or hire of goods and does not exceed £100, Question 1 must be answered and if the answer is 'No', Question 3 must be answered."

(2) The second paragraph beginning with the word "Where" shall be omitted.

(3) In the third paragraph beginning with the word "Where" for the words "Questions 2 to 5" there shall be substituted the words "Questions 2, 4 and 5" and for the words "Questions 2 and 3" there shall be substituted the words "Question 2".

(4) For Question 1 there shall be substituted the following question:—

"1. Was the purchase-price or rental payable in one sum?"

(5) For Question 3 there shall be substituted the following question:—

"3. Did the defendant reside or carry on business in the district of the Court at the time when the contract was made and, if so, where?"

16. In Form 10 the paragraphs beginning "[*Where claim does not exceed Five Pounds*]" and "The defendant is [*or* is the wife of]" shall be omitted.

17. Form 71 shall be amended as follows:—

(1) In the title after the word "adjourn" there shall be inserted the words "or advance hearing of".

(2) After the words "adjourned until" there shall be inserted the words "[*or* advanced to]".

18. In Form 80 after the words "interrogatories in writing" there shall be inserted the words "as initialled by the Registrar of this Court".

19. The following new Form shall be inserted in Appendix A after Form 164:—

"165

ORDER FOR RECOVERY OF MONEY AWARDED BY TRIBUNAL

Seal

Order 25, Rule 7A.

[*General Title—Form* 1]

Upon the application of and upon reading an award [*or* order] [*or* agreement] made in the above-mentioned matter on the day of , 19 , and an affidavit of filed on the day of , 19 , and upon hearing

It is ordered that the applicant do recover from the sum of £ , being the total amount [*or* the balance of the total amount] of a sum of £ which by the said award [*or* order] [*or* agreement] was awarded [*or* ordered] [*or* agreed] to be paid by the said to the applicant, and the further sum of £ for costs which by the said award [*or* order] [*or* agreement] were awarded [*or* ordered] [*or* agreed] to be paid by the said to the applicant, amounting together to the sum of £ , [part of] which said sum [amounting to £] remains unpaid, together with the sum of £

for the costs of this application; and that in default of payment of the said sums of £ and £ by the said to the applicant within days from the date of this order, the said sums or so much thereof as shall remain unpaid shall be recoverable as if payable under an order of this Court."

20. In the side-notes to Forms 270 and 271 for the words "24 and 25 Geo. 5. c. 53, s. 169 (*b*)" there shall be substituted the words "7 & 8 Eliz. 2 c. 22, s. 179 (*b*)".

21. Form 345 shall be revoked.

22. The following Forms shall be inserted in Appendix A after Form 366:—

"367

Seal

Order 13, Rule 3 (3).

NOTICE TO ATTEND FOR DIRECTIONS

[*General Title—Form* 1]

TAKE NOTICE that you are hereby required to attend at the Court Office at , on , the day of , 19 , at o'clock, when the Registrar will consider whether directions should be given in this action [*or* matter] under Order 13, Rule 3, of the County Court Rules, in order to secure the just, expeditious and economical disposal of the proceedings.

NOTE. You should be prepared to tell the Registrar how long the action is likely to last, giving reasons for your estimate. If you wish to apply at the same time for any particular direction, you must give to the Registrar and to every other party two clear days' notice indicating the direction you desire."

"368

Seal

Order 13, Rule 3 (5).

ORDER FOR DIRECTIONS

[*General Title—Form* 1]

UPON HEARING

IT IS ORDERED that

1. The Plaintiff do, within days after service of this order upon him, file in the Court Office the following further particulars of his claim, namely [*set out and number each item*] and deliver a copy to the Defendant

[, and that, if he fails to do so, the action be dismissed].

[*or* The Defendant do, within days after service of this order upon him, file in the Court Office full particulars of his defence, if any, to this action [*or* the following further particulars of his defence, namely [*set out and number each item*]], and deliver a copy to the Plaintiff

[, and that, if he fails to do so, the Defendant be debarred from defending altogether].]

2. [*Set out such further directions as may be given and number each item*]."

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

(1) In Item 4 for the words from "Per folio" to the end of the item there shall be substituted the words:—

	Scale 2	*Scale 3*	*Scale 4*
	£ s. d.	£ s. d.	£ s. d.
"(*a*) for photographic copies, the actual and reasonable cost;	—	—	—
(*b*) for carbon copies, per folio ...	3	3	3
(*c*) in any other case, per folio ...	6	6	6"

(2) For paragraphs (*b*) and (*c*) of Item 31 and the Note thereto there shall be substituted the following paragraph:—

	Scale 2	*Scale 3*	*Scale 4*
	£ s. d.	£ s. d.	£ s. d.
"(*b*) For advising in writing on any question in the proceedings on which in the opinion of the registrar it was proper to obtain counsel's advice, including advising on evidence, advising on merits before action brought or defence filed and advising on quantum or on proposal and terms of settlement	2 4 6	2 4 6 to 3 5 6	2 4 6 to 3 5 6"

24. Appendix C shall be amended as follows:—

(1) In column 1 for the figures "1 0 0", "17 6" and "10 0" there shall be substituted the figures "3 0 0", "1 15 0" and "1 0 0" respectively.

(2) In column 2 for the figures "3 0 0", "17 6" and "1 10 0" there shall be substituted the figures "8 0 0", "1 15 0" and "3 0 0" respectively.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Act, 1959(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
D. O. McKee
D. Freeman Coutts
W. Ralph Davies
H. G. Talbot
H. T. Buckee
Arthur J. Driver
A. F. Stapleton Cotton

I allow these Rules which shall come into force on the 15th day of September, 1961.

Kilmuir, C.

Dated the 2nd day of August, 1961.

(a) 7 & 8 Eliz. 2. c. 22.

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, of which the following are the most important:—

(1) Changes are made in the rule relating to venue in actions under hire-purchase agreements and contracts for the sale or hire of goods (Rule 2 (1)).

(2) The restrictions on the issue of summonses against domestic and outdoor servants and persons engaged in manual labour are removed (Rules 2 (2) and 3).

(3) The registrar is required to examine every case in the judge's list to see whether directions are needed under Order 13, Rule 3 (Rules 6 and 22).

(4) The rules relating to the taxation of costs and recovery of money awarded by particular tribunals are replaced by general provisions applying to them all (Rules 9, 13 and 19).

(5) The fees payable to assessors and witnesses of fact are increased (Rules 10 and 24).

(6) An originating application under section 24 of the Landlord and Tenant Act, 1954, is required to be served within one month unless the time is extended by the court (Rule 11).

(7) Provision is made in the scales of costs—

(*a*) for fees to counsel for advice on the amount of a claim, on settlement, etc.;

(*b*) for the cost of photographic copies (Rule 23).