STATUTORY INSTRUMENTS

1962 No. 2147 (L. 21)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (Costs) 1962

Made - - - -	*28th September* 1962
Laid before Parliament	*12th October* 1962
Coming into Operation	*1st January* 1964

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under subsection (4) of section 99 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 as follows:—

1. The Supreme Court Costs Rules 1959(b) shall be amended in accordance with the following provisions of this instrument.

2. In rule 1 (4), the figure "1883" shall be omitted.

3.—(1) In rule 3 (3), after the words "in the" there shall be inserted the words "writ of summons or".

(2) In rule 3 (4), the figure "1883" shall be omitted, and for the word "delivering" there shall be substituted the word "serving".

(3) For paragraph (5) of rule 3 there shall be substituted the following paragraphs:—

"(5) If a party on whom a notice to admit facts is served under Order 27, rule 2, refuses or neglects to admit the facts within 7 days after the service on him of the notice or such longer time as may be allowed by the Court, the costs of proving the facts shall be paid by him, unless the Court otherwise orders.

(5A) If a party—

(*a*) on whom a list of documents is served in pursuance of any provision of Order 24, or

(*b*) on whom a notice to admit documents is served under Order 27, rule 5,

gives notice of non-admission of any of the documents in accordance with Order 27, rule 4 (2) or 5 (2), as the case may be, the costs of proving that document shall be paid by him, unless the Court otherwise orders."

(4) At the end of rule 3 there shall be added the following paragraphs:—

"(9) Where a defendant by notice in writing and without leave discontinues his counterclaim against any party or withdraws any particular claim made by him therein against any party, that party shall, unless the Court otherwise directs, be entitled to his costs of the counterclaim or his costs occasioned by the claim withdrawn, as the case may be, incurred to the time of receipt of the notice of discontinuance or withdrawal.

(a) 15 & 16 Geo. 5. c. 49. (b) S.I. 1959/1958 (Schedule 2) (1959 II, p. 2535).

(10) Where a plaintiff accepts money paid into court by a defendant who counterclaimed against him, then, if the notice of payment given by that defendant stated that he had taken into account and satisfied the cause of action or, as the case may be, all the causes of action in respect of which he counterclaimed, that defendant shall, unless the Court otherwise directs, be entitled to his costs of the counterclaim incurred to the time of receipt of the notice of acceptance by the plaintiff of the money paid into court."

4. In rule 5, for the words "Order 16A, rule 12A" there shall be substituted the words "Order 16, rule 10".

5. In rule 9 (3), for the words "Order 3, rule 7" there shall be substituted the words "Order 6, rule 2 (1) (*b*)".

6.—(1) In rule 10 (1), for the words "his claim" there shall be substituted the words "the cause of action, or all the causes of action, in respect of which he claims", and after the words "time of" there shall be inserted the words "receipt of the notice of".

(2) In rule 10 (3), for the words "part of his alleged cause of complaint" there shall be substituted the words "any particular claim made by him therein".

7. In rule 21 (3), for the words from "Order 22", where first occurring, to the end there shall be substituted the words "Order 22, rule 3 (where he is so entitled by virtue of paragraph (1) or (2) of the said rule 10), or given to him under Order 21, rule 2 (where he is so entitled by virtue of paragraph (3) of the said rule 10)".

8. In rule 30 (6), for the words "Order 16B, rule 12" there shall be substituted the words "Order 80, rule 13".

9. In Appendix 1, in paragraph 2, for the words in sub-paragraph (*a*) "rule 2 or Order 22, rule 4, as the case may be" there shall be substituted the words "rule 3", and for the words in sub-paragraph (*b*) "Order 26, rule 1" there shall be substituted the words "Order 21, rule 2".

10. The following amendments shall be made in Appendix 2:—

(*a*) for the words in item 7, there shall be substituted the words "Drawing, filing and service on one party of statement of claim (if not indorsed on writ) or other pleading, answer to petition, claim in a reference under Order 75, rule 39";

(*b*) in item 8, for the words "delivery to", in both places where they occur, there shall be substituted the words "service on";

(*c*) in item 10, the words "or delivery to" shall be omitted;

(*d*) in item 11, the words "or intimation of issue of process" shall be omitted;

(*e*) in item 14, for the words "Order 30" there shall be substituted the words "Order 25";

(*f*) in item 23, for the words "notice given under Order 31, rule 15" there shall be substituted the words "virtue of any provision of Order 24";

(*g*) in the note to items 26 and 27, and in items 36 and 102, for the words "Order 56" there shall be substituted the words "Order 75, rule 39";

(*h*) in item 32, for the words "Order 37, rule 25A" there shall be substituted the words "Order 75, rule 28";

(*i*) in item 49, the words from "or at" to "writ", where last occurring, shall be omitted;

(*j*) in item 83, for the words from "any demand" to "rule 2" there shall be substituted the words "any request under Order 6, rule 5 (3)";

(*k*) in item 95, for the words "Order 29" there shall be substituted the words "Order 75, rule 13";

(*l*) in item 103, for the words "Order 52, rule 23" there shall be substituted the words "Order 75, rule 33";

(*m*) in Part X, in paragraph 7 (3) (*a*), for the words "delivery to" there shall be substituted the words "service on", and the words "or filing in default of appearance" shall be omitted.

11.—(1) In Appendix 3, in Part I, paragraph 1, for the words "Order 3, rule 7" there shall be substituted the words "Order 6, rule 2 (1) (*b*)" and for sub-paragraphs (*b*) and (*c*) there shall be substituted the following sub-paragraphs:—

(*b*) cases in which the plaintiff obtains judgment in default of appearance under Order 13, rule 1, or under that rule by virtue of Order 83, rule 4, or Order 84, rule 3, or judgment in default of defence under Order 19, rule 2, or under that rule by virtue of Order 83, rule 4, or Order 84, rule 3, being in any case judgment for a sum of £40 or upwards;

(*c*) cases in which the plaintiff obtains judgment under Order 14, for a sum of £40 or upwards, either unconditionally or unless that sum is paid into court or to the plaintiff's solicitors."

(2) In Appendix 3, in Part I, paragraph 2 (*b*), the words "or an order for judgment, as the case may be" shall be omitted.

(3) In Appendix 3, in Part II, paragraph (8), for the words from "notice" to "apply" there shall be substituted the words "summons under Order 83, rule 4 (which applies".

(4) In Appendix 3, in Part II, paragraph (8A), for the words from "notice" to "apply" there shall be substituted the words "summons under Order 84, rule 3 (which applies".

12. The amendments made by this instrument in Appendix 2, shall have effect in relation to the taxation of costs incurred in relation to business done after the commencement of this instrument.

13. This instrument may be cited as the Rules of the Supreme Court (Costs) 1962 and shall come into operation on 1st January 1964.

Dated 28th September 1962.

Dilhorne, C.
Parker of Waddington, C.J.
Denning, M.R.
J. E. S. Simon, P.
B. Ormerod, L.J.
Colin H. Pearson, L.J.
Geoffrey Cross, J.
John Megaw, J.
Reginald W. Goff.
Douglas Lowe.
Charles Norton.
W. O. Carter.

EXPLANATORY NOTE

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

These Rules make certain amendments of the Supreme Court Costs Rules 1959. With one exception the amendments are consequential on the new Rules contained in the Rules of the Supreme Court (Revision) 1962 (S.I. 1962/2145). The exception is the second amendment of rule 10 (1). This amendment enables a plaintiff who accepts money paid into court to tax his costs incurred to the time of receipt of the notice of payment instead of the time of payment. The amendment of rule 3 (3) is consequential on the new Order 20, rule 1. The new paragraph (5A) to be inserted in rule 3 is in part consequential on the new Order 27, rule 4 (1). The new paragraphs (9) and (10) to be inserted in rule 3 are consequential on the new Order 21, rule 2 (2), and the new Order 22, rule 2, respectively.