1961 No. 2365 (L. 9)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (No. 2), 1961

Made - - - -	11*th December*, 1961
Laid before Parliament	18*th December*, 1961
Coming into Operation	1*st January*, 1962

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 XXII, for the proviso to paragraph (2) of Rule 2 (which makes provision for the payment of money out of court to a plaintiff or his solicitor) there shall be substituted the following proviso:—

"Provided that where the plaintiff is a person in respect of whom a certificate is or has been in force under Part I of the Legal Aid and Advice Act, 1949(b), entitling him to legal aid in the action, payment shall be made only to his solicitor (or, if he is no longer represented by a solicitor, then, if the court or a judge so orders, to the Law Society) without any authority from the plaintiff for that purpose."

2. In Order XLIB the following amendments shall be made in Rule 13 (which prescribes the procedure to be followed on an application for a certified copy of a judgment with a view to its enforcement abroad under the Foreign Judgments (Reciprocal Enforcement) Act, 1933(c)):—

(1) The following sub-paragraphs shall be substituted for sub-paragraphs (*d*) and (*e*) of paragraph (2):—

"(*d*) show that the judgment is not subject to any stay of execution; and

(*e*) state that the time for appealing has expired or, if it has not expired, the date on which it will expire and in either case whether notice of appeal against the judgment has been entered; and

(*f*) state the rate at which the judgment carries interest."

(2) The following sub-paragraph shall be substituted for sub-paragraph (*a*) of paragraph (3):—

"(*a*) a certificate having annexed to it a copy of the writ of summons or originating summons by which the proceedings were instituted and stating—

(i) the manner in which the writ or originating summons was served on the defendant or that the defendant appeared thereto;

(ii) what objections, if any, were made to the jurisdiction;

(iii) what pleadings, if any, were delivered in the proceedings;

(iv) the grounds on which the judgment was based;

(v) that the time for appealing has expired or, if it has not expired, the date on which it will expire;

(a) 15 & 16 Geo. 5. c. 49. (b) 12, 13 & 14 Geo. 6. c. 51. (c) 23 & 24 Geo. 5. c. 13.

(vi) whether notice of appeal against the judgment has been entered ; and

(vii) such other particulars as it may be necessary to give to the foreign tribunal in the country in which it is sought to obtain execution of the judgment."

3. In Order LIV R (which relates to proceedings under the First Schedule to the Solicitors Act, 1957(**a**)) the following paragraph shall be added at the end of Rule 2:—

"(2) An originating summons under this rule shall be intituled 'In the Matter of a Solicitor' (without naming him) and in the matter of the Act."

4. The following amendments shall be made in Part VI of Order LV B (which relates to proceedings in the High Court under the Local Government Act, 1933(**b**), and other Acts):—

(1) In Rule 71, after paragraph (10) there shall be inserted the following paragraph:—

"(11) Section 7 (1) of the Road Traffic and Roads Improvement Act, 1960(**c**)."

(2) In paragraph (1) of Rule 74, after sub-paragraph (iii) there shall be inserted the following sub-paragraph:—

"(iv) if the application relates to a designation order within the meaning of section 85 of the Road Traffic Act, 1960(**d**), made on the application of a local authority, on that authority."

5. The following amendments shall be made in Order LIX A (which deals with proceedings on appeal, etc., from certain tribunals and Ministers):—

(1) The following Rules shall be added after Rule 6:—

"7.—(1) Rule 1 of this Order shall apply to proceedings in the High Court brought by virtue of section 6 (5) of the Rivers (Prevention of Pollution) Act, 1961(**e**), or section 66 of the Public Health Act, 1961(**f**), as it applies to proceedings in that Court under section 9 of the Tribunals and Inquiries Act, 1958(**g**).

(2) Paragraphs (3) to (6) of Rule 4 of this Order shall apply in relation to an application for an order directing the Minister of Housing and Local Government to state a case under either of the said sections where he has refused to do so and to a case stated thereunder as they apply in relation to an application under paragraph (2) of the said Rule 4 for an order requiring a tribunal to state a case where it has refused to do so and to a case stated under that rule, and those paragraphs shall have effect accordingly subject to the modification that for the references to a tribunal and to the chairman thereof there shall be substituted references to the said Minister and to the further modification that the case may be signed on behalf of the said Minister instead of by him.

(3) If the said Minister wishes to take part in any proceedings in the High Court on a case stated under either of the said sections he shall be entitled to be treated as a party to those proceedings and to appear and be heard accordingly.

(**a**) 5 & 6 Eliz. 2. c. 27. (**b**) 23 & 24 Geo. 5. c. 51. (**c**) 8 & 9 Eliz. 2. c. 63.
(**d**) 8 & 9 Eliz. 2. c. 16. (**e**) 9 & 10 Eliz. 2. c. 50. (**f**) 9 & 10 Eliz. 2. c. 64.
(**g**) 6 & 7 Eliz. 2. c. 66.

8. Any document required by virtue of this Order to be served on the Minister of Housing and Local Government shall be served on the Solicitor to the Ministry of Housing and Local Government in accordance with Order LXVII, Rule 1A (2)."

(2) Paragraph (*c*) of Rule 3A and paragraph (7) of Rule 6 shall be revoked.

6. The Supreme Court Costs Rules, 1959(**a**), shall be amended as follows:—

(1) For paragraph (3) of rule 30 there shall be substituted the following paragraph:—

"(3) On the taxation under the said rule 29 of a solicitor's bill to any plaintiff in any such proceedings as are referred to in the said sub-paragraph (*a*) or (*b*) who is his own client, the taxing officer shall also tax any costs payable to that plaintiff in those proceedings and shall certify—

(*a*) the amount allowed on the taxation under the said rule 29, the amount allowed on the taxation of any costs payable to that plaintiff in those proceedings and the amount (if any) by which the first-mentioned amount exceeds the other, and

(*b*) where necessary, the proportion of the amount of the excess payable respectively by, or out of money belonging to, any party to the proceedings who is an infant or incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959(**b**), of managing and administering his property and affairs or the widow of the man whose death gave rise to the proceedings and any other party."

(2) The following amendments shall be made in Appendix 3:—

(*a*) In Part II, for columns (*b*) and (*c*) of the basic costs there shall be substituted the following columns:—

(*b*)			(*c*)		
£	s.	d.	£	s.	d.
3	2	6	6	12	6
5	14	6	9	14	6
9	1	6	15	14	6

(*b*) In Part II, the additional costs shall be amended as follows:—

(i) In item (2), for the amounts of £1 0*s*. 0*d*., £2 0*s*. 0*d*. and £4 10*s*. 3*d*. appearing in columns (i), (ii) and (iii) there shall be substituted amounts of £2 0*s*. 0*d*., £3 0*s*. 0*d*. and £5 10*s*. 3*d*. respectively.

(ii) In item (4), for the amounts of £5 0*s*. 0*d*. and £8 0*s*. 0*d*. appearing in column (i) there shall be substituted amounts of £6 0*s*. 0*d*. and £9 0*s*. 0*d*. respectively, and for the amounts of £7 5*s*. 0*d*. and £11 15*s*. 0*d*. appearing in column (ii) there shall be substituted amounts of £8 5*s*. 0*d*. and £12 15*s*. 0*d*. respectively.

(iii) In item (5), for the amounts of 15*s*. 0*d*. and £1 0*s*. 0*d*. appearing in columns (i) and (ii) there shall be substituted amounts of £1 1*s*. 6*d*. and £1 6*s*. 6*d*. respectively.

(iv) In item (6), for the amounts of 15*s*. 0*d*. and £1 0*s*. 0*d*. appearing in columns (i) and (ii) there shall be substituted amounts of £1 0*s*. 0*d*. and £1 5*s*. 0*d*. respectively.

(**a**) S.I. 1959/1958 (Second Schedule) (1959 II, p. 2535). (**b**) 7 & 8 Eliz. 2. c. 72.

(v) In item (8), for the amounts of £1 19*s.* 0*d.* and £1 8*s.* 0*d.* appearing in column (i) there shall be substituted amounts of £2 9*s.* 0*d.* and £1 13*s.* 0*d.* respectively, and for the amounts of £2 15*s.* 0*d.* and £2 0*s.* 0*d.* appearing in column (ii) there shall be substituted amounts of £3 5*s.* 0*d.* and £2 5*s.* 0*d.* respectively.

(*c*) Part III shall be amended as follows:—

(i) In paragraph 6, for the amount of £6 2*s.* 0*d.* there shall be substituted an amount of £6 12*s.* 0*d.*

(ii) In paragraph 7, for the amount of £2 5*s.* 0*d.* there shall be substituted an amount of £2 10*s.* 0*d.*

(iii) In sub-paragraph (*a*) of paragraph 8, for the amounts of £3 0*s.* 0*d.* and £4 5*s.* 0*d.* there shall be substituted amounts of £3 5*s.* 0*d.* and £4 10*s.* 0*d.* respectively.

(iv) In sub-paragraph (*b*) of paragraph 8, for the amounts of £1 10*s.* 0*d.*, £6 5*s.* 0*d.* and £1 0*s.* 0*d.* there shall be substituted amounts of £2 5*s.* 0*d.*, £7 0*s.* 0*d.* and £1 5*s.* 0*d.* respectively.

(v) In paragraph 9, for the amounts of £7 17*s.* 6*d.* and £1 0*s.* 0*d.* there shall be substituted amounts of £8 12*s.* 6*d.* and £1 5*s.* 0*d.* respectively.

(vi) In paragraph 10, for the amount of £2 5*s.* 0*d.* there shall be substituted an amount of £2 10*s.* 0*d.*

(vii) In paragraph 11, for the amount of £2 19*s.* 0*d.* there shall be substituted an amount of £3 9*s.* 0*d.*

7. These Rules may be cited as the Rules of the Supreme Court (No. 2), 1961, and shall come into operation on the first day of January, 1962.

Dated the eleventh day of December, 1961.

Kilmuir, C.
Parker of Waddington, C.J.
Evershed, M.R.
B. Ormerod, L.J.
Colin H. Pearson, L.J.
Reginald W. Goff.
W. Charles Norton.
W. O. Carter.

EXPLANATORY NOTE

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

The effect of Rule 1 is that, where money in court is accepted by a plaintiff who is or has been an assisted person, it may be paid out only to the plaintiff's solicitor or, where he has no solicitor and the court so orders, to the Law Society.

Rule 2 amends the form of affidavit and certificate prescribed under the Foreign Judgments (Reciprocal Enforcement) Act, 1933, so as to cover cases in which the time for appealing has not expired. Rule 3 provides for the omission of the solicitor's name from the title of an originating summons in proceedings under the First Schedule to the Solicitors Act, 1957. Rules 4 and 5 make provision for proceedings in the High Court under the Road Traffic and Roads Improvement Act, 1960, and under the Rivers (Prevention of Pollution) Act, 1961, and the Public Health Act, 1961.

Paragraph (1) of Rule 6 re-states the provisions of the Supreme Court Costs Rules, 1959, relating to the taxation of costs of plaintiffs under disability and paragraph (2) amends the fixed costs in consequence of the increases made in court fees by the Supreme Court Fees Order, 1961 (S.I. 1961/2307 (L. 7)).