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 STATUTORY INSTRUMENTS
 

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1978 No. 1066 (L. 26)

**SUPREME COURT OF JUDICATURE, ENGLAND**  
**PROCEDURE**

**The Rules of the Supreme Court (Amendment No. 4) 1978**

*Made* - - - - - 24th July 1978

*Laid before Parliament* 1st August 1978

*Coming into Operation* 1st September 1978

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) 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 and all other powers enabling us in that behalf as follows:—

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 4) 1978 and shall come into operation on 1st September 1978.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(b), as amended(c).

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

2. The following sub-paragraph shall be inserted in Order 11, rule 1(1), after sub-paragraph (o):—

“(p) if the action begun by the writ is one in which a claim is made for a sum to which the Directive of the Council of the European Communities dated 15th March 1976 No. 76/308/EEC applies, and service is to be effected in a country which is a member state of the European Economic Community”.

3. Order 37 shall be amended as follows:—

(1) At the end of rule 1 there shall be added the following paragraph:—

“(4) In relation to an Admiralty cause or matter, for the references in this rule and rule 2 to a master there shall be substituted references to the Admiralty Registrar.”

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(a) 1925 c. 49.

(b) S.I. 1965/1776.

(c) The relevant amending instruments are S.I. 1968/1244; 1976/1196.

(d) 1889 c. 63.

(2) The following rule shall be substituted for rule 4:—

*“Power to order assessment by referee, etc.*

4.—(1) Where judgment is given in the Chancery Division or the Queen’s Bench Division for damages to be assessed, the Court may—

- (a) order that the assessment of the damages be referred to an official referee or to a special referee, or
- (b) except in a case to which sub-paragraph (c) applies, order that the damages be assessed by a master, or
- (c) in the case of an Admiralty cause or matter, or in the case of an action in the commercial list where the claim is of such a nature that in the opinion of the court it would be appropriate for the damages to be assessed by the Admiralty Registrar, order that the damages be assessed by him, or
- (d) order that the action shall proceed to trial before a judge (with or without a jury) as respects the damages.

(2) Where damages are ordered to be assessed by the Admiralty Registrar pursuant to paragraph (1) (c), rule 1 shall apply as it applies to an Admiralty cause or matter.

(3) Where the Court orders that the action shall proceed to trial, Order 25, rules 2 to 7, shall, with the omission of so much of rule 7 (1) as requires the parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application to the Court in pursuance of which the Court makes the order, were a summons for directions under Order 25.”

4. The following rule shall be added at the end of Order 73:—

*“Enforcement of award under s. 26 of the Arbitration Act 1950*

10.—(1) An application for leave under section 26 of the Arbitration Act 1950(a) to enforce an award on an arbitration agreement in the same manner as a judgment or order may be made ex parte but the Court hearing the application may direct a summons to be issued.

(2) If the Court directs a summons to be issued, the summons shall be an originating summons to which no appearance need be entered.

(3) An application for leave must be supported by affidavit—

- (a) exhibiting the arbitration agreement and the original award or, in either case, a copy thereof,
- (b) stating the name and the usual or last known place of abode or business of the applicant (hereinafter referred to as “the creditor”) and the person against whom it is sought to enforce the award (hereinafter referred to as “the debtor”) respectively,
- (c) as the case may require, either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.

(4) An order giving leave must be drawn up by or on behalf of the creditor and must be served on the debtor by delivering a copy to him personally or by sending a copy to him at his usual or last known place of abode or business or in such other manner as the Court may direct.

(5) Service of the order out of the jurisdiction is permissible without leave, and Order 11, rules 5, 6 and 8, shall apply in relation to such an order as they apply in relation to notice of a writ.

(6) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the debtor may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the debtor applies within that period to set aside the order, until after the application is finally disposed of.

(7) The copy of the order served on the debtor shall state the effect of paragraph (6).

(8) In relation to a body corporate this rule shall have effect as if for any reference to the place of abode or business of the creditor or the debtor there were substituted a reference to the registered or principal address of the body corporate; so, however, that nothing in this rule shall affect any enactment which provides for the manner in which a document may be served on a body corporate."

Dated 24th July 1978.

*Elwyn-Jones, C.*  
*Widgery, C.J.*  
*Denning, M.R.*  
*George Baker, P.*  
*Eustace Roskill, L.J.*  
*R. E. Megarry, V-C.*  
*Hilary Talbot, J.*  
*Patrick O'Connor, J.*  
*J. Maurice Price.*  
*John Toulmin.*  
*H. Montgomery-Campbell.*  
*Harold Hewitt.*

## EXPLANATORY NOTE

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

These Rules amend the Rules of the Supreme Court so as—

- (a) to enable the Court to allow service of notice of a writ in a member state of the E.E.C. where the claim is for an agricultural levy or other sum to which Directive No. 76/308/EEC applies (rule 2);
- (b) to give the Court express power to order that damages be assessed by a master or in an Admiralty cause or matter or, where appropriate, in a commercial action, by the Admiralty Registrar (rule 3);
- (c) to provide that, unless otherwise directed, an application for leave to enforce an arbitration award may be made ex parte by affidavit instead of by originating summons (rule 4).

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