## 4. PROCEDURE

(1) *Rules of the Supreme Court.*
(2) *Matrimonial Causes Rules*, p. 4011.
(3) *Non-Contentious Probate Rules*, p. 4013.

### (1) RULES OF THE SUPREME COURT

[NOTE.—The Rules of the Supreme Court, 1883 (*i.e.*, the main Code of Rules), were reprinted in S.R. & O. Rev. 1904, XII, "Supreme Court E.", pp. 54-417, as amended to December 31, 1903. A reprint of the Rules (excluding the Appendices) as amended since 1883, and still in force on August 1, 1932, was published by H.M. Stationery Office in 1932. For the numerous amending Rules *see* the references in the "Index to S.R. & O. in Force December 31, 1946," at pp. 1136-42, and also the Index to Vol. I of the Annual Volumes for 1947-8.]

## The Rules of the Supreme Court (No. 1), 1949

## 1949 No. 761 (L. 7)

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| *Made* - - - - | 11*th April*, 1949 |
| *Laid before Parliament* | 21*st April*, 1949 |
| *Coming into Operation* | 26*th April*, 1949 |

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

**1.** In Order XIX (which relates to pleading) Rule 6 shall be numbered Rule 6 (1) and there shall be added at the end thereof the following paragraph:—

"(2) In an action for libel or slander if the plaintiff alleges that the words or matter complained of were used in a defamatory sense other than their ordinary meaning, he shall give particulars of the facts and matters on which he relies in support of such sense."

**2.** In Order XIX, Rule 22 shall be amended by adding thereto the following proviso:—

"Provided that where in an action for libel or slander the defendant pleads that any of the words or matters complained of are fair comment on a matter of public interest or were published upon a privileged occasion, the plaintiff shall, if he intends to allege that the defendant was actuated by express malice, deliver a reply giving particulars of the facts and matters from which such malice is to be inferred."

**3.** In Order XIX, there shall be inserted after Rule 22 the following Rule:—

"22A. Where in an action for libel or slander the defendant alleges that, in so far as the words complained of consist of statements of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, or

pleads to the like effect, he shall give particulars stating which of the words complained of he alleges are statements of fact and of the facts and matters he relies on in support of the allegation that the words are true."

**4.** In Order XXII (which relates to payment into and out of Court) Rule 4 shall be amended as follows:—

(*a*) in paragraph (2) after the words "Form 4 in" there shall be inserted the words "Part II of"; and

(*b*) there shall be added at the end thereof the following paragraph:—

"(4) In an action for libel or slander against several defendants sued jointly, if any defendant pays money into Court the plaintiff may within seven days elect to accept the sum paid into Court in satisfaction of his claim against the defendant making the payment and shall give notice to all the defendants as in Form 4B in Part II of Appendix B. The plaintiff may then proceed to tax his costs against the defendant who has made such payment in accordance with Rule 2 (3) of this Order and the action shall thereupon be stayed as against that defendant. The plaintiff may continue with the action against any other defendant, but the sum paid into Court shall be set off against any damages awarded to the plaintiff against the defendant or defendants against whom the action is continued."

**5.** In Order XXXI (which relates to discovery and inspection) there shall be inserted after Rule 1 the following Rule:—

"1A. In an action for libel or slander where the defendant pleads that the words or matters complained of are fair comment on a matter of public interest or were published on a privileged occasion, no interrogatories as to the defendant's sources of information or grounds of belief shall be allowed."

**6.** In Order XXXI, Rule 12 shall be amended by inserting after the words "be thought fit" the following sentence:—

"In an action for libel or slander the court or a judge may grant discovery of documents relating to any issue raised in the action."

**7.** After Order LIV.N. there shall be inserted the following Order:—

"Order LIV.O.

Applications made pursuant to the Railway and Canal Commission (Abolition) Act, 1949

1. Applications under any enactment which are referred to the High Court pursuant to subsection (1) (*a*) of section 1 of the Railway and Canal Commission (Abolition) Act, 1949, shall be made in the Chancery Division by ex parte originating summons.

2. The originating summons shall be intituled in the matter of the relevant Act and in the matter of an application, naming the applicant.

3. Upon a reference by the Minister of Fuel and Power to the High Court under the Mines (Working Facilities and Support) Act, 1923, as amended, the Minister shall lodge at the Chambers of the Judge, Room No. 174, Royal Courts of Justice, Strand, London, W.C.2, the reference signed by him or by his duly authorised officer, together with all papers, documents, plans and material deposited by the applicant with him.

4. The Minister shall give notice to the applicant of the lodging of such reference within three days after the reference has been lodged.

5. Within ten days of the date of the notice by the Minister that a reference has been lodged as mentioned in Rule 3, the applicant shall issue an ex parte originating summons in Form 1H of Appendix K specifying the relief sought and asking for directions and shall thereupon apply at Room No. 174, aforesaid, for the name of the Master on the Rota before whom the summons is to be heard.

6. Within seven days of the issue of the summons the applicant shall take an appointment before the assigned Master to hear the originating summons and shall at the same time leave with the Master an affidavit of facts in support of the originating summons, and the applicant shall serve on the Minister notice of the hearing.

7. On the hearing of the summons an order shall be made giving directions as to the procedure to be followed before the summons is set down for hearing in Court, and such order shall direct what advertisements are to be inserted and public notices given of the application and what persons, if any, are to be served with a copy of the application.

8. The proceedings in any cases which are pending before the Court of the Railway and Canal Commission on the first day of April, 1949, shall be adopted, but before such cases are proceeded with in Chambers an ex parte originating summons must be issued and a Master assigned in accordance with Rule 5.

9. Where any further application is made in any matter which has been dealt with by the Court of the Railway and Canal Commission prior to the first day of April, 1949, an ex parte originating summons pro forma shall be issued and assigned to a Master in accordance with Rule 5.

10. Any person liable to make periodical payments under any existing order made by the Court of the Railway and Canal Commission before the first day of April, 1949, shall apply for directions regulating the future payments to be made under the said order, and for this purpose an ex parte originating summons shall be issued and assigned to a Master in accordance with Rule 5.

11. The provisions of these Rules shall apply mutatis mutandis to applications under any enactments referred to in Rule 1 of this Order.

12. The ordinary practice and rules of the Chancery Division so far as they are not inconsistent with this Order shall apply to proceedings under this Order."

**8.** In Order LVII (which relates to interpleader) paragraph (1) of Rule 17 shall be amended by substituting for the words " registered post " the words " prepaid ordinary post."

**9.** The following Form shall be added to Part II of Appendix B and shall stand as Form No. 4B:—

" No. 4B.

Acceptance of Sum paid into Court by One of several Defendants
(O. 22, r. 4)

[Heading as in Form 6]

Take notice that the plaintiff accepts the sum of £ paid by the defendant C.D. into court in satisfaction of his claim against that defendant.

Dated the day of , 19 .

X.Y., Plaintiff's solicitor.

To Mr. P.Q., Solicitor for the defendant C.D., and
Mr. R.S., Solicitor for the defendant E.F."

**10.** These Rules may be cited as the Rules of the Supreme Court (No. 1), 1949, and shall come into operation on the 26th day of April, 1949.

Dated the 11th day of April, 1949.

*Jowitt*, C.
*Goddard*, C.J.
*Greene*, M.R.
*F. James Tucker*, L.J.
*F. L. C. Hodson*, J.
*H. B. Vaisey*, J.
*G. Justin Lynskey*, J.
*Cyril Radcliffe.*
*James MacMillan.*
*Douglas T. Garrett.*

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## The Rules of the Supreme Court (No. 2) 1949

### 1949 No. 1414 (L. 13)

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| *Made* - - - - | 25*th July*, 1949 |
| *Laid before Parliament* | 28*th July*, 1949 |
| *Coming into Operation* | 1*st October*, 1949 |

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

**1.** In Order XXXV, Rule 9 (which relates to appeals from district registrars) shall be amended by inserting before the words " appeal to a judge " the words " (except in the cases provided for in Rule 22A of Order LIV)."

**2.** The following amendments shall be made in Order XXXVI (which relates to trial):—

(1) In rule 1, for the words " with a special jury or with a common jury " there shall be substituted the words " with a jury."

(2) The following rule shall be substituted for rule 9:—

" 9. The plaintiff or defendant in any cause or matter in which he is entitled to a jury and which is entered in the commercial list for trial in the King's Bench Division in London may have the issue tried by a City of London special jury on an application made at the time at which the mode of trial is fixed, or if the court or judge thinks fit at any later stage: Provided that the Court or a judge may at any time make an order for a City of London Special Jury upon such terms if any as to costs and otherwise as may be just."

(3) In rule 29, for the words " the special jury list, the common jury list " there shall be substituted the words " the jury list ".

**3.** Part VI of Order LVB (which relates to applications to the Court under the provisions of certain Acts) shall be amended as follows:—

(1) The following Rule shall be substituted for Rule 71:—

" 71. An application under—

(1) Section 162 of the Local Government Act, 1933, or

(2) Paragraph two of the Second Schedule to the Housing Act, 1936, or