PROCEDURE

1960 No. 545 (L. 5)

The Rules of the Supreme Court (No. 1), 1960

Made - - - -	21*st March*, 1960
Laid before Parliament	28*th March*, 1960
Coming into Operation	2*nd May*, 1960

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under subsection (4) of section ninety-nine 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 following amendments shall be made in Order XII (which relates to the entry of appearance):—

(1) In paragraph (2) of Rule 5, for the words "Rules 8 and 8A" there shall be substituted the words "Rule 8".

(2) For Rule 8 there shall be substituted the following Rule:—

"8.—(1) A defendant may enter an appearance by delivering or sending by post to the proper officer the requisite documents, that is to say, a memorandum of appearance in Form No. 1 or No. 2 (whichever is appropriate) set out in Part II of Appendix A, with such variations as the circumstances may require, and a copy thereof, both signed by the solicitor by whom the defendant appears or, if the defendant appears in person, by the defendant.

(2) On receipt of the requisite documents, the proper officer shall in all cases enter the appearance in the cause book and stamp the copy of the memorandum of appearance with the official seal showing the date on which he received those documents, and—

(*a*) if the requisite documents were delivered to the proper officer, return the sealed copy to the person entering the appearance, and

(*b*) if they were sent by post, send the sealed copy by post to the plaintiff or, as the case may be, his solicitor at the plaintiff's address for service and also send by post to the defendant or, as the case may be, his solicitor at the defendant's address for service a notice of appearance stamped with the official seal showing the date on which the requisite documents were received by the proper officer and stating that the defendant specified in the notice entered an appearance on that date.

(3) Where the defendant enters an appearance by delivering the requisite documents to the proper officer, he shall on the date on which he enters the appearance send by post to the plaintiff, if the plaintiff sues in person, but otherwise to the plaintiff's solicitor, at the plaintiff's address for service, the sealed copy of the memorandum of appearance returned to him under the last foregoing paragraph."

(a) 15 & 16 Geo. 5. c. 49.

(3) Rules 8A, 9, 13 and 14 shall be omitted.

(4) In Rule 27, the words "and shall forthwith give notice of such appearance to the plaintiff's solicitor, or to the plaintiff if he sues in person" shall be omitted.

2.—(1) The fee payable to an examiner of the court on giving an appointment to take an examination shall be four guineas, such fee to include the first hour occupied in the examination when it takes place within three miles from the principal entrance of the Royal Courts of Justice; and the fee for each day or part of a day occupied in an examination beyond the said three miles shall be six guineas.

(2) Accordingly, the table of fees appended to Rule 51 of Order XXXVII shall be amended as follows:—

(*a*) by substituting "4.4.0." for "1.11.6." in Fee No. 1;

(*b*) by inserting the words "(after the first hour)" after the words "or part thereof" in Fee No. 3; and

(*c*) by substituting "6.6.0." for "5.5.0." in Fee No. 4.

3. The following amendments shall be made in Order XLIXA (which relates to proceedings transferred from the county court):—

(1) In the proviso to Rule 1, the words from "the reference in paragraph (2)" to the end shall be omitted.

(2) In paragraph (1) of Rule 3, the figure "(1)" and the words from "by delivering to the proper officer" to the end shall be omitted.

(3) Paragraph (2) of Rule 3 shall be omitted.

(4) Rule 4 shall be omitted.

(5) In Rule 5, for the figure "8A" there shall be substituted the figure "8" and the figure "14" shall be omitted.

(6) In Rule 8, the words "the reference to the particulars of claim, and" and "the originating application" shall be omitted.

4. For Forms No. 1 and No. 2 set out in Part II of Appendix A there shall be substituted the Forms set out in the Schedule hereto.

5. In Form No. 5B set out in Appendix K, for the words "on the ..... day of ....., 19..., or subsequently within ..... days after service thereof, whichever be the later" there shall be substituted the word "forthwith".

6. In Form No. 6B set out in Appendix K, for the words "on the ..... day of ....., 19..., or subsequently within ..... days after service, whichever be the later" there shall be substituted the word "forthwith".

7. These Rules may be cited as the Rules of the Supreme Court (No. 1) 1960, and shall come into operation on the second day of May, 1960.

Dated the 21st day of March, 1960.

Kilmuir, C.
Parker of Waddington, C.J.
Evershed, M.R.
Merriman, P.
B. Ormerod, L.J.
Harold Danckwerts, J.
Colin H. Pearson, J.
Reginald W. Goff.
John F. Donaldson.
Charles Norton.

SCHEDULE

No. 1

This form should be used only where the writ was issued in London. There is a special form for use in District Registry actions.

Memorandum of Appearance
(*Order* 12, *Rule* 8 (1))

To be completed in duplicate and delivered or sent to the Writ, Appearance and Judgment Department, Central Office, Royal Courts of Justice, Strand, London, W.C.2

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[1] Copy year, letter and number from writ.

In the High Court of Justice 19 . , No[1]

[2] Strike out whichever is inapplicable.

Queen's Bench/Chancery[2] Division

Between

[3] Copy name(s) of plaintiff(s) from writ.

[3] Plaintiff(s)

and

[4] Copy name(s) of d efendant(s from writ.

[4] Defendant(s)

Please enter an Appearance for

[5] Give full name of defendant wishing to appear (see Note 1 on back).

[6] Give name by which defendant is described in writ if this differs from defendant's full name, otherwise delete words in square brackets.

[5]sued as[6]

[in this Action]

Dated the day of . 19 .

[7] To be signed by the defendant or solicitor entering the appearance.

Signed[7]

[8] A defendant appearing in person must give his residence or, if he does not reside in England or Wales, some other place in England or Wales to which communications for him should be sent. Where the defendant appears by solicitor, the solicitor's place of business in England or Wales should be given and, if he is the agent of another solicitor, the name or firm and place of business of the solicitor for whom he is acting.

Whose address for service is[8]

[and who is agent for]

N.B.—Additional notes for the guidance of defendants seeking to enter an appearance are given on the back. Please read them carefully. **The form may have to be returned if any of the information required is omitted or given incorrectly.** The delay may result in judgment being entered against the defendant. If judgment is entered, the defendant or his solicitor may have to pay the costs of applying to set it aside.

(Back)

ADDITIONAL NOTES

1. The defendant must give his or her full name and a female defendant must add her description, such as spinster, married woman, widow or divorced.

2. Where the defendant is a firm, the appearance must be entered by the individual partners by name with the description "Partner in the firm of . . .".

3. Where the defendant is an individual trading in a name other than his own, the appearance must be entered by him in his own name with the addition of the description "Trading as . . .".

4. Where the defendant is a limited liability company, the appearance must be entered by a solicitor.

5. If the defendant has no defence or admits the plaintiff's claim, the entry of appearance will delay judgment and may increase the costs payable by the defendant. Any proposal for the payment of a debt by instalments or otherwise must be made direct to the plaintiff or his solicitor and not to the court.

6. A defendant who wishes to appear in person may obtain help in completing this form from the Central Office of the Royal Courts of Justice, Strand, London, W.C.2, or from any District Registry of the High Court.

7. Where the defendant is unable to give the number of the action or any other information required to indentify it, the writ served on the defendant should be produced for the court's inspection when the appearance is entered.

8. Where the appearance is being entered by leave of the court, a copy of the order granting leave must accompany this form.

9. These notes deal only with the more usual cases. In cases of any difficulty it is advisable to attend at the court office for the purposes of entering an appearance.

No. 2

Memorandum of Appearance for use in District Registry Action (Order 12, Rule 8 (1))

To be completed in duplicate and delivered or sent to the appropriate office (see note 1 on the back)

[1] Copy year, letter and number from writ.

In the High Court of Justice 19 . , No.[1]

[2] Strike out whichever is inapplicable.

Queen's Bench/Chancery[2] Division

[3] Enter name of District Registry as shown in writ.

[3] District Registry

Between

[4] Copy name(s) of plaintiff(s) from writ.

[4] Plaintiff(s)

and

[5] Copy name(s) of defendant(s) from writ.

[5] Defendant(s)

Please enter an Appearance for

[6] Give full name of defendant wishing to appear (see Note 2 on back).

[6]

[7] Give name by which defendant is described in writ if this differs from defendant's full name, otherwise delete words in square brackets.

[sued as[7]

in this Action]

[The defendant neither resides nor carries on business within the district of the above named District Registry. The name of the plaintiff, or his solicitor, and his address for service is[8]

]9

[8] Copy particulars from writ.

[9] Strike out the words in square brackets if the appearance is entered in the District Registry.

Dated the day of , 19 .

[10] To be signed by the defendant or solicitor entering the appearance.

Signed[10]

[11] A defendant appearing in person must give his residence or, if he does not reside in England or Wales, some other place in England or Wales to which communications for him should be sent. Where the defendant appears by solicitor, the solicitor's place of business in England or Wales should be given and, if he is the agent of another solicitor, the name or firm and place of business of the solicitor for whom he is acting.

Whose address for service is[11]

[and who is agent for]

N.B.—Additional notes for the guidance of defendants seeking to enter an appearance are given on the back. Please read them carefully. **The form may have to be returned if any of the information required is omitted or given incorrectly.** The delay may result in judgment being entered against the defendant. If judgment is entered, the defendant or his solicitor may have to pay the costs of applying to set it aside.

(Back)

ADDITIONAL NOTES

1. Where the writ was issued in a District Registry and the defendant resides or carries on business in the district, an appearance may be entered by delivering or sending this form in duplicate to the District Registrar, High Court of Justice, at the District Registry mentioned in the writ. If the defendant does not reside or carry on business in the district, an appearance may be entered by delivering or sending the form in duplicate either to the District Registrar or to the Writ, Appearance and Judgment Department, Central Office, Royal Courts of Justice, Strand, London, W.C.2.

2. The defendant must give his or her full name and a female defendant must add her description, such as spinster, married woman, widow or divorced.

3. Where the defendant is a firm, the appearance must be entered by the individual partners by name with the description "Partner in the firm of . . .".

4. Where the defendant is an individual trading in a name other than his own, the appearance must be entered by him in his own name with the addition of the description "Trading as . . .".

5. Where the defendant is a limited liability company, the appearance must be entered by a solicitor.

6. If the defendant has no defence or admits the plaintiff's claim, the entry of appearance will delay judgment and may increase the costs payable by the defendant. Any proposal for the payment of a debt by instalments or otherwise must be made direct to the plaintiff or his solicitor and not to the court.

7. A defendant who wishes to appear in person may obtain help in completing this form from the Central Office of the Royal Courts of Justice, Strand, London, W.C.2, or from any District Registry of the High Court.

8. Where the defendant is unable to give the number of the action or any other information required to identify it, the writ served on the defendant should be produced for the court's inspection when the appearance is entered.

9. Where the appearance is being entered by leave of the court, a copy of the order granting leave must accompany this form.

10. These notes deal only with the more usual cases. In cases of any difficulty it is advisable to attend at the court office for the purposes of entering an appearance.

EXPLANATORY NOTE

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

Rules 1, 3 and 4 simplify the procedure on entering an appearance in the High Court and enable an appearance to be entered by post not only where the defendant is acting in person but also where he is represented by a solicitor. Rule 2 increases the fees payable to examiners of the court, and Rules 5 and 6 amend the forms of summons and order under Order XIV in actions for death duties and purchase tax.