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

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**1973 No. 847 (L.13)**

**COUNTY COURTS**

**PROCEDURE**

**The County Court (Amendment No. 2) Rules 1973**

*Made - - - - -* 17th April 1973

*Coming into Operation—*

*All provisions except Rules 5, 10 and 11* 29th May 1973

*Rules 5, 10 and 11* 2nd July 1973

**1.—**(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1973.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(a), as amended(b), and a form referred to by number means the form so numbered in Appendix A to those Rules.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

**2.** In Order 7, Rule 3(b), for sub-paragraphs (i) and (ii) there shall be substituted the following sub-paragraphs:—

“(i) where the land forms part of a hereditament having a net annual value for rating of an amount not exceeding the county court limit under section 51 of the Act, the net annual value of that hereditament, or

(ii) in any other case, the value of the land by the year.”

**3.** For Order 8, Rule 3, there shall be substituted the following Rule:—

No service on Sunday      “3. Without prejudice to the provisions of Order 35, Rule 10, no process shall be served or executed within England or Wales on a Sunday, Christmas Day or Good Friday except, in case of urgency, with the leave of the court.”

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(a) S.R. & O. 1936/626 (1936 I, p. 282).

(b) The relevant amending instruments are S.I. 1950/1231, 1954/1675, 1955/1799, 1956/1851, 1959/1251, 1963/403, 1969/585, 1971/836, 2152 (1950 I, p. 400; 1954 I, p. 541; 1955 I, p. 530; 1956 I, p. 545; 1959 I, p. 795; 1963 I, p. 475; 1969 I, p. 1551; 1971 II, p. 2393; III, p. 6305).

(c) 1889 c. 63.

4. Order 19 shall be amended as follows:—

- (1) In the title after the word “REPORT” there shall be added the words “OR TO EUROPEAN COURT”.
- (2) For the first marginal note to Rule 1 there shall be substituted the words “Reference under s.93 of Act”.
- (3) Paragraphs (1) and (2) of Rule 2 shall be added to Rule 1 as paragraphs (3) and (4), and in paragraph (3)(e) as so renumbered for the figure “(2)” there shall be substituted the figure “(4)”.
- (4) The following Rule shall be added at the end of the Order:—

Reference to  
European  
Court

“2.—(1) In this Rule “the European Court” means the Court of Justice of the European Communities and “order” means an order referring a question to the European Court for a preliminary ruling under Article 177 of the Treaty establishing the European Economic Community, Article 150 of the Treaty establishing the European Atomic Energy Community or Article 41 of the Treaty establishing the European Coal and Steel Community.

(2) An order may be made by the judge before or at the trial or hearing of any action or matter and either of his own motion or on the application of any party.

(3) An order shall set out in a schedule the request for the preliminary ruling of the European Court, and the judge may give directions as to the manner and form in which the schedule is to be prepared.

(4) The proceedings in which an order is made shall, unless the judge otherwise orders, be stayed until the European Court has given a preliminary ruling on the question referred to it.

(5) When an order has been made, the registrar shall send a copy thereof to the Senior Master of the Supreme Court (Queen’s Bench Division) for transmission to the registrar of the European Court; but, unless the judge otherwise orders, the copy shall not be sent to the Senior Master until the time for appealing to the Court of Appeal against the order has expired or, if an appeal is entered within that time, until the appeal has been determined or otherwise disposed of.

(6) Nothing in these Rules shall authorise the registrar to make an order.”

5. Order 25, Rule 2, shall be amended as follows:—

- (1) After paragraph (1) there shall be inserted the following paragraph:—

“(2) The application shall be made to the court for the district in which the person to be examined (or, if there are more such persons than one, any of them) resides or carries on business, and paragraphs (2) to (6) of Rule 48 of this Order shall apply with the necessary modifications as if the references in those paragraphs to a judgment summons included references to an application for oral examination.”

- (2) Paragraph (2) shall stand as paragraph (3) and after that paragraph there shall be inserted the following paragraph:—

“(4) The examination may be ordered to take place either before

the registrar or before any officer of the court not below the rank of higher executive officer.”

(3) Paragraphs (3), (4) and (6) shall stand as paragraphs (5), (6) and (7) and the existing paragraph (5) shall be omitted.

(4) In paragraph (5) as so renumbered for the words “the last preceding paragraph” there shall be substituted the words “paragraph (3) of this Rule”.

(5) In paragraph (6) as so renumbered for the words “paragraph (2)” there shall be substituted the words “paragraph (3)”.

(6) After paragraph (7) as so renumbered there shall be inserted the following paragraphs:—

“(8) Any difficulty arising in the course of an examination before an officer of the court, including any dispute as to the obligation of the person being examined to answer any question put to him, may be referred to the registrar and he may determine it or give such directions for determining it as he thinks fit.

(9) Nothing in this Rule shall be construed as preventing the registrar, before deciding whether to make an order under paragraph (3), from giving the debtor an opportunity of making a statement in writing or an affidavit as to his means.”

6. Order 48, Rule 1, shall stand as paragraph (1) of that Rule and at the end there shall be added the following paragraph:—

“(2) The Lord Chancellor may issue directions for the purpose of securing uniformity of practice in the county courts.”

7. In Form 9, for the paragraph beginning “The net annual value” there shall be substituted the following paragraph:—

“The net annual value of the premises for rating is £ [or, if the premises do not consist of one or more hereditaments having a separate net annual value for rating but form part of a hereditament having a net annual value for rating not exceeding [the county court limit] The premises form part of a hereditament having a net annual value for rating of £ [or in any other case The value of the premises by the year is £ ]].”

8. In Form 18A after the words “Pay and Means” in paragraph 4 of the section headed “ADMISSION” there shall be inserted the words “(a) What is your occupation?” and sub-paragraphs (a) to (f) shall be re-lettered accordingly.

9. In Form 27(1) the words “in your absence” shall be omitted and at the end there shall be inserted the words “In the absence of the plaintiff the proceedings may be struck out and in the absence of the defendant judgment may be entered against him.”

10. In Form 149 the words from “before the registrar” to “may appoint” and the words from “and that the costs” to “the said registrar” shall be omitted.

11. Form 150 shall be amended as follows:—

(1) In the marginal note for the words “Rules 2(3)” there shall be substituted the words “Rules 2(5)”.

- (2) For the words "at the office of this Court" there shall be substituted the words "[or one of the officers] of this Court at the court office".
- (3) The words "[or before" to "may appoint]" shall be omitted.
- (4) The word "said" after the words "discretion of the" shall be omitted.
- (5) The words below the line at the foot of the form shall be omitted.

12. Form 402 shall be amended as follows:—

- (a) The words from "*together with*" to "*known to the Plaintiff*" shall be omitted.
- (b) For the words "of \_\_\_\_\_ at" there shall be substituted the words "of [*employer's address for service*] at".
- (c) Before the words "as a" there shall be inserted the words "[*add if known*]"

13. In Form 404 after the words "each of them" in section 1(b) there shall be inserted the words "If you are not employed, say so and give the name of your last employer, if any."

14. Notwithstanding anything in Rules 8 and 9, Forms 18A and 27(1) may continue to be used in the form hitherto prescribed until the Lord Chancellor otherwise directs.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Act 1959(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.

*D. O. McKee.*  
*Conolly H. Gage.*  
*H. S. Ruttle.*  
*David Pennant.*  
*W. Granville Wingate.*  
*E. A. Everett.*  
*A. A. Hibbert.*  
*K. W. Mellor.*  
*Arnold Russell Vick.*  
*D. A. Marshall.*  
*D. P. Tomlin.*

I allow these Rules, which shall come into operation on 29th May 1973 with the exception of Rules 5, 10 and 11 which shall come into operation on 2nd July 1973.

Dated 17th April 1973.

*Hailsham of St. Marylebone, C.*

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules make a number of miscellaneous amendments in the County Court Rules 1936. The particulars to be given in a claim for recovery of land are altered in consequence of the changes in county court jurisdiction made by section 6 of the Administration of Justice Act 1973 (c. 15) (Rules 2 and 7). The service of process on a Sunday is forbidden, as in the Supreme Court, except, in case of urgency, with the leave of the court (Rule 3). Provision is made for reference to the European Court, in consequence of the accession of the United Kingdom to the European Communities (Rule 4). An application for the oral examination of a judgment debtor must be made to the debtor's local court and the examination may be ordered to take place before a senior officer of the court (Rules 5, 10 and 11). Uniformity of practice in county courts is to be promoted by directions given by the Lord Chancellor (Rule 6). Minor alterations are made in the forms relating to attachment of earnings and other forms (Rules 8, 9, 12 and 13).

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