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S T A T U T O R Y   I N S T R U M E N T S

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**1973 No. 1412 (L.23)**

**COUNTY COURTS**

**PROCEDURE**

**The County Court (Amendment No. 3) Rules 1973**

*Made*                    -                    -                    -                    *27th July 1973*

*Coming into Operation*                    *1st October 1973*

**1.**—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules 1973.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(a), as amended(b), and a form referred to by number means the form so numbered in Appendix A to those Rules.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

**2.** Order 10, Rules 3 and 4(3)(b), shall each be amended by omitting the words “a day for the hearing of the action or, if he thinks fit,” and inserting after the words “Order 21” the words “or, if he thinks fit, a day for the hearing of the action”.

**3.** At the beginning of Order 13, Rule 13(1), there shall be inserted the words “Except where the case is one of urgency”.

**4.** Order 19 shall be amended as follows:—

(1) In the title after the word “REFERENCE” there shall be inserted the words “TO ARBITRATION OR”.

(2) Rules 1 and 2 shall stand as Rules 2 and 3 respectively and at the beginning there shall be inserted the following Rule:—

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(a) S.R. & O. 1936/626 (1936 I, p. 282).

(b) The relevant amending instruments are S.R. & O. 1947/737, S.I. 1950/1231, 1959/1251, 1960/1275, 1961/1526, 1971/781, 2152, 1973/847 (1947 I, p. 363; 1950 I, p. 400; 1959 I, p. 795; 1960 I, p. 809; 1961 II, p. 3177; 1971 II, p. 2247; III, p. 6305; 1973 II, p. 2645).

(c) 1889 c. 63.

Reference  
under s. 92  
of Act  
Form 111

“1.—(1) In this Rule, unless the context otherwise requires, “an order” means an order under section 92 of the Act for the reference of any proceedings to arbitration and “outside arbitrator” means an arbitrator other than the judge or registrar.

(2) Subject to the following paragraphs of this Rule, an order may be made by the registrar if the sum claimed or amount involved in the proceedings does not exceed the sum mentioned in Order 23, Rule 1(1)(a), or in any other case with the consent of the parties.

(3) An order shall not be made referring proceedings to the judge except by or with the leave of the judge.

(4) An order shall not be made referring proceedings to an outside arbitrator except with the consent of the parties.

(5) If the court is satisfied that a charge of fraud against a party is in issue in the proceedings, an order shall not be made except with the consent of that party.

(6) Save as aforesaid an order may be made on the application of any party to the proceedings.

(7) Unless the court otherwise directs, an application for an order may be made on notice under Order 13, Rule 1, or by notice incorporated—

(a) if the application is made by the plaintiff, in his particulars of claim;

(b) if the application is made by the defendant, in any defence or counterclaim of his.

(8) In the case of a reference to an outside arbitrator the order shall be served on the arbitrator as well as on the parties, but it shall not, unless the court otherwise directs, be served on anyone until each party has paid into court such sum as the registrar may determine in respect of the arbitrator’s remuneration.

(9) Subject to any directions of the court as to the conduct of the reference, Rule 2(3)(a) to (e) of this Order shall apply, with the necessary modifications, in relation to an order as they apply in relation to an order under section 93 of the Act.

(10) Every court shall keep a list, to be called “the arbitration list”, of cases in which it has made an order.”

(3) Rule 2 as so renumbered shall be amended as follows:—

(a) In paragraph (2)(c) for the words “the judge of his” there shall be substituted the words “the court of its”.

(b) After paragraph (2) there shall be inserted the following paragraph:—

“(2A) An order referring any question arising in any proceedings to a referee for inquiry and report may be made by the registrar if the sum claimed or amount involved in the proceedings does not exceed the sum mentioned in Order 23, Rule 1(1)(a), or in any other case with the consent of the parties.”

(c) In the words preceding sub-paragraph (a) in paragraph (3), the words “of the judge” shall be omitted.

(d) In paragraph (3)(f) and (h)(ii) for the word “judge”, wherever it appears, there shall be substituted the word “court”.

5. Order 37, Rule 7, shall be amended as follows:—

- (1) Paragraph (1) shall be omitted and paragraphs (2) and (3) shall stand as paragraphs (1) and (2) respectively.
- (2) In paragraph (1) as so renumbered, after the words “the award” there shall be inserted the words “of an arbitrator to whom proceedings have been referred under section 92 of the Act”.

6. Order 47, Rule 5(4), shall be amended as follows:—

- (1) For the words “£20” there shall be substituted the words “£75”.
- (2) After the word “allowed” there shall be inserted the words “as between party and party”.
- (3) In paragraph (b)(ii) the words “otherwise than by warrant of execution” shall be omitted.
- (4) In paragraph (b) after sub-paragraph (ii) there shall be added the following sub-paragraph:—

“(iii) such costs as in the opinion of the court have been incurred through the unreasonable conduct of the opposite party in relation to the proceedings or the claim made therein.”

7. Order 49, Rule 5, shall be amended as follows:—

- (1) After the words “action for” there shall be inserted the letter “—(a)” and after the word “negligence” there shall be inserted the words “and (b) subject to paragraph (2), for any damages for the loss of use of the vehicle pending its repair”.
- (2) At the end of the existing Rule (which shall stand as paragraph (1)) there shall be inserted the following paragraph:—

“(2) Nothing in paragraph (1) shall authorise or require a default action to be brought for damages for the loss of use of a vehicle.”

8. In Form 10 for the words “*omitting paragraphs 5 and 10*” there shall be substituted the words “*omitting paragraph 10*”.

9. In Form 18A after the note at the end of the section headed "COUNTER-CLAIM" there shall be inserted the following words:—

"If you dispute the plaintiff's claim or wish to make a claim against him, do you want the proceedings to be referred to arbitration? Yes/No"

10. Form 111 shall be amended as follows:—

- (1) In the title the words "OF JUDGE" shall be omitted.
- (2) After the words "with the consent of all parties" there shall be inserted the words "[or on the application of ]".
- (3) The words "*by the judge*" shall be omitted.
- (4) In the margin there shall be inserted the words "Order 19, Rule 1(1)".

11. In the marginal note to Form 112 for the words "Rule 1(1)" there shall be substituted the words "Rule 2(1)".

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Act 1959(a) having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

*D. O. McKee.*  
*Conolly H. Gage.*  
*H. S. Ruttle.*  
*David Pennant.*  
*W. Granville Wingate.*  
*E. A. Everett.*  
*A. A. Hibbert.*  
*K. W. Mellor.*  
*Arnold Russell Vick.*  
*D. A. Marshall.*  
*D. P. Tomlin.*

I allow these Rules which shall come into operation on 1st October 1973, so however that nothing in Rules 6, 7 and 9 shall apply in relation to proceedings commenced before that date.

Dated 27th July 1973.

*Hailsham of St. Marylebone, C.*

**EXPLANATORY NOTE**

*(This Note is not part of the Rules.)*

These Rules provide for the reference of county court proceedings to arbitration under section 92 of the County Courts Act 1959 as amended by section 7 of the Administration of Justice Act 1973 (c.15) (Rules 4(2), 5, 9 and 10). An application for arbitration may be made by the plaintiff in his particulars of claim or by the defendant in his defence or counterclaim or by either party on notice to the other side. The order of reference may be made by the registrar if the amount involved in the proceedings does not exceed £75 or the parties consent, but no order can be made referring the proceedings to an arbitrator other than the judge or registrar without the consent of the parties. The registrar is also empowered to refer a question to a referee for inquiry and report where the amount involved in the proceedings does not exceed £75 or the parties consent (Rule 4(3)).

Amendments are also made in the provisions introduced by the County Court (New Procedure) Rules 1971 (S.I. 1971/2152). Where a defence is delivered in a default action, the registrar is required to fix a day for a pre-trial review or, if he thinks fit, a day for the hearing of the action (Rule 2). No costs except those on the summons will generally be recoverable on a claim which does not exceed £75 (instead of £20 as hitherto); but the court is given power to award costs incurred through the unreasonable conduct of the opposite party (Rule 6). A claim for damages for the loss of use of a vehicle damaged in a collision is to be treated as a liquidated demand except for the purpose of issuing a default summons (Rule 7).

In addition, the Rule requiring a draft of an injunction or similar order to be prepared beforehand and settled by the registrar is not to apply in case of urgency (Rule 3). A minor correction is made in Form 10 (Request for issue of default summons) (Rule 8).

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