substituted the figures "9. 0. 0." and "10. 0. 0." respectively, and at the end there shall be added the words "together, in every case, with the fee paid on the issue of the writ or, where the amount recovered is less than the amount claimed, the fee which would have been payable on the issue of a writ for the amount recovered".

5. These Rules may be cited as the Rules of the Supreme Court (No. 1), 1958, and shall come into operation on the first day of May, 1958, so however that nothing in paragraph (*a*) of Rule 4 shall entitle the plaintiff, in the case of proceedings commenced before that date, to costs in excess of the amount indorsed on the writ.

Dated the seventeenth day of April, 1958.

Kilmuir, C.
Goddard, C.J.
Evershed, M.R.
B. Ormerod, L.J.
H. B. Vaisey, J.
Colin H. Pearson, J.
G. Raymond Hinchcliffe, J.
J. R. Cumming-Bruce.
L. S. Holmes.
W. Charles Norton.

EXPLANATORY NOTE

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

Rule 1 adds London County 6 per cent. stock, 1975-1978, to the list of securities in which money in court may be invested; Rule 2 clarifies certain provisions in the Rules of the Supreme Court relating to appeals from a Judge in chambers; Rule 3 deals with the time for setting down an appeal from a county court to the Court of Appeal; and Rule 4 makes certain changes in the fixed costs recoverable under section 47 (4) of the County Courts Act, 1934, consequential on the Supreme Court Fees (Amendment) Order, 1958.

1958 No. 1246 (L. 7)

The Rules of the Supreme Court (No. 2), 1958

Made - - - -	28*th July*, 1958
Laid before Parliament	1*st August*, 1958
Coming into Operation	5*th August*, 1958

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

PART I

TRIAL AND SETTING DOWN FOR TRIAL

1. For Rule 2 of Order XXV (which relates to proceedings in lieu of demurrer) there shall be substituted the following Rule:—

"2. Any party shall be entitled to raise by his pleading any point of law and unless the court or a judge otherwise orders, any point so raised shall be disposed of by the judge who tries the cause at or after the trial."

2.—(1) For Rules 11, 11A and 12 of Order XXVII (which relate to judgment in default of defence) the following Rules shall be substituted :—

" 10A. In Admiralty actions in rem, if the defendant does not within the time allowed for that purpose deliver a defence, the plaintiff may, on filing an affidavit that no defence was delivered within that time, set down the action for judgment by default, and Rule 13 of Order XIII shall apply to an action set down for judgment under this Rule as it applies to an action set down for judgment in default of appearance.

11. In all actions, other than those mentioned in the preceding Rules of this Order and actions against the Crown, the plaintiff may, if the defendant does not within the time allowed for that purpose deliver a defence, apply for judgment by motion or summons, and on the hearing of the application the court or a judge shall give such judgment as the plaintiff appears entitled to on the statement of claim.

12. Where, in any such action as is mentioned in the last preceding Rule, there are several defendants, then if one of the defendants makes default as mentioned in that Rule, the plaintiff may—

(*a*) if his claim against the defendant in default is severable from his claim against the other defendants, apply under that Rule for judgment as against the defendant in default and proceed with his action against the other defendants ; or

(*b*) set down the action on motion for judgment as against the defendant in default at the time when the action is set down for trial, or is set down on motion for judgment, against the other defendants."

(2) In Rule 15 of the said Order XXVII the words from " and where an action " to the end of the Rule shall be omitted.

(3) In paragraph (*b*) of Rule 17 of the said Order XXVII for the word " motion " in both places where it occurs there shall be substituted the word " application ".

3. In paragraph (4) of Rule 2 of Order XXX (which prevents orders as to the place, mode or date of trial from being made until certain matters which have to be considered in the summons for directions have been dealt with) the words " Rule 1 of " and the words " and no order fixing a date for the trial " shall be omitted.

4. For Rules 1 to 30 of Order XXXVI, the following Rules shall be substituted :—

I. PLACE AND MODE OF TRIAL AND SETTING DOWN FOR TRIAL

" 1.—(1) In every action commenced by writ of summons, an order made on the summons for directions shall determine the place and mode of the trial, and, where the trial is to be before a judge, shall determine whether the trial is to be with or without a jury ; but any such order may be varied by a subsequent order of the court or a judge made at or before the trial.

(2) In any such action, different questions (whether of fact or law) may be ordered to be tried at different places or by different modes of trial and one or more questions may be ordered to be tried before the others.

(3) Save as provided by Rules 2 and 3 of this Order, the discretion of the court or judge in making or varying any order under this Rule is an absolute one.

(4) The references in this Order to the summons for directions include references to any summons or application to which, under any of these Rules, Rules 2 to 7 of Order XXX are to apply, with or without modifications.

(5) Nothing in this Rule affects the provisions of Rule 20 of Order LIIIA as to actions for the infringement of a patent.

2.—(1) The discretion referred to in paragraph (3) of Rule 1 of this Order is, as respects actions to be tried in the Queen's Bench Division, subject to the provisions of section 6 of the Administration of Justice (Miscellaneous Provisions) Act, 1933(a), but applications for juries under that section (the time for the making of which is, under that section, to be limited by rules of court) must be made before the place and mode of the trial is fixed under the said Rule 1.

(2) Accordingly, if, on the application of any party to an action to be tried in the Queen's Bench Division made before the place and mode of the trial is first fixed under the said Rule 1, the court or a judge is satisfied that—

(*a*) a charge of fraud against that party ; or

(*b*) a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage,

is in issue, the action shall be ordered to be tried with a jury unless the court or judge is of opinion that the trial thereof requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury:

Provided that the foregoing provisions of this paragraph are without prejudice to the power of the court or a judge to order that different questions of fact arising in the action shall be tried by different modes of trial and where any such order is made, the said provisions have effect only as respects questions relating to any such charge or claim as aforesaid.

3.—(1) Notwithstanding anything in Rule 1 of this Order, civil proceedings by or against the Crown in the High Court shall not, except with the consent of the Crown, be directed to be tried elsewhere than at the Royal Courts of Justice, London.

(2) Nothing in any of these Rules shall prejudice the right of the Crown to demand a local venue for the trial of any proceedings in which the Attorney General has waived his right to a trial at bar.

4.—(1) Every order made in an action commenced by writ of summons which provides for a trial before a judge shall, whether the trial is to be with or without a jury and wherever the trial is to take place, fix a period within which the plaintiff is to set the action down for trial.

(2) Where the plaintiff does not, within the period fixed under the preceding paragraph, set the action down for trial, the defendant may himself set the action down for trial or may apply to the court or a judge to dismiss the action for want of prosecution, and on the hearing of any such application, the court or a judge may order the action to be dismissed accordingly or may make such other order as to the court or judge may seem just.

(3) Every order made in an action in the Queen's Bench Division commenced by writ of summons which provides for a trial before a judge (otherwise than in the commercial list or the special paper or any corresponding list which may be specified for the purposes of this paragraph by directions under Rule 6 of this Order) shall contain an estimate of the length of the trial and if the action is to be tried in London shall, subject to any such directions, specify the list into which the action is to be put.

5.—(1) In order to set down for trial an action commenced by writ of summons which is to be tried before a judge, the party setting it down

(a) 23 & 24 Geo. 5. c. 36.

must deliver to the proper officer, by post or otherwise, a request that the action may be set down for trial at the place specified in the order made on the summons for directions, together with—

(*a*) a bundle (which shall serve as the record) consisting of one copy of each of the following documents, that is to say, the writ, all the pleadings (including any affidavits ordered to stand as pleadings), all orders made on the summons for directions and the requisite legal aid documents;

(*b*) another bundle (for the use of the judge) consisting of one copy of each of the documents mentioned in the last preceding sub-paragraph together with one copy of any requests or orders for particulars and one copy of any particulars given.

(2) Each of the said bundles shall be bound up in the proper chronological order and the bundle which is to serve as the record shall be stamped with the stamp denoting payment of the fee payable on setting down the action and have endorsed thereon the names, addresses and telephone numbers of the solicitors for the parties, or, in the case of a party who has no solicitor, of the party himself.

(3) In this Rule, "the requisite legal aid documents" means any documents which are required by regulations under Part I of the Legal Aid and Advice Act, 1949, to be included in the bundle for use at the trial.

(4) Where a new trial becomes necessary in the case of an action commenced by writ of summons, the procedure for setting down the action for the new trial shall be that specified in the preceding provisions of this Rule except that—

(*a*) the bundle which is to serve as the record shall be bespoken from the person in whose custody it is and sent to the proper officer, and

(*b*) there shall be delivered, along with the request that the action may be set down, a backsheet with the title of the action thereon, and the names, addresses and telephone numbers of the solicitors for the parties, or, in the case of a party who has no solicitor, of the party himself, stamped with the stamp denoting payment of the fee payable on setting down the action for the new trial.

(5) In this Rule, "the proper officer" means—

(*a*) in relation to an action in the Queen's Bench Division which is to be tried in London, the head clerk of the Crown Office and Associates' Department;

(*b*) in relation to an action (in whatever Division) which is to be tried at Birmingham, Leeds, Liverpool or Manchester, the appropriate district registrar;

(*c*) in relation to an action (in whatever Division) which is to be tried at Aylesbury, Chelmsford, Hertford or Kingston-upon-Thames, the associate of the circuit;

(*d*) in relation to an action (in whatever Division) which is to be tried elsewhere than at a place mentioned in any of the preceding sub-paragraphs, the district registrar for the district comprising the town specified in the order made on the summons for directions as the place of trial or, where a county and not a town is so specified, the town in which there will be held the next assizes for that county after the setting down of the action;

(*e*) in relation to an action in the Chancery Division which is to be tried in London, the cause clerk of the registrar's office:

(*f*) in relation to a probate action which is to be tried in London, the chief clerk of the Contentious Department of the Principal Probate Registry.

6.—(1) Directions may be given under this Rule—

(*a*) specifying the lists in which actions, or actions of any class or description, are to be set down for trial and providing for the keeping and publication of the lists;

(*b*) providing for the determination of a date for the trial of any action which has been set down or a date before which the trial thereof is not to take place; and

(*c*) regulating the making of applications (whether to a court or a judge or to an officer of the court) to fix, vacate or alter any such date and, in particular, requiring any such application to be supported by an estimate of the length of the trial and any other relevant information;

and the two next following Rules shall have effect subject to any directions given under this Rule.

(2) Directions under this Rule may be given—

(*a*) as respects actions in the Queen's Bench Division, by the Lord Chief Justice;

(*b*) as respects actions in the Chancery Division, by the senior judge of that Division;

(*c*) as respects probate actions, by the President of the Probate, Divorce and Admiralty Division.

7.—(1) Lists shall be kept by the district registrars at Birmingham, Leeds, Liverpool and Manchester of the actions to be tried before a judge at those places respectively.

(2) Subject to the following provisions of this Rule and to the provisions of Rules 34 and 34A of this Order, the actions set down for trial at any one of those places shall be included in the list of actions for trial in the order in which they were respectively set down and shall, unless a judge in person otherwise directs, come on for trial as nearly as may be in that order.

(3) The last preceding paragraph shall have effect subject to any order of the court or a judge made on the summons for directions or otherwise that a particular action shall come on for trial with or immediately after another named action.

(4) Where any action is set down for trial at Birmingham, Leeds, Liverpool or Manchester, the district registrar shall fix a date before which the action is not to be tried unless the judge going the circuit otherwise orders.

(5) Not less than seven days before the commission day fixed for the assizes at Birmingham, Leeds, Liverpool or Manchester, the district registrar shall publish a list of the actions likely to be tried during the first week of the assizes, and so far as practicable an action shall not be tried during that week unless included in that list.

(6) At any time after the publication of that list and before commission day, any party to any such action may, after giving notice to all other parties, apply to the district registrar for the postponement of the trial, and the district registrar may postpone or refuse to postpone the trial as seems just.

(7) Save as aforesaid any application for the alteration of the date of trial of an action which has been set down for trial at any such assizes

shall be made to the judge going the circuit after his arrival at Birmingham, Leeds, Liverpool or Manchester, as the case may be.

8.—(1) A list shall be kept by the district registrar of each district comprising an assize town (other than a home counties town) of the actions set down for trial before a judge at that town or in any county comprising that town and a list shall be kept by the associate of the circuit of the actions set down for trial before a judge at a home counties town.

In this Rule "home counties town" means, Aylesbury, Chelmsford, Hertford or Kingston-upon-Thames and references to an assize town do not include references to Birmingham, Leeds, Liverpool or Manchester.

(2) Subject to the following provisions of this Rule and to the provisions of Rules 34 and 34A of this Order, the actions set down for trial at an assize town, or in any county comprising an assize town, shall be included in the list of actions for trial in the order in which they were respectively set down and shall, unless a judge in person otherwise directs, come on for trial as nearly as may be in that order, and any action set down for trial in a county may be tried at any assize town in that county.

(3) The last preceding paragraph shall have effect subject to any order of the court or a judge made on the summons for directions or otherwise that a particular action shall come on for trial with or immediately after another named action.

(4) An action remitted for trial at an assize town from another assize town shall be treated for the purposes of this Rule as having been set down for trial on the date on which it was so remitted.

(5) Unless an action is set down for trial not less than fourteen days before the commission day fixed for the assizes at any assize town, it shall not come on for trial at those assizes unless it has been remitted for trial thereat from another assize town or a judge in person otherwise directs.

(6) Not less than fourteen days before the commission day fixed for the assizes at any assize town other than a home counties town, any party to an action included in the list of actions for trial at that town or in the county comprising that town may, after giving notice to all other parties, apply to the district registrar for a postponement of the trial, and the district registrar may postpone or refuse to postpone the trial as seems just.

(7) A district registrar or associate by whom a list is kept in pursuance of paragraph (1) of this Rule shall secure that a copy of the list is conspicuously displayed in his registry or office, as the case may be, and is available for inspection by the public during office hours, and—

(*a*) a district registrar by whom a list is so kept shall also secure that the associate and any other district registrar by whom the same list is so kept are informed of the state of the list and that all the requisite documents in the actions in the list are duly sent to the associate; and

(*b*) where an action is remitted for trial at an assize town other than a home counties town, the associate shall notify the district registrar for the district comprising that town of the fact and date of the remission of the action as aforesaid.

(8) As soon as may be after the close of the assizes at any assize town other than a home counties town, the associate shall notify the district registrar of the actions which have been respectively disposed of at those assizes, postponed and remitted for trial to another assize town, and shall send him all the documents in the actions which had been included in the list of actions for trial at those assizes but were not disposed of or remitted for trial as aforesaid.

9.—(1) A party to an action who sets it down for trial shall, within twenty-four hours after doing so, notify the other parties to the action that he has done so and shall also without delay notify them of any communication received by him from the officer who keeps the list as to the date fixed for the trial of the action or the date before which the action will not be tried, but, save as aforesaid, no notice of trial shall be necessary in any action.

(2) It shall be the duty of all parties to an action entered in any list to furnish without delay to the officer who keeps the list all available information as to the action being or being likely to be settled, or affecting the estimated length of the trial, and, if the action is settled or withdrawn, to notify that officer of the fact without delay and take such steps as may be necessary to withdraw the record.

10.—(1) The foregoing provisions of this Order, except Rule 3 thereof, shall not apply to Admiralty actions commenced by writ of summons, but the following provisions of this Rule shall apply to such actions instead.

(2) In every Admiralty action, an order made on the summons for directions shall—

(*a*) direct, unless it appears that there are special reasons to the contrary, that the trial shall be in the Royal Courts of Justice before a judge without a jury ;

(*b*) determine whether or not the trial is to be with one or more assessors (whether Elder Brethren of Trinity House or Nautical Assessors) ;

(*c*) contain an estimate of the length of the trial ;

but any such order may be varied by a subsequent order made at or before the trial by the judge in person or, with the judge's consent, by the Admiralty Registrar.

The reference in this Rule to the summons for directions includes a reference to any summons or application to which, under any of these Rules, Rules 2 to 7 of Order XXX are to apply, with or without modifications.

(3) The court or a judge may at any stage of an Admiralty action, on an application made by motion or summons by any party to the action, fix a date for the trial and vacate or alter any such date.

(4) The party at whose instance the date for the trial was originally fixed shall, unless the court or a judge otherwise orders, file in the Admiralty Registry—

(*a*) not less than twenty-one days before the date fixed for the trial, or such other period before that date as may be specified in general directions given by the President of the Probate, Divorce and Admiralty Division, a notice of the trial and, if a trial with one or more assessors has been ordered, a praecipe for his or their attendance ; and

(*b*) not less than seven days before that date or such other period as may be so specified, four copies or, in the case of a trial with one or more assessors, six copies of the preliminary acts, if any, and the pleadings.

(5) If an Admiralty action which has been set down for trial is settled or withdrawn, it shall be the duty of all the parties to notify the Admiralty Registry of the fact without delay and take such steps as may be necessary to vacate the date fixed for the trial.

II. Provisions as to Juries

11.—(1) Where an action is ordered to be tried in London in the commercial list with a jury, the court or a judge may, at the same time or subsequently, order that the action shall be tried with a City of London special jury upon such terms, if any, as to costs and otherwise as may be just.

(2) It shall be the duty of the court or judge to make an order under this Rule if the court or judge is notified that it is a proper case for a trial with a jury and an application for the order is made by any party to the action either at the time at which the mode of trial is fixed or, with the leave of the court or a judge, at any later stage.

12.—(1) Upon every jury summons served upon a woman there shall appear a notice that she may apply to the summoning officer for exemption from attendance as a juror on account of pregnancy or some other feminine condition or ailment provided that the application is received by the summoning officer within three days of the receipt of the summons by the applicant.

(2) The under-sheriff or other person upon whom is cast the duty of preparing the jury panels may in his discretion exempt from attendance any woman who has been summoned to serve as a juror if he is satisfied by a medical certificate or otherwise that on account of pregnancy or some other feminine condition or ailment she is or will be unfit to serve.

13. On every trial with a jury, the jurors shall be selected from the panel by ballot in the manner prescribed by section twenty-six of the Juries Act, 1825."

5. In Rule 34A of Order XXXVI (which confers power on the judge on circuit to change the place of trial or postpone the trial to another assize) the words " other than one of the excepted places as defined in Rule 10 (*h*) of this Order " shall be omitted.

6. The heading of Order LV shall be altered from " Chambers in the Chancery Division " to " Special provisions as to the Chancery Division " and after Rule 72 of that Order there shall be inserted the following Rule :—

" 72A.—(1) When any cause or matter in the Chancery Division has been adjourned for further consideration, and the further consideration is to be in court, the cause or matter may be set down by the registrar in the cause book for further consideration—

(*a*) after the expiration of eight days and within fourteen days from the filing of the Master's certificate on the written request of the solicitor for the plaintiff or party having the conduct of the proceedings, or

(*b*) after the expiration of the said fourteen days on the written request of the solicitor for any party,

upon production, in either case, of the judgment or order adjourning the cause or matter for further consideration, or an office copy thereof, and an office copy of the Master's certificate or a memorandum of the date when the certificate was filed, endorsed on request by the proper officer.

(2) A cause or matter so set down shall not be put into the paper for further consideration until the expiration of ten days from the day on which it was so set down, and shall be marked in the cause book accordingly, and notice of the setting down and of the day marked in the cause book

as the day before which the cause or matter is not to be put into the paper for further consideration shall be given to the other parties to the action at least six days before that day.

(3) A request under this Rule to set down a cause or matter may be in the Form No. 36 of Appendix L and the notice required by paragraph 2 of this Rule may be in the Form No. 27 in that Appendix."

7. Rule 9 of Order LXIV (which relates to fixing dates of trial in Admiralty actions) and, in Rule 13 of that Order, the words " but notice of trial although countermanded shall " shall be omitted.

8. Forms 16 and 16A of Part II of Appendix B and Form 22 of Appendix G are hereby revoked.

PART II

MISCELLANEOUS

9.—(1) In paragraph (2) of Rule 14A of Order LV (which relates to applications under the Property Legislation of 1925) for the words " and the Land Charges Act, 1925(**a**) " there shall be substituted the words " the Land Charges Act, 1925, and the Variation of Trusts Act, 1958(**b**) ".

(2) After paragraph (3) of that Rule there shall be inserted the following paragraph: —

" (3A) In the case of an application under the Variation of Trusts Act, 1958(**b**), the settlor and any other person who provided property for the purposes of the trusts in question shall, if still alive and not an applicant and unless the court or judge for special reasons otherwise directs, be made a respondent to the summons in addition to any other persons who are necessary and proper respondents thereto."

10. The following amendments shall be made in Order LXIII :—

(1) In Rule 6 (which prescribes the days on which the offices of the Supreme Court are to be closed) the words " (save as otherwise provided by Rule 9 of this Order) " shall be omitted.

(2) In Rule 9 (which prescribes the office hours in the offices of the Supreme Court) for the words " columns 2, 3 and 4 " there shall be substituted the words " columns 2 and 3 " and the table shall be amended by inserting the words " (except Saturdays) " after the word " week-days " in the headings to columns 2 and 3 and by omitting column 4.

11. In Form No. 5B in Appendix F for the words " on the day of , 19 , or subsequently within days after service hereof, whichever is the later " there shall be substituted the word " forthwith ".

12.—(1) These Rules may be cited as the Rules of the Supreme Court (No. 2), 1958.

(2) Rules 9, 10 and 11 of these Rules shall come into force on the fifth day of August, 1958, but save as aforesaid, these Rules shall come into force on the first day of September, 1958, and thereupon any action set down for trial before that date under the provisions of Order XXXVI shall be deemed

(**a**) 15 & 16 Geo. 5. c. 22. (**b**) 6 & 7 Eliz. 2. c. 53.

to have been set down under the provisions substituted therefor by these Rules, and any directions relating to any matters as to which directions can be made under the substituted provisions shall have effect as if they had been so made.

Dated the twenty-eighth day of July, 1958.

Kilmuir, C.
Goddard, C.J.
Evershed, M.R.
Merriman, P.
B. Ormerod, L.J.
Colin H. Pearson, J.
G. Raymond Hinchcliffe, J.
J. R. Cumming-Bruce.
L. S. Holmes.
W. Charles Norton.

EXPLANATORY NOTE

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

Part I of these Rules (which comes into force on the 1st September, 1958) replaces the existing provisions of Order 36 relating to setting down for trial and mode of trial, and makes new provision in regard to setting down for trial at assizes. The need to give notice of trial is abolished and actions will be set down with the district registrar (or, in the case of certain Home Counties towns, with the associate of the circuit) within the time fixed by the order made on the summons for directions. The keeping of separate lists for different classes of actions, both in London and elsewhere, will in future be a matter for directions under the new Rule 6 of Order 36.

Part II (which comes into force on the 5th August, 1958) makes miscellaneous amendments in the Rules of the Supreme Court, including provision for applications to the court under the Variation of Trusts Act, 1958, and for the closing of the offices of the Supreme Court on Saturdays.

1958 No. 2094 (L. 15)

The Rules of the Supreme Court (No. 3), 1958

Made - - - -	*8th December*, 1958
Laid before Parliament	*17th December*, 1958
Coming into Operation	*1st January*, 1959

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

PART I

PROCEEDINGS UNDER THE MAINTENANCE ORDERS ACT, 1958

1. After Order XLIC there shall be inserted the following Order :—

" ORDER XLID

MAINTENANCE ORDERS ACT, 1958

I. INTERPRETATION

1. In this Order, unless the context otherwise requires—
" the Act of 1958 " means the Maintenance Orders Act, 1958(a) ;

(a) 6 & 7 Eliz. 2. c. 39.