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STATUTORY INSTRUMENTS

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**1979 No. 1542**

**SUPREME COURT OF JUDICATURE,  
ENGLAND AND WALES**

**PROCEDURE**

**The Rules of the Supreme Court (Amendment No. 4) 1979**

|                               |         |                           |
|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>26th November 1979</i> |
| <i>Laid before Parliament</i> |         | <i>6th December 1979</i>  |
| <i>Coming into Operation</i>  |         | <i>2nd January 1980</i>   |

We, the Rule Committee for 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 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:—

**Citation and commencement**

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 4) 1979 and shall come into operation on 2nd January 1980.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court(1) and, unless the context otherwise requires, a form referred to by number means the form so numbered in Appendix A to the Rules.

**Removal of exchange controls**

2.—(1) Order 6, rule 2, Order 22, rule 9, Order 45, rule 2, Order 46, rule 7, Order 49, rule 7, and Forms 1, 2, 3, 5, 25 and 74 shall be amended by inserting in place of the words “outside the scheduled territories”, the words “in Southern Rhodesia”.

(2) Forms 1, 2, 3, 5, and 74 shall be further amended by deleting the words “as defined by the Exchange Control Act 1947”.

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(1) S.I. 1965/1776. The relevant amending instruments are S.I. 1966/1514, 1967/829 and 1809, 1968/1244, 1969/1105, 1970/944 and 1861, 1971/1269 and 1955, 1972/1194, 1973/1384, 1974/295, 1977/532 and 155, 1978/579 and 1979/522.

### **Taxation of Court of Appeal bills in district registries**

3. Order 62, rule 12(5), shall be amended by inserting after the word “namely”, the word “Birmingham”.

### **Proceedings under the Arbitration Acts**

4. Order 73, rule 7(1), shall be amended as follows:—

(1) After sub-paragraph (b) there shall be inserted the following sub-paragraph:—

“(c) of an originating summons or notice of an originating motion under the Arbitration Act 1979(2), or”

(2) The existing sub-paragraph (c) shall be relettered “(d)”.

(3) For the words beginning “the arbitration” to the end of the paragraph there shall be substituted the words “the arbitration to which the summons, motion or order relates is governed by English law or has been, is being, or is to be held, within the jurisdiction.”.

### **Appeals to the Family Division from magistrates' courts**

5. Order 90, rule 16, shall be amended as follows:—

(1) In paragraph (1) there shall be inserted, after the words “Matrimonial Proceedings (Magistrates' Courts) Act 1960”, the words “or the Domestic Proceedings and Magistrates' Courts Act 1978”.

(2) In paragraph (4)(a) there shall be inserted, after the word “against”, the words “and of any order staying its execution”.

(3) In paragraph (9) for the words “weekly” there shall be substituted the words “periodical”.

### **Domestic violence and powers of arrest**

6. Order 90 shall be amended as follows:—

(1) In rule 17(2), the words “by the tipstaff” shall be omitted.

(2) In rule 17(3), for the words “a copy of the order shall be delivered by the tipstaff to” there shall be substituted the words “the registrar shall immediately inform”, and, after the words “the new address”, a semi-colon shall be added, followed by the words “and a copy of the order shall be delivered to any officer so informed.”.

(3) The following rule shall be inserted after rule 17:—

#### **“Discharge of a magistrates' court order to which a power of arrest is attached**

18. Where a direction is given, under section 28 of the Domestic Proceedings and Magistrates' Courts Act 1978, that a magistrates' court order to which a power of arrest is attached shall cease to have effect, the registrar shall immediately inform the officer for the time being in charge of the police station to which a copy of the magistrates' court order was sent, and, if the applicant for that order has since changed her address, any police station for the new address; and a copy of the direction shall be delivered to any officer so informed.”.

### **Assignment of book debts**

7. Order 95 shall be amended by the addition of the following rule:—

#### ““Assignment of book debts

6.—(1) There shall continue to be kept in the Central Office, under the supervision of the registrar, a register of assignments of book debts.

(2) Every application for registration of an assignment of a book debt under section 43(1) of the Bankruptcy Act 1914<sup>(3)</sup> shall be made by producing at the Filing and Record Department of the Central Office—

- (a) a true copy of the assignment, and of every schedule thereto, and
- (b) an affidavit verifying the date and the time, and the due execution of the assignment in the presence of the deponent, and setting out the particulars of the assignment and the parties thereto.

(3) On an application being made in accordance with the preceding paragraph, the documents there referred to shall be filed, and the particulars of the assignment, and of the parties to it, shall be entered in the register.

(4) In this rule, “the registrar” has the meaning given in section 13 of the Bills of Sale Act 1878<sup>(4)</sup>.”

#### Form of commission for appraisal and sale in admiralty proceedings

8. Form 13 in Appendix B to the Rules shall be amended by omitting the words “by [*private treaty*] [*public auction*]”.

#### Deletion of reference to obsolete enactments

9.—(1) The rules in *column 1* of the Schedule, annexed hereto shall be amended by substituting, for the words mentioned in *column 2* the words appearing opposite them in *column 3*

(2) In Order 38, rule 1, after the words “the Civil Evidence Act 1968”, there shall be inserted the words “and the Civil Evidence Act 1972”.

(3) In Order 94:

(a) Rule 2(2) shall be amended as follows:—

(i) In sub-paragraph (b) for the words “Minister of Transport” there shall be substituted the words “Secretary of State”.

(ii) For sub-paragraph (c) there shall be substituted the following sub-paragraph:

“(c) If the application relates to a structure plan, local plan of other development plan within the meaning of the Town and Country Planning Act 1971<sup>(5)</sup>, on the local planning authority who prepared the plan.”

(iii) In sub-paragraph (d), for the reference to section 179 of the Town and Country Planning Act 1962 there shall be substituted references to section 245 of the Town and Country Planning Act 1971.

(iv) Sub-paragraph (e) shall be omitted.

(b) Rule 6(1) shall be amended as follows:—

(i) In sub-paragraph (c) for the words “section 6(3) of the Legal Aid and Advice Act 1949” there shall be substituted the words “section 12(3) of the Legal Aid Act 1974”.

(ii) Sub-paragraph (f) shall be omitted.

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(3) 1914 c. 59.

(4) 1878 c. 31.

(5) 1971 c. 78.

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- (iii) In sub-paragraph (h) for the words “section 82(3) of the Criminal Justice Act 1967” there shall be substituted the words “section 38(3) of the Legal Aid Act 1974”.
- (c) Rule 6(5) shall be amended as follows:—
- (i) The references to, and concerning, the Therapeutic Substances Act 1956 shall be omitted.
- (ii) For the words “Pharmacy and Poisons Act 1933, s. 14(3)” there shall be substituted the words “Medicines Act 1968, s. 82(3)”.
- (d) In rules 8, 9 and 10, for the words “1958”(6), “section 9(1)”, “section 9(5)” and “paragraph 3”, wherever they appear, there shall be substituted the words “1971”(7), “section 13(1)”, “section 13(5)” and “paragraph 10” respectively.
- (e) In rules 10 and 12, for the words “Minister of Transport” and “Minister” wherever they appear, there shall be substituted the words “Secretary of State”.
- (f) In rule 12(3) for sub-paragraph (b) there shall be substituted the following sub-paragraph:—
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- “(b) the local planning authority who served the notice or gave the decision, as the case may be, or, where the appeal is brought by that authority, the appellant or applicant in the proceedings in which the decision appealed against was given, and”
- (g) Rule 12(7) shall be omitted.
- (4) Order 96, rule 1, shall be amended by deleting “(a)” and the word “or,”, at the end of paragraph (a), and the whole of paragraph (b).
- (5) In Order 105, rule 1, the definition “the Act of 1970”(8) shall be omitted, and after the definition of “the Act of 1972”(9) there shall be inserted the following definitions:—
- ““the Act of 1973” means the Matrimonial Causes Act 1973(10);.” means the Matrimonial Causes Act 1973 1973 c. 18.;’.

*Hailsham of St. Marylebone, C*  
*Widgery, C.J*  
*Denning, M.R*  
*John Arnold, P*  
*John Donaldson, L.J*  
*R. E. Megarry, V-C*  
*Hilary Talbot, J*  
*Patrick O'Connor, J*  
*J. Maurice Price*  
*John Toulmin*  
*H. Montgomery-Campbell*  
*Harold Hewitt*

Date 26th November 1979

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(6) 1958 c. 66  
(7) 1971 c. 62.  
(8) 1970 c. 45.  
(9) 1972 c. 18.  
(10) 1973 c. 18.

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## SCHEDULE

| <i>Column 1</i>           | <i>Column 2</i>   | <i>Column 3</i>                                 | <i>Chapter No.</i> |
|---------------------------|---|---|--------------------|
| Order 1, rule 2(2)        | Matrimonial Causes Act 1967, s. 7                             | Matrimonial Causes Act 1973, s. 50              | 1973 c. 18.        |
| Order 1, rule 4(1)        | section 7 of the Matrimonial Causes Act 1967                  | section 50 of the Matrimonial Causes Act 1973   |                    |
| Order 3, rule 2(5)        | Bank Holidays Act 1871 or the Holidays Extension Act 1875     | Banking and Financial Dealings Act 1971         | 1971 c. 80.        |
| Order 6, rule 2(1)(c)(ii) | section 1(1) of the Rent Act 1968                             | section 4(2) of the Rent Act 1977               | 1977 c. 42.        |
| Order 13, rule 4(2)       | section 1(1) of the Rent Act 1968                             | section 4(2) of the Rent Act 1977               |                    |
| Order 22, rule 10(1)      | Part I of the Legal Aid and Advice Act 1949                   | Part I of the Legal Aid Act 1974                | 1974 c.4.          |
| Order 22, rule 12(2)      | Part VI of the Road Traffic Act 1960                          | Part VI of the Road Traffic Act 1972            | 1972 c. 20.        |
| Order 22, rule 12(2)      | section 212   | section 154                                     |                    |
| Order 29, rule 11(1)(c)   | Fatal Accidents Acts 1846 to 1959                             | Fatal Accidents Act 1976                        | 1976 c. 30.        |
| Order 29, rule 11(1)(c)   | section 4 of the Fatal Accidents Act 1846                     | section 2(4) of that Act                        |                    |
| Order 34, rule 3(3)       | Part I of the Legal Aid and Advice Act 1949                   | Part I of the Legal Aid Act 1974                |                    |
| Order 60, rule 1          | Restrictive Trade Practices Act 1956                          | Restrictive Practices Court Act 1976            | 1976 c. 33.        |
| Order 62, rule 13(2)      | Solicitors Act 1957   | Solicitors Act 1974                             | 1974 c. 47.        |
| Order 62, rule 20A(1)     | Part III of the Solicitors Act 1957                           | Part III of the Solicitors Act 1974             |                    |
| Order 80, rule 11(2)      | Fatal Accidents Acts 1846 to 1959                             | Fatal Accidents Act 1976                        |                    |
| Order 80, rule 11(2)      | section 4 of the Fatal Accidents Act 1846                     | section 2(4) of that Act                        |                    |
| Order 96, (title)         | Mines (Working Facilities and Support) Act 1923               | Mines (Working Facilities and Support) Act 1966 | 1966 c. 4.         |
| Order 96, rule 2          | Part I of the Mines (Working Facilities and Support) Act 1923 | Mines (Working Facilities and Support) Act 1966 |                    |
| Order 96, rule 3          | the said Act of 1923  | the said Act of 1966                            |                    |

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| <i>Column 1</i>       | <i>Column 2</i>   | <i>Column 3</i>                                     | <i>Chapter No.</i> |
|-----------------------|---|---|--------------------|
| Order 96, rule 8      | Part I of the Mines (Working Facilities and Support) Act 1923 | the Mines (Working Facilities and Support) Act 1966 |                    |
| Order 105, rule 13(1) | section 10 of the Act of 1970                                 | section 32 of the Act of 1973                       |                    |
| Order 105, rule 18(5) | section 21 of the Act of 1970                                 | section 28 of the Act of 1973                       |                    |

### EXPLANATORY NOTE

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

- (a) to amend provisions concerned with the enforcement of exchange controls (rule 2);
- (b) to add Birmingham district registry to the list of district registries empowered to tax Court of Appeal bills of costs (rule 3);
- (c) to widen the scope of the provisions for service out of the jurisdiction of summonses, notices and orders in proceedings under the Arbitration Act 1979 and in arbitration proceedings generally (rule 4);
- (d) to require an appellant under the Matrimonial Proceedings (Magistrates' Courts) Act 1960 to lodge copies of any order staying execution of the order appealed against, and to extend the procedure for appeals under that Act to appeals under the Domestic Proceedings and Magistrates' Courts Act 1978 (rule 5);
- (e) to require that where the court varies or discharges an injunction to which a power of arrest has been attached under section 2 of the Domestic Violence and Matrimonial Proceedings Act 1976 (c. 50) the registrar immediately informs the police, and a copy of the order is delivered to the police as well (rule 6);
- (f) to require that the police should be notified in a similar fashion where the court directs, under section 28 of the Domestic Proceedings and Magistrates' Courts Act 1978, that a magistrates' court order to which a power of arrest has been attached shall cease to have effect (rule 6);
- (g) to provide for the registration of assignments of book debts (rule 7);
- (h) to delete from Admiralty Form No. 13 (Commission for appraisalment and sale) the reference to the method of sale (rule 8); and
- (i) to delete from the Rules references to obsolete enactments (rule 9).