
 STATUTORY INSTRUMENTS

1978 No. 1943 (L.39)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 4) Rules 1978

Made - - - - - 14th December 1978

Coming into Operation

All provisions except Rules 4 and 5 5th February 1979

Rules 4 and 5 12th March 1979

1.—(1) These Rules may be cited as the County Court (Amendment No. 4) Rules 1978.

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

(3) The Interpretation Act 1978(b) shall apply to these Rules as it applies to subordinate legislation made after the commencement of that Act.

2. At the beginning of Order 5, Rule 19(4) there shall be inserted the words “Unless the court otherwise directs”.

3. The following paragraph shall be inserted in Order 8, Rule 41, after sub-paragraph (h):—

“(i) the claim is for a sum to which the Directive of the Council of the European Communities dated 15th March 1976 No. 76/308/EEC(c) applies, and service is to be effected in a country which is a member state of the European Economic Community”.

4.—(1) In each of the following Rules, and in the title to each of the following Forms, for the word “attachment” there shall be substituted the word “committal”:—

Order 14, Rule 9;

Order 25, the heading to Part IV and Rules 2, paragraph (6), 68, paragraphs (1) and (3), 69, paragraphs (1), (3), and (5), and 70, paragraph (1);

Order 46, Rule 28, paragraph (7);

Forms 194, 195, 196, 197, 198, 199 and 412.

(2) Order 25 shall be amended as follows:—

(a) in Rule 1 for the word “attachment” there shall be substituted the words “order of committal”;

(a) S.R. & O. 1936/626; relevant amending instruments are S.R. & O. 1938/18; S.I. 1950/1231, 1957/1136, 1959/1251, 1962/1293, 1964/1974, 1965/2147, 1967/276, 1969/585, 1971/2152, 1974/1138, 1977/615, 1978/794.

(b) 1978 c. 30.

(c) O.J. No. L.73/18.

(b) after Rule 10(3) there shall be added the following paragraph:—

“(4) Where an order of commitment has been received from another court the registrar of the foreign court shall, on execution of the order, notify the registrar of the home court in Form 157A.”

(c) in Rule 67 the words “attachment or” shall be omitted and the word “committal” shall be substituted for “attachment” as the last word in the Rule;

(d) in Rule 68(1) the words “subject to Order 25, Rule 69A” shall be inserted after the words “Form 140, and”;

(e) in Rule 68(2) the words “subject to Order 25, Rule 69A” shall be inserted after the words “issued sooner, and”;

(f) in Rule 68(3) the words “unless service is or has been dispensed with” shall be inserted after the words “served upon him”;

(g) in Rule 69(4) the words “Subject to Order 25, Rule 69A” shall be inserted at the beginning;

(h) in Rule 69(5) the words “unless service is or has been dispensed with” shall be inserted after the words “served on him”; and

(i) the following Rule shall be inserted after Rule 69:—

“69A. Without prejudice to its powers under Order 8, Rule 6, the court may dispense with service of a copy of an Order under Rule 68(1), or a notice under Rule 68(2), or 69(4), if the court thinks it just to do so.”

(3) Order 48, Rule 5(2) shall be amended by the omission of the words “or to enforce any order by attachment”.

(4) The following form shall be inserted in Appendix A after Form 157:—

“157A

Order 25,
Rule 10(4)

NOTICE OF EXECUTION OF ORDER OF COMMITMENT

[General Title—Form 1]

TAKE NOTICE that the order of commitment in this action was executed on the day of by lodging the person named in this order in Her Majesty’s prison at ”.

(5) Form 194 shall be amended as follows:—

After the words “enjoining and restraining you from [*here set out the terms of the injunction*]” there shall be inserted “by [*here set out the particular breach or breaches of the order alleged*]”.

(6) Form 195 shall be amended as follows:—

(a) the words “until further order of this Court” shall be inserted before the words “for his contempt”;

(b) the words “of attachment” after the words “a warrant” shall be omitted;

(c) the words “and committal” shall be inserted after the word “arrest”; and

(d) for the word “attachment” in the concluding sentence there shall be substituted the word “committal”.

(7) In Form 197, for the word "attachment" in the notice there shall be substituted the words "committal to prison".

(8) Form 198 shall be amended as follows:—

- (a) for the word "attached" in the opening sentence there shall be substituted the word "committed";
- (b) the words "until further order of this Court" shall be inserted before the words "for his contempt";
- (c) the words "of attachment" after the words "a warrant" shall be omitted;
- (d) the words "and committal" shall be inserted after the word "arrest"; and
- (e) for the word "attachment" in the concluding sentence there shall be substituted the word "committal".

5.—(1) Order 7, Rule 3 shall be amended by omitting the word "and" from paragraph (c), by substituting a semi-colon for the full-stop at the end of paragraph (d) and by adding the words "and (e) in a case to which section 191 (forfeiture for non-payment of rent) applies, the daily rate at which the rent is to be calculated."

(2) In Order 25, Rule 71(1), for the number "399" there shall be substituted the number "401".

(3) Form 21(2) shall be amended as follows:—

- (a) After the words "RENT IN ARREAR" there shall be added the words "AT ISSUE OF SUMMONS".
- (b) In paragraph (1) of the INSTRUCTIONS after the words "pay the rent in arrear" there shall be inserted the words "(that is, the sum mentioned above and any further sum which has become due at the date when this summons was served on you)" and the words "as stated above" shall be omitted.

6. Appendix D shall be amended as follows:—

- (1) for the amounts appearing in the following Tables at the end of Part I, there shall be substituted the amounts respectively appearing opposite them below:—

| <i>Table</i> | <i>Amount to be Substituted</i> |
|--------------|---------------------------------|
| I (a) | £2.00 |
| (b) | £3.00 |
| II (a) | £4.00 |
| (b) | £5.00 |
| III (a) | £9.00 |
| (b) | £10.00 |
| IV (a) | £13.00 |
| (b) | £15.00 |

(2) for column 2 of the Table in Part II there shall be substituted the following column:—

| "Column 2" | | |
|---|---|--------------------------|
| Sum of Money | | |
| A Exceeding £5 but not exceeding £100 | B Exceeding £100 but not exceeding £1,000 | C Exceeding £1,000 |
| £ | £ | £ |
| 2.00 | 3.00 | 5.00 |
| 3.00 | 6.00 | 11.00" |

(a)
(b), (c), (d)

7. Rule 6 shall apply in relation to any summons issued, or judgment given or entered, on or after the date of commencement.

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.

H. S. Ruttle.
W. Granville Wingate.
T. Richard Nevin.
A. P. Goodall.
David Peck.
E. A. Everett.
A. A. Hibbert.
Arnold Russell Vick.
Fielding Hatton.
D. A. Marshall.
Emyr O. Parry.

I allow these Rules, which shall come into operation on 5th February 1979, with the exception of Rules 4 and 5 which shall come into operation on 12th March 1979.

Elwyn-Jones, C.

Dated 14th December 1978.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules allow a registrar, in appropriate cases, to waive the requirement that a solicitor acting for a minor should have his bill taxed (Rule 2). Also, they provide for the service abroad of proceedings for the recovery of certain Customs dues and levies (Rule 3). Further, they change the procedure for the enforcement of injunctions in ways which assimilate the practice in the county court to that in the High Court; in particular the process of "attachment" is replaced by "committal" (Rule 4). Finally, they amend the form of summons to be used in forfeiture cases (Rule 5) and raise the amounts to be allowed by way of fixed costs in Parts I and II of Appendix D (Rules 6 and 7).

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