

1983 No. 1181 (L. 21)**SUPREME COURT OF ENGLAND AND WALES****The Rules of the Supreme Court (Amendment No. 2) 1983**

<i>Made</i> - - - -	25th July 1983
<i>Laid before Parliament</i>	4th August 1983
<i>Coming into Operation</i> <i>as to Rules 1 and 2,</i> <i>Rule 12 and Rules 22</i> <i>to 36</i>	1st October 1983
<i>as to Rules 3 to 11,</i> <i>Rules 13 to 21 and</i> <i>Rule 37</i>	<i>in accordance with</i> <i>Rule 1</i>

We, the Supreme Court Rule Committee, having power under section 84 of the Supreme Court Act 1981(a) to make rules of court for the purpose of regulating and prescribing the practice and procedure to be followed in the Supreme Court, hereby exercise those powers as follows:—

Citation and commencement

1. These Rules may be cited as the Rules of the Supreme Court (Amendment No. 2) 1983 and shall come into operation on 1st October 1983, except for Rules 3 to 11, 13 to 21 and 37, which shall come into operation when section 2 of the Civil Jurisdiction and Judgments Act 1982(b) comes into force.

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

Issue of Writ

3. Order 6, rule 7 shall be amended by substituting for paragraph (1), the following new paragraph:—

“(1) No writ which is to be served out of the jurisdiction shall be issued

(a) 1981 c. 54.

(b) 1982 c. 27.

(c) S.I. 1965/1776; the relevant amending instruments are S.I. 1967/829, 1809, 1969/1105, 1971/1269, 1955, 1972/1898, 1976/337, 1196, 2097, 1978/1066, 1979/522, 1980/629, 1010, 1981/1734.

without the leave of the court unless it complies with the following conditions, that is to say—

(a) each claim made by the writ is either—

- (i) one which by virtue of the Civil Jurisdiction and Judgments Act 1982 the Court has power to hear and determine, or
- (ii) one which by virtue of any other enactment the Court has power to hear and determine notwithstanding that the person against whom the claim is made is not within the jurisdiction of the Court or that the wrongful act, neglect or default giving rise to the claim did not take place within its jurisdiction;

and

(b) where a claim made by the writ in one which the Court has power to hear and determine by virtue of the Civil Jurisdiction and Judgments Act 1982, the writ is indorsed before it is issued with a statement that the Court has power under that Act to hear and determine the claim, and that no proceedings involving the same cause of action are pending between the parties in Scotland, Northern Ireland or another Convention territory.”.

4. Order 6, rule 7 shall be further amended by adding, at the end, the following new paragraph:—

“(6) For the purposes of this rule, ‘Convention territory’ means the territory or territories of any Contracting State, as defined by section 1(3) of that Act, to which the Conventions as defined in section 1(1) of that Act apply.”.

Service of writ in pursuance of contract

5. Order 10, rule 3 shall be amended by substituting in paragraph (2), for the words from “has been granted” to the end, the words:—

“has been granted under Order 11, rule 1(1) or service of the writ is permitted without leave under Order 11, rule 1(2).”.

6. Order 10, rule 3 shall be further amended by adding at the end the following new paragraph:—

“(3) Where a contract contains an agreement conferring jurisdiction to which Article 17 of Schedule 1 or of Schedule 4 to the Civil Jurisdiction and Judgments Act 1982 applies and the writ is served under Order 11, rule 1(2) the writ shall be deemed to have been duly served on the defendant.”.

Service of process out of the jurisdiction

7. Order 11, rule 1 shall be amended by substituting for that rule the following new rule:—

“Principal cases in which service of writ out of jurisdiction is permissible

1.—(1) Provided that the writ does not contain any claim mentioned in Order 75, rule 2(1) and is not a writ to which paragraph (2) of this rule

applies, service of a writ out of the jurisdiction is permissible with the leave of the Court if in the action begun by the writ—

- (a) relief is sought against a person domiciled within the jurisdiction;
- (b) an injunction is sought ordering the defendant to do or refrain from doing anything within the jurisdiction (whether or not damages are also claimed in respect of a failure to do or the doing of that thing);
- (c) the claim is brought against a person duly served within or out of the jurisdiction and a person out of the jurisdiction is a necessary or proper party thereto;
- (d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract, being (in either case) a contract which—
 - (i) was made within the jurisdiction, or
 - (ii) was made by or through an agent trading or residing within the jurisdiction on behalf of a principal trading or residing out of the jurisdiction, or
 - (iii) is by its terms, or by implication, governed by English law, or
 - (iv) contains a term to the effect that the High Court shall have jurisdiction to hear and determine any action in respect of the contract;
- (e) the claim is brought in respect of a breach committed within the jurisdiction of a contract made within or out of the jurisdiction, and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of the jurisdiction that rendered impossible the performance of so much of the contract as ought to have been performed within the jurisdiction;
- (f) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, within the jurisdiction;
- (g) the whole subject-matter of the action is land situate within the jurisdiction (with or without rents or profits) or the perpetuation of testimony relating to land so situate;
- (h) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting land situate within the jurisdiction;
- (i) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property, situate within the jurisdiction;
- (j) the claim is brought to execute the trusts of a written instrument being trusts that ought to be executed according to English law and of which the person to be served with the writ is a trustee, or for any relief or remedy which might be obtained in any such action;
- (k) the claim is made for the administration of the estate of a person who died domiciled within the jurisdiction or for any relief or remedy which might be obtained in any such action;
- (l) the claim is brought in a probate action within the meaning of Order 76;

- (m) the claim is brought to enforce any judgment or arbitral award;
 - (n) the claim is brought against a defendant not domiciled in Scotland or Northern Ireland in respect of a claim by the Commissioners of Inland Revenue for or in relation to any of the duties or taxes which have been, or are for the time being, placed under their care and management;
 - (o) the claim is brought under the Nuclear Installations Act 1965(a) or in respect of contributions under the Social Security Act 1975(b);
 - (p) the 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.
- (2) Service of a writ out of the jurisdiction is permissible without the leave of the Court provided that each claim made by the writ is either:—
- (a) a claim which by virtue of the Civil Jurisdiction and Judgments Act 1982 the Court has power to hear and determine, made in proceedings to which the following conditions apply—
 - (i) no proceedings between the parties concerning the same cause of action are pending in the courts of any other part of the United Kingdom or of any other Convention territory, and
 - (ii) either—
 - the defendant is domiciled in any part of the United Kingdom or in any other Convention territory, or
 - the proceedings begun by the writ are proceedings to which Article 16 of Schedule 1 or of Schedule 4 refers, or
 - the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1 or of Schedule 4 to that Act applies,
 - or
 - (b) a claim which by virtue of any other enactment the High Court has power to hear and determine notwithstanding that the person against whom the claim is made is not within the jurisdiction of the Court or that the wrongful act, neglect or default giving rise to the claim did not take place within its jurisdiction.
- (3) Where a writ is to be served out of the jurisdiction under paragraph (2), the time to be inserted in the writ within which the defendant served therewith must acknowledge service shall be—
- (a) 21 days where the writ is to be served out of the jurisdiction under paragraph (2)(a) in Scotland, Northern Ireland or in the European territory of another Contracting State, or
 - (b) 31 days where the writ is to be served under paragraph (2)(a) in any other territory of a Contracting State, or
 - (c) limited in accordance with the practice adopted under rule 4(4)

(a) 1965 c. 57.

(b) 1975 c. 14.

where the writ is to be served under paragraph (2)(a) in a country not referred to in sub-paragraphs (a) or (b) or under paragraph (2)(b).

(4) For the purposes of this rule, and of rule 9 of this Order, domicile is to be determined in accordance with the provisions of sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982 and “Convention territory” means the territory or territories of any Contracting State, as defined by section 1(3) of that Act, to which the Conventions as defined in section 1(1) of that Act apply.”.

8. Order 11, rule 2 shall be revoked.

Application for, and grant of, leave to serve writ out of jurisdiction

9. Order 11, rule 4 shall be amended as follows:—

(1) The following paragraph shall be substituted for paragraph (1):—

“(1) An application for the grant of leave under rule 1(1) must be supported by an affidavit stating—

- (a) the grounds on which the application is made,
- (b) that in the deponent’s belief the plaintiff has a good cause of action,
- (c) in what place or country the defendant is, or probably may be found, and
- (d) where the application is made under rule 1(1)(c), the grounds for the deponent’s belief that there is between the plaintiff and the person on whom a writ has been served a real issue which the plaintiff may reasonably ask the Court to try.”

(2) In paragraph (4) the words “or 2” shall be omitted.

Service of originating summons, petition, notice of motion, etc.

10. Order 11, rule 9 shall be amended by substituting for paragraph (1) the following new paragraph:—

“(1) Subject to Order 73, rule 7, rule 1 of this Order shall apply to the service out of the jurisdiction of an originating summons, notice of motion or petition as it applies to service of a writ.”

11. Order 11, rule 9 shall be further amended as follows:—

(1) Paragraphs (2) and (3) shall be revoked.

(2) There shall be inserted in paragraph (4), after the words “permissible with the leave of the Court”, the words “, but leave shall not be required for such service in any proceedings in which the writ, originating summons, motion or petition may by these rules or under any Act be served out of the jurisdiction without leave”.

(3) In paragraph (5) the words “or 2” shall be omitted.

Dispute as to jurisdiction

12. Order 12, rule 8 shall be amended by substituting in paragraph (1), for the words, “within 14 days thereafter”, the words “within the time limited for service of a defence” and by revoking paragraph (2).

Proof of service of writ and of jurisdiction

13. Order 13 shall be amended by inserting after rule 7A the following new rule:—

“Judgments under the Civil Jurisdiction and Judgments Act 1982

7B.—(1) Where a writ has been served out of the jurisdiction under Order 11, rule 1(2)(a) or has been served within the jurisdiction on a defendant domiciled in Scotland or Northern Ireland or in any other Convention territory the plaintiff shall not be entitled to enter judgment under this Order except with the leave of the Court.

(2) An application for leave to enter judgment may be made *ex parte* and shall be supported by an affidavit stating that in the deponent’s belief—

- (a) each claim made by the writ is one which by virtue of the Civil Jurisdiction and Judgments Act 1982 the Court has power to hear and determine,
- (b) no other court has exclusive jurisdiction within the meaning of Schedule 1 or under Schedule 4 to that Act to hear and determine such claim, and
- (c) where the writ is served out of the jurisdiction under Order 11, rule 1(2)(a), such service satisfied the requirements of Schedule 1 or, as the case may require, of Article 20 of Schedule 4 to that Act,

and giving in each case the sources and grounds of such belief.

(3) For the purposes of this rule, domicile is to be determined in accordance with the provisions of sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982 and “Convention territory” means the territory or territories of any Contracting State, as defined by section 1(3) of that Act, to which the Conventions as defined in section 1(1) of that Act apply.”.

Issue, service, and acknowledgement of service of third party notice

14. Order 16, rule 3 shall be amended by substituting for the full stop at the end of paragraph (4) a colon, and by adding at the end the words:—

“Provided that in the application of Order 11, r. 1(1)(c) leave may be granted to serve a third party notice outside the jurisdiction on any necessary or proper party to the proceedings brought against the defendant.”.

Service out of the jurisdiction of an originating summons for leave to enforce an arbitral award

15. Order 73, rule 7 shall be amended by omitting in paragraph (1)(a) the words “or for leave to enforce an award” and shall be further amended by inserting after rule 7(1) the following new paragraph:—

“(1A) Service out of the jurisdiction of an originating summons for leave to enforce an award is permissible with the leave of the Court whether or not the arbitration is governed by English law.”.

Admiralty proceedings: Merchant Shipping (Oil Pollution) Act 1971(a) and Merchant Shipping Act 1974(b)

16. Order 75, rule 4 shall be amended as follows:—

(1) paragraph (1) shall be amended by substituting for the words “in rule 2(1)” the words “in rule 2(1)(a) or (b)”;

(2) there shall be inserted after paragraph (1) the following new paragraph:—

“(1A) Service out of the jurisdiction of a writ in an action containing any such claim as is mentioned in rule 2(1)(c) is permissible with the leave of the Court.”;

(3) paragraph (3) shall be amended by substituting for the words “Paragraph (1)” the words “Paragraphs (1) and (1A)”.

17. Order 75, rule 5(8) shall be amended by substituting a semi-colon for the full stop at the end of item “(d)”, by inserting thereafter the word “and”, and by inserting after item (d) the following new item:—

“(e) in the case of a claim in respect of a liability incurred under section 1 of the Merchant Shipping (Oil Pollution) Act 1971, the facts relied on as establishing that the Court is not prevented from entertaining the action by reason of section 13(2) of that Act.”.

Partners—application of Order 81 to individual traders

18. Order 81, rule 9 shall be amended by inserting, after the word “may”, the words “whether or not he is within the jurisdiction,”.

Reciprocal enforcement of judgments

19. Order 71 shall be amended by substituting in the title, for the words “I. RECIPROCAL ENFORCEMENT”, the words “I. RECIPROCAL ENFORCEMENT: THE ADMINISTRATION OF JUSTICE ACT 1920 AND THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1933”, and by substituting in the title of Part II, for the words “EUROPEAN COMMUNITY JUDGMENTS” the words “ENFORCEMENT OF EUROPEAN COMMUNITY JUDGMENTS”.

20. Order 71 shall be further amended by revoking rule 14 and by adding at the end the following new rules:—

“III. RECIPROCAL ENFORCEMENT: THE CIVIL JURISDICTION
AND JUDGMENTS ACT 1982

Interpretation

25.—(1) In this Part of this Order—

“the Act of 1982” means the Civil Jurisdiction and Judgments Act 1982;

(a) 1971 c. 59.

(b) 1974 c. 43.

“Convention territory” means the territory or territories of any Contracting State, as defined by section 1(3) of the Act of 1982, to which the Conventions as defined in section 1(1) of the Act of 1982 apply;

“judgment” is to be construed in accordance with the definition of “judgment” in section 50 of the Act of 1982;

“money provision” means a provision for the payment of one or more sums of money;

“non-money provision” means a provision for any relief or remedy not requiring payment of a sum of money;

“protective measures” means the protective measures referred to in Article 39 of Schedule 1 to the Act of 1982.

(2) For the purposes of this Part of this Order domicile is to be determined in accordance with the provisions of sections 41 to 46 of the Act of 1982.

Assignment of business and exercise of powers

26. Any application to the High Court under the Act of 1982 shall be assigned to the Queen’s Bench Division and the powers conferred on the Court by that Act shall be exercised in accordance with the provisions of Order 32, rule 11.

Application for registration

27. An application for registration of a judgment under section 4 of the Act of 1982 shall be made ex parte.

Evidence in support of application

28.—(1) An application for registration under section 4 of the Act of 1982 must be supported by an affidavit—

(a) exhibiting—

- (i) the judgment or a verified or certified or otherwise duly authenticated copy thereof together with such other document or documents as may be requisite to show that, according to the law of the State in which it has been given, the judgment is enforceable and has been served;
- (ii) in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document;
- (iii) where it is the case, a document showing that the party making the application is in receipt of legal aid in the State in which the judgment was given;
- (iv) where the judgment or document is not in the English language, a translation thereof into English certified by a notary public or a person qualified for the purpose in one of the Contracting States or authenticated by affidavit;

(b) stating—

- (i) whether the judgment provides for the payment of a sum or sums of money;

- (ii) whether interest is recoverable on the judgment or part thereof in accordance with the law of the State in which the judgment was given, and if such be the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue;
 - (c) giving an address within the jurisdiction of the Court for service of process on the party making the application and stating, so far as is known to the deponent, the name and the usual or last known address or place of business of the person against whom judgment was given;
 - (d) stating to the best of the information or belief of the deponent—
 - (i) the grounds on which the right to enforce the judgment is vested in the party making the application;
 - (ii) as the case may require, either that at the date of the application the judgment has not been satisfied, or the part or amount in respect of which it remains unsatisfied.
- (2) Where the party making the application does not produce the documents referred to in paragraphs (1)(a)(ii) and (iii) of this rule, the Court may—
- (a) fix a time within which the documents are to be produced; or
 - (b) accept equivalent documents; or
 - (c) dispense with production of the documents.

Security for costs

29. Notwithstanding the provisions of Order 23 a party making an application for registration under section 4 of the Act of 1982 shall not be required solely on the ground that he is not domiciled or resident within the jurisdiction, to give security for costs of the application.

Order for registration

30.—(1) An order giving leave to register a judgment under section 4 of the Act of 1982 must be drawn up by or on behalf of the party making the application for registration.

(2) Every such order shall state the period within which an appeal may be made against the order for registration and shall contain a notification that execution on the judgment will not issue until after the expiration of that period.

(3) The notification referred to in paragraph (2) shall not prevent any application for protective measures pending final determination of any issue relating to enforcement of the judgment.

Register of judgments registered under s. 4 of the Act of 1982

31. There shall be kept in the Central Office under the direction of the senior master a register of the judgments ordered to be registered under section 4 of the Act of 1982.

Notice of registration

32.—(1) Notice of the registration of a judgment must be served on the person against whom judgment was given by delivering it to him personally or by sending it to him at his usual or last known address or place of business or in such other manner as the Court may direct.

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

(3) The notice of registration must state—

- (a) full particulars of the judgment registered and the order for registration,
- (b) the name of the party making the application and his address for service within the jurisdiction,
- (c) the right of the person against whom judgment was given to appeal against the order for registration, and
- (d) the period within which an appeal against the order for registration may be made.

Appeals

33.—(1) An appeal under Article 37 or Article 40 of Schedule 1 to the Act of 1982 must be made by summons to a judge.

(2) A summons in an appeal to which this rule applies must be served—

- (a) in the case of an appeal under the said Article 37 of Schedule 1, within one month of service of notice of registration of the judgment, or two months of service of such notice where that notice was served on a party not domiciled within the jurisdiction;
- (b) in the case of an appeal under the said Article 40 of Schedule 1, within one month of the determination of the application under rule 27.

(3) If the party against whom judgment was given is not domiciled in a Convention territory and an application is made within two months of service of notice of registration, the Court may extend the period within which an appeal may be made against the order for registration.

Issue of execution

34.—(1) Execution shall not issue on a judgment registered under section 4 of the Act of 1982 until after the expiration of the period specified in accordance with rule 30(2) or, if that period has been extended by the Court, until after the expiration of the period so extended.

(2) If an appeal is made under rule 33(1), execution on the judgment shall not issue until after such appeal is determined.

(3) Any party wishing to issue execution on a judgment registered under section 4 of the Act of 1982 must produce to the proper officer an affidavit of service of the notice of registration of the judgment and of any order made by the Court in relation to the judgment.

(4) Nothing in this rule shall prevent the Court from granting protective measures pending final determination of any issue relating to enforcement of the judgment.

Application for recognition

35.—(1) Registration of the judgment under these rules shall serve for the purposes of the second paragraph of Article 26 of Schedule 1 to the Act of 1982 as a decision that the judgment is recognised.

(2) Where it is sought to apply for recognition of a judgment, the foregoing rules of this Order shall apply to such application as they apply to an application for registration under section 4 of the Act, with the exception that the applicant shall not be required to produce a document or documents which establish that according to the law of the State in which it has been given the judgment is enforceable and has been served, or the document referred to in rule 28(1)(a)(iii).

Enforcement of High Court judgments in other Contracting States

36.—(1) An application under section 12 of the Act of 1982 for a certified copy of a judgment entered in the High Court must be made ex parte on affidavit to the Court.

(2) An affidavit by which an application under section 12 of the Act of 1982 is made must—

- (a) give particulars of the proceedings in which the judgment was obtained;
- (b) have annexed to it a copy of the writ, originating summons or other process by which the proceedings were begun, the evidence of service thereof on the defendant, copies of the pleadings, if any, and a statement of the grounds on which the judgment was based together, where appropriate, with any document under which the applicant is entitled to legal aid or assistance by way of representation for the purposes of the proceedings;
- (c) state whether the defendant did or did not object to the jurisdiction, and, if so, on what grounds;
- (d) show that the judgment has been served in accordance with Order 65, rule 5 and is not subject to any stay of execution;
- (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the judgment has been given; and
- (f) state—
 - (i) whether the judgment provides for the payment of a sum or sums of money;
 - (ii) whether interest is recoverable on the judgment or part thereof and if such be the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue.

(3) The certified copy of the judgment shall be an office copy sealed with the seal of the Supreme Court and there shall be issued with the copy of the

judgment a certificate in Form 110, signed by one of the persons referred to in Order 1, rule 4(2) and sealed with the seal of the Supreme Court, having annexed to it a copy of the writ, originating summons or other process by which the proceedings were begun.

Enforcement of United Kingdom judgments in other parts of the United Kingdom: money provisions

37.—(1) An application for registration in the High Court of a certificate in respect of any money provisions contained in a judgment given in another part of the United Kingdom to which section 18 of the Act of 1982 applies may be made by producing at the Central Office, within six months from the date of its issue, a certificate in the appropriate form prescribed under that Act together with a copy thereof certified by the applicant's solicitor to be a true copy.

(2) A certificate under paragraph (1) must be filed in the Central Office and the certified copy thereof, sealed by an officer of the office in which the certificate is filed, shall be returned to the applicant's solicitor.

(3) A certificate in respect of any money provisions contained in a judgment of the High Court to which section 18 of the Act of 1982 applies may be obtained by producing the form of certificate prescribed in Form 111 at the office in which the judgment is entered, together with an affidavit made by the party entitled to enforce the judgment—

- (a) giving particulars of the judgment, stating the sum or aggregate of the sums (including any costs or expenses) payable and unsatisfied under the money provisions contained in the judgment, the rate of interest, if any, payable thereon and the date or time from which any such interest began to accrue;
- (b) verifying that the time for appealing against the judgment has expired, or that any appeal brought has been finally disposed of and that enforcement of the judgment is not stayed or suspended; and
- (c) stating to the best of the information or belief of the deponent the usual or last known address of the party entitled to enforce the judgment and of the party liable to execution on it.

Enforcement of United Kingdom judgments in other parts of the United Kingdom: non-money provisions

38.—(1) An application for registration in the High Court of a judgment which contains non-money provisions, being a judgment given in another part of the United Kingdom to which section 18 of the Act of 1982 applies, may be made ex parte, but the Court hearing the application may direct the issue of a summons to which paragraphs (2) and (3) of rule 2 shall apply.

(2) An application under paragraph (1) must be accompanied by a certified copy of the judgment issued under Schedule 7 to the Act of 1982 and a certificate in Form 112 issued not more than six months before the date of application.

(3) Rules 30 and 32 of this Order shall apply to judgments registered under Schedule 7 to the Act of 1982 as they apply to judgments registered under section 4 of that Act.

(4) Paragraphs (1) and (2) of rule 9 shall apply to applications to set aside registration of a judgment under Schedule 7 to the Act of 1982 as they apply to judgments registered under the Administration of Justice Act 1920 and the Foreign Judgments (Reciprocal Enforcements) Act 1933.

(5) A certified copy of a judgment of the High Court to which section 18 of the Act of 1982 applies and which contains any non-money provision may be obtained by an ex parte application on affidavit to the Court.

(6) The requirements in paragraph (3) of rule 37 shall apply with the necessary modifications to an affidavit made in an application under paragraph (5) of this rule.

(7) A certified copy of a judgment shall be an office copy sealed with the seal of the Supreme Court and indorsed with a certificate signed by a master or, where appropriate, a registrar certifying—

- (a) that the copy is a true copy of a judgment obtained in the High Court;
- (b) that it is issued in accordance with section 18 of the Act of 1982; and
- (c) that the conditions specified in paragraphs 3(a) and (b) of Schedule 7 to that Act are satisfied in relation to the judgment.

Register of United Kingdom judgments

39. There shall be kept in the Central Office under the direction of the senior master a register of the certificates in respect of judgments and of the judgments ordered to be registered in the Central Office under Schedule 6, or, as the case may be, Schedule 7 to the Act.”.

Reference to the European Court

21. Order 114, rule 1 shall be amended by inserting, after the words “Coal and Steel Community”, the words “, or for a ruling on the interpretation of the Conventions referred to in section 1(1) of the Civil Jurisdiction and Judgments Act 1982”.

Interpleader proceedings

22. Order 17, rule 2 shall be amended by substituting, for the words “4 days” in paragraph (2), the words “7 days”.

23. Order 17, rule 3 shall be amended by adding at the end the following new paragraphs:—

“(6) Any person who makes a claim under rule 2 and who is served with a summons under this rule shall within 14 days serve on the execution creditor and the sheriff an affidavit specifying any money and describing any goods and chattels claimed and setting out the grounds upon which such claim is based.

(7) Where the applicant is a sheriff a summons under this rule must give notice of the requirement in paragraph (6).”.

Oaths and affidavits

24. For Order 32, rule 8, there shall be substituted the following new rule:—

“Officers may administer oaths

8. The following persons shall have authority to administer oaths and take affidavits for the purpose of proceedings in the Supreme Court, namely—

- (a) the holder of any office which is listed in column 1 of Part II or III of Schedule 2 to the Act and any person appointed to act as a deputy for a person holding any such office or as a temporary additional officer in any such office, and
- (b) any district registrar, deputy district registrar or assistant district registrar, and
- (c) any officer in the court service established by section 27 of the Courts Act 1971(a) who is for the time being authorised in that behalf by the Lord Chancellor.”.

Interest on legacies

25. Order 44, rule 10 shall be amended by substituting, for the figure “£5”, the figure “£6”.

Enforcement of orders for the payment of money: appeals

26. Order 56, rule 5(2)(a) shall be amended by inserting, after the words “Matrimonial Proceedings (Magistrates’ Courts) Act 1960”, the words “, the Guardianship of Minors Act 1971(b)”.

27. Order 90, rule 9(1) shall be amended by substituting, for the word “Every”, the words “Subject to Order 56, rule 5(2), every”.

Court of Appeal

28. Order 59, rule 9 shall be amended as follows:—

- (i) In paragraph (1) there shall be substituted, for the words “Not more than 7 days”, the words “Not more than 14 days”.
- (ii) There shall be inserted, at the beginning of item (e) of paragraph (1), the words “the originating process by which the proceedings in the court below were begun, any interlocutory or other related process which is the subject of the appeal,”.
- (iii) There shall be substituted, for item (f), the words “the transcript of the official shorthand note or record, if any, of the judge’s reasons for giving the judgment or making the order of the court below or, in the absence of such a note or record, the judge’s note of his reasons or, if the judge’s note is not available, counsel’s note of the judge’s reasons approved wherever possible by the judge;”.
- (iv) There shall be substituted, for item (g), the words “such parts of the transcript of the official shorthand note or record, if any, of the

(a) 1971 c. 23.

(b) 1971 c. 3.

evidence given in the court below as are relevant to any question at issue on the appeal or, in the absence of such a note or record, such parts of the judge's note of the evidence as are relevant to any such question;".

- (v) There shall be inserted, after paragraph (2), the following new paragraph:—

"(2A) When the transcripts, if any, referred to in items (f) and (g) of paragraph (1) have been bespoken by the appellant and paid for, the number of such transcripts required in accordance with paragraph (2) shall be sent by the official shorthand writer or transcriber direct to the registrar."

- (vi) There shall be substituted, in paragraph (3), for the words from "After the documents" to "registrar shall", the words "At any time after an appeal has been set down in accordance with rule 5 the registrar may".

29. Order 59, rule 14 shall be amended as follows:—

- (i) There shall be substituted, for paragraph (1), the following new paragraph:—

"(1) Unless otherwise directed, every application to the Court of Appeal, a single judge or the registrar which is not made ex parte must be made by summons and such summons must be served on the party or parties affected at least 2 clear days before the day on which it is heard or, in the case of an application which is made after the expiration of the time for appealing, at least 7 days before the day on which the summons is heard."

- (ii) There shall be inserted, at the beginning of paragraph (2), the words "Unless otherwise directed,".

- (iii) There shall be substituted, for paragraph (7), the following new paragraph:—

"(7) An application, not being an application for leave to appeal, which may be heard by a single judge shall unless otherwise directed be heard in chambers."

- (iv) There shall be substituted, for paragraph (12), the following new paragraph:—

"(12) An appeal shall lie to the Court of Appeal from any determination by a single judge, not being the determination of an application for leave to appeal, and shall be brought by way of fresh application made within 10 days of the determination appealed against.

Provided that an appeal shall not lie to the Court of Appeal without the leave of that Court in respect of a determination of the registrar which has been reviewed by a single judge."

30. Order 68 shall be amended by omitting rule 6, and in rule 8, the words from "and, in relation" to the end.

Arbitration proceedings

31. Order 73 shall be amended by omitting rule 1.

32. Order 73 shall be further amended by omitting rule 2(1)(d), and the word “or” immediately following it, and by substituting, for rule 3(2), the following new paragraph—

“(2) Any application

- (a) for leave to appeal under section 1(2) of the Arbitration Act 1979(a), or
 - (b) under section 1(5) of that Act (including any application for leave), or
 - (c) under section 5 of that Act,
- shall be made to a judge in chambers.”.

Applications for leave to adopt a minor who is a ward of court

33. Order 90 shall be amended by inserting, after rule 4, the following new rule:—

“Applications for leave to adopt a minor who is a ward of court

4A. An application for leave to commence proceedings to adopt a minor who is a ward of court may be made ex parte to a registrar and if the applicant so requests the registrar may direct that any subsequent proceedings shall be conducted with a view to securing that the proposed adopter is not seen by or made known to any respondent or prospective respondent who is not already aware of his identity except with his consent.”.

Appeals from magistrates in custody or access cases

34. Order 90, rule 16(9) shall be amended as follows:—

(1) for the words “or to access, where the extent of access only is in dispute”, there shall be substituted the words “or to custody or access”;

(2) for sub-paragraph (b), there shall be substituted the following:—

“(b) the parties may agree in writing or the President may direct that the appeal be heard and determined at a divorce town within the meaning of the matrimonial causes rules.”.

Mental Health Act 1983(b)

35. Order 94 shall be amended by substituting for rule 11 the following rule:—

“Case stated by Mental Health Review Tribunal

11.—(1) In this rule, “the Act” means the Mental Health Act 1983.

(2) The reference in paragraph (3) to a party to proceedings before a Mental Health Review Tribunal, and the references in Order 56, rules 8(1), 9(2) and 10 to a party to proceedings shall be construed as references to—

- (a) the person who initiated the proceedings; and
- (b) any person to whom, in accordance with rules made under section 78 of the Act, the Tribunal sent notice of the application or reference or a request instead of notice of reference.

(a) 1979 c. 42.
(b) 1983 c. 20.

(3) A party to proceedings before a Mental Health Review Tribunal shall not be entitled to apply to the High Court for an order under section 78(8) of the Act directing the Tribunal to state a case for determination by the Court unless—

- (a) within 21 days after the decision of the Tribunal was communicated to him in accordance with rules made under section 78 of the Act he made a written request to the Tribunal to state a case, and
- (b) either the Tribunal failed to comply with the last-mentioned request within 21 days after it was made or the Tribunal refused to comply with it.

(4) The period for entry of the originating motion by which an application to the Court for such an order as is mentioned in paragraph (3) is made, and for service of notice thereof, shall be—

- (a) where the Tribunal refused the applicant's request to state a case, 14 days after receipt by the applicant of notice of the refusal of his request;
- (b) where the Tribunal failed to comply with that request within the period mentioned in paragraph (3)(b), 14 days after the expiration of that period.

(5) A Mental Health Review Tribunal by whom a case is stated shall be entitled to appear and be heard in the proceedings for the determination of the case.

(6) If the Court is of opinion that any decision of such a Tribunal on the question of law raised by the case was erroneous, the Court may give any direction which the Tribunal ought to have given under Part V of the Act.”.

36. The rules cited in the first column of the Schedule to these Rules shall be amended by omitting the words in the second column and by substituting the words in the third column.

Forms

37. Appendix A shall be amended as follows:—

(1) In Form 62 there shall be substituted for the words from “register for Irish judgments” to “Inferior Courts Extension Act 1882” the words “register for Judgments in our High Court of Justice in England and Wales pursuant to Schedule 6 to the Civil Jurisdiction and Judgments Act 1982.”.

(2) In Form 63 there shall be inserted after the words “[or the Foreign Judgments (Reciprocal Enforcement) Act 1933, Part I]” the words “[or the Civil Jurisdiction and Judgments Act 1982]” and after the words “[or Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933]” the words “, [or the Civil Jurisdiction and Judgments Act 1982]”.

(3) In Form 109 there shall be inserted after the words “European Coal and Steel Community”, the words, “or for a ruling under Schedule 2 to the Civil Jurisdiction and Judgments Act 1982”.

(4) The following new forms shall be added at the end of Appendix A:—

“

No. 110

Certificate under section 12 of the
Civil Jurisdiction and Judgments Act 1982

In the High Court of Justice

19 , No.

Division

Between [AB]

Plaintiff

and [CD]

Defendant

I, a _____ of the Supreme Court of England and Wales,
hereby certify:—

1. That the Writ of Summons [*or as the case may be*], a copy of which is annexed, was issued out of the High Court of Justice on the _____ day of _____, 19____, by AB the above-named plaintiff against CD, the above-named defendant, for [payment of the sum of £ _____]
[*or state any other relief claimed*].
2. That the said writ [*or other originating process as the case may be*] was duly served on the _____ day of _____, 19____, upon the said defendant CD by (*state mode of service*.)
3. [That the said CD acknowledged service of the writ on the _____ day of _____, 19____.]
4. That the said plaintiff [*or defendant*] obtained judgment against the said defendant [*or plaintiff*] in the _____ Division of the High Court of Justice for [payment of the sum of £ _____] [*or state any other relief ordered*], together with the sum of £ _____ for costs.
5. That [no] objection has been made to the jurisdiction of the Court [on the grounds that *state grounds of objection* _____].
6. That the judgment carries interest at the rate of per cent per annum calculated on the judgment debt and costs from the date of judgment until payment.
7. That the judgment has been served on the defendant in accordance with the provisions of Order 65, rule 5.
8. [That no application to set the judgment aside] [*or to appeal against the judgment*] [has been brought within the time prescribed].
9. [That an application to set the judgment aside] [*or to appeal against the judgment*] [has been finally disposed of].
10. That enforcement of the judgment is not for the time being stayed or suspended and that the time available for its enforcement has not expired.
11. This certificate is issued under section 12 of the Civil Jurisdiction and Judgments Act 1982.

Dated this _____ day of _____, 19____.

(Signed) a

_____ of the Supreme Court
of England and Wales.

No. 111

Certificate of Money Provisions contained in a Judgment
for Registration under Schedule 6 to the Civil
Jurisdiction and Judgments Act 1982

I, a _____ of the Supreme Court of England and Wales, hereby
certify:—

1. That AB (*state the name, address and description of plaintiff*) obtained judgment against CD (*state the name, address and description of defendant*) on the day of 19 in the _____ Division of the High Court of England and Wales for payment of the sum of £ _____ in respect of (*state shortly nature of claim*) together with £..... for costs.
2. That the judgment carries interest at the rate of per cent per annum calculated on the judgment debt and costs from the date of judgment until payment.
3. That the conditions specified in paragraph 3(a) and (b) of Schedule 6 to the Civil Jurisdiction and Judgments Act 1982 are satisfied in relation to the judgment.
4. That enforcement of the judgment is not for the time being stayed or suspended and that the time available for its enforcement has not expired.
5. This certificate is issued under Schedule 6 to the Civil Jurisdiction and Judgments Act 1982.

Dated the _____ day of _____ 19____

(Signed) a _____ of the Supreme Court
of England and Wales.

Produced for registration under Schedule 6 to the Civil Jurisdiction and Judgments Act 1982 by AB/CD.

No.112

Certificate issued under Schedule 7 to the
Civil Jurisdiction and Judgments Act 1982
in respect of Non-Money Provisions

I certify that the annexed copy judgment is a true copy of a judgment obtained in the High Court, that it is issued in accordance with section 18 of the Civil Jurisdiction and Judgments Act 1982 and that the conditions specified in paragraph 3(a) and (b) of Schedule 7 to that Act are satisfied in relation to the judgment.

This certificate is issued under paragraph 4(1)(b) of Schedule 7 to the Civil Jurisdiction and Judgments Act 1982.

Dated this day of , 19

(Signed) a

of the Supreme Court
of England and Wales.”.

*Hailsham of St. Marylebone, C.
Lane, C.J.
Donaldson, M.R.
John Arnold, P.
R.E. Megarry, V-C.
Oliver, L.J.
Lloyd, J.
Mark Potter.
John G. Mck. Laws.
P.F. Carter-Ruck.
R.J. Pannone.*

Dated 25th July 1983

SCHEDULE

AMENDMENTS TO OBSOLETE REFERENCES

Order and rule	Words to be omitted	Words to be substituted
Order 1, rule 2(2)	"Part VIII of the Mental Health Act 1959"	"Part VII of the Mental Health Act 1983"
Order 32, rule 9(1)(b)	"Mental Health Act 1959, section 112"	"Mental Health Act 1983, section 106"
Order 32, rule 9(3)	"section 141 of the Mental Health Act 1959"	"section 139 of the Mental Health Act 1983"
Order 52, rule 6(1)(b)	"section 141"	"section 139"
Order 62, rule 29(4)(a)	"Mental Health Act 1959"	"Mental Health Act 1983"
Order 62, rule 29(5)	"Mental Health Act 1959"	"Mental Health Act 1983"
Order 62, rule 30(1)(a)	"Part VIII"	"Part VII"
Order 62, rule 30(3)(b)	"Section 118(2) and (3) of the Mental Health Act 1959"	"Section 111, (3) and (4) of the Mental Health Act 1983"
Order 62, rule 30(7)(a)	"Part VIII"	"Part VII"
Order 80, rule 1	"Mental Health Act 1959"	"Mental Health Act 1983"
Order 80, rule 3(3)	"Mental Health Act 1959"	"Mental Health Act 1983"
Order 80, rule 3(8)(b)	"Mental Health Act 1959"	"Mental Health Act 1983"
Order 80, rule 16(2)(b)	"Mental Health Act 1959"	"Mental Health Act 1983"
Order 112, rule 3(b)	"Part VIII"	"Part VII"
	"Part VIII" wherever occurring	"Part VII"
	"Part VIII"	"Part VII"
	"Mental Health Act 1959"	"Mental Health Act 1983"

EXPLANATORY NOTE

(This Note is not part of the Rules.)

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

- (a) to make provision for proceedings under the Civil Jurisdiction and Judgments Act 1982 and to make new provision for service of process out of the jurisdiction (Rules 3 to 18);
- (b) to make provision for the recognition and enforcement of judgments under the Civil Jurisdiction and Judgments Act 1982 (Rules 19 to 21 and Rule 37);
- (c) to amend the provision for giving notice of a claim in interpleader proceedings (Rules 22 and 23);
- (d) to make new provision for the swearing of affidavits (Rule 24);
- (e) to amend the provision for interest on legacies (Rule 25);
- (f) to amend the provision for an appeal from the enforcement of an order of a magistrates' court for the payment of money (Rules 26 and 27);
- (g) to amend the provisions for appeals to the Court of Appeal (Rules 28 to 30);
- (h) to amend the provisions for appeals in arbitration proceedings (Rules 31 and 32);
- (i) to make new provision for applications for leave to adopt a minor who is a ward of court (Rule 33);
- (j) to amend the provision for appeals from magistrates' courts in custody or access cases (Rule 34);
- (k) to provide for appeals from Mental Health Review Tribunals under the Mental Health Act 1983, and to make minor amendments consequential on that Act (Rules 35 and 36).

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