

1980 No. 1908

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

**PROCEDURE**

**The Rules of the Supreme Court (Amendment No. 3) 1980**

|                               |                    |
|-------------------------------|--------------------|
| <i>Made - - - -</i>           | 10th December 1980 |
| <i>Laid before Parliament</i> | 11th December 1980 |
| <i>Coming into Operation</i>  | 2nd January 1981   |

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 as follows:—

*Citation, commencement and interpretation*

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 3) 1980 and shall come into operation on 2nd January 1981.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(b) and, unless the context otherwise requires, a form referred to by number means the form so numbered in Appendix A to the Rules.

*Admissions*

2. Order 27 shall be amended as follows:—

- (1) The title of rule 2 shall be amended by omitting the word “facts”.
- (2) Rule 2(1) shall be amended by substituting for the words “the facts” the words “such facts, or such part of his case, as may be”.
- (3) The title of rule 3 shall be amended by omitting the words “of facts”.
- (4) Rule 3 shall be amended by inserting, after the word “fact”, the words “or of part of a case”.

*Appeals by case stated which relate to care proceedings*

3. Order 56, rule 1(1) shall be amended by inserting, after the words “affiliation proceedings”, the words “or to care proceedings under the Children and Young Persons Act 1969”(c).

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(a) 1925 c. 49.

(b) S.I. 1965/1776; the relevant amending instruments are S.I. 1966/1055, 1969/1105, 1984, 1970/671, 944, 1971/1269, 1955, 1975/911, 1977/532, 960, 1978/359, 1979/402, 1542 and 1716, 1980/629, 1010.

4. Order 56, rule 4A shall be amended as follows:—

- (1) In the title there shall be added, after the words “*affiliation proceedings*”, the words “*and care proceedings*”.
- (2) In rule 4A there shall be inserted, after the words “*affiliation proceedings*”, the words “or to care proceedings under the Children and Young Persons Act 1969”.

5. Order 56, rule 5 shall be amended by inserting, after the words “*affiliation proceedings*”, the words “or in care proceedings under the Children and Young Persons Act 1969”.

*Appeals from Social Security Commissioners*

6. Order 59 shall be amended as follows:—

- (1) Rule 4(1) shall be amended by substituting for the words “Subject to the provisions of this rule” the words “Subject to the provisions of this Order”.
- (2) After rule 20 there shall be inserted the following rule:—

*“Appeals from Social Security Commissioners*

21.—(1) This rule shall apply to any appeal to the Court of Appeal under section 14 of the Social Security Act 1980(a) (appeal from the decision of a Commissioner on a question of law, with the leave of the Commissioner or of the Court of Appeal).

(2) The notice of appeal must be served within 6 weeks from the date on which notice of the Commissioner’s grant or refusal of leave was given in writing to the appellant and must be served on the Secretary of State and any person appointed by him to proceed with a claim as well as on the party or parties required to be served under rule 3.”.

*Certificates of taxation*

7. Order 62, rule 14 shall be amended by inserting, after the word “*proceedings*” in paragraph (d), a semi-colon and the following further paragraph:—

“(e) correct any clerical mistake in any certificate or order, or any error arising therein from any accidental slip or omission”.

8. Order 62, rule 16 shall be amended by inserting, after paragraph 1(a), the following sub-paragraph:—

“(b) extend the period provided by rule 33(2) beyond the signing of the taxing officer’s certificate by setting the certificate aside;”

and by re-lettering the existing sub-paragraph (b) as “(c)”.

9. Order 62, rule 33(2) shall be amended by substituting for the word “shorter” the word “other”.

*Fixed costs: the county court bands*

10. Part I of Appendix 3 to Order 62 shall be amended as follows:—

- (1) For Table A (Basic Costs) there shall be substituted the following Table:—

## "A. Basic costs

*Amount to be allowed in cases under following sub-paragraphs of paragraph 1 of this Appendix*

|   | (a)<br>£ p | (b)<br>£ p | (c)<br>£ p |
|---|------------|------------|------------|
| If the amount recovered is not less than £350 but less than £1,000— |            |            |            |
| (i) where the writ was served by post                               | 18.00      | 24.00      | 38.00      |
| (ii) where the writ was served on the defendant personally          | 21.00      | 27.00      | 41.00      |
| not less than £1,000 but less than £1,200—                          |            |            |            |
| (i) where the writ was served by post                               | 30.00      | 40.00      | 58.00      |
| (ii) where the writ was served on the defendant personally          | 33.00      | 43.00      | 61.00      |
| not less than £1,200—   | 42.00      | 60.00      | 90.00".    |

(2) Table B (Additional Costs) shall be amended by substituting for the figures shown in column (i) (not less than £350 but less than £1,200) the following figures:—

|         | £ p      |
|---------|----------|
| (1)     | " 3.00"  |
| (2)     | " 8.00"  |
| (3) (a) | "16.00"  |
| (b)     | "19.00"  |
| (4)     | " 2.50"  |
| (5)     | " 5.50"  |
| (6)     | " 6.00". |

(3) Nothing in this rule shall apply in relation to a writ of summons issued before 1st January 1981, unless judgment on failure to give notice of intention to defend or in default of defence or under Order 14 is obtained after that date.

*Release of ships from arrest*

11. Order 75, rule 13 shall be amended as follows:—

- (1) Paragraph (2) shall be omitted.
- (2) For the existing paragraph (3) there shall be substituted the following paragraph:—
 

“(3) A release shall not be issued with respect to property as to which a caveat against release is in force, unless, either

  - (a) at the time of the issue of the release the property is under arrest in one or more other actions, or
  - (b) the Court so orders.”.
- (3) For the existing paragraph (4) there shall be substituted the following paragraph:—
 

“(4) A release may be issued at the instance of any party to the action in which the warrant of arrest was issued if the Court so

orders, or, subject to paragraph (3), if all the other parties, except any defendant who has not acknowledged issue or service of the writ, consent.”.

- (4) For the existing paragraph (6) there shall be substituted the following paragraph:—

“(6) Before a release is issued, the party applying for its issue must, unless paragraph (3)(a) applies, give notice to any person at whose instance a subsisting caveat against release has been entered, or to his solicitor, requiring the caveat to be withdrawn.”.

*Admiralty proceedings*

- 12.** Order 75 shall be amended as follows:—

- (1) Rule 18(1)(xiii) shall be amended by inserting, at the beginning, the words “the heading of the ship,”.
- (2) In rule 25(1), for the words “seven weeks” in sub-paragraph (a) there shall be substituted the words “21 days” and for the figure “21” in sub-paragraph (b) there shall be substituted the figure “14”.
- (3) Paragraph (4) of rule 25 shall be omitted.
- (4) For rule 31 there shall be substituted the following rule:—

*“Trial without pleadings*

**31.** Order 18, rule 21 shall apply to Admiralty actions as it applies to other actions except that the summons must be served on every other party not less than 7 days before the day specified in the summons for the hearing thereof.”.

- (5) Rule 32 shall be amended by omitting paragraphs (4) and (6).

- 13.** Order 25, rule 1(2)(i), which refers to actions ordered to be tried as Admiralty short causes, shall be omitted.

*Chancery funds*

- 14.** Order 92, rule 5(3) shall be amended by substituting for the figure “500” the figure “1500”.

*Companies Act 1980(a)*

- 15.** Order 102 shall be amended as follows:—

- (1) For the title there shall be substituted the title “The Companies Acts 1948 to 1980”.
- (2) In rule 1 after the definition of “the Act of 1976” there shall be inserted the following definition:—  
“‘the Act of 1980’ means the Companies Act 1980;”.
- (3) In rule 2(1) after the words “the Act of 1976” there shall be inserted the words “or the Act of 1980”.
- (4) In rule 5 after paragraph (1) there shall be inserted the following paragraph:—  
“(1A) An application under section 11(2) of the Act of 1980 must be made by petition.”.
- (5) In rule 6(2) after the words “the Companies Act 1976” there shall be inserted the words “or the Companies Act 1980”.

- (6) Rule 7(2) shall be amended by deleting the word “and” at the end of sub-paragraph (b), by inserting the word “; and” at the end of sub-paragraph (c) and by inserting after sub-paragraph (c) a semi-colon and the following sub-paragraph:—

“(d) an application under section 11(2) of the Act of 1980 for an order cancelling a special resolution to which that section applies.”

*Summary proceedings for possession of land*

16. Order 113, rule 6 shall be amended by adding, after paragraph (2), the following paragraph:—

“(3) Nothing in this Order shall prevent the Court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.”.

17. Form No. 42A (the prescribed Form of Order for possession under Order 113) shall be amended by inserting, after the blank space following the words “in the originating summons as”, the following words:—

“[and the defendant do give possession of the said land on ]”.

*Acknowledgment of service (Notes for Guidance)*

18. Form 14 in Appendix A shall be amended by placing square brackets round Note 2 of the Notes for Guidance and adding, as a marginal comment, “Not applicable if the Defendant is a company served at its registered office”.

*Correction of various obsolete references*

19. Form No. 70 shall be revoked and the rules and forms cited in Column 1 below shall be amended by omitting the words mentioned in Column 2, as follows:—

| <i>Column 1</i>     | <i>Column 2</i>  |
|---------------------|--|
| Order 1, rule 7     | The opening words of the rule down to “Lords Commissioners; and”   |
| Order 6, rule 2     | The whole of paragraph (3)   |
| Order 6, rule 3     | The whole of paragraph (2)   |
| Order 15, rule 3(4) | The word “the” in the second place where it appears  |
| Order 16, rule 10   | The words “either as a third party or as one of two or more tortfeasors liable in respect of the same damage,” |
| Order 94, rule 6    | The whole of paragraph (3)   |
| Form No. 73         | The words in square brackets starting “or into court”.   |

20. The rules and forms cited in Column 1 below shall be amended by substituting for the words in Column 2 the words in Column 3, as follows:—

| <i>Column 1</i>         | <i>Column 2</i>                               | <i>Column 3</i>                      |
|-------------------------|---|--------------------------------------|
| Order 6, rule 5(3)      | “entered an appearance to the writ”           | “acknowledged service of the writ”   |
| Order 8, rule 4         | “entered an appearance in”                    | “acknowledged service”               |
| Order 18, rule 22       | “1965”  | “1979”                               |
| Order 19, rule 5(2)     | “section 1(1) of the Rent Act 1968”           | “section 4(2) of the Rent Act 1977”  |
| Order 22, rule 4(1)(d)  | “Acts”  | “Act”                                |
| Order 29, rule 12       | “respondent”                                  | “defendant”                          |
| Order 62, rule 1(1)     | “Solicitors Act 1957”                         | “Solicitors Act 1974”                |
| Order 62, rule 29(1)    | “Legal Aid and Advice Act”                    | “Legal Aid Act”                      |
| Order 62, rule 30(1)(b) | “Fatal Accidents Act 1846 to 1959” and “Acts” | “Fatal Accidents Act 1976” and “Act” |

| <i>Column 1</i>                                | <i>Column 2</i>                                      | <i>Column 3</i>                                      |
|--|--|--|
| Order 62, rule 30(7)(a) and (b)                | "Fatal Accidents Acts 1846 to 1959"                  | "Fatal Accidents Act 1976"                           |
| Order 62, Appendix 2, Part VII, paragraph 2(1) | "Legal Aid and Advice Act 1949"                      | "Legal Aid Act 1974"                                 |
| Order 62, Appendix 3, Part II, paragraph 2     | "or defence"   | "or in default of defence"                           |
| Order 80, rule 15 (2)                          | "Acts" (twice)                                       | "Act"  |
| Order 94, rule 8(3)(a)                         | "section 42 of the National Health Service Act 1946" | "section 46 of the National Health Service Act 1977" |
| Order 102, rule 9(2)                           | "one shilling"                                       | "5p"   |
| Form No. 30 in Appendix A                      | "Solicitors Act 1957"                                | "Solicitors Act 1974"                                |

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Dated 10th December 1980.

## EXPLANATORY NOTE

(This Note is not part of the Rules.)

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

- (a) to broaden the scope of the notice to admit (rule 2);
- (b) to transfer from the Divisional Court of the Queen's Bench Division to the Divisional Court of the Family Division the jurisdiction to hear appeals by case stated in care proceedings (rules 3, 4 and 5);
- (c) to provide for appeals to the Court of Appeal from decisions of Social Security Commissioners (rule 6);
- (d) to enlarge and clarify the powers of taxing officers in relation to certificates of taxation (rules 7, 8 and 9);
- (e) to increase the fixed costs recoverable under Appendix 3 to Order 62 where the sum claimed is within the county court limit (rule 10);
- (f) to simplify the procedure for releasing ships from arrest (rule 11) and to make other amendments relating to admiralty proceedings (rules 12 and 13);
- (g) to raise from £500 to £1500 the size of the fund out of which money may be paid on an *ex parte* application, unless the Court directs otherwise (rule 14);
- (h) to revise Order 102 in the light of the new remedies and jurisdiction created by the Companies Act 1980 (rule 15);
- (i) to clarify the powers of the Court to specify a date for possession in proceedings under Order 113 (rules 16 and 17);
- (j) to amend the Notes for Guidance in respect of Form 14 (Acknowledgment of Service) (rule 18); and
- (k) to correct various obsolete references in the Rules (rules 19 and 20).

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