

## 1979 No. 522

**SUPREME COURT OF JUDICATURE,  
ENGLAND AND WALES  
PROCEDURE****The Rules of the Supreme Court (Amendment No. 3) 1979**

*Made* - - - 30th April 1979

*Laid before Parliament* 16th May 1979

*Coming into Operation in accordance with rule 1*

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:—

*Citation and commencement*

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 3) 1979, and all except rules 4 to 9, inclusive, shall come into operation on 7th June 1979.

(2) Rules 4 to 9, inclusive, shall come into operation on the day appointed by order for the coming into operation of the Arbitration Act 1979(b) and shall have effect subject to any limitations imposed or provisions made by the order under section 8(2)(a) or (b) of the Act.

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

*Examiners' fees*

2. Order 39, rule 19, shall be amended as follows:—

(1) In paragraph (1), in place of the figures £10·00, £2·50 and £17·00 there shall be substituted the figures £20·00, £6·00 and £35·00 respectively.

(2) In paragraph (3), in place of the figures £7·00 and £10·00 there shall be substituted the figures £15·00 and £20·00 respectively.

*Deponents' addresses*

3. Order 41, rule 1(4) shall be amended as follows:—

(1) After the words "the first person and" there shall be inserted a comma followed by the words "unless the Court otherwise directs,".

(a) 1925 c. 49.

(b) 1979 c. 42.

(c) S.I. 1965/1776.

(d) The relevant amending instruments are S.I. 1970/944, 1971/1269, 1955, 1977/960, 1955.

- (2) At the end of the paragraph there shall be added the following paragraph:—

“In the case of a deponent who is giving evidence in a professional, business or other occupational capacity the affidavit may, instead of stating the deponent’s place of residence, state the address at which he works, the position he holds and the name of his firm or employer, if any.”.

*Proceedings under the Arbitration Acts*

4. Order 59, rule 14, shall be amended by the addition of the following paragraphs:—

- “(5) Where an application is made to the Court of Appeal with regard to arbitration proceedings before a judge-arbitrator or judge-umpire which would, in the case of an ordinary arbitrator or umpire, be made to the High Court, the provisions of Order 73, rule 5, shall apply as if, for the words “the Court”, wherever they appear in that rule, there were substituted the words “the Court of Appeal” and as if, for the words “arbitrator” and “umpire”, there were substituted the words “judge-arbitrator” and “judge-umpire” respectively.
- (6) Where an application is made to the Court of Appeal under section 1(5) of the Arbitration Act 1979(a) (including any application for leave), notice thereof must be served on the judge-arbitrator or judge-umpire and on any other party to the reference.”.

5. Order 73, rule 1, shall be amended by deleting the opening words “Subject to Order 93, rule 10(2)(h),” by inserting after the words “Arbitration Act 1950”(b) the words “or an appeal or application under the Arbitration Act 1979” and by inserting after the words “the said Act” the words “of 1950”.

6. Order 73, rule 2, shall be amended as follows:—

- (1) In paragraph (1), after the words “section 23(2) thereof,” there shall be inserted the following words:—
- “or (d) for leave to appeal under section 1(2) of the Arbitration Act 1979, or
- (e) to determine, under section 2(1) of that Act, any question of law arising in the course of a reference,”.
- (2) In place of the existing paragraph (2) there shall be substituted the following paragraph:—
- “(2) Any appeal to the High Court under section 1(2) of the Arbitration Act 1979 shall be made by originating motion to a single judge in court and notice thereof may be included in the notice of application for leave to appeal, where leave is required.”.

7. Order 73, rule 3, shall be amended as follows:—

- (1) In paragraph (1), after the words “this Order”, there shall be inserted the words “and the provisions of this rule”; and after the words “Arbitration Act 1975”(c) there shall be inserted the words “and the Arbitration Act 1979”.

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(a) 1979 c. 42.

(b) 1950 c. 27.

(c) 1975 c. 3.

(2) After paragraph (1), in place of the existing paragraphs (2) and (3), there shall be inserted the following paragraphs:—

“(2) Any application under section 1(5) of the Arbitration Act 1979 (including any application for leave), or under section 5 of that Act, shall be made to a judge.

(3) Any application to which this rule applies shall, where an action is pending, be made by summons in the action, and in any other case by an originating summons for which no appearance need be entered.

(4) Where an application is made under section 1(5) of the Arbitration Act 1979 (including any application for leave), the summons must be served on the arbitrator or umpire and on any other party to the reference.”.

8. In Order 73, in place of the existing rules 5 and 6 there shall be inserted the following rule:—

*“Time-limits and other special provisions as to appeals and applications under the Arbitration Acts*

5.—(1) An application to the Court—

(a) to remit an award under section 22 of the Arbitration Act 1950, or

(b) to set aside an award under section 23(2) of that Act or otherwise,  
or

(c) to direct an arbitrator or umpire to state the reasons for an award under section 1(5) of the Arbitration Act 1979,

must be made, and the summons or notice must be served, within 21 days after the award has been made and published to the parties.

(2) In the case of an appeal to the Court under section 1(2) of the Arbitration Act 1979, the notice must be served, and the appeal entered, within 21 days after the award has been made and published to the parties:

Provided that, where reasons material to the appeal are given on a date subsequent to the publication of the award, the period of 21 days shall run from the date on which the reasons are given.

(3) An application, under section 2(1) of the Arbitration Act 1979, to determine any question of law arising in the course of a reference, must be made, and notice thereof served, within 14 days after the arbitrator or umpire has consented to the application being made, or the other parties have so consented.

(4) For the purpose of paragraph (3) the consent must be given in writing.

(5) In the case of every appeal or application to which this rule applies, the notice of originating motion or, as the case may be, the originating summons, must state the grounds of the appeal or application and, where the appeal or application is founded on evidence by affidavit, or is made with the consent of the arbitrator or umpire or of the other parties, a copy of every affidavit intended to be used, or, as the case may be, of every consent given in writing, must be served with that notice.

*Applications and appeals to be heard by Commercial Judges*

6.—(1) Any matter which is required, by rule 2 or 3, to be heard by a judge, shall be heard by a Commercial Judge, unless any such judge otherwise directs.

(2) Nothing in the foregoing paragraph shall be construed as preventing the powers of a Commercial Judge from being exercised by any judge of the High Court.”.

9. Sub-paragraph (h) of Order 93, rule 10(2), shall be omitted.

*Proceedings concerning the International Oil Pollution Compensation Fund*

10. Order 75 shall be amended as follows:—

(1) In Rule 2(1), the word “and” at the end of sub-paragraph (a) shall be deleted and the following words shall be inserted after sub-paragraph (b):—

“and (c) every action to enforce a claim under section 1 of the Merchant Shipping (Oil Pollution) Act 1971(a) or section 4 of the Merchant Shipping Act 1974(b).”.

(2) After rule 2, there shall be inserted the following rule:—

*“Proceedings against, or concerning, the International Oil Pollution Compensation Fund*

2A.—(1) All proceedings against the International Oil Pollution Compensation Fund (in this rule referred to as “the Fund”) under section 4 of the Merchant Shipping Act 1974 shall be commenced in the Admiralty Registry.

(2) For the purposes of section 6(2) of the Merchant Shipping Act 1974, any party to proceedings brought against an owner or guarantor in respect of liability under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 may give notice to the Fund of such proceedings by serving a notice in writing on the Fund together with a copy of the writ and copies of the pleadings (if any) served in the action.

(3) The Court shall, on the application made ex parte by the Fund, grant leave to the Fund to intervene in any proceedings to which the preceding paragraph applies, whether notice of such proceedings has been served on the Fund or not, and paragraphs (3) and (4) of rule 17 shall apply to such an application.

(4) Where judgment is given against the Fund in any proceedings under section 4 of the Merchant Shipping Act 1974, the registrar shall cause a stamped copy of the judgment to be sent by post to the Fund.

(5) The Fund shall notify the registrar of the matters set out in section 4(12)(b) of the Merchant Shipping Act 1974 by a notice in writing, sent by post to, or delivered at, the registry.”.

(a) 1971 c. 59.

(b) 1974 c. 43.

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*Summary proceedings for possession of land*

11. Order 113, rule 2, shall be amended by substituting the following words for the existing three paragraphs:—

“The originating summons shall be in Form No. 11A in Appendix A and no appearance need be entered to it.”.

12. In Order 113, rule 3(c), the words “where the summons is in Form No. 11A,” shall be omitted.

13. Order 113, rule 4(2), shall be amended as follows:—

(1) For the words “A summons in Form No. 11A” there shall be substituted the words “The summons”.

(2) After the words “a copy of the summons” in sub-paragraphs (a) and (b) there shall be inserted the words “and a copy of the affidavit”.

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Patrick O'Connor, J.  
J. Maurice Price.  
John Toulmin.  
H. Montgomery-Campbell.  
Harold Hewitt.*

Dated 30th April 1979.

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EXPLANATORY NOTE

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

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

- (a) to raise the fees payable to examiners of the Court (rule 2);
- (b) to allow a person making an affidavit to give a “work address” instead of a “home address” in certain circumstances and also to apply for permission to omit the address altogether (rule 3);
- (c) to make provision for proceedings under the Arbitration Act 1979 once the “case stated” procedure under section 21 of the Arbitration Act 1950 has ceased to be available (rules 4 to 9);
- (d) to make provision for proceedings affecting the International Oil Pollution Compensation Fund (rule 10); and
- (e) to amend the rules applicable to summary proceedings for possession of land so as to require Form No. 11A to be used in every case (rules 11 to 13).

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