
 STATUTORY INSTRUMENTS

1983 No. 1716 (L.28)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1983

Made - - - - - 15th November 1983

Coming into Operation 12th December 1983

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1983.

(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).

Service of process

2. Order 7 shall be amended by substituting, for rule 10, the following new rule:—

“10.—(1) Subject to the provisions of any Act or rule (including the following paragraphs of this rule), service of a summons shall be effected—

(a) by the plaintiff delivering the summons to the defendant personally;
or

(b) by an officer of the court sending it by first-class post to the defendant at the address stated in the request for the summons.

(2) Unless the plaintiff or his solicitor otherwise requests, service shall be effected in accordance with paragraph (1)(b).

(3) Where a summons is served in accordance with paragraph (1)(b), the date of service shall, unless the contrary is shown, be deemed to be the seventh day after the date on which the summons was sent to the defendant.

(4) Where a summons has been sent by post in accordance with paragraph (1)(b) to the address stated in the request for the summons and has been returned to the court office undelivered, notice of non-service shall be sent pursuant to rule 6(2) together with a notice informing the plaintiff that he may request bailiff service at that address and, if such service is requested, it shall be effected by a bailiff of the court—

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

- (a) inserting the summons, enclosed in an envelope addressed to the defendant, through the letterbox at the address stated in the request for the summons, or
- (b) delivering the summons to some person, apparently not less than 16 years old, at the address stated in the request for the summons, or
- (c) delivering the summons to the defendant personally.

(5) Service of a fixed date summons shall be effected not less than 21 days before the return day; but, without prejudice to the power to abridge that period under Order 13, rule 4, service may be effected at any time before the return day on the plaintiff satisfying the registrar by affidavit that the defendant is about to remove from the address stated in the request for the summons.”.

3. Order 7 shall be further amended by substituting, for rule 13, the following new rule:—

“13.—(1) Subject to the following paragraphs of this rule, where partners are sued in the name of their firm, service of a summons shall be good service on all the partners, whether any of them is out of England and Wales or not, if the summons is:—

- (a) delivered by the plaintiff to a partner personally, or
- (b) served by an officer of the court sending it by first-class post to the firm at the address stated in the request for the summons.

(2) Where the partnership has to the knowledge of the plaintiff been dissolved before the commencement of the action, the summons shall be served upon every person within England and Wales sought to be made liable.

(3) Rule 10(2) and (3) shall apply in relation to service by post under paragraph (1)(b) as they apply in relation to service under rule 10.

(4) Rule 10(4) shall apply in relation to service under this rule as it applies in relation to service under rule 10, but with the reference to paragraph (1)(b) being read as a reference to the same paragraph in this rule and with the substitution for paragraphs (b) and (c) of the following paragraphs—

- “(b) delivering the summons at the principal place of the partnership business within the district within which the summons is to be served to any person having, or appearing to have, at the time of service, the control or management of the business there, or
- (c) delivering the summons to a partner personally.”.

4. Order 7, rule 18(1) and (3)(a) shall be amended by substituting, for the words “under rule 10(1)(b)”, the words “under rule 10(4)(b)”.

5. Order 37, rule 3(1) shall be amended by substituting, for the words from “in accordance with” to the words “after judgment”, the words “in accordance with Order 7, rule 10(1)(b) or (4)(a) or 13(1)(b) or (4) and after judgment”.

Warrants of possession

6. Order 24, rule 6 shall be amended as follows:—

(1) In paragraph (1) for the words “Subject to paragraph (2)” there shall be substituted the words “Subject to paragraphs (2) and (3)”;

(2) After paragraph (2) there shall be added the following paragraph—
“(3) Nothing in this rule shall authorise the issue of a warrant of possession before the date on which possession is ordered to be given.”.

Part-warrants

7. Order 26, rule 1(2) shall be amended by substituting, for the sum “£15”, the sum “£50”.

Mobile Homes Act 1983(a)

8. For Order 49, rule 13 there shall be substituted the following new rule:—
“*Mobile Homes Act 1983*

13.—(1) An application—

(a) under section 1 or 2 of the Mobile Homes Act 1983; or

(b) pursuant to paragraph 4, 5 or 6 of Part I of Schedule 1 to that Act; or

(c) with respect to any question arising under paragraph 8(1) or 9 of the same Part of that Schedule,

shall be made by originating application and the respondent shall file an answer.

(2) Any application to which paragraph 1(b) applies may include an application for an order enforcing the rights mentioned in section 3(1)(b) of the Caravan Sites Act 1968.(b)

(3) Any application to which this rule applies may be heard and determined by the registrar and may, if the court thinks fit, be dealt with in chambers.”.

Miscellaneous amendments

9. Order 38, rule 17 shall be amended by adding, after paragraph (5), the following paragraph:—

“(6) For the purposes of this rule a litigant in person does not include a litigant who is a practising solicitor.”.

10. Order 40, rule 2(1) shall be amended by omitting the words from “or, if” to the end, rule 2(2)(a) shall be amended by omitting the words from “, or if no” to “business” where second occurring and rule 2(2)(b) shall be amended by omitting the words from “or, if no” to “business” where second occurring

11. Order 40, rule 4(1)(c) shall be revoked.

12. Order 49, rule 9 shall be revoked.

13. 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.

(a) 1983 c. 34.

(b) 1968 c.52

SCHEDULE

Order and rule	Words to be omitted	Words, if any, to be substituted
Arrangement of Orders	“Order 45. The Representation of the People Act 1949.”(a)	“Order 45. The Representation of the People Act 1983.”(b)
Order 1, rule 3 (definition of “mental patient”)	“Mental Health Act 1959”(c)	“Mental Health Act 1983”(d)
Order 1, rule 6(b)	“, Chancery registrar”	—
Order 6, rule 5(1A)	“notice or caution pursuant to section 2(7) of the Matrimonial Homes Act 1967”(e)	“notice or caution pursuant to section 2(7) of the Matrimonial Homes Act 1967 or a notice pursuant to section 2(8) of the Matrimonial Homes Act 1983”(f)
Order 10, rule 1(3)	“Part VIII of the Mental Health Act 1959” “Part VIII”	“Part VII of the Mental Health Act 1983” “Part VII”
Order 10, rule 2(a)	“Part VIII”	“Part VII”
Order 10, rule 4(1)(b)	“Part VIII”	“Part VII”
Order 11, rule 1(8)	“section 3 of the Law Reform (Miscellaneous Provisions) Act 1934”(g)	“section 97A of the Act”
Order 38, rule 22(6), Order 45, rule 1(1)	“section 20 of the Representation of the People Act 1949”	“section 30 of the Representation of the People Act 1983”
Order 45, title	“THE REPRESENTATION OF THE PEOPLE ACT 1949”	“THE REPRESENTATION OF THE PEOPLE ACT 1983”
Order 45, rule 2(1)	“section 42 of the said Act of 1949”	“section 53 of the said Act of 1983”
Order 47, rule 4, title	“ <i>Matrimonial Homes Act 1967</i> ”	“ <i>Matrimonial Homes Act 1983</i> ”
Order 47, rule 4(1)	“section 1 of the Matrimonial Homes Act 1967”	“section 1 of the Matrimonial Homes Act 1983”

- (a) 1949 c. 68.
(b) 1983 c. 2.
(c) 1959 c. 72.
(d) 1983 c. 20.
(e) 1967 c. 75.
(f) 1983 c. 19.
(g) 1934 c. 41.

SCHEDULE

Order and rule	Words to be omitted	Words, if any, to be substituted
Order 47, rule 4(5)	“a notice or caution registered under section 2(7) of the Matrimonial Homes Act 1967”	“a notice or caution registered under section 2(7) of the Matrimonial Homes Act 1967 or a notice registered under section 2(8) of the Matrimonial Homes Act 1983”
Order 47, rule 5(4)(b)	“Mental Health Act 1959”	“Mental Health Act 1983”
Order 48, rule 2(1)(d), (2)	“the sum for the time being fixed under section 22(1) of the Act of 1975”	“the county court limit”
Order 48, rule 9(2)	“the limit for the time being of the jurisdiction of county courts under section 22 of the Act of 1975”	“the county court limit”
Order 49, rule 12, title	“ <i>Mental Health Act 1959</i> ”	“ <i>Mental Health Act 1983</i> ”
Order 49, rule 12(1)	“Mental Health Act 1959” “Part IV”, “Part IV” “section 59(1)”	“Mental Health Act 1983” “Part II”, “Part II” “section 145(1)”
Order 49, rule 12(2)	“Part IV” “section 53” “section 52”	“Part II” “section 30” “section 29”
Order 49, rule 12(3)	“section 52”	“section 29”
Order 49, rule 12(5)	“Part IV”	“Part II”
Order 49, rule 14, title	“ <i>Pilotage Act 1913</i> ”	“ <i>Pilotage Act 1983</i> ”
Order 49, rule 14	“section 28 of the Pilotage Act 1913”	“section 26 of the Pilotage Act 1983”

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.

David Peck
S. S. Gill
Norman Francis
M. A. W. Grundy
J. F. Holt
Anthony Girling

J. B. Taylor
Christopher Oddie
A. W. Donaldson
Andrew Smith
Alan K. Griesbach

I allow these Rules, which shall come into operation on 12th December 1983.

15th November 1983.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules 1981 so as—

- (a) to make new provision for the circumstances in which bailiff service of process is available (Rules 2–5);
- (b) to prescribe the time at which a warrant of possession may issue (Rule 6);
- (c) to increase the lower limit for part-warrants (Rule 7);
- (d) to provide for proceedings under the Mobile Homes Act 1983 (Rule 8);
- (e) to effect amendments of a minor and consequential nature (Rules 9 to 13).

(a) 1959 c. 22.

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