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STATUTORY INSTRUMENTS

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**1989 No. 386 (L.9)**

**SUPREME COURT OF ENGLAND AND WALES**

**The Rules of the Supreme Court (Amendment No.2) 1989**

*Made* - - - - *8th March 1989*

*Laid before Parliament* *10th March 1989*

*Coming into force in accordance with rule 1*

We, the Supreme Court Rule Committee, having power under section 85 of the Supreme Court Act 1981<sup>(1)</sup> 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 that power as follows:

**Citation and commencement**

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No.2) 1989 and shall come into force on 1st April 1989, except for rules 2 to 8, which shall come into force when Part VI of the Criminal Justice Act 1988<sup>(2)</sup> comes into force.

(2) In these Rules, an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1981<sup>(3)</sup>.

**Part VI of the Criminal Justice Act 1988**

2. The Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 shall be amended by inserting, after the words “Drug Trafficking Offences Act 1986”<sup>(4)</sup>, the words “and Part VI of the Criminal Justice Act 1988”.

3. Order 11, rule 1(1) shall be amended by substituting a semi-colon for the full stop at the end of item (r) and by adding thereafter the following –

“(s) the claim is made under Part VI of the Criminal Justice Act 1988.”.

4. For the title to Order 115 and for rule 1 of that Order, there shall be substituted the following –

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(1) 1981 c. 54.

(2) 1988 c. 33.

(3) S.I. 1965/1776; the relevant amending instruments are S.I. 1969/1105, 1973/2046, 1985/846, 1986/632,2289, 1987/1423, 1988/298, 1340.

(4) 1986 c. 32.

## “DRUG TRAFFICKING OFFENCES ACT 1986 AND PART VI OF THE CRIMINAL JUSTICE ACT 1988I. DRUG TRAFFICKING OFFENCES ACT

### Interpretation

1.—(1) In this Part of this Order, “the Act” means the Drug Trafficking Offences Act 1986 and a section referred to by number means the section so numbered in the Act.

(2) Expressions used in this Part of this Order which are used in the Act have the same meanings in this Part of this Order as in the Act.”.

5. In Order 115, rule 3(2)(b), for the words “that an information is to be laid that the defendant has or is suspected of having committed a drug trafficking offence”, there shall be substituted the words “that, whether by the laying of an information or otherwise, a person is to be charged with such an offence”.

6. In Order 115, for the references to section 26 in the heading to rule 12 and in rule 12, there shall be substituted references to section 26A.

7. In Order 115, for the references to section 26(3) in rule 13 and in the heading to rule 15, there shall be substituted references to section 26A(1).

8. After Order 115, rule 21, there shall be inserted the following new Part –

### “II. PART VI OF THE CRIMINAL JUSTICE ACT 1988

### Interpretation

22.—(1) In this Part of this Order, “the 1988 Act” means the Criminal Justice Act 1988 and a section referred to by number means the section so numbered in that Act.

(2) Expressions which are used in this Part of this Order which are used in the 1988 Act have the same meanings in this Part of this Order as in the 1988 Act.

### Application of Part I of Order 115

23. Part I of Order 115 (except rule 11) shall apply for the purposes of proceedings under Part VI of the 1988 Act with the necessary modifications and, in particular, –

- (a) references to drug trafficking offences and to drug trafficking shall be construed as references to offences to which Part VI of the 1988 Act applies and to committing such an offence;
- (b) references to the Drug Trafficking Offences Act 1986 shall be construed as references to the 1988 Act and references to sections 4(2), 8, 9, 11, 12(1), 14(1), 19, 19(4), 26 and 26A of the 1986 Act shall be construed as references to sections 73(6), 77, 78, 80, 81(1), 83(1), 89, 89(5), 96 and 97 of the 1988 Act respectively;
- (c) rule 3(2) shall have effect as if the following sub-paragraphs were substituted for sub-paragraphs (a) and (b) –
  - “(a) state, as the case may be, either that proceedings have been instituted against the defendant for an offence to which Part VI of the 1988 Act applies (giving particulars of the offence) and that they have not been concluded or that, whether by the laying of an information or otherwise, a person is to be charged with such an offence;
  - (b) state, as the case may be, either that a confiscation order has been made or the grounds for believing that such an order may be made;” and

- (d) rule 7(3) shall have effect as if the words “certificate issued by a magistrates’ court or the Crown Court” were substituted for the words “certificate issued by the Crown Court”.

## Costs

9. For Order 62, rule 18(1), there shall be substituted the following –

“(1) Subject to the provisions of this rule, on any taxation of the costs of a litigant in person there may be allowed such costs as would have been allowed if the work and disbursements to which the costs relate had been done or made by a solicitor on the litigant’s behalf together with any payments reasonably made by him for legal advice relating to the conduct of or the issues raised by the proceedings.”.

10. Order 62, rule 18(3) shall be amended by substituting, for the sum “£6.50”, the sum “£7.00”.

## Fixed costs

11. Appendix 3 to Order 62 shall be amended as follows –

- (1) For Table A (Basic Costs) in Part I there shall be substituted the following Table –

“A. Basic Costs

<i>Amount to be allowed in cases under following sub-paragraphs of paragraph I of this Appendix</i>			
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	
	<i>£ p</i>	<i>£ p</i>	<i>£ p</i>
If the amount recovered is –			
not less than £600			
but less than £2,000 –			
(i) where the writ was served by post	47.00	61.50	108.00
(ii) where the writ was served on the defendant personally	52.00	66.00	112.50
not less than £2,000			
but less than £3,000 –			
(i) where the writ was served by post	52.00	68.50	112.50
(ii) where the writ was served on the defendant personally	56.00	72.00	118.00
not less than £3,000	68.00	97.50	139.00”

(2) Table B (Additional costs) in Part I shall be amended by substituting, for the figures shown in columns (i) and (ii), the following figures –

	(i)	(ii)
(1)	7.25	9.50
(2)	17.00	36.00
(3)(a)	26.25	47.00
(b)	31.00	52.00
(4)	12.00	14.00
(5)	12.00	14.00
(6)	9.25	17.00

(3) Part III, paragraph 1 shall be amended by substituting, for the sum of “£6.25”, the sum of “£6.50”;

(4) Part III, paragraph 2 shall be amended by substituting, for the sum of “25.00”, the sum of “26.50”;

(5) Part III, paragraph 3 shall be amended as follows –

- (a) for the sum of “£15.25” in sub-paragraph (a) there shall be substituted the sum of “£16.00”;
- (b) for the table “Basic Costs” in sub-paragraph (b) there shall be substituted the following table –

“(i) Basic Costs

If the amount recovered by the applicant from the garnishee is –

	£	p
less than £131 ... ..	one	half of the amount recovered
not less than £131 ... ..	67.00	”;

(c) for the sum of “£11.50” in the table “Additional costs” in sub-paragraph (b) there shall be substituted the sum of “£12.00”;

(6) Part III, paragraph 4 shall be amended by substituting, for the sums of “£71.00” and “£11.50”, the sums of “£75.50” and “£12.00”.

(7) Part III, paragraph 5 shall be amended by substituting, for the sums of “£27.00” and “£1.80”, the sums of “£29.00” and “£1.90”

(8) Part III, paragraph 6 shall be amended by substituting, for the sum of “£33.25”, the sum of “£35.50”.

## Part II of the Family Law Reform Act 1987(5)

**12.** In Order 18, rule 7A(2), for the word “was” (after the words “matrimonial proceedings or”) there shall be substituted the words “has been found to be the father of a child in relevant proceedings before any court in England and Wales or has been”.

**13.** Order 90 shall be amended as follows.

(1) In the heading to rule 5, there shall be inserted, after the figures “1973”, the words “or under Part II of the Family Law Reform Act 1987”.

(2) In rule 5(1), after the words “(in this Order referred to as the “Guardianship Acts””, there shall be inserted the words “or under section 4 of the Family Law Reform Act 1987”.

(3) In rule 5(2), the words “(as applied by section 4(3D) of the said Act of 1973)” shall be omitted.

(4) In rules 5(3), 6(1) and 7, after the words “Guardianship Acts”, there shall be inserted the words “or under Part II of the Family Law Reform Act 1987”.

(5) In the heading to rule 6, for the words “guardianship summons”, there shall be substituted the words “certain summonses relating to minors”.

(6) After rule 6, there shall be inserted the following new rule –

**“Additional provisions for applications for financial relief**

**6A.**—(1) Except where the application is for a variation order, an application for an order under section 11B, 11C or 11D of the Act of 1971(6) shall be supported by an affidavit by the applicant containing full particulars of his property and income, and stating the facts relied on in support of the application; and where the application is for a property adjustment order the affidavit shall also contain full particulars, so far as they are known to the applicant, of the property in respect of which the application is made and of any property to which the person against whom the application is made is entitled either in possession or reversion.

(2) Where an application for a property adjustment order relates to land, the application shall identify the land and –

- (a) state whether the title to the land is registered or unregistered and, if registered, the Land Registry title number; and
- (b) give particulars, so far as they are known to the applicant, of any mortgage of the land or any interest therein.

(3) A copy of the application shall be served on any mortgagee of whom particulars are given pursuant to paragraph (2)(b), and any person so served may apply to the court in writing, within 14 days after service, for a copy of the applicant’s affidavit.

(4) Within 14 days after the service of an affidavit under paragraph (1) or (6), or within such other time as the court may fix, the person against whom the application is made shall file an affidavit in answer containing full particulars of his property and income.

(5) Any person who receives an affidavit following an application made in accordance with paragraph (3) may, within 14 days after receipt, file an affidavit in answer.

(6) Where an application is made for a variation order, the registrar may order the applicant to file an affidavit setting out full particulars of his property and income and the grounds on which the application is made.

(7) In this rule –

- (a) “variation order” means an order varying, discharging, suspending or reviving an order previously made under section 11B, 11C, 11D or 12C(6) of the Act of 1971;
- (b) “property adjustment order” means an order made under section 11B(2)(d) or (e) of the Act of 1971.”.

(7) In the heading to rule 7, for the word “Guardianship”, there shall be substituted the word “Certain”.

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(6) 1971 c. 3; section 11B, 11C and 11D were inserted by the Family Law Reform Act 1987 (c. 42). sections 12, 13 and 14.

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

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Dated 8th March 1989

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## EXPLANATORY NOTE

(This Note is not part of the Rules)

These Rules amend the Rules of the Supreme Court 1965 so as to –

- (a) provide for applications to the High court under Part VI of the Criminal Justice Act 1988 (confiscation of the proceeds of an offence) and to amend the provisions relating to applications under the Drug Trafficking Offences Act 1986 to take account of the amendments made to that Act by the Criminal Justice Act 1988 (Rules 2 to 8);
- (b) enable a litigant in person to claim as costs the cost of receiving legal advice and to increase the costs allowed to a litigant in person (Rules 9 and 10);
- (c) increase the fixed costs recoverable under Appendix 3 to Order 62 (Rule 11);
- (d) give effect to Part II of the Family Law Reform Act 1987 (rights and duties of parents etc.) which makes provision for the financial support of children and persons over eighteen in full-time education (Rules 12 and 13).