STATUTORY INSTRUMENTS

1971 No. 781 (L.15)

COUNTY COURTS

PROCEDURE

The County Court (Amendment) Rules 1971

Made - - -	4*th May* 1971
Coming into Operation	14*th June* 1971

1.—(1) These Rules may be cited as the County Court (Amendment) Rules 1971.

(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**); Appendices A and B mean respectively Appendices A and B to those Rules, and a form referred to by number means the form so numbered in Appendix A.

(3) The Interpretation Act 1889(**c**) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

2. In Order 5, Rule 9(1), for the words "5 days" there shall be substituted the words "8 days".

3. Order 8 shall be amended as follows:—

(1) The following paragraph shall be added to Rule 6:—

"(4) Where a summons to be served by bailiff cannot be served in accordance with Rule 8 of this Order, the registrar for the district in which the summons is to be served shall, if so requested, take such steps as may be necessary to enable the plaintiff to apply for an order for substituted service."

(2) In the heading to Part II for the words "ORDINARY SUMMONS" there shall be substituted the words "ORDINARY AND DEFAULT SUMMONSES".

(3) Rule 8 shall be amended as follows:—

(*a*) In paragraph (1) after the word "ordinary" there shall be inserted the words "or default".

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

(**b**) The relevant amending instruments are S.R. & O. 1944/63, 1947/2576, S.I. 1950/1231, 1993, 1951/1354, 1952/2198, 1953/1728, 1954/1394, 1675, 1955/1799, 1956/1851, 1957/174, 1136, 1958/2226, 1959/1251, 1960/1275, 1961/1526, 1963/403, 1964/353, 1974, 1965/2147, 1967/276, 1812, 1969/585, 1970/204, 673, 1201 (1944 I, p. 50; 1947 I, p. 366; 1950 I, pp. 400, 440; 1951 I, p. 357; 1952 I, p. 635; 1953 I, p. 404; 1954 I, pp. 526, 541; 1955 I, p. 530; 1956 I, p. 545: 1957 I, pp. 512, 517; 1958 I, p. 372; 1959 I, p. 795; 1960 I, p. 809; 1961 II, p. 3177; 1963 I, p. 475; 1964 I, p. 543; III, p. 4477; 1965 III, p. 6292; 1967 I, p. 990; III, p. 4840; 1969 I, p. 1551; 1970 I, p. 911; II, pp. 2180, 3984).

(**c**) 1889 c. 63.

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

"(3) Where it appears to the bailiff by whom a summons is to be served that there is a reasonable probability that the summons if delivered at the address stated in the praecipe will come to the defendant's knowledge in sufficient time—

(*a*) in the case of an ordinary summons, for the defendant to appear at the hearing; or

(*b*) in the case of a default summons, for the defendant to deliver a defence, admission or counterclaim within the time prescribed by these Rules,

the summons may, with the general or special leave of the registrar, be served by—

(i) an officer of the court sending the summons by ordinary post to the defendant at that address; or

(ii) the bailiff inserting the summons, enclosed in an envelope addressed to the defendant, in the letter-box at that address."

(*c*) In paragraph (4) after the word "Service" there shall be inserted the words "of an ordinary summons", and for the figure "14" there shall be substituted the figure "21".

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

(*a*) For the words "an ordinary summons" wherever they appear there shall be substituted the words "a summons", and in the marginal note the word "ordinary" shall be omitted.

(*b*) Paragraph (1)(*d*) shall stand as paragraph (1)(*e*) and after paragraph (1)(*c*) there shall be inserted the following paragraph:—

"(*d*) where service is effected under Rule 8(3) of this Order, a note of the reasons for supposing that the summons was likely to come to the defendant's knowledge; or".

(5) In Rule 10 for the words "an ordinary summons" there shall be substituted the words "a summons", and for the words "shall, not less than 11 clear days before the return day" there shall be substituted the words "shall, as soon as practicable and, in the case of an ordinary summons, not less than 18 clear days before the return day,".

(6) In Rule 11 for the words "an ordinary summons" there shall be substituted the words "an ordinary or default summons".

(7) Rule 12 shall stand as Rule 13 and the following Rule shall be inserted after Rule 11:—

Presumed service of summons.

"12. Where a summons has not been served in accordance with Rule 8 of this Order but the registrar receives from the defendant a defence, admission or counterclaim, the action may proceed as if the summons had been duly served."

(8) In Rule 14 for paragraph (3) there shall be substituted the following:—

"(3) Rule 8(3) of this Order shall apply to the service of the summons as if for the reference to the defendant's knowledge there was substituted a reference to the knowledge of one of the persons to whom the summons may be delivered in accordance with paragraph (1) of this Rule and as if for the references in sub-paragraphs (*a*) and (*b*) of Rule 8(3) to the defendant there were substituted references to one of the partners."

(9) In Rule 15 for the words "an ordinary summons" there shall be substituted the words "a summons".

(10) In Rule 16 the words "in an ordinary action" shall be omitted.

(11) In Rules 17 to 22, 25 and 26, after the word "ordinary" there shall be inserted the words "or default".

(12) Rule 23 shall be revoked.

(13) In Rule 27 for the figure "14" there shall be substituted the figure "21".

(14) In Rule 28 for the words "an ordinary summons" there shall be substituted the words "a summons".

(15) In Rule 29 after the word "ordinary" there shall be inserted the words "or default".

(16) Rule 30 shall be amended as follows :—

(*a*) In the marginal note after the word "service" there shall be added the words "of ordinary summons".

(*b*) After the words "does not appear at the hearing" there shall be inserted the words "or deliver a defence, admission or counterclaim".

(17) Rule 36 shall be inserted after Rule 30 as Rule 31 and shall be amended as follows :—

(*a*) For the words "Rule 32" there shall be substituted the words "Rule 8".

(*b*) For the words "8 days" there shall be substituted the words "14 days".

(*c*) In the first marginal note after the word "service" there shall be added the words "of default summons".

(*d*) In the second marginal note for the words "Form 39A" there shall be substituted the words "Form 39".

(18) The existing Rule 31 shall stand as Rule 32.

(19) The existing Rule 32 shall be revoked.

(20) For Rule 33 there shall be substituted the following Rule :—

Notice of service of default summons.

Form 38.

"33. Where a default summons has been served by bailiff or other officer of the court, the registrar for the district in which the summons has been served shall send notice to the plaintiff in Form 38".

(21) Rules 34 and 35 shall be revoked.

(22) Rules 37 and 38 shall stand as Rules 34 and 35 respectively.

(23) PARTS IV and V shall stand as PARTS III and IV respectively.

4. Order 9, Rule 1, shall be amended as follows :—

(1) In paragraph (1) for the words "8 days" there shall be substituted the words "14 days".

(2) In paragraphs (3) and (4) for the words "3 days" wherever they appear there shall be substituted the words "8 days".

5. In each of the following Rules and Forms, for the words "8 days" wherever they appear there shall be substituted the words "14 days" :—

Order 9, Rules 4(1), 5(1) and 9 ;

Order 10, Rules 1 and 2 ;

Order 11, Rule 7(1), including the marginal note thereto ;

Order 12, Rule 2(1)(*a*) ;

Order 13, Rule 7(2)(*b*) ;

Order 16, Rules 10(6), 17 and 18(1) ;

Order 28, Rules 16(4) and 21 ;

Order 40, Rules 2(2), 4(2), 8(2) and 20(2) ;

Order 46, Rules 11(1) and 20(4)(*a*)(ii) ; and

Forms 16, 18, 19, 20, 21(1) and (2), 22, 70, 93, 223, 224, 225, 226, 227, 334, 335, 395 and 397.

6. In Order 10, Rule 3, for the words "8 days" and "5 days" there shall be substituted the words "14 days" and "8 days" respectively.

7. Order 10, Rule 4, shall be amended as follows :—

(1) In paragraph (1) for the words "8 days" there shall be substituted the words "14 days".

(2) In paragraph (2), and in the first place where they appear in paragraph (3), for the words "5 days" there shall be substituted the words "8 days".

8. In Order 16, Rule 10(1), for the words "14 clear days" there shall be substituted the words "21 clear days".

9. In Order 16, Rule 11(*a*), after the words "this Order" there shall be inserted the words "(substituting 21 days for the period of 14 days mentioned in that Rule)".

10. In Order 28, Rule 20, and Order 46, Rule 1(2), for the words "14 days" wherever they appear there shall be substituted the words "21 days".

11. Order 35, Rule 21, shall be amended as follows :—

(1) In paragraph (1) for the words "7 days" wherever they appear there shall be substituted the words "14 days".

(2) In paragraph (3) for the words "10 days" and "6 days" wherever they appear there shall be substituted the words "21 days" and "14 days" respectively.

12. Order 37, Rule 6, shall be amended as follows :—

(1) In the marginal note the word "postal" shall be omitted.

(2) In paragraph (1) for the words "by post" there shall be substituted the words "or delivered", and the words "or Rule 32(2)" shall be omitted.

13. In Order 46, Rule 13(6), for the words "Part V" there shall be substituted the words "Part IV".

14. Form 6 shall be amended as follows :—

(1) In the title after the word "Ordinary" there shall be inserted the words "or Default".

(2) In paragraph (*a*) for the figure "7" there shall be substituted the figure "12".

15. Form 31 shall be amended as follows :—

(1) In the marginal note the figures "32(3)" shall be omitted.

(2) For paragraph (*b*) there shall be substituted the following:—

"(*b*) by posting the same to the said defendant on the day of 19 , at the address stated in the summons, in accordance with the certificate of the plaintiff or his solicitor.

or (*c*) [by posting the same to the said defendant] [*or* by inserting the same, enclosed in an envelope addressed to the said defendant, in the letter-box] at the address stated in the summons because [*state reasons for thinking summons would reach defendant in sufficient time*]."

16. Form 33 shall be amended as follows :—

(1) In the marginal note the figures "32(3)" shall be omitted.

(2) For paragraph (*d*) there shall be substituted the following:

"(*d*) by posting the same to the defendant firm on the day of 19 , at the address stated in the summons, in accordance with the certificate of the plaintiff or his solicitor.

or (*e*) [by posting the same to the defendant firm] [*or* by inserting the same, enclosed in an envelope addressed to the defendant firm, in the letter-box] at the address stated in the summons because [*state reasons for thinking summons would reach defendant firm in sufficient time*]."

17. In the marginal note to Form 34 the figures "32(1)" shall be omitted.

18. In the marginal note to Form 36 the figures "34, 37" shall be omitted.

19. Form 39A shall stand as Form 39 and in the marginal note for the figure "36" there shall be substituted the figure "31".

20. In Forms 282 and 283 for the words "four days" wherever they appear there shall be substituted the words "14 days".

21. In item 19(*b*) of Appendix B after the words "an ordinary" there shall be inserted the words "or default".

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 hand and submit them to the Lord Chancellor accordingly.

D. O. McKee.
Connolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Ralph Davies.
E. A. Everett.
K. W. Mellor.
M. J. P. Macnair.
A. F. Stapleton Cotton.
D. A. Marshall.

I allow these Rules, which shall come into operation on 14th June 1971, so however that nothing in these Rules shall apply to any action or matter begun before that date.

Dated 4th May 1971.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules 1936 by extending the time for filing a defence, admission or counterclaim from 8 to 14 days and by making similar or consequential enlargements of the time limited for taking other steps in county court proceedings. The provisions relating to the service of default summonses are assimilated to and amalgamated with those applicable to ordinary summonses, thereby enabling service of a default summons to be effected by post on the certificate of the plaintiff or his solicitor. Both types of summons will also be able to be served by the bailiff placing the summons in the letter-box at the defendant's premises if he has reason to believe that the summons will thereby reach the defendant in time for him to appear at the hearing or deliver a defence or admission.

(**a**) 1959 c. 22.

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