
STATUTORY INSTRUMENTS

1996 No. 3218 (L.17)

**COUNTY COURTS
PROCEDURE**

The County Court (Amendment No. 3) Rules 1996

Made - - - - - *19th December 1996*

Coming into force - - - - - *31st January 1997*

Citation and interpretation

- 1.—(1) These Rules may be cited as the County Court (Amendment No. 3) Rules 1996.
- (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⁾.

Hearsay evidence

2. For Order 20, rules 14 to 24⁽²⁾, there shall be substituted the following—

“Application and interpretation

14.—(1) In this Part of this Order the “1995 Act” means the Civil Evidence Act 1995⁽³⁾ and any expressions used in this Part of this Order and in the 1995 Act have the same meanings in this Part of this Order as they have in the Act.

(2) In this Part of this Order:

“hearsay evidence” means evidence consisting of hearsay within the meaning of section 1(2) of the 1995 Act;

“hearsay notice” means a notice under section 2 of the 1995 Act.

(3) This Part of this Order applies in relation to the trial or hearing of an issue arising in an action or matter and to a reference under section 65 of the Act (Power of judge to refer to district judge or referee) as it applies to the hearing of an action or matter.

(4) Nothing in this Part of this Order shall apply in relation to proceedings which have been referred to arbitration under section 64 of the Act.

⁽¹⁾ S.I.1981/1687; the relevant amending instruments are noted in footnotes to provisions in the body of the instrument.
⁽²⁾ Order 20, rule 14 was amended by S.I. 1984/878.
⁽³⁾ 1995 c. 38.

Hearsay notices

15.—(1) A hearsay notice must

- (a) state that it is a hearsay notice;
- (b) identify the hearsay evidence;
- (c) identify the person who made the statement which is to be given in evidence;
- (d) state why that person will (or may) not be called to give oral evidence, and
- (e) if the hearsay evidence is contained in a witness statement, refer to the part of the witness statement where it is set out.

(2) A single hearsay notice may deal with the hearsay evidence of more than one witness.

(3) The requirement to give a hearsay notice does not apply to

- (a) evidence which is authorised to be given by or in an affidavit; or
- (b) a statement which a party to a probate action desires to give in evidence and which is alleged to have been made by the person whose estate is the subject of the action.

(4) Subject to paragraphs (5) and (6), a party who desires to give in evidence at the trial or hearing of an action or matter hearsay evidence shall, not less than 28 days before the day fixed for the trial or hearing, serve a hearsay notice on every party and file a copy in the court.

(5) Unless the court otherwise directs, paragraph (4) shall not apply to an action or matter in which no defence or answer has been filed and, where a defence or answer is filed less than 28 days before the day fixed for the trial or hearing, any party who is required to give a hearsay notice shall apply to the court for an adjournment or for such other directions as may be appropriate.

(6) Where witness statements are served under rule 12A of this Order (or under that rule as it is applied by Order 17, rule 11), any hearsay notice served under this rule shall be served at the same time as the witness statements.

Power to call witness for cross-examination on hearsay evidence

16.—(1) Where a party tenders as hearsay evidence a statement made by a person but does not propose to call the person who made the statement to give evidence, the court may, on application, allow another party to call and cross-examine the person who made the statement on its contents.

(2) An application under paragraph (1) shall be made on notice to all other parties not later than 28 days after service of the hearsay notice.

(3) Where the court allows another party to call and cross-examine the person who made the statement, it may give such directions as it thinks fit to secure the attendance of that person and as to the procedure to be followed.

Credibility

17.—(1) If

- (a) a party tenders as hearsay evidence a statement made by a person but does not call the person who made the statement to give oral evidence, and
- (b) another party wishes to attack the credibility of the person who made the statement;

that other party shall notify the party tendering the hearsay evidence of his intention.

(2) A notice under paragraph (1) shall be given not later than 28 days after service of the hearsay notice.”.

3. Nothing in rule 2 shall apply to proceedings

- (a) in which directions have been given, or orders have been made, as to the evidence to be given at the trial or hearing, or
- (b) where the trial or hearing has begun

before 31st January 1997.

Garnishee proceedings

- 4.** Order 30, rule (1)(1)(4) shall be amended by substituting, for the sum “£25”, the sum “£50”.

Arbitration Act 1996(5)

5.—(1) Order 48C(6) shall be amended in accordance with the following paragraphs of this rule.

(2) For rule 1(1) there shall be substituted the following—

“(1) This Order applies to business actions and arbitration applications and proceedings which are included in the Central London County Court Business List.”.

(3) In rule 1(2) there shall be inserted, after the definition of “action”, the following

“‘arbitration application’ has the meaning given by RSC Order 73, rule 2;”.

(4) Rule 1(2) shall be further amended by substituting, for the definition of “the judge”, the following—

“‘the judge’ means a judge having control of an action or matter to which this Order applies.”.

(5) Rule 3(2)(h) shall be omitted.

(6) After rule 15 there shall be inserted the following new rule—

“Arbitration applications and proceedings

16.—(1) An arbitration application (whether commenced in the Central London County Court or transferred to that court by the High Court) shall be included in the business list.

(2) There shall also be included in the business list proceedings to enforce an award

- (a) under section 26 of the Arbitration Act 1950(7), or
- (b) under section 66 or 101(2) of the Arbitration Act 1996.

(3) The judge may also determine any other application under the Arbitration Act 1950 or under the Arbitration Act 1979(8) which may be transferred to the business list by the High Court.

(4) All the provisions of RSC Order 73(9) shall apply to such applications and proceedings.”.

(4) Order 30, rule 1 was amended by S.I. 1982/436, 1984/878 and 1991/1328.

(5) 1996 c. 23.

(6) Order 48C was added by S.I. 1994/1288.

(7) Section 26 was amended by the Administration of Justice Act 1977 (c. 38), section 17(2), the County Courts Act 1984 (c. 28), Schedule 2 paragraph 22 and S.I. 1991/724.

(8) 1979 c. 42.

(9) S.I. 1996/3219 inserts a new Order 73 into the Rules of the Supreme Court 1965, S.I. 1965/1776.

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

The undersigned members of the Rule Committee, appointed by the Lord Chancellor under section 75 of the County Courts Act 1984(10), having made these Rules, certify them and submit them to the Lord Chancellor.

*Frank J. White
Perter Birts
W. A. Vincent
Henrietta Manners*

I allow these Rules, which shall come into force on 31st January 1997.

Dated 19th December 1996

Mackay of Clashfern, C.

(10) 1984 c. 28; section 75 was amended by the Courts and Legal Services Act 1990 (c. 41), sections 2(4) and 16 and Schedule 18, paragraph 47.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the County Court Rules 1981 so as—

- (a) to provide a procedure for giving hearsay notices under the Civil Evidence Act 1995 (*rules 2 and 3*),
- (b) to raise the minimum sum in respect of which a garnishee order may issue to £50 (*rule 4*), and
- (c) to provide for applications under the Arbitration Act 1996 and arbitration proceedings to be included in the Central London County Court Business List and for those applications and proceedings to be governed by Order 73 of the Rules of the Supreme Court 1965 (*rule 5*).