STATUTORY INSTRUMENTS

1962 No. 2704 (L. 28)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (No. 2) 1962

Made - - - -	11*th December* 1962
Laid before Parliament	18*th December* 1962
Coming into Operation	11*th January* 1963

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under subsection (4) of section 99 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 XIII (which deals with default of appearance):—

(1) In Rule 5 after the word "may" there shall be inserted the words "subject to Rule 20 of this Order".

(2) In Rule 6 after the word "may", wherever occurring, there shall be inserted the words "subject to Rule 20 of this Order".

(3) At the end of the Order there shall be inserted the following Rule:—

"20.—(1) In an action in tort brought by one of the parties to a marriage against the other during the subsistence of the marriage, judgment shall not be entered in default of appearance except with the leave of the court or a judge.

(2) Paragraphs (2), (3) and (6) of the last foregoing Rule shall apply in relation to an application for the grant of leave under this Rule as they apply in relation to an application for the grant of leave under that Rule."

2. At the end of Order XXV (which relates to proceedings in lieu of demurrer) there shall be inserted the following Rule:—

"7. On the first application by summons or motion in an action in tort brought by one of the parties to a marriage against the other during the subsistence of the marriage, the court or judge shall consider, if necessary of its or his own motion, whether the power to stay the action under subsection (2) of section 1 of the Law Reform (Husband and Wife) Act 1962(b) should or should not be exercised."

3. The following amendments shall be made in Order XXVII (which deals with default of pleading):—

(1) In Rule 4 after the word "may" there shall be inserted the words "subject to Rule 20 of this Order".

(2) In Rule 5 after the word "may", wherever occurring, there shall be inserted the words "subject to Rule 20 of this Order".

(a) 15 & 16 Geo. 5. c. 49. (b) 10 & 11 Eliz. 2. c. 48.

(3) At the end of the Order there shall be inserted the following Rule:—

"20.—(1) In an action in tort brought by one of the parties to a marriage against the other during the subsistence of the marriage, judgment shall not be entered in default of defence except with the leave of the court or a judge.

(2) Paragraph (2) (*b*) and (*c*) and paragraph (6) of Rule 19 of Order XIII shall apply in relation to an application for the grant of leave under this Rule as they apply in relation to an application for the grant of leave under that Rule and the notice by which an application under this Rule is made shall be served on the defendant."

4. The Solicitors (Disciplinary Appeals) Rules 1942(a) are hereby revoked and after Order LIV R there shall be inserted the following Order:—

"ORDER LIV S

APPEALS FROM THE DISCIPLINARY COMMITTEE UNDER THE SOLICITORS ACT 1957

1. In this Order—

"the Act" means the Solicitors Act 1957(b);

"appeal" means an appeal against an order made by the disciplinary committee;

"Crown Office" means the Crown Office and Associates' Department;

"disciplinary committee" means the committee appointed under section 46 of the Act or a division thereof.

2.—(1) Every appeal shall be heard by a Divisional Court of the Queen's Bench Division consisting, unless the Lord Chief Justice otherwise directs, of not less than three judges.

(2) Subject to the provisions of this Order, the provisions of Order LIX shall apply to the appeal as they apply to an appeal to the High Court from an inferior court of civil jurisdiction.

3. The notice of motion by which the appeal is brought shall be intituled in the matter of "a solicitor" or, as the case may be, "a solicitor's clerk", without naming him, and in the matter of the Act.

4.—(1) Unless the Court otherwise orders, the notice of motion shall be served on every party to the proceedings before the disciplinary committee and on the Law Society.

(2) There shall be at least fourteen clear days between the service of the notice of motion and the day named therein for the hearing.

(3) The notice of motion shall be served and the appeal entered within fourteen days from the day on which the order appealed against was pronounced:

Provided that in the case of an order made on an application under section 38 of the Act, the said period of fourteen days shall commence with the date of service of a copy of the order on the person with respect to whom the application was made.

(a) S.R. & O. 1942/1832 (Rev. XXI, p. 192: 1942 I, p. 790). (b) 5 & 6 Eliz. 2. c. 27.

5.—(1) Within seven days after being served with the notice of motion the Law Society shall lodge in the Crown Office three copies of each of the following documents—

(*a*) the order appealed against, prefaced by the statement of the disciplinary committee's findings required by section 49 of the Act;

(*b*) any document lodged by a party with the disciplinary committee which is relevant to a matter in issue on the appeal; and

(*c*) the transcript of the shorthand notes, or, as the case may be, the note taken by the chairman of the disciplinary committee, of the evidence in the proceedings before the committee.

(2) At the hearing of the appeal the Court shall direct by whom the costs incurred in complying with the foregoing paragraph are to be borne and may order them to be paid to the Law Society by one of the parties notwithstanding that the Society does not appear at the hearing.

6. No person other than an appellant who was the applicant in the proceedings before the disciplinary committee or, in the case of an application by a solicitor to procure his name to be removed from the roll, was an objector, shall be ordered to give security for the costs of the appeal.

7. The Court may direct the disciplinary committee to furnish the Court with a statement in writing of their opinion on the case or on any question arising therein, and where such a direction is given the clerk to the disciplinary committee shall as soon as may be lodge three copies of such a statement in the Crown Office and shall at the same time send a copy to each of the parties to the appeal.

8. Every appeal shall be by way of rehearing.

9. A person who has not been served with notice of motion but who desires to be heard in opposition to the appeal shall, if he appears to the Court to be a proper person to be so heard, be entitled to be heard accordingly.

10.—(1) An appellant may at any time discontinue his appeal by serving notice of discontinuance on the clerk to the disciplinary committee and every other party to the appeal and, if the appeal has been entered, by lodging a copy of the notice in the Crown Office.

(2) Where an appeal has been discontinued in accordance with the foregoing paragraph, it shall be treated as having been dismissed with an order for payment by the appellant of the costs of and incidental to the appeal, including any costs incurred by the Law Society in complying with paragraph (1) of Rule 5 of this Order."

5. The Rules of the Supreme Court (Finance Act) 1895(**a**) are hereby revoked and after Order LV J there shall be inserted the following Orders:—

"ORDER LV K

APPEALS UNDER THE FINANCE ACT 1894

1. Every appeal to the High Court under section 10 of the Finance Act 1894(**b**) from a decision of the Commissioners of Inland Revenue with respect to the repayment of any excess of estate duty paid or the amount of duty claimed by them shall be assigned to the Chancery Division and shall be heard and determined by a single Judge of that Division.

(**a**) S.R. & O. 1895/11 (Rev. XXII, p. 94: 1895, p. 717). (**b**) 57 & 58 Vict. c. 30.

2. The appeal shall be brought by originating summons stating the grounds on which the appellant contends that the decision or claim of the Commissioners is erroneous and, if the appellant alleges that the value put by the Commissioners on any property is excessive, specifying that property and stating the value which he contends should be put on it.

3. The originating summons shall be issued and served on the Commissioners within one month after the notification to the appellant of the decision or claim.

4. Within one month after service of the summons the Commissioners shall notify the appellant of their determination either to withdraw the decision or claim or to maintain it in whole or in part.

5. Not less than one month nor more than two months after service of the summons, or within such further time as the parties may in writing agree or the court or a judge may allow, the appellant shall take an appointment before the Master for the purpose of obtaining directions as to the procedure to be followed before the summons is set down for hearing and at the same time leave with him a copy of the notification mentioned in the last preceding Rule, and shall serve four clear days' notice of the appointment on the Commissioners.

6. The Master may, if so requested by the parties, dispose of the appeal on such terms, if any, as to the variation of the decision or claim or otherwise as may be agreed upon by the parties.

7. Unless the appeal is disposed of as aforesaid, the Master shall, after giving such directions as he may think fit, adjourn the summons for hearing by the Judge.

8. Unless the parties otherwise agree or the court or a judge otherwise orders, the evidence at the hearing of the appeal shall be given orally and the provisions of Rule 1 of Order XXXVIII shall not apply.

9.—(1) An application under subsection (4) of the said section 10 for leave to bring an appeal on payment of no duty or of part only of the duty claimed by the Commissioners shall be made by originating summons before a Judge of the Chancery Division.

(2) The applicant shall serve on the Commissioners with the summons a copy of any affidavit which he intends to use at the hearing.

(3) The Commissioners shall not be required to enter an appearance to the summons.

10. Any document required or authorised to be served on the Commissioners of Inland Revenue in proceedings under this Order shall be served on the Solicitor of Inland Revenue in accordance with the provisions of Rule 1A (2) of Order LXVII.

ORDER LV L

APPEALS UNDER THE FINANCE ACT 1960

1. Every appeal to the High Court under section 56 or 59 of the Finance Act 1960(a), or paragraph 9 of Schedule 7 to that Act, from a decision or award of the General or Special Commissioners with respect to any

(a) 8 & 9 Eliz. 2. c. 44.

fine or penalty shall be heard and determined by a single Judge of the Chancery Division.

2. The appeal shall be brought by notice of motion issued out of the office of the Chief Chancery Master.

3. The notice of motion shall state the grounds of the appeal and whether the whole or part only of the decision or award of the General or Special Commissioners is complained of.

4. The notice of motion shall be served on the General or Special Commissioners and also—

(*a*) in the case of an appeal brought under the said section 56 or the said paragraph 9 by any party other than the defendant in the proceedings before the Commissioners, on the defendant;

(*b*) in any other case, on the Commissioners of Inland Revenue.

5. The notice of motion shall be issued and served within 30 days after the date of the decision or award complained of.

6. Within 30 days after being served with the notice of motion the General or Special Commissioners shall lodge in the office of the Chief Chancery Master two copies of a note of their findings and of the reasons for their decision or award and shall serve a copy of the note on every other party to the appeal.

7. Subject to the provisions of this Order, Rules 35 and 36 of Order LIX shall, with the necessary modifications, apply to the appeal as if it were an appeal from an inferior court of civil jurisdiction.

8. Any document required or authorised to be served on the General or Special Commissioners in proceedings under this Order shall be served by delivering or sending it to their clerk.

9. Any document required or authorised to be served on the Commissioners of Inland Revenue in proceedings under this Order shall be served on the Solicitor of Inland Revenue in accordance with the provisions of Rule 1A (2) of Order LXVII."

6. In Rule 5 (5) (*e*) of Order LVIII (which relates to appeals to the Court of Appeal) for the words "Queen's Remembrancer" there shall be substituted the words "Chief Chancery Master".

7. Rule 4 of Order LVIIIA (which applies that Order to cases stated by the Restrictive Practices Court) shall be omitted and after that Order there shall be inserted the following Order:—

"ORDER LVIIIB

APPEALS TO COURT OF APPEAL FROM RESTRICTIVE PRACTICES COURT

1. An appeal to the Court of Appeal from the Restrictive Practices Court under the Restrictive Trade Practices Act 1956(a) shall be brought by notice of motion, which shall state the question of law which it is desired to have determined by the Court of Appeal and the appellant's contentions thereon.

(a) 4 & 5 Eliz. 2. c. 68.

2. Within twenty-one days after the appellant receives a copy of the judgment constituting the case the notice of motion shall be served on the proper officer of the Restrictive Practices Court and shall also be served, together with a copy of the judgment, on every other party to the proceedings before that Court.

3. Where the appellant applies to the Restrictive Practices Court for the court's judgment to be amplified or amended, he shall be deemed to have received a copy of the judgment on the date on which he receives a copy of the order made on his application; and the judgment constituting the case shall be the judgment with such amplifications or amendments, if any, as may be specified in the order.

4. Within two days after service of the notice of motion the appellant shall lodge the judgment constituting the case and two copies of the notice of motion with the proper officer of the Court of Appeal, who shall enter the appeal in a list to be kept for the purpose; and the appeal shall not come on to be heard until after the expiration of twenty-one days from the date of entry.

5. On the hearing of the appeal the Court of Appeal shall have power to draw inferences of fact from the facts set forth in the judgment of the Restrictive Practices Court.

6. The Court of Appeal may make such order as to the whole or any part of the costs of the appeal as may be just.

7. The proper officer of the Court of Appeal shall notify the proper officer of the Restrictive Practices Court of the decision of the Court of Appeal and of any directions given by the Court of Appeal thereon."

8. Rule 22 of the Supreme Court Costs Rules 1959(a) shall be amended as follows:—

(1) In paragraph (1) for the words "paragraph (3)" there shall be substituted the words "paragraphs (3) and (4)".

(2) After paragraph (3) there shall be added the following paragraph:—

"(4) Where in proceedings for the taxation of the costs of or arising out of a matrimonial cause or matter—

(*a*) the amount of the bill of costs or, as the case may be, the aggregate amount of all the bills of costs to be taxed does not exceed £400, and

(*b*) no party other than the party who has begun the proceedings for taxation is entitled to be heard therein,

then, unless the taxing officer otherwise directs, the proper officer shall inform that party of the amount which the taxing officer proposes to allow in respect of the costs which are to be taxed and shall not give any notice under paragraph (1) of this rule unless, within 14 days after being informed of that amount, that party requires the appointment of a day and time for taxation in order that he may be heard in the proceedings."

(a) S.I. 1959/1958 (Schedule 2) (1959 II, p. 2535).

9. These Rules may be cited as the Rules of the Supreme Court (No. 2) 1962 and shall come into operation on the 11th January 1963.

Dated 11th December 1962.

Dilhorne, C.
Parker of Waddington, C.J.
Denning, M.R.
J. E. S. Simon, P.
B. Ormerod, L.J.
Colin H. Pearson, L.J.
Geoffrey Cross, J.
John Megaw, J.
Arthur Bagnall.
Douglas Lowe.
Charles Norton.
W. O. Carter.

EXPLANATORY NOTE

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

Rules 1, 2 and 3 of these Rules provide for the exercise by the High Court of its power under section 1 (2) of the Law Reform (Husband and Wife) Act 1962 to stay proceedings in tort between husband and wife. Rule 4 substitutes a new Order 54 S for the Solicitors (Disciplinary Appeals) Rules 1942. Rule 5 replaces the Rules of the Supreme Court (Finance Act) 1895 by a new Order 55 K and introduces a new Order 55 L to regulate appeals to the High Court under sections 56 and 59 of, and paragraph 9 of Schedule 7 to, the Finance Act 1960. The effect of Rule 6 is to require appeals to the Court of Appeal in Revenue cases to be set down with the Chief Chancery Master instead of the Queen's Remembrancer. Rule 7 makes fresh provision by a new Order 58 B for appeals to the Court of Appeal from the Restrictive Practices Court. Rule 8 amends the Supreme Court Costs Rules 1959 so as to make it unnecessary to fix an appointment for the taxation of certain bills of costs in matrimonial proceedings.