
 STATUTORY INSTRUMENTS

1984 No. 878 (L. 7)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1984

<i>Made</i>	- - - -	27th June 1984
<i>Coming into Operation</i>		
Rules 9 to 13		1st August 1984
All other provisions		
except Rules 14 to 18		1st September 1984

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1984.

(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(a).

Accounts, receivers and proceedings under judgments

2. Order 1, rule 6(d) shall be amended by substituting, for the words “the Central Office”, the words “an office of the Supreme Court having the conduct of the business of a division or court”.

3. For Order 22, rule 12(2) there shall be substituted the following paragraph:—

“(2) Any reference in the said provisions to conveyancing counsel of the Court shall be omitted.”.

4. Order 23, rule 2(1) shall be amended by substituting, for the words “R.S.C. Order 44, rule 3,”, the words “R.S.C. Order 44, rule 2” and by inserting, after the word “corresponds”, the words “; and rules 6, 8 and 12 of that Order”.

5. For Order 23, rule 3 there shall be substituted the following new rule:—

“Appeals

3. An appeal shall lie to the judge from any order made by the registrar under rule 2 (including an order as to the further consideration of the proceedings).”.

(a) S.I. 1981/1687; the relevant amending instruments are S.I. 1982/436, 1140, 1794, 1983/275 and 1716.

6. Order 32, rule 3(1) shall be amended by substituting, for sub-paragraphs (a) to (c), the following:—

- “(a) the remuneration of receivers,
- (b) service of an order appointing a receiver,
- (c) receivers’ accounts,
- (d) payments into court by receivers,
- (e) default by receivers, and
- (f) directions to receivers,”.

7. For Order 32, rule 3(2) there shall be substituted the following paragraph:—

- “(2) The application of R.S.C. Order 30, rule 4 by paragraph (1)(b) shall have effect with the modification that the reference in that rule to the party having conduct of the proceedings shall be construed as a reference to the proper officer”.

8. Order 32, rule 3(3) shall be revoked.

County Courts Act 1984(a)

9. Order 13, rule 7 shall be amended as follows:—

(a) after paragraph (2), there shall be inserted the following paragraph—

“(2A) The provisions of the R.S.C. mentioned in sub-paragraph (g) of paragraph (1) shall apply as if for any reference therein to section 33 or section 34 of the Supreme Court Act 1981(b) there were substituted a reference to section 52 or section 53 respectively of the County Courts Act 1984.”;

(b) in paragraph (3), for the words “section 33(1) or 33(2) of the said Act of 1981” there shall be substituted the words “section 52(1) or 52(2) of the Act”;

(c) in paragraph (4), for the words “section 34 of the said Act of 1981” there shall be substituted the words “section 53 of the Act”.

10. Order 21, rule 5(1) shall be amended as follows:—

- (1) the word “and” at the end of sub-paragraph (b) shall be omitted;
- (2) sub-paragraph (c) shall be re-lettered as sub-paragraph (d) and
- (3) before sub-paragraph (d) (as re-lettered) there shall be inserted the following new sub-paragraph—

“(c) any action in which the mortgagee under a mortgage of land claims possession of the mortgaged land; and”.

11. After Order 21, rule 5(2) there shall be inserted the following new paragraph—

“(2A) In paragraph (1)(c) “mortgage” and “mortgagee” have the meanings assigned to them by section 21(7) of the Act.”.

12. The rules cited in the first column of the Schedule to these Rules shall be amended by omitting the words in the second column and by substituting the words (if any) in the third column.

Arbitration for small claims

13. For Order 19, rule 6(c), there shall be substituted the following:—

“(c) such further costs as the arbitrator may direct where there has been unreasonable conduct on the part of the opposite party in relation to the proceedings or the claim therein.”.

Transfer for enforcement

14. Order 22, rule 8(1)(a) shall be amended by inserting, after the words “another court”, the words “or enforcing the judgment or order in the High Court,”.

15. For Order 25, rule 11 there shall be substituted the following new rule:—

“Enforcement of High Court judgment

11.—(1) A judgment creditor who desires to enforce a judgment or order of the High Court, or a judgment, order, decree or award of any court or arbitrator which is or has become enforceable as if it were a judgment or order of the High Court, shall file in the appropriate court (with such documents as are required to be filed for the purpose of enforcing a judgment or order of a county court)—

- (a) an office copy of the judgment or order or, in the case of a judgment, order, decree or award of a court other than the High Court or an arbitrator, such evidence of the judgment, order, decree or award and of its enforceability as a judgment of the High Court as the registrar may require;
- (b) an affidavit verifying the amount due under the judgment, order, decree or award, and
- (c) where a writ of execution has been issued to enforce it, a copy of the sheriff’s return to the writ.

(2) In this rule the “appropriate court” means the county court in which the relevant enforcement proceedings might, by virtue of these rules, be brought if the judgment or order had been obtained in proceedings commenced in a county court.

Provided that if under these rules the court in which the relevant enforcement proceedings might be brought is identified by reference to the court in which the judgment or order has been obtained the appropriate court shall be the court for the district in which the debtor resides or carries on business.

(3) The provisions of this rule are without prejudice to Order 26, rule 2.”.

16. Order 25 shall be further amended by adding, after rule 12, the following new rule:—

“Transfer to High Court for enforcement

13.—(1) A person who desires the transfer to the High Court of a judgment or order pursuant to section 106 of the Act shall make a request to the proper officer for a certificate of judgment under Order 22, rule 8(1) and the transfer shall have effect on the grant of that certificate.

(2) On the transfer of a judgment or order in accordance with paragraph (1), the proper officer shall give notice to the debtor that the judgment or order has been transferred to the High Court and shall make an entry of that fact in the records of his court.

(3) In a case where a request for a certificate of judgment is made under Order 22, rule 8(1) for the purpose of enforcing a judgment or order in the High Court and

(a) an application under Order 22, rule 10, or

(b) an application under either rule 2 or rule 4 of Order 37, or

(c) a request for an administration order, or

(d) an application for a stay of execution under section 88 of the Act, is pending, the request for the certificate shall not be dealt with until those proceedings are determined.”.

17. Order 39, rule 2(1) shall be amended by inserting, after the words “in that behalf”, the words “in the court for the district in which he resides or carries on business”.

18. Order 39, rule 4 shall be revoked and in Order 39, rule 5 the words “or the receipt of a certificate of judgment forwarded pursuant to section 112(1A) of the Act” shall be omitted.

Provisional taxation

19. Order 38, rule 20 shall be amended by substituting, for paragraphs (2) and (3), the following new paragraphs—

“(2) On receipt of the documents mentioned in paragraph (1) the proper officer shall send a copy of the bill to every other party entitled to be heard on the taxation together with a notice requiring him to inform the proper officer, within 14 days after receipt of the notice, if he wishes to be heard on the taxation.

(3) If a party to whom notice has been given under paragraph (2) informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall fix a day and time for the taxation and give not less than 7 days’ notice to the applicant and that party.

(3A) If no party to whom notice has been given under paragraph (2) informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall, unless the registrar directs that an appointment to tax is necessary, send to the applicant a notice specifying the amount which the registrar proposes to allow in respect of the bill and requiring him to inform the proper officer, within 14 days after receipt of the notice, if he wishes to be heard on the taxation.

(3B) If the applicant informs the proper officer within the time limited that he wishes to be heard on the taxation, the proper officer shall fix a day and time for the taxation and give not less than 7 days' notice to the applicant."

20. Order 38, rule 21 shall be amended by substituting, for paragraph (5), the following new paragraphs—

"(5) Subject to paragraphs (5A) and (7), rule 20 shall apply in relation to costs as between solicitor and client as it applies in relation to costs as between party and party with the necessary modifications and in particular—

(a) for paragraph (2) of that rule there shall be substituted the following paragraph:

"(2) On receipt of the documents mentioned in paragraph (1) the proper officer shall send a copy of the bill to every other party entitled to be heard on the taxation and shall give to the applicant and that party not less than 14 days' notice of the day and time appointed for the taxation.";

(b) paragraphs (3) to (3B) of rule 20 shall not apply.

(5A) Paragraphs (1), (2), (3), (3A) and (3B) of rule 20 shall apply to the taxation of a bill which is to be paid out of the legal aid fund subject to the modification that, if the bill is not also to be taxed as between party and party, then—

(a) paragraphs (2) and (3) of that rule shall not apply, and

(b) for paragraph (3A) of rule 20, there shall be substituted the following paragraph:

"(3A) The proper officer shall, unless the registrar directs that an appointment to tax is necessary, send to the applicant a notice specifying the amount which the registrar proposes to allow in respect of the bill and requiring him to inform the proper officer, within 14 days after receipt of the notice, if he wishes to be heard on the taxation."

21. Nothing in Rules 19 and 20 shall apply to bills of costs lodged before those Rules come into operation.

SCHEDULE

Order and rule	Words to be omitted	Words to be substituted
Order 1, rule 2(2)	"section 102 of the Act"	"section 75 of the Act"
Order 1, rule 3 (definition of "the Act")	"County Courts Act 1959" (a)	"County Courts Act 1984" (b)
Order 1, rule 6	"section 103"	"section 76"
Order 3, rule 7(2)	"County Courts Act 1959"	"County Courts Act 1984"
Order 5, rule 14	"section 82"	"section 49"
Order 6, rule 1(3)	"section 41(1)"	"section 17(1)"
Order 6, rule 1A	"section 97A"	"section 69"
Order 6, rule 3(b)(i)	"section 51"	"section 21"
Order 6, rule 3(e)	"section 191"	"section 138"
Order 6, rule 4	"section 51A"	"section 22"
Order 8, rule 3	"section 70"	"section 30"
Order 9, rule 8(1)(b)	"section 97A"	"section 69"
Order 10, rules 1(1) and 11(6)	"section 80"	"section 47"
Order 11, rule 1(8)	"section 97A"	"section 69"
Order 16, rule 6(1)	"section 75A(7) or 146(2)"	"section 40(7) or 105(3)"
Order 16, rule 7(1)	"section 68"	"section 44"
Order 16, rule 8(1)	"the Act"	"the County Courts Act 1959"
Order 19, rule 1	"section 92"	"section 64"
Order 19, rules 5(1) and 7	"section 93"	"section 65"
Order 20, rule 14(2)	"section 93"	"section 65"
Order 20, rule 14(3)	"section 92"	"section 64"
Order 20, rule 27(2)	"section 92"	"section 64"
Order 22, rule 11(1)	"section 100"	"section 72"
Order 25, rule 3(5)	"section 144(1)"	"section 110(1)"
Order 26, rule 10(3)	"section 120(3)"	"section 85(3)"
Order 26, rule 15(1)	"section 132"	"section 97"
Order 27, rule 15(2)	"section 84 of the County Courts Act 1959"	"section 55 of the County Courts Act 1984"
Order 27, rule 16(2)	"County Courts Act 1959"	"County Courts Act 1984"
Order 28, rule 4(1)	"section 144(1)"	"section 110(1)"
Order 28, rule 11(3)	"section 161(3)"	"section 122(3)"
Order 28, rule 14(2)	"section 160"	"section 121"
Order 30, rule 1(3)	"section 143(3)"	"section 108(3)"
Order 30, rule 1(4)	"section 39"	"section 15"
Order 33, rule 1(1)(a)	"section 137(2)"	"section 102(2)"
Order 33, rule 1(2)(b)	"section 135"	"section 100"
Order 33, rule 6(3)(d)	"section 39"	"section 15"
Order 34, rule 1 title	"s. 30, 127 or 164"	"s. 14, 92 or 124"
Order 34, rule 1(a)	"section 30 or 127"	"section 14 or 92"
Order 34, rule 1(b)	"section 164"	"section 124"
Order 34, rule 2 title	"s. 84"	"s. 55"
Order 34, rule 2	"section 84"	"section 55"
Order 37, rule 7	"section 92"	"section 64"

(a) 1959 c. 22.

(b) 1984 c. 28.

Order and rule	Words to be omitted	Words to be substituted
Order 38, rule 4(4)	"section 77"	"section 40(7)"
Order 38, rule 24(7)	"section 91"	"section 63"
Order 39, rules 1, 2(1)	"Part VII"	"Part VI"
Order 39, rules 4(1), 5	"section 148(2)"	"section 112(1A)"
Order 39, rule 12	"section 20(3) of the Administration of Justice Act 1965" (a)	"section 112(4) of the Act"
Order 39, rule 13(2)	"section 151"	"section 115"
Order 39, rule 14(1)(b)	"section 148(4)"	"section 112(6)"
Order 39, rule 18	"section 149(d)"	"section 113(d)"
	"section 155"	"section 117(2)"
Order 40, rule 4(1)(a)	"section 57(3)"	"section 28(3)"
Order 40, rule 4(1)(b)	"section 57(4)"	"section 28(4)"
Order 40, rule 4(1)(b)(ii)	"section 70"	"section 30"
Order 40, rule 17(1)	"section 145"	"section 28(11)"
Order 41, rule 2(1)	"section 62"	"section 32"
Order 41, rule 3	"section 62 or 75A"	"section 32 or 40"
Order 43, rule 13(1)	"section 91(1) of the County Courts Act 1959"	"section 63(1) of the County Courts Act 1984"

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

<i>David Peck</i>	<i>J. B. Taylor</i>
<i>S. S. Gill</i>	<i>Christopher Oddie</i>
<i>Norman Francis</i>	<i>A. W. Donaldson</i>
<i>J. F. Holt</i>	<i>Alan K. Griesbach</i>
	<i>Anthony Girling</i>

I allow these Rules, which shall come into operation on 1st September 1984 with the exception of Rules 9 to 13 which shall come into operation on 1st August 1984 and Rules 14 to 18 which shall come into operation when sections 34 and 35 of the Administration of Justice Act 1982**(b)** are brought into force.

Dated 27th June 1984.

Hailsham of St. Marylebone, C.

(a) 1965 c. 2.
(b) 1982 c. 53.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules 1981 so as—

- (a) to reflect the recent changes which have been made in relation to the conduct of proceedings in the Chancery Division, in particular as respects accounts and inquiries, receivers and proceedings under judgments (Rules 2 to 8);
- (b) to effect amendments which are consequential upon the enactment of the County Courts Act 1984 (Rules 9 to 12);
- (c) to amend the provisions as to costs where a small claim is referred for arbitration (Rule 13);
- (d) to facilitate the transfer of judgments between the High Court and county courts for enforcement purposes (Rules 14 to 18);
- (e) to amend the procedure for the provisional taxation of bills of costs (Rules 19 to 21).

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