STATUTORY INSTRUMENTS

# 1964 No. 353 (L. 5)

# COUNTY COURTS

## PROCEDURE

## The County Court (Amendment) Rules 1964

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| *Made* - - - - | *9th March* 1964 |
| *Coming into Operation* | *6th April* 1964 |

**1.**—(1) These Rules may be cited as the County Court (Amendment) Rules 1964.

(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(b), "Appendix A" means Appendix A to those Rules and a Form referred to by number means the Form so numbered in Appendix A.

**2.** At the end of paragraph (2) of Rule 2 of Order 6 there shall be added the following words:—

"or (*f*) to recover interest accruing after the commencement of the action."

**3.** In Order 8, the definition of "R.S.C. Order XI, Rule 8" in Rule 40 shall be omitted and Rule 46 shall be amended as follows:—

(1) In paragraph (3) for the words "is a country to which R.S.C. Order XI, Rule 8, applies" there shall be subsituted the words "is neither a convention country nor a country mentioned in paragraph (6) of this Rule".

(2) In paragraph (4) for the words "is neither a convention country nor a country to which R.S.C. Order XI, Rule 8, applies" there shall be substituted the words "is not a convention country but is a country mentioned in paragraph (6) of this Rule".

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

"(6) The countries referred to in paragraphs (3) and (4) of this Rule are—

(*a*) Scotland, Northern Ireland, the Isle of Man and the Channel Islands;

(*b*) any Commonwealth country mentioned in subsection (3) of section 1 of the British Nationality Act 1948;

(*c*) any colony, protectorate or protected state;

(*d*) any trust territory administered by Her Majesty's Government in the United Kingdom or by the government of any Commonwealth country mentioned in the said subsection (3);

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

(b) The relevant amending Instruments are S.R. & O. 1939/815 (1939 I, p. 469); S.I. 1950/1993, 1953/1728, 1956/1851, 1957/174, 1960/1275, 1961/1526, 1962/1293, 1963/403 (1950 I, p. 440; 1953 I, p. 404; 1956 I, p. 545; 1957 I, p. 512; 1960 I, p. 809; 1961 II, p. 3177; 1962 II, p. 1383; 1963 I, p. 475).

(*e*) the Republic of Ireland;

(*f*) the United States of America."

**4.** The following amendments shall be made in Order 11:—

(1) Rule 7 shall be amended as follows:—

(*a*) In paragraph (3) for the words "within 4 days after receipt by him of notice of payment into court deliver or send to the registrar and to every defendant a notice of acceptance" there shall be substituted the words "within 7 days after receipt by him of the notice of payment into court but not less than 2 days before the return day give notice of acceptance to the registrar and to every defendant".

(*b*) In sub-paragraph (*b*) of paragraph (3A) for the words "within 4 days after receipt by him of notice of payment into court delivers or sends to the registrar and to every defendant" there shall be substituted the words "within the time limited by the last foregoing paragraph for giving notice of acceptance gives to the registrar and to every defendant".

(2) Rule 9 shall be amended as follows:—

(*a*) In paragraph (*a*) for the words "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" there shall be substituted the words "within 7 days after receipt by him of the notice of payment into court or, if the notice is received by him less than 7 days before the return day, before the hearing of the action begins give notice of acceptance to the registrar and to every defendant".

(*b*) In paragraph (*c*) for the words "within the said period of 4 days" there shall be substituted the words "within the period limited by paragraph (*a*) of this Rule for giving notice of acceptance".

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

Late acceptance.

"11. If a plaintiff fails to give notice of acceptance within the time limited by Rule 7 or 9 of this Order, he may give notice at any subsequent time before the hearing of the action begins and thereupon Rule 7 or 9, as the case may be, shall apply as if the notice had been given within the time so limited:

Provided that—

(*a*) in a case to which Rule 7 applies the defendant shall not be liable for any further costs unless the court otherwise orders;

(*b*) in a case to which Rule 9 applies, if the notice of acceptance relates to the whole claim, or if it relates to one or more of several causes of action and the plaintiff at or before the time of giving the notice abandons the other cause or causes of action, he may apply for an order for the costs incurred by him before the receipt of the notice of payment into court;

(*c*) in any case the money in court shall not be paid out without an order of the court and the court may order the plaintiff to pay any costs reasonably incurred by the defendant since the date of payment into court, including the costs of attending court to obtain the order."

**5.** The following paragraphs shall be added to Rule 4 of Order 13:—

"(4) If no application is made under the last foregoing paragraph within 12 months after the day on which the hearing of the action or matter was adjourned generally, the registrar may give notice to all parties in Form 67, and unless any party applies within 14 days after receipt of the notice to have a day fixed for the hearing or to have the hearing again adjourned and the application is granted, the action or matter shall be struck out.

Form 67.

(5) Paragraph (4) of this Rule shall not apply to any action or matter the hearing of which was adjourned generally on a day before 1st January 1962 and any such action or matter shall be struck out on 1st January 1966 unless any party applies before that date to have a day fixed for the hearing or to have the hearing again adjourned and the application is granted."

**6.** In proviso (*b*) to paragraph (3) of Order 25, Rule 13A, for the words "Rule 5 or 6 of Order XLVIII A" there shall be substituted the words "Rule 4 of Order 81".

**7.** The following amendments shall be made in Order 46:—

(1) In paragraph (2) of Rule 1 after the words "Children Act, 1948" there shall be inserted the words "or with respect to whom a local authority have parental rights by virtue of a resolution under section 2 of that Act".

(2) The following Rule shall be inserted after Rule 7:—

*Limitation Act 1963*

1963 c. 47.

"8.—(1) In this Rule "the Act" means the Limitation Act 1963 and "relevant action" has the same meaning as in section 2 of that Act.

(2) An application for the leave of the court for the purposes of section 1 of the Act shall be made to the judge or, if the application is made during the hearing of the relevant action by the registrar, to the registrar.

(3) The application shall—

(*a*) if made before the commencement of the relevant action, be made by originating application;

(*b*) if made after the commencement but before the hearing of the relevant action, be made on notice to the registrar in accordance with Order 13, Rule 1,

and the originating application or notice, as the case may be, shall specify the cause of action to which the application relates and be supported by an affidavit exhibiting, in the case of an originating application, a copy of the particulars of claim proposed to be filed in the relevant action.

(4) The requirement in section 2(1) of the Act that any application for the leave of the court for the purposes of section 1 thereof shall be made *ex parte* shall not apply if the application is made during the hearing of the relevant action.

(5) Except where the application is made during the hearing of the relevant action, the application shall be heard in chambers,

and if an order is made granting leave, the registrar shall draw up the order and—

(*a*) in the case of an application made before the commencement of the relevant action, annex a copy of the order to the copy of the summons to be served on each defendant in that action,

(*b*) in any other case, serve a copy of the order on each defendant."

**8.** In paragraph (4) of Rule 21 of Order 47 for the words "7 days" in both places where they appear there shall be substituted the words "14 days".

**9.** The *Statement of Parties* in Form 7 shall be amended as follows:—

(*a*) in paragraph 1 after the word "full" there shall be inserted the word "and" and the words "and occupation" shall be deleted;

(*b*) in paragraph 2 the words "and if married, state the full names of her husband" shall be deleted.

**10.** In Form 65 for the words from "within four days" to "by hand" there shall be substituted the words "give written notice of acceptance by hand or by post to every defendant and to the Court Office so as to reach them within 7 days after receipt by you of this notice [*or* not less than 2 days before the day fixed for the hearing of this action] [*or* before the hearing of this action begins]".

**11.** The following form shall be inserted in Appendix A after Form 66:—

Order 13, Rule 4(4).

"67

NOTICE AFTER GENERAL ADJOURNMENT FOR 12 MONTHS

[*General Title—Form* 1]

TAKE NOTICE that, as no application has been made within 12 months for a day to be fixed for the hearing of this action [*or matter*], the action [*or* matter] will be struck out unless within 14 days after receipt of this notice any party applies to have a day fixed for the hearing or to have the action [*or* matter] again adjourned."

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.

*Alun Pugh.*
*D. O. McKee.*
*O. Temple-Morris.*
*S. Granville Smith.*
*Connolly H. Gage.*
*D. Freeman Coutts.*
*W. Ralph Davies.*
*Michael Hoare.*
*Philip J. Cox.*
*Arthur J. Driver.*
*A. F. Stapleton Cotton.*

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

I allow these Rules which shall come into force on 6th April 1964.

*Dilhorne*, C.

Dated 9th March 1964.

## 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 will be precluded from bringing a default action for interest accruing after the commencement of the action (Rule 2).

(2) The time for accepting money paid into court in satisfaction of a claim is extended and fresh provision is made for cases of late acceptance (Rules 4 and 10).

(3) An action or matter which has been adjourned generally for 12 months or more will be struck out unless an application is made for it to be restored to the list or further adjourned within 14 days after receipt by the parties of a warning notice from the registrar. If the adjournment took place before 1st January 1962, no warning notice will be given and the action or matter will be struck out unless an application is made before 1st January 1966 (Rules 5 and 11).

(4) A new Rule 8 is inserted in Order 46 to make provision for applications for the leave of the court under the Limitation Act 1963 (Rule 7(2)).

(5) The time for applying for a certificate for increased costs under Order 47, Rule 21, is extended from 7 to 14 days (Rule 8).

(6) It will no longer be necessary for a plaintiff to state in the praecipe for a summons his or her occupation or, in the case of a married woman, the full names of her husband (Rule 9).