STATUTORY INSTRUMENTS

1962 No. 1293 (L. 13)

COUNTY COURTS

PROCEDURE

The County Court (Amendment) Rules 1962

Made - - - - 22*nd June* 1962

Coming into Operation 16*th July* 1962

1.—(1) These Rules may be cited as the County Court (Amendment) Rules 1962.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(a), as amended, "Appendix A" means Appendix A to those Rules and a Form referred to by number means the Form so numbered in Appendix A.

2. Rule 19 of Order 5 shall be amended as follows:—

(1) The following paragraph shall be inserted after paragraph (3):—

"(4) The costs payable to his solicitor by any plaintiff in the proceedings shall be taxed as between solicitor and client and no costs shall be payable to the solicitor except the amount allowed on such taxation."

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

"(5) On the taxation of a solicitor's bill to any plaintiff in accordance with the last foregoing paragraph the registrar shall also tax any costs payable to that plaintiff in the proceedings and shall certify—

(*a*) the amount (if any) by which the amount allowed on the taxation of the solicitor's bill exceeds the amount allowed on the taxation of the costs payable to that plaintiff in the proceedings, and

(*b*) where necessary, the proportion of the amount of the excess payable by or out of any money belonging to any party to the proceedings who is a person under disability."

3. Paragraph (2) of Rule 2 of Order 6 shall be amended as follows:—

(1) At the end of sub-paragraph (*d*) there shall be added the word "or".

(2) After sub-paragraph (*d*) there shall be added the following sub-paragraph:—

"(*e*) under a hire-purchase agreement to recover more than the amount of any instalment or instalments of the hire-purchase price which is or are due and unpaid."

4. Rule 7A of Order 7 shall be amended as follows:—

(1) At the beginning there shall be inserted the figure "(1)".

(2) The following paragraph shall be added at the end:—

"(2) Where a plaintiff claims money due under a hire-purchase agreement but not the delivery of goods, he shall in his particulars state in the order following—

(i) the date of the agreement and the parties thereto;

(ii) the goods let under the agreement;

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

(iii) the amount of the hire-purchase price;

(iv) the amount paid by or on behalf of the hirer;

(v) the amount (if any) claimed as being due and unpaid in respect of any instalment or instalments of the hire-purchase price;

(vi) the amount of any other claim and the circumstances in which it arises."

5. In paragraph (*b*) of the proviso to Rule 29 of Order 8, for the words "Order 2, Rule 1 (5)" there shall be substituted the words "Order 2, Rule 1 (4)".

6. Order 11 shall be amended as follows:—

(1) Paragraph (3) of Rule 1 shall be omitted.

(2) Rule 4 shall be revoked.

(3) The following paragraph shall be substituted for paragraph (2) of Rule 10:—

"(2) Money in court for the benefit of a person in respect of whom a certificate is, or has been, in force under Part I of the Legal Aid and Advice Act 1949, entitling him to legal aid in the proceedings, shall be paid out only to his solicitor or, if he is no longer represented by a solicitor, the Law Society."

12, 13 & 14 Geo. 6. c. 51.

7. Rule 3 of Order 13 shall be amended as follows:—

(1) The following paragraph shall be substituted for paragraph (4):—

"(4) Any party given such notice shall, so far as practicable, apply on the day named in the notice for any particular direction which he may desire and shall give to the registrar and every other party two clear days' notice of his intention to do so."

(2) The following paragraphs shall be added after paragraph (5):—

"(6) Where notice in Form 367 is given, the provisions of these Rules relating to interlocutory applications shall have effect as if the day named in the notice were the day fixed for the hearing of an interlocutory application.

(7) Where the registrar does not give to the parties notice in Form 367, he may give them notice in Form 369 fixing the time within which any interlocutory application must, so far as practicable, be made in the action or matter.

Form 369.

(8) If an application which might have been made on the day named in a notice in Form 367 or, as the case may be, within the time fixed by a notice in Form 369 is made subsequently, the applicant shall pay the costs of and occasioned by the application, unless the court is of opinion that there was sufficient reason for the application not having been made on the day so named or within the time so fixed."

8. The following Rule shall be inserted in Order 46 after Rule 2:—

The Housing Act 1961

"3.—(1) An application under section 33 (6) of the Housing Act 1961 for an order authorising the inclusion in a lease of provisions excluding or modifying the provisions of section 32 of the Act may be heard and determined in chambers.

9 & 10 Eliz. 2. c. 65.

(2) The application may, with leave of the judge, be heard and determined by the registrar."

9. In paragraph (2) of Rule 8 of Order 47 the words "without a denial of liability or without a plea of tender" shall be omitted.

10. In Form 11 for the words "Where the claim is founded on a hire-purchase agreement" there shall be substituted the words "Where the claim is for the amount of any instalment or instalments due and unpaid under a hire-purchase agreement"

11. In Forms 65 and 66 the words "[*add, if so* with a denial of liability *or* with a defence of tender before action]" shall be omitted.

12. In Form 367 for the words from "If you wish to apply" to "the direction you desire" there shall be substituted the words "If you desire any particular direction, you must, so far as practicable, apply for it at the same time and give to the Registrar and to every other party two clear days' notice of your intention to do so. If you apply subsequently, you will have to pay the costs of and occasioned by the application, unless the Court is of opinion that there was sufficient reason for the application not having been made on the day mentioned above."

13. The following Form shall be inserted in Appendix A after Form 368:—

"369 SEAL.

Order 13, Rule 3 (7).

NOTICE FIXING TIME FOR MAKING INTERLOCUTORY APPLICATION

[*General Title—Form* 1]

TAKE NOTICE that the Court does not propose of its own motion to give directions under Order 13, Rule 3, of the County Court Rules, and that if you wish to apply for any such directions or to make any other interlocutory application, you must, so far as practicable, do so within 14 days after receipt of this notice [*or as the case may be*].

If you apply subsequently, you will have to pay the costs of and occasioned by the application, unless the Court is of opinion that there was sufficient reason for the application not having been made within the time mentioned above."

14. Notwithstanding anything in Rule 10 of these Rules, Form 11 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 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.
D. O. McKee.
O. Temple-Morris.
S. Granville Smith.
D. Freeman Coutts.
W. Ralph Davies.
H. G. Talbot.
Michael Hoare.
Arthur J. Driver.
A. F. Stapleton Cotton.

I allow these Rules which shall come into force on 16th July 1962.

Kilmuir, C.

Dated 22nd June 1962.

(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) A plaintiff claiming money due under a hire-purchase agreement is required to give specified particulars of his claim (Rule 4). He will not be able to issue a default summons if he claims more than arrears of hire (Rule 3).

(2) The Rule requiring money in court for the benefit of an assisted person to be paid out only to his solicitor is extended to cases in which the beneficiary has been but is no longer an assisted person (Rule 6 (3)).

(3) A notice of payment into court need not state if the payment is made with a denial of liability or plea of tender (Rule 6 (1) and (2)).

(4) The registrar is given power to fix the time within which any interlocutory application may be made in any action in the judge's list, and provision is made for the payment of the costs of and occasioned by an application made out of time (Rule 7).

(5) An application for an order authorising the inclusion in a lease of provisions modifying section 32 of the Housing Act 1961 may be heard in chambers and may, with leave of the judge, be heard by the registrar (Rule 8).