STATUTORY INSTRUMENTS

1961 No. 1084

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (No. 1), 1961

Made - - - -	*7th June*, 1961
Laid before Parliament	14*th June*, 1961
Coming into Operation	3*rd July*, 1961

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. In Order XXXI (which relates to discovery and inspection of documents), after Rule 20, there shall be inserted the following rule:—

"20A. The discretion of the court or judge to make, or refuse to make, an order for discovery of documents or any other order which may be made on an application for such discovery shall be the same whether the proceedings in which the application was made were begun by writ of summons, originating summons or otherwise."

2. Rule 20 of Order XLIA and the Schedule to that Order are hereby revoked.

3.—(1) In Order LIIID, at the end of Rule 3 (which relates to an application for a new tenancy under section 24 of the Landlord and Tenant Act, 1954(b)), there shall be added the following paragraph:—

"(3) Order VIII, Rule 1 (which restricts the period of validity of a writ of summons to twelve months in the first instance and provides for its renewal from time to time for six months at a time), shall apply in relation to an originating summons issued under this Rule as it applies in relation to an original writ of summons but with the substitution for the references to twelve months and six months of references to one month."

(2) The amendment made by this Rule shall not have effect in relation to an originating summons issued before the coming into operation of these Rules.

(a) 15 & 16 Geo. 5. c. 49. (b) 2 & 3 Eliz. 2. c. 56.

4.—(1) After Order LIVQ there shall be inserted the following Order:—

"ORDER LIVR

PROCEEDINGS UNDER FIRST SCHEDULE TO SOLICITORS ACT, 1957

1. In this Order—

"the Act" means the Solicitors Act, 1957(a);

"the Council" means the Council of The Law Society;

"order for the delivery of documents" means an order under paragraph 2 (*b*) of the First Schedule to the Act directing a person to comply with a requirement under paragraph 1 of the said Schedule to produce or deliver any documents to a person appointed by the Council;

"order for the return of documents" means an order under paragraph 5 of the said Schedule directing the Council to return documents of which it has taken possession;

"stop order" means an order under paragraph 7 of the said Schedule directing that no payment be made out of any banking account in the name of a solicitor or his firm.

2. Every application for an order for the delivery or return of documents or for a stop order shall be made by originating summons in the Chancery Division:

Provided that where in any proceedings an order has been made for the delivery of documents, any application for the return of those documents may be made by summons in the proceedings.

3. There may be included in an originating summons for a stop order in respect of any money of which the solicitor is a trustee, whether alone or jointly with any other person, a claim for the appointment of new trustees of that money and for an order vesting it in the trustees so appointed.

4. The respondents to an originating summons under this Order shall be the following persons:—

(*a*) where the application is for an order for the delivery of documents, the solicitor or other person having possession or control of the documents and, if the documents relate to any trust of which the solicitor is co-trustee with one or more of his partners, clerks or servants, such partner, clerk or servant;

(*b*) where the application is for the return of documents, the Council; and

(*c*) where the application is for a stop order, the solicitor or, if the banking account to which the order relates is in the name of his firm, every member of the firm.

5. A respondent to an originating summons under this Order shall not be required to enter an appearance.

(a) 5 & 6 Eliz. 2. c. 27.

6. At any time after the issue of an originating summons for a stop order, the court or a judge may, on the *ex parte* application of the applicant, make an order requiring the respondent to show cause at the hearing of the summons why a stop order should not be made and restraining the making of any payment out of the banking account until the hearing.

7. Unless the court or a judge otherwise directs, an originating summons under this Order, an order made under the last foregoing Rule, a stop order and any document not requiring personal service which is to be served on a respondent in proceedings under this Order, shall be deemed to be properly served by sending it by prepaid post to the respondent at his last known address or, where the respondent is the Council, to the Secretary of the Law Society.

8. At any stage of proceedings under this Order the court or a judge may direct that any person be added as a party to or be given notice of the proceedings.

9. Evidence in proceedings under this Order may be given by affidavit verifying a statement of the facts relied on by the person making the affidavit.

10. Subject to the provisions of the Act and this Order, the practice and procedure of the Chancery Division shall apply to proceedings under this Order."

(2) The Regulations(a), dated 20th November, 1942, made under paragraph 6 of the First Schedule to the Solicitors Act, 1941(b), are hereby revoked.

5.—(1) In Rule 18 of Order LVIII (which relates to appeals from county courts) for paragraphs (3) and (4) there shall be substituted the following paragraph :—

"(3) In relation to the appeal—

(*a*) paragraph (1) of Rule 4 of this Order shall have effect as if for the words 'the date on which the judgment or order of the Court below was signed, entered or otherwise perfected' there were substituted the words 'the date of the judgment or order of the Court below'; and

(*b*) paragraph (2) of Rule 5 of this Order shall have effect as if for the words 'an office copy' there were substituted the words 'a certificate'."

(2) The amendment made by this Rule shall not have effect in relation to an appeal from a judgment or order given or made before the coming into operation of these Rules.

6. The following amendments shall be made in Rule 5 of Order LXIA (which deals with the verification of powers of attorney presented for filing in the Central Office) :—

(1) In sub-paragraph (*b*) of paragraph (1) for the words "complying with the provisions of paragraph (2) of this Rule" there shall be substituted the words "annexed to the instrument and purporting to bear the signature and seal of the notary".

(2) Paragraphs (2) and (3) shall be omitted.

(a) S.R. & O. 1942/2454 (Rev. XXI, p. 229 : 1942 I, p. 795). (b) 4 & 5 Geo. 6. c. 46.

7. These Rules may be cited as the Rules of the Supreme Court (No. 1) 1961, and, except as provided in paragraph (2) of Rule 3 and paragraph (2) of Rule 5, shall come into operation on the third day of July, 1961.

Dated the 7th day of June, 1961.

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

EXPLANATORY NOTE

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

Rule 1 of these Rules gives the court the same discretion to grant discovery in proceedings commenced by originating summons as in proceedings commenced by writ. Rule 2 revokes Order 41A, Rule 20, which was rendered unnecessary by the Supreme Court Fees Order, 1930 (S.R. & O. 1930/579 (1930, p. 1728). Rule 3 requires an originating summons under section 24 of the Landlord and Tenant Act, 1954, to be served within one month unless renewed by the court. Rule 4 makes fresh provision for proceedings relating to the property of certain solicitors under the First Schedule to the Solicitors Act, 1957. Rule 5 makes the time for appealing from a county court to the Court of Appeal the same as the time for appealing from the High Court. Rule 6 abolishes the need for the legalisation of the signature of a notary before whom a power of attorney has been executed abroad.