
STATUTORY INSTRUMENTS

1991 No. 1329 (L.15)

SUPREME COURT OF ENGLAND AND WALES

The Rules of the Supreme Court (Amendment No. 2) 1991

<i>Made</i>	- - - -	<i>6th June 1991</i>
<i>Laid before Parliament</i>		<i>10th June 1991</i>
<i>Coming into force</i>	- -	<i>1st July 1991</i>

We, the Supreme Court Rule Committee, having power under section 85 of the Supreme Court Act 1981(1) to make rules of court under section 84 of that Act 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, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 2) 1991 and shall come into force on 1st July 1991.

(2) In these Rules, an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(2).

Statements of value and new arrangements for trial

2. After the definition of “senior master” in Order 1, rule 4(1), there shall be inserted the following—

““statement of the value of the action” means a statement showing—

- (a) whether the value of the action (or, as the case may be, of the counterclaim) exceeds the sum for the time being specified in article 7(3) of the High Court and County Courts Jurisdiction Order 1991(3) or, as the case may be, that it has no quantifiable value, and
- (b) if it does not exceed that sum or if it has no quantifiable value, that by reason of one or more of the criteria mentioned in article 7(5) of the said Order the action is suitable for determination in the High Court;”.

(1) 1981 c. 54; section 85 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 36(1).
(2) S.I. 1965/1776; the relevant amending instruments are S.I. 1966/1514, 1968/1244, 1969/1105, 1970/1208, 1861, 1971/1269, 1955, 1972/813, 1194, 1973/1384, 1974/295, 1976/1196, 1977/1955, 1979/1542, 1716, 1725, 1980/629, 1010, 1908, 1981/1734, 1982/1111, 1786, 1983/1181, 1985/69, 1986/632, 1187, 1711, 2001, 2289, 1987/1423, 1989/177, 2427, 1990/492, 1689 and 2599.
(3) S.I. 1991/724.

3. After the definition of “vacation” in Order 1, rule 4(1), there shall be inserted the following—
““value”, in relation to an action, means the value as defined by articles 9 and 10 of the High Court and County Courts Jurisdiction Order 1991;”.
4. After Order 6, rule 2(1)(e), there shall be inserted the following new sub-paragraph—
“(f) where the action is an action for personal injuries, with a statement that the action is not one which by virtue of article 5 of the High Court and County Courts Jurisdiction Order 1991 must be commenced in a county court;”.
5. After Order 14, rule 6(2), there shall be inserted the following new paragraph—
“(3) Without prejudice to paragraph (1), in proceedings to which article 7(1) of the High Court and County Courts Jurisdiction Order 1991 applies, the Court shall, when giving directions under paragraph (1) of this rule, order that—
 - (a) a statement of the value of the action be lodged and a copy of it served on every other party; and
 - (b) unless a statement is so lodged within such time as the Court may direct, the action be transferred to a county court.”.
6. After Order 25, rule 6(2), there shall be inserted the following new paragraph—
“(2A) In proceedings to which article 7(1) of the High Court and County Courts Jurisdiction Order 1991 applies, a statement of the value of the action shall be lodged by the plaintiff (or, where an action is proceeding only as respects a counterclaim, by the defendant) and a copy shall be served on every other party not later than the day before the hearing of the summons for directions; and, where such a statement is not so lodged and so served, the Court shall at the hearing of the summons for directions order the action to be transferred to a county court.”.
7. After Order 107, rule 2(1), there shall be inserted the following new paragraphs—
“(1A) Where an order is made transferring proceedings to a county court, the proper officer shall, on the production of the order and the filing of a copy of it, send by post to the proper officer of the county court to which the proceedings are transferred all pleadings, affidavits and other documents filed in the High Court relating to the proceedings together with a copy of the order for transfer.
(1B) Paragraph (1) shall not apply where default has been made in any obligation imposed under Order 14, rule 6(3)(b) or Order 25, rule 6(2A) to lodge or to serve a statement of the value of the action.”.
8. Order 25, rule 3 shall stand as paragraph (1) of that rule and after it there shall be inserted the following—
“(2) On the hearing of the summons for directions, the Court shall decide whether the bundle to be provided under Order 34, rule 10 is to include the documents mentioned in paragraph (2)(c) of that rule and direct the parties accordingly.”.
9. After Order 28, rule 9(1), there shall be inserted the following new paragraph—
“(2) An order made under paragraph (1) in relation to a cause or matter begun by originating summons in the Chancery Division shall, unless the Court otherwise directs, fix a period within which the plaintiff is to lodge documents and Order 34, rules 1 to 5 and 8 shall apply as they apply in relation to an action begun by writ, with the necessary modifications, and with the further modification that for references therein to the summons for directions there shall be substituted references to the first or any resumed hearing of the originating summons by the Court.”.
10. For Order 34, rule 3(1), there shall be substituted the following paragraphs—

“(1) In order to set down for trial an action which is to be tried before a judge, the party setting it down must, subject to any order of the Court to the contrary, deliver to the proper officer, by post or otherwise, a request that the action be set down for trial at the place determined in accordance with automatic directions or by order of the Court and lodge two bundles consisting of one copy of each of the following documents—

- (a) the writ,
- (b) the pleadings (including any affidavits ordered to stand as pleadings),
- (c) any request or order for particulars and the particulars given, and any interrogatories and answers thereto,
- (d) all orders made in the action except only any order relating only to time,
- (e) in proceedings to which article 7(1) of the High Court and County Courts Jurisdiction Order 1991 applies, a statement of the value of the action,
- (f) a note agreed by the parties or, failing agreement, a note by each party giving (in the following order)—
 - (i) an estimate of the length of the trial,
 - (ii) the list in which the action is to be included,
- (g) the requisite legal aid documents, if any.

(1A) Nothing in paragraph (1) shall alter the practice under Order 19, rule 7 and Order 82, rule 5.

(1B) Where a statement under paragraph (1)(e) is not lodged and a copy of it served on every other party, the Court may give notice to the parties to show cause why the action should not be transferred to a county court for trial.”.

11. For Order 34, rule 3(3), there shall be substituted the following—

“(3) In this rule “the requisite legal aid documents” means any documents which are required by regulations made under Part IV of the Legal Aid Act 1988(4) to be included in the papers for the use of the court.”.

12. In Order 34, rule 3(5)(b), for the words “the District Registrar” there shall be substituted the words “an officer of the district registry”.

13. After Order 34, rule 9, there shall be inserted the following new rule—

“The Court bundle

10.—(1) At least 14 days before the date fixed for the trial or, in the case of an action entered in any running list, within 3 weeks of the defendant’s receiving notice of such entry, the defendant shall identify to the plaintiff those documents central to his case which he wishes included in the bundle to be provided under paragraph (2).

(2) At least 2 clear days before the date fixed for the trial the plaintiff shall lodge two bundles consisting of one copy of each of the following documents—

- (a) witness statements which have been exchanged, and experts' reports which have been disclosed, together with an indication of whether the contents of such documents are agreed,
- (b) those documents which the defendant wishes to have included in the bundle and those central to the plaintiff’s case, and

(4) 1988 c. 34.

(c) where a direction has been given under Order 25, rule 3(2), a note agreed by the parties or, failing agreement, a note by each party giving (in the following order)

- (i) a summary of the issues involved,
- (ii) a summary of any propositions of law to be advanced together with a list of the authorities to be cited, and
- (iii) a chronology of relevant events.

(3) Nothing in this rule shall—

- (a) prevent the Court from giving, whether before or after the documents have been lodged, such further or different directions as to the documents to be lodged as may, in the circumstances, be appropriate; or
- (b) prevent the making of an order for the transfer of the action to a county court.

(4) Where an action is to be tried with the assistance of assessors, additional copies of the bundles to be lodged under paragraph (2) shall be provided for the use of the assessors.

(5) For the purposes of this rule, “plaintiff” includes a defendant where an action is proceeding on a counterclaim and “defendant” includes any other party who is entitled under any order of the Court or otherwise to be heard at the trial.”.

14. For Order 35, rule 7(1), there shall be substituted the following—

“(1) The judge before whom an action is tried (whether with or without a jury) may give directions—

- (a) as to the party to begin,
- (b) as to the order of speeches at the trial, and
- (c) in an action tried without a jury, dispensing with opening speeches;

and, subject to any such directions, the party to begin and the order of speeches shall be that provided by this rule.”.

15. Until 1st January 1992 nothing in rules 2 to 14 shall apply to proceedings commenced before 1st July 1991.

Issue of writ of execution

16. In Order 46, rule 6(6) the following shall be inserted after sub-paragraph (c)—

“(ca) where the cause or matter is proceeding in the Chancery Division, Chancery Chambers;”.

Divisional Court business during vacation

17.—(1) After Order 52, rule 4(3), there shall be added the following new paragraph—

“(4) This rule does not apply to proceedings brought before a single judge by virtue of Order 64, rule 4.”.

(2) In Order 57, rule 1(1)(b), after “Order 54” there shall be inserted “, Order 64, rule 4”.

(3) In Order 64, the following new rule shall be inserted after rule 3—

“Divisional Court business during vacation

4. Proceedings which require to be immediately or promptly heard and which by virtue of the following provisions must be brought in a Divisional Court may, in vacation, be brought before a single judge:

- (a) Order 52, rules 1(2) and 3(1);
- (b) Order 53, rules 3(4)(a) and 5(1);
- (c) Order 55, rule 2(a);
- (d) Order 56, rule 1(1)(a).”.

Transcripts for appeals

18. Order 68, rule 3 shall be amended by substituting for the words “Part I of the Legal Aid Act 1974” the words “Part III or IV of the Legal Aid Act 1988”.

19. After Order 68, rule 5, there shall be inserted the following new rule—

“Transcripts for appeals from county courts

6. In relation to appeals from county courts, references in rules 4 and 5 to rule 1 shall be construed as references to that rule as applied by Order 50, rule 9A of the County Court Rules 1981(5).”.

Finance Act 1989(6)

20.—(1) Order 91 shall be amended as follows.

(2) In rule 1(b) and, in rule 5, in the heading and paragraphs (1) and (3), for the number “100” there shall be substituted “100C(4)”.

(3) In rule 5(2), (3) and (5), for the words “decision or award” there shall be substituted the words “decision, award or determination”.

*Mackay of Clashfern, C.,
C., Lane, C.J.,
Donaldson of Lymington, M.R.,
Stephen Brown, P.,
Millett, J.,
Phillips, J.,
Hugh Bennett,
Jules Sher,
C. R. Berry,
C. B. Chandler.*

Dated 6th June 1991

(5) Order 50, rule 9A was inserted by the County Court (Amendment No. 3) Rules 1991, S.I. 1991/1328.

(6) 1989 c. 26.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

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

- (a) require statements of value to be given in actions for personal injuries (rules 2 to 4);
- (b) provided that, where statements of value are not supplied after an Order 14 hearing or at the hearing of the summons for directions, the proceedings shall be transferred to a county court (rules 5 and 6);
- (c) amend the provisions relating to the documents to be lodged and provide that where a party is in default of an obligation to put in a statement of value, he need not be given an opportunity to be heard before the proceedings are transferred to a county court (rule 7);
- (d) make new arrangements for trial by requiring the provision of a court bundle and allowing opening speeches to be dispensed with in non-jury trials (rules 8 to 14);
- (e) allow writs of execution to be issued from Chancery Chambers (rule 16);
- (f) allow various matters which are normally taken by the Divisional Court to be dealt with in vacation, if sufficiently urgent, by a single judge (rule 17);
- (g) apply the provisions as to payment for transcripts to transcripts for appeals from county courts and amend a statutory reference following the enactment of the Legal Aid Act 1988 (c. 34) (rules 18 and 19);
- (h) amend certain statutory references following the enactment of the Finance Act 1989 (c. 26) (rule 20).