STATUTORY INSTRUMENTS

1977 No. 532 (L. 14)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (Amendment) 1977

Made - - - - 21*st March* 1977

Laid before Parliament 29*th March* 1977

Coming into operation in accordance with Rule 8

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925(**a**) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment) 1977.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(**b**), as amended(**c**).

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

2. For the title of Order 102 in the Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 there shall be substituted "The Companies Acts 1948 to 1976".

3. Order 58, rule 5, shall be amended as follows:—

(1) In paragraph (1) at the beginning there shall be inserted the words "Subject to paragraph (2)" and in sub-paragraph (*a*) after the word "law" there shall be inserted the words "or as to costs only".

(2) After paragraph (1) there shall be inserted the following paragraph:—
"(2) In relation to any decision of an official referee referred to in paragraph (1), section 31 of the Act shall apply as if the official referee were a judge of the High Court."

(3) The existing paragraph (2) shall stand as paragraph (3).

4. Sub-paragraph (*a*) of Order 62, rule 6(1), shall be revoked and the following sub-paragraphs shall be re-lettered accordingly.

5. Order 90 shall be amended as follows:—

(1) In rule 2 for the words "rules 3 and 5" there shall be substituted the words "rules 3, 5 and 17".

(**a**) 1925 c. 49. (**b**) S.I. 1965/1776 (1965 III, p. 4995).
(**c**) The only relevant amending instrument is S.I. 1975/911 (1975 II, p. 3162).
(**d**) 1889 c. 63.

(2) The following rule shall be added after rule 16:—

"*Proceedings under the Domestic Violence and Matrimonial Proceedings Act* 1976

17.—(1) An application to the High Court by a party to a marriage within the meaning of section 1(1) of the Domestic Violence and Matrimonial Proceedings Act 1976(a) for an injunction containing one or more of the provisions mentioned in that subsection shall, if no other relief is sought in the proceedings, be made by originating summons issued out of the principal registry or out of a district registry as defined by the matrimonial causes rules.

No appearance need be entered to any such summons.

(2) A copy of any injunction to which a power of arrest has been attached under section 2 of the said Act of 1976 shall be delivered by the tipstaff to the officer for the time being in charge of any police station for the applicant's address.

(3) Where an order is made varying or discharging an injunction to which a power of arrest has been attached under the said section 2, a copy of the order shall be delivered by the tipstaff to the officer for the time being in charge of the police station at which a copy of the injunction was delivered pursuant to paragraph (2) and, if the applicant has since changed her address, any police station for the new address.

(4) The judge before whom a person arrested is brought pursuant to section 2(4) of the said Act of 1976 may exercise his power to punish him for disobedience to the injunction, notwithstanding that no copy of the injunction has been served on him in accordance with Order 45, rule 7(2), and that no application for an order of committal has been made (or notice of such an application has been served on him) pursuant to Order 52, rule 4."

6. Order 102 shall be amended as follows:—

(1) For the title there shall be substituted the title "The Companies Acts 1948 to 1976".

(2) In rule 1 after the definition of "the Act" there shall be inserted the following definition:—

" "the Act of 1976" means the Companies Act 1976(b)".

(3) In rule 2(1) after the words "the Act" there shall be inserted the words "or the Act of 1976".

(4) In rule 2(2) after sub-paragraph (*c*) there shall be inserted the following words:—

"or

(*d*) an application under section 5(1) of the Act of 1976 for an order directing the directors of a company or any of them to make good any such default as is therein mentioned."

(a) 1976 c. 50.

(b) 1976 c. 69.

(5) Rule 6 shall be amended as follows:—

(*a*) In paragraph (2), for the words "the Act" there shall be substituted the words "the Companies Act 1948 or, as the case may be, the Companies Act 1976".

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

"(4) The originating summons by which an application for an order under section 28(1) of the Act of 1976 is made must be entitled in the matter of the company or one of the companies in respect of which default is alleged and in the matter of the Act of 1976."

7. In Order 103, rule 26, the following paragraph shall be added after paragraph (2):—

"(2A) On the hearing of a summons under this rule the Court shall consider, if necessary of its own motion, whether an independent scientific adviser should be appointed under rule 27 to assist the Court."

8.—(1) These Rules, except rule 5, shall come into operation on 18th April 1977.

(2) Rule 5 shall come into operation on the day appointed for the coming into force of the Domestic Violence and Matrimonial Proceedings Act 1976.

Dated 21st March 1977.

Elwyn-Jones, C.
Widgery, C.J.
Denning, M.R.
George Baker, P.
R. E. Megarry, V-C.
Eustace Roskill, L.J.
Ralph Cusack, J.
E. W. Eveleigh, J.
J. Maurice Price.
John Toulmin.
H. Montgomery-Campbell.
R. K. Denby.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court so as—

(*a*) to make provision for applications under the Companies Act 1976 (rules 2 and 6);

(*b*) to clarify the provisions as to appeals from official referees (rule 3);

(*c*) to revoke Order 62, rule 6(1)(*a*), as spent (rule 4);

(*d*) to provide for proceedings in the High Court under the Domestic Violence and Matrimonial Proceedings Act 1976 (rule 5);

(*e*) to require the question of appointing a scientific adviser in patent proceedings to be considered on the hearing of the summons for directions (rule 7).

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