STATUTORY INSTRUMENTS

1962 No. 824 (L. 10)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

Matrimonial Causes (Judgment Summons) (Amendment) Rules, 1962

Made - - - -	18*th April*, 1962
Laid before Parliament	25*th April*, 1962
Coming into Operation	14*th May*, 1962

I, David, Viscount Kilmuir, Lord High Chancellor of Great Britain, with the concurrence of the President of the Board of Trade, and in exercise of the powers conferred on me by section 107 (5) and section 132 of the Bankruptcy Act, 1914(a), hereby make the following Rules :—

1.—(1) These Rules may be cited as the Matrimonial Causes (Judgment Summons) (Amendment) Rules, 1962.

(2) The Interpretation Act, 1889(b), shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules " the principal Rules " means the Matrimonial Causes (Judgment Summons) Rules, 1952(c).

2. In paragraph (3) of Rule 1 of the principal Rules for the words " Matrimonial Causes Rules, 1950 "(d), there shall be substituted the words " Matrimonial Causes Rules, 1957 "(e).

3. The following Rule shall be inserted in the principal Rules after Rule 8 :—

" *Costs of judgment creditor*

9.—(1) Unless the judge otherwise directs, the judgment creditor's costs of and incidental to the proceedings on a judgment summons shall be fixed without taxation in accordance with paragraphs (2), (3) and (4) of this Rule.

(2) Subject to paragraph (4) of this Rule, where the amount in respect of which the judgment summons is issued is paid before the hearing, there may be allowed—

(*a*) the court fees paid by the judgment creditor,

(*b*) any travelling expenses paid to the judgment debtor, and

(*c*) if the judgment creditor is represented by a solicitor, a sum of £2 in respect of the solicitor's charges.

(3) Where an order is made on the hearing of a judgment summons and the judgment creditor is awarded costs, there may be allowed—

(*a*) the court fees paid by the judgment creditor,

(*b*) subject to Rule 5(3), any travelling expenses paid to the judgment debtor,

(a) 4 & 5 Geo. 5. c. 59. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1952/2209 (1952 III, p. 3359). (d) S.I. 1950/1940 (1950 II, p. 929).
(e) S.I. 1957/619 (1957 II, p. 2406).

(*c*) the fees paid on swearing any affidavit of service and any affidavit of the debtor's means and on marking any exhibit thereto,

(*d*) if the judgment creditor is represented by a solicitor without counsel, a sum of £5 in respect of the solicitor's charges, and

(*e*) if the judgment creditor is represented by a solicitor with counsel, a sum of £3 10*s*. in respect of the solicitor's charges, and such sum, not being less than £2 4*s*. 6*d*. or more than £7 12*s*., as the registrar thinks reasonable in respect of the fee to counsel.

(4) Where the amount in respect of which the judgment summons is issued is paid too late to prevent the attendance of the judgment creditor, or, as the case may be, his solicitor or counsel, at the hearing, the sums specified in paragraph (3) of this Rule may, if the judge so orders, be allowed instead of the sums specified in paragraph (2).

(5) Where the costs of and incidental to the proceedings on a judgment summons are directed to be taxed, the Supreme Court Costs Rules, 1959(a), shall have effect in relation to those costs with such modifications as may be necessary."

4. In Form 1 in the Appendix to the principal Rules for the words "Rule 62 (2) of the Matrimonial Causes Rules, 1950" there shall be substituted the words "Rule 64 (2) of the Matrimonial Causes Rules, 1957".

5. These Rules shall come into operation on the 14th day of May, 1962, but shall not affect any judgment summons issued before that date.

Dated the 18th day of April, 1962.

Kilmuir, C.

I concur.

F. J. Erroll.

EXPLANATORY NOTE

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

These Rules amend the Matrimonial Causes (Judgment Summons) Rules, 1952, by introducing a new scale of fixed costs to be allowed in judgment summons proceedings in the Divorce Division, and by substituting references to the Matrimonial Causes Rules, 1957, for the references to the Matrimonial Causes Rules, 1950.

(a) S.I. 1959/1958 (1959 II, p. 2535) (Second Schedule).