
STATUTORY INSTRUMENTS

1986 No. 1189 (L.10)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1986

Made - - - - *8th July 1986*

Coming into Operation

as to Rules 1 and 5 *1st August 1986*

as to Rules 2, 3 and 4 *1st October 1986*

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1986.

(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(1)

Forfeiture of leasehold property

2. Order 6, rule 3 shall be amended as follows:—

(1) the existing rule 3 shall become paragraph (1) of rule 3;

(2) for the comma and the word “and” in sub-paragraph (d) there shall be substituted a semi-colon, and for the full stop at the end of sub-paragraph (e) there shall be substituted a comma and the word “and”;

(3) there shall be inserted after sub-paragraph (e) the following new sub-paragraph and paragraph:

—

“(f) in proceedings for forfeiture where the plaintiff knows of any person entitled to claim relief against forfeiture either as underlessee (including a mortgagee) under section 146(4) of the Law of Property Act 1925(2) or under section 138(9C) of the County Courts Act 1984(3), the name and address of that person.

(2) Where particulars are given pursuant to paragraph (1)(f), the plaintiff shall file a copy of the particulars of claim for service on the person named.”.

(1) the relevant amending instrument is S.I. 1984/878.

(2) 1925 c.20.

(3) 1984 c.28.

Probate actions

3. Order 41, rule 1 shall be amended by inserting, after the words “principal registry of the Family Division”, the words “or a district probate registry”.

4. For Order 41, rule 2 there shall be substituted the following rule:—

“2. On issuing a summons in a probate action the proper officer of the county court shall send to the principal registry a notice requesting all documents in the principal registry or any district probate registry relating to the matter to be sent to him.”.

5. Order 47 shall be amended by adding at the end the following new rule:—

“Child Abduction and Custody Act 1985(4)

10.—(1) In this rule a section referred to by number means the section so numbered in the Child Abduction and Custody Act 1985.

(2) Where in pending proceedings relating to the merits of rights of custody (as construed in section 9) the court receives notification from the High Court, the Court of Session or the High Court in Northern Ireland of proceedings under the Hague Convention (as defined in section 1(1)), those pending proceedings shall be stayed unless and until the court is notified that the proceedings under the Hague Convention have been dismissed, and the proper officer shall notify the parties to the pending proceedings of the stay and any such dismissal accordingly.

(3) Where in pending proceedings such as are mentioned in section 20(2) the court receives notification from the High Court, the Court of Session or the High Court in Northern Ireland of proceedings under section 16 or of the registration of a decision under section 16 the proper officer shall notify the parties to the pending proceedings accordingly.

(4) Notwithstanding Order 50, rule 10(2), any person who intends to make an application under the Hague Convention in a Contracting State (as defined in section 2) other than the United Kingdom shall on satisfying the court as to that intention be entitled to obtain a copy bearing the seal of the court of any order made in the court relating to the child in respect of whom the application is to be made.

(5) An application for a declaration under section 23(2) in custody proceedings (as defined in section 27) shall be made by notice in those proceedings.”.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 75 of the County Courts Act 1984, having by virtue of the powers vested in us in this

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behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

*C. R. Oddie
R. Lockett
P. G. Hebbert
Peter Crane
Anthony Girling
Norman Francis
C. S. Stuart-White
A. W. Donaldson
J. F. Holt
Deirdre McKinney*

I allow these Rules, of which Rules 1 and 5 shall come into operation on 1st August 1986 and of which Rules 2, 3 and 4 shall come into operation on 1st October 1986.

Dated 8th July 1986

Hailsham of St Marylebone, C

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EXPLANATORY NOTE

These Rules amend the County Court Rules 1981 so as:—

(a) to amend Order 41 in order to give effect to section 32 of the County Courts Act 1984 as substituted by section 51 of the Administration of Justice Act 1985 (1985 c.61) which removes the need to satisfy a registrar of the principal registry by affidavit that the estate value is within the county court limit (Rules 3 and 4);

(b) to require a landlord who is taking proceedings for forfeiture to notify any person entitled to relief against forfeiture of whom he is aware (Rule 2);

(c) to give effect to the Child Abduction and Custody Act 1985 so far as it relates to county courts (Rule 5).