

1974 No. 178 (L.2)

COUNTY COURTS

PROCEDURE

The County Court (Amendment) Rules 1974

Made - - - 5th February 1974

Coming into Operation
(except as to Rule 3) 18th March 1974

1.—(1) These Rules may be cited as the County Court (Amendment) Rules 1974.

(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).

(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 13, Rule 3(2), after the words “any party”, where they first appear, there shall be inserted the words “to an action or matter” and after the words “the action” there shall be inserted the words “or matter”.

3. The following Rule shall be substituted for Order 46, Rule 1:—

“GUARDIANSHIP OF MINORS ACT 1971 AND 1973

1.—(1) All proceedings under the Guardianship of Minors Acts 1971 and 1973 shall be heard and determined in chambers unless the court otherwise directs.

1971 c. 3 (2) Where an application is made under section 5 of the Guardianship of Minors Act 1971 to appoint a guardian of a minor with respect to whom a local authority have parental rights by virtue of a resolution under section 2 of the Children Act 1948, the local authority shall be made a respondent to the application.

1973 c. 29 (3) Where on an application made under section 9 of the said Act of 1971 relating to the custody of a minor under the age of 16 the court proposes to make an order under section 2(2)(b) of the Guardianship Act 1973 committing the minor to the care of a local authority, the registrar shall fix a date for hearing any representations from the authority and shall, not less than 14 days before the date so fixed, send notice thereof to the authority and to the parties, together with, in the case of the authority, a copy of the originating application.”

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

(b) The relevant amending instruments are S.I. 1961/1526, 1964/1974, 1971/2127 (1961 II, p. 3177; 1964 III, p. 4477; 1971 III, p. 6276).

(c) 1889 c. 63.

4. The following Rule shall be added to Order 46 after Rule 23:—

“FAIR TRADING ACT 1973

24.—(1) In this Rule a section referred to by number means the section so numbered in the Fair Trading Act 1973 and “the Director” means the Director General of Fair Trading. 1973 c. 41

(2) Proceedings in a county court under section 35, 38 or 40 shall be commenced by originating application.

(3) The respondent shall, within 14 days after service of the application on him, inclusive of the day of service, file in the court office an answer with a copy for the applicant, and the notice in Form 26 which is served on the respondent pursuant to Order 6, Rule 4(2)(c)(ii), shall contain a notice informing him of the obligation imposed by this paragraph.

(4) Where in any proceedings under section 35 or 38 the Director intends to apply for a direction under section 40(2) that any order made against a body corporate (in this Rule referred to as “the respondent body”) which is a member of a group of interconnected bodies corporate shall be binding on all members of the group, he shall file in the court office notice of his intention together with as many copies of the originating application and of the notice as are required for the purposes of paragraph (5).

(5) A copy of any notice under paragraph (4) shall be served on the respondent body and a copy of the notice together with a copy of the originating application and a notice in Form 26 shall be served on each of the bodies corporate specified in the notice under paragraph (4).

(6) The respondent body may at any time serve on the Director a notice containing particulars of any interconnected body corporate not mentioned in a notice under paragraph (4).

(7) With a view to deciding whether or in respect of which bodies notice should be given under paragraph (4) the Director may serve on the respondent body a notice requiring that body to give to him within 14 days of service of the notice particulars of any interconnected bodies corporate belonging to the same group as the respondent body and a copy of any such notice shall be filed in the court office.

(8) An application under section 40(3) shall be made on notice to the respondent body and every interconnected body belonging to the same group.”

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 Rule 3 of which shall come into operation on the day appointed for the coming into force of Part I of the Guardianship Act 1973 and the remainder of which shall come into operation on 18th March 1974.

Dated 5th February 1974.

Hailsham of St. Marylebone, C

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules expressly extend to matters the provisions of Order 13, Rule 3(2), enabling the court to dismiss an action or debar the defendant from defending on failure to comply with an order to file a pleading, particulars or answer (Rule 3). They replace the rule (Order 46, Rule 1) dealing with applications under the Guardianship of Minors Act 1971 by a new rule dealing in addition with applications under the Guardianship Act 1973 (Rule 3). A new Rule 24 is added to Order 46 to regulate proceedings under Part III of the Fair Trading Act 1973 (Rule 4); the proceedings are to be commenced by originating application to which an answer must be filed and detailed provision is made for orders against interconnected bodies.

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