
S T A T U T O R Y I N S T R U M E N T S

1985 No. 1269 (L.9)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1985

Made - - - - - *29th July 1985*

Coming into Operation
Rules 16 to 23 *1st October 1985*

All other provisions
except Rules 2 to 12 *1st December 1985*

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1985.

(2) In these Rules, unless the context otherwise requires, an Order referred to by number means the Order so numbered in the County Court Rules 1981 **(a)**, and Appendix A, B or C means Appendix A, B or C to those Rules.

The Civil Jurisdiction and Judgments Act 1982 **(b)**

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

“(5) Where a summons is to be served out of England and Wales, the plaintiff shall certify in his request for the issue of the summons that the conditions of paragraph (6) are satisfied.

(6) No summons shall be served out of England and Wales unless

(a) each claim made in the particulars of claim 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 a county court has power to hear and determine notwithstanding that the person against whom the claim is made is not within England and Wales or that the wrongful act, neglect or default giving rise to the claim did not take place within England and Wales;

or

(b) leave to serve the summons out of England and Wales is given under Order 8.

(7) Where a claim made in the particulars of claim is one which the court has power to hear and determine by virtue of the Civil Jurisdiction and

(a) S.I. 1981/1687, as amended by S.I. 1982/1140, 1794, 1984/576 and 1985/566.

(b) 1982 c. 27.

Judgments Act 1982, the particulars shall contain 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. (8) For the purposes of this rule, 'Convention territory' means the territory or territories of any Contracting State, as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the Conventions as defined in section 1(1) of that Act apply."

3. Order 3, rule 4 shall be amended by adding at the end the following new paragraph:—

"(7) Paragraphs (5) to (8) of rule 3 of this Order shall apply, with the necessary modifications, to an originating application which is to be served out of England and Wales."

4. Order 5, rule 10 shall be amended by inserting in paragraph (1), after the word "may", the words " , whether or not he is within the jurisdiction,".

5. For Order 8, rule 2 there shall be substituted the following new rule:—

"Principal cases in which service of originating process out of jurisdiction is permissible

2.—(1) Except in an action to which paragraph (2) or rule 3 applies, service of an originating process out of England and Wales is permissible with the leave of the court where—

- (a) relief is sought against any person domiciled in England or Wales;
- (b) an injunction is sought ordering the defendant to do or refrain from doing anything (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 any person duly served within or out of England and Wales and a person out of England and Wales is a necessary or proper party thereto;
- (d) the claim is founded on any breach or alleged breach of any contract wherever made, which—
 - (i) according to its terms ought to be performed in England and Wales, or
 - (ii) is by its terms, or by implication, governed by English law, or
 - (iii) contains a term to the effect that a court in England or Wales shall have jurisdiction to hear and determine any action in respect of the contract;
- (e) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, within England and Wales;
- (f) the whole subject-matter of the proceedings is land (with or without rent or profits) or the perpetuation of testimony relating to land;
- (g) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting land;

- (h) 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;
 - (i) 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 originating process is a trustee, or for any relief or remedy which might be obtained when such a claim is brought;
 - (j) the claim is made for the administration of the estate of a person who died domiciled in England or Wales or for any relief or remedy which might be obtained when such a claim is made;
 - (k) the claim is brought in a probate action within the meaning of Order 41;
 - (l) the claim is brought to enforce any judgment or arbitral award;
 - (m) 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;
 - (n) the claim is brought in respect of contributions under the Social Security Act 1975(a);
 - (o) 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 an originating process out of England and Wales is permissible without the leave of the court provided that each claim made 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 originating process are proceedings to which Article 16 of Schedule 1 or of Schedule 4 to the 1982 Act refers, or
 - the defendant is a party to an agreement conferring jurisdiction to which Article 17 of the said Schedule 1 or Schedule 4 applies,
 - or
 - (b) a claim which by virtue of any other enactment the court has power to hear and determine notwithstanding that the person against

(a) 1975 c. 14.

whom the claim is made is not within England and Wales or that the wrongful act, neglect or default giving rise to the claim did not take place within England and Wales.

(3) Where an originating process in a default action is to be served out of England and Wales under paragraph (2), the time fixed for delivering an admission or defence or paying the total amount of the claim and costs into court shall be—

- (a) 21 days where the originating process is to be served out of England and Wales under paragraph (2)(a) in Scotland, Northern Ireland or in the European territory of another Contracting State, or
- (b) 31 days where the originating process is to be served under paragraph (2)(a) in any other territory of a Contracting State, or
- (c) fixed by the court having regard to the distance of the country of service where the originating process 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) Where an originating process in a fixed date action is to be served out of England and Wales under paragraph (2) the court shall fix the return day having regard to the distance of the country of service.

(5) 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.”.

6. For Order 8, rule 4 there shall be substituted the following new rule—

“4. Service of an interlocutory process out of England and Wales is permissible with the leave of the court on a person who is already a party to the proceedings and, in the case of a defendant, respondent or third party, has been served with the originating process but leave shall not be required for such service in any proceedings in which the originating process may by these rules or under any Act be served out of England and Wales without leave.”.

7. Order 8, rule 5 shall be amended by substituting, for the words “— (1) Subject to paragraph (2), where leave is asked”, the words “Where leave is asked” and by revoking paragraph (2).

8. Order 8, rule 6 shall be amended by substituting in paragraph (1)(b)(iii), for the word “made.”, the words “made, and” and by adding, after paragraph (1)(b)(iii), the following:—

“(iv) where the application is made under rule 2(1)(c), the grounds for the deponent’s belief that there is between the applicant and the person on whom an originating process has been served a real issue which the applicant may reasonably ask the court to try.”.

9. Order 9, rule 6 shall be amended by substituting in paragraph (1), for the words “paragraphs (2) and (3)”, the words “paragraphs (2), (3) and (4)” and by adding at the end of the rule, the following new paragraph:—

“(4) Where an originating process has been served out of England and Wales under Order 8, rule 2(2)(a) or has been served within England and Wales on a defendant domiciled in Scotland or Northern Ireland or in any other Convention territory the plaintiff may not enter judgment under paragraph (1)(a) without the leave of the court and RSC Order 13, rule 7B shall apply to an application for such leave as it applies to an application for leave to enter judgment in the High Court.”.

10. Order 22, rule 1(3) shall be amended by substituting a semi-colon for the full stop at the end of sub-paragraph (c) and by adding the following new sub-paragraph:—

“(d) an application is to be made under Order 35, rule 3.”.

11. For Order 35 there shall be substituted the following new Order:—

**“ENFORCEMENT OF COUNTY COURT JUDGMENTS OUTSIDE
ENGLAND AND WALES**

PART I—ENFORCEMENT OUTSIDE UNITED KINGDOM

Interpretation of Part I

1. In this Part of this Order “the Act of 1933” means the Foreign Judgments (Reciprocal Enforcement) Act 1933(a), “the Act of 1982” means the Civil Jurisdiction and Judgments Act 1982 and expressions which are defined in those Acts have the same meaning in this Part of this Order as they have in those Acts.

Application under s. 10 of the Act of 1933 for certified copy of county court judgment

2.—(1) An application under section 10 of the Act of 1933 for a certified copy of a judgment of a county court may be made by filing an affidavit, made by the solicitor of the party entitled to enforce the judgment, or by the party himself, if he is acting in person.

(2) An affidavit by which an application under section 10 of the Act of 1933 is made must—

- (a) give particulars of the proceedings in which the judgment was obtained,
- (b) have annexed to it evidence of service on the defendant of the summons or other process by which the proceedings were begun (where service was effected otherwise than through the court), copies of the pleadings, if any, and a statement of the grounds on which the judgment was based,
- (c) state whether the defendant did or did not object to the jurisdiction, and, if so, on what grounds,
- (d) show that the judgment is not subject to any stay of execution,
- (e) state that the time for appealing or applying for a re-hearing 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 or an application for a re-hearing has been made, and

(a) 1933 c. 13.

(f) state whether interest is recoverable on the judgment or part thereof and, if so, the rate and period in respect of which it is recoverable.

(3) The certified copy of the judgment shall be a sealed copy indorsed with a certificate signed by the registrar certifying that the copy is a true copy of a judgment obtained in the county court and that it is issued in accordance with section 10 of the Act of 1933.

(4) There shall also be issued a sealed certificate signed by the registrar and having annexed to it a copy of the summons or other process by which the proceedings were begun and stating—

- (a) the manner in which the summons or other process was served on the defendant or that the defendant has delivered to the court an admission, defence or counterclaim,
- (b) what objections, if any, were made to the jurisdiction,
- (c) what pleadings, if any, were filed,
- (d) the grounds on which the judgment was based,
- (e) that the time for appealing or applying for a re-hearing has expired or, as the case may be, the date on which it will expire,
- (f) whether notice of appeal against the judgment has been given or an application for a re-hearing has been made,
- (g) 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, and
- (h) such other particulars as it may be necessary to give to the court in the foreign country in which it is sought to obtain execution of the judgment.

Application under s. 12 of the Act of 1982 for certified copy of county court judgment

3.—(1) An application under section 12 of the Act of 1982 for a certified copy of a judgment of a county court may be made by filing an affidavit made by the solicitor of the party entitled to enforce the judgment, or by the party himself, if he is acting in person.

(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 evidence of service on the defendant of the summons or other process by which the proceedings were begun (where service was effected otherwise than through the court), copies of the pleadings, if any, and a statement of the grounds on which the judgment was based together with, where appropriate, 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 22, rule 1 and is not subject to any stay of execution;
- (e) state that the time for appealing or applying for a re-hearing 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 or an application for a re-hearing has been made, 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 a sealed copy and there shall be issued with the copy of the judgment a sealed certificate signed by the registrar and having annexed to it a copy of the summons or other process by which the proceedings were begun.

PART II—ENFORCEMENT IN OTHER PARTS OF THE UNITED KINGDOM

Interpretation of Part II

4. In this Part of this Order—

“the Act of 1982” means the Civil Jurisdiction and Judgments Act 1982,
“money provision” means a provision in any judgment to which section 18 of the Act of 1982 applies for the payment of one or more sums of money,

“non-money provision” means a provision in any judgment to which section 18 of the Act of 1982 applies for any relief or remedy not requiring payment of a sum of money.

Application for certificate of money provision

5.—(1) A certificate in respect of any money provision contained in a judgment of the county court may be obtained by filing an affidavit made by the solicitor of the party entitled to enforce the judgment, or by the party himself if he is acting in person, together with a form of certificate.

(2) An affidavit by which an application under paragraph (1) is made must—

- (a) give particulars of the judgment, stating the rate of payment, if any, specified under the money provisions contained in the judgment, the sum or aggregate of sums (including any costs or expenses) remaining unsatisfied, the rate of interest, if any, applicable and the date or time from which any such interest began to accrue,
- (b) verify that the time for appealing against the judgment or for applying for a re-hearing has expired, or that any appeal or re-hearing has been finally disposed of and that enforcement of the judgment is not stayed or suspended, and
- (c) state 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.

- (3) The proper officer shall enter on the certificate—
 - (a) the number of the action,
 - (b) the amount remaining due under the judgment,
 - (c) the rate of interest payable on the judgment debt, and the date or time from which any such interest began to accrue,
 - (d) a note of the costs, if any, allowed for obtaining the certificate, and
 - (e) the date on which the certificate is issued.

Application for certified copy of judgment containing non-money provision

6.—(1) A certified copy of a judgment of a county court which contains any non-money provision may be obtained by filing an affidavit made by the solicitor of the party entitled to enforce the judgment, or by the party himself, if he is acting in person.

(2) The requirements in paragraph (2) of rule 5 shall apply with the necessary modifications to an affidavit made in an application under paragraph (1) of this rule.

(3) The certified copy of a judgment shall be a sealed copy to which shall be annexed a certificate signed by the proper officer and stating that the conditions specified in paragraph 3(a) and (b) of Schedule 7 to the Act of 1982 are satisfied in relation to the judgment.”.

12. Appendix B Part III item 9 shall be amended by omitting the words “or registering” and by substituting, for the words “under the Inferior Courts Judgments Extension Act 1882 where costs allowed under Order 35, rule 1(3)(c) or 2(4)”, the words “where costs allowed under Order 35, rule 5(3)(d)”.

Registration of Maintenance Orders

13. For Order 36, rule 8(1) there shall be substituted the following—

“(1) An application under Part I of the said Act of 1958 for the registration in a magistrates’ court of a maintenance order made by a county court shall be made to the court which made the order and the applicant shall file an additional copy of his application together with a certified copy of the order.”.

14. Order 36, rule 9(1) shall be revoked.

15. Order 36, rule 9(3) shall be amended by substituting, for the words from “applicant’s” to the end, the words “application filed under rule 8(1)”.

Costs

16. Order 38, rule 13(2) shall be amended by substituting, for the figures “£13.50” and “£19”, the figures “£14.00” and “£19.75” respectively.

17. Order 38, rule 14(1) shall be amended by substituting, for the figures “£19”, “£38” and “£76” wherever they appear in the Table, the figures “£19.75”, “£39.50” and “£79” respectively.

18. Appendix A shall be amended by substituting, for the entries in the last 3 columns corresponding to the numbered items, the following:

“

Item No.

1.		FOR ALL SCALES 5-22	
2.		FOR ALL SCALES 5-21	
3.		FOR ALL SCALES 3.75 per page (or proportionately) 2.60 per page (or proportionately)	
4.(a)		FOR ALL SCALES 0.50 per page 0.85 per page 1.15 per page	
4(b)		FOR ALL SCALES 0.17 per page 0.33 per page	
5.		FOR ALL SCALES 9-58	
6.	such sum as is fair and reasonable not exceeding	such sum as is fair and reasonable not exceeding	
7.	320	820	Discretionary
8.	5	5	9.50
		FOR ALL SCALES 9.25	
	not exceeding	not exceeding	not exceeding
9.(a)	23	65	81
(b)	5-11	5-17.50	5-23
10.		FOR ALL SCALES 2-8.50	

	not exceeding	not exceeding	not exceeding
11.(a)	40	95	140
(b)	5-12.50	5-47	5-70
12.(a)	23-81	29-190	Discretionary
(b)	11.50-42	14.50-96	Discretionary
(c)	9-34	10.50-47	12.50-65
(d)	FOR ALL SCALES		
	17		
(e) On conference in chambers or elsewhere: for each half-hour or part thereof and for leading counsel	5 6	9 15	12.50 24
(f)	5-9	9-23	10.50-33
(g)	4-10	10-28	11.50-45
13.(a)	6-17	6-47	6-60
(b)	6	6-17	6-24".

19. Appendix B Part I paragraph 4 shall be amended by substituting, for the Tables of Fixed Costs, the following Tables:

“ TABLES OF FIXED COSTS

TABLE I

Where claim exceeds £25 but does not exceed £250

	<i>Amount of charges £</i>
(a) Where service is not by solicitor	17.50
(b) Where service is by solicitor	18.50

TABLE II

Where claim exceeds £250 but does not exceed £600

	<i>Amount of charges £</i>
(a) Where service is not by solicitor	23.00
(b) Where service is by solicitor	27.00

TABLE III

Where claim exceeds £600 but does not exceed £2,000

	<i>Amount of charges £</i>
(a) Where service is not by solicitor	38.50
(b) Where service is by solicitor	42.50

TABLE IV

Where claim exceeds £2,000

	<i>Amount of charges £</i>
(a) Where service is not by solicitor	42.00
(b) Where service is by solicitor	46.00".

20. Appendix B Part II shall be amended by substituting, for the Table, the following Table:—

<i>Fixed Costs on Judgments</i>			
Column 1	Column 2		
	Sum of money		
	A <i>Exceeding £25 but not exceeding £600</i>	B <i>Exceeding £600 but not exceeding £3,000</i>	C <i>Exceeding £3,000</i>
	£	£	£
(a) Where judgment is entered in a default action in default of defence	6.50	11.50	13.00
(b) Where judgment is entered on the defendant's admission and the plaintiff's acceptance of his proposal as to mode of payment	10.50	23.00	26.00
(c) Where judgment is entered on an admission delivered by the defendant and the court's decision is given as to the date of payment or instalments by which payment is to be made	14.50	29.00	34.00
(d) Where judgment is given in a fixed date action for— (i) delivery of goods, or (ii) possession of land suspended on payment of arrears of rent, whether claimed or not, in addition to current rent, and the defendant has neither delivered a defence, admission or counterclaim, nor otherwise denied liability	21.00	32.00	39.50
	<i>Exceeding £500 but not exceeding £3,000</i>	<i>Exceeding £3,000</i>	
(e) Where summary judgment is given under Order 9, rule 14	£50.00	£57.00".	

21. Appendix B Part III shall be amended by substituting, for paragraphs (a) and (b) of item 7 and for the amounts to be allowed corresponding to the numbered items, the following:—

	<i>Amount to be allowed</i>
1.	£7.00
2.	£7.00
3.	£1.15
4.	£4.50
5.	£14.00
6.	£4.60
7.(a) where the money recovered is less than £52	one half of the amount recovered
(b) where the money recovered is not less than £52	£26.00
8.	£26.00
9.	£4.50".

22. Appendix C paragraph 2 shall be amended by substituting, for the Table, the following:—

<i>Column 1 Scale</i>	<i>Column 2 Amount of Charges</i>
Lower Scale	£32 to £49
Scale 1	£37 to £92
Scale 2	£56 to £340
Scale 3	£81 to £410".

23.—(1) Nothing in Rules 16 to 22 shall, unless expressly so provided, apply to anything done before they come into operation.

(2) Where costs fall to be fixed or assessed under Appendix B or C by virtue of a judgment or order given, entered or made after the date of the coming into operation of the preceding Rules, they may be fixed, or assessed, as the case may be, as if all the work to which they relate had been done after that date.

Proceedings under Part II of the Children Act 1975 (a)

24. Order 47, rule 6 shall be amended by inserting after paragraph (1) the following new paragraph:—

“(1A) Where proceedings are pending under Part II of the Children Act 1975 relating to a minor who is the subject of a custodianship order made under that Act, any application under section 3(3) or 4(3A) of the Guardianship Act 1973 or under section 12C(5) of the Guardianship of Minors Act 1971 (as applied by section 4 (3D) of the Guardianship Act 1973) shall be made in those proceedings in accordance with Order 13, rule 1.”.

(a) 1975 c. 72, amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22) and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

25. Order 47, rule 7 shall be amended by adding at the end the following new paragraphs:—

“(3) Subject to the following paragraphs of this rule, the provisions of R.S.C. Order 90, Part III shall apply in relation to proceedings in a county court under Part II of the Children Act 1975 with the necessary modifications and in particular with the substitution, for references in R.S.C. Order 90, rules 21, 24 and 26 to “registrar”, of references to “proper officer”.

(4) R.S.C. Order 90, rule 18 shall not apply.

(5) R.S.C. Order 90, rule 20(1) shall not apply.

(6) R.S.C. Order 90, rule 20(2) shall apply with the deletion of the words in paragraph (a) “which shall be in Form No. 113 in Appendix A” and of the words in paragraph (b) “which consent shall be in Form No. 114 in Appendix A”.

(7) R.S.C. Order 90, rule 21(2) shall apply with the insertion, after the words “by that other person”, of the words “notwithstanding that it is not an authorised Court under section 100(2) of the Act”.

(8) R.S.C. Order 90, rule 21(3) shall apply with the deletion of the words from “and Order 15, rule 8” to the end.

(9) R.S.C. Order 90, rule 27(1) shall not apply.”.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 75 of the County Courts Act 1984(a), having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

C R Oddie
J B Taylor
P G Hebbert
Peter Crane
Anthony Girling

Norman Francis
C S Stuart-White
A W Donaldson
Alan K Griesbach

I allow these Rules, which shall come into operation on 1st December 1985 with the exception of Rules 2 to 12 which shall come into operation when section 2 of the Civil Jurisdiction and Judgments Act 1982 comes into force and Rules 16 to 23 which shall come into operation on 1st October 1985.

Hailsham of St. Marylebone, C.

Dated 29th July 1985.

(a) 1984 c. 28.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules 1981 so as—

- (a) to give effect to the Civil Jurisdiction and Judgments Act 1982 (Rules 2 to 12);
- (b) to amend the provisions for the registration of maintenance orders (Rules 13 to 15);
- (c) to amend the provisions as to costs (Rules 16 to 23), and
- (d) to give effect to Part II of the Children Act 1975 (custodianship orders) (Rules 24 and 25).

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