
 S T A T U T O R Y I N S T R U M E N T S

1986 No. 636 (L.3)

COUNTY COURTS

PROCEDURE

The County Court (Amendment) Rules 1986

Made - - - - 26th March 1986

Coming into Force 28th April 1986

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment) Rules 1986.

(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) and Appendix A, B or C means Appendix A, B or C to those Rules.

Service of documents through document exchanges

2. After the definition of “defendant” in Order 1, rule 3, there shall be inserted the following definition:—

“‘document exchange’ means any document exchange for the time being approved by the Lord Chancellor;”.

3. After Order 2, rule 5(1), there shall be inserted the following new paragraph:—

“(1A) References in paragraph (1) to the conduct of business by post and to the sending of documents by prepaid post shall include in any case where the court is a member of a document exchange and the party is represented by a solicitor references to the conduct of business and to the sending of documents through a document exchange.”.

4. For Order 7, rule 1(1)(b), there shall be substituted the following subparagraph:—

“(b) if the person to be served is acting by a solicitor:—

- (i) by delivering the document at, or sending it by first-class post to, the solicitor’s address for service, or
- (ii) where the solicitor’s address for service includes a numbered box at a document exchange, by leaving the document at that document exchange or at a document exchange which transmits documents daily to that document exchange.”.

(a) S.I. 1981/1687; the relevant amending instruments are S.I. 1982/436, 1140, 1794, 1983/1716, 1984/576, 878, 1985/566 and 1269.

5. Order 7, rule 1 shall be further amended by inserting, after paragraph (2), the following new paragraphs:—

“(3) Any document which is left at a document exchange in accordance with paragraph (1)(b)(ii) shall, unless the contrary is proved, be deemed to have been served on the second day after the day on which it is left.

(4) In determining for the purposes of paragraphs (1)(b)(ii) and (3)—

(a) whether a document exchange transmits documents daily to another document exchange, and

(b) the second day after a document is left at a document exchange, any day on which the court office is closed shall be excluded.”.

Matrimonial Homes Act 1983(a)

6. For paragraphs (1A) and (1B) of Order 6, rule 5 there shall be substituted the following paragraph:—

“(1A) Where a plaintiff claims as mortgagee possession of land which consists of or includes a dwelling house, he shall state, in his particulars of claim, whether there is any person on whom notice of the action is required to be served in accordance with section 8(3) of the Matrimonial Homes Act 1983 and, if so, he shall state the name and address of that person and shall file a copy of the particulars of claim for service on that person.”.

Costs

7. Order 11 shall be amended by adding, after rule 9, the following new rule:—

“*Written offers ‘without prejudice save as to costs’*

10.—(1) A party to proceedings may at any time make a written offer to any other party to those proceedings which is expressed to be ‘without prejudice save as to costs’ and which relates to any issue in the proceedings.

(2) A party who makes such an offer shall file a copy, but the offer shall not be brought to the attention of the court at the hearing until the question of costs falls to be decided and the court shall, in exercising its discretion as to costs, take into account any offer which has been brought to its attention:

Provided that the court shall not take such an offer into account if, at the time it is made, the party making it could have protected his position as to costs by means of a payment into court.”.

8. For Order 38, rule 1 there shall be substituted the following rule:—

“*Entitlement to costs*

1.—(1) This rule shall have effect subject to the provisions of any Act or rule and to the following provisions of this Order.

(2) The costs of and incidental to all proceedings in a county court shall be in the discretion of the court.

(3) Save where provision is otherwise made by these rules, the provisions of Part II of R.S.C. Order 62 relating to entitlement to costs (except such of those provisions as refer to the Official Solicitor or court fees) shall apply in relation to the costs of and incidental to any proceedings in a county court as they apply in relation to the costs of any like proceedings to which that Order applies.

(4) For the purposes of paragraph (3), any reference in a provision of the said Part II to any other provision of the R.S.C. shall be construed as a reference to the corresponding provision (if any) in these rules.”.

9. Order 38, rule 5 shall be amended by substituting, for the words from “in exercising his discretion” to the end of rule 5, the words “in exercising his discretion the registrar shall have regard to all the circumstances to which a taxing officer of the Supreme Court is required to have regard when determining the amount of costs to be allowed in accordance with the provisions contained in paragraph 1(2) of Appendix 2 to R.S.C. Order 62”.

10. Order 38, rule 13(2) shall be amended by substituting, for the figures “£14.00” and “£19.75”, the figures “£14.50” and “£20.50” respectively.

11. Order 38, rule 14(1) shall be amended by substituting, for the figures “£19.75”, “£39.50” and “£79” wherever they appear in the Table, the figures “£20.50”, “£41.00” and “£82”.

12. After Order 38, rule 19, there shall be inserted the following new rule:—

“Taxation of costs and powers exercisable on taxation

19A. Save where provision is otherwise made by these rules, the provisions of R.S.C. Order 62, rules 12, 14, 15, 16, 24 and 26 to 28, relating to the bases of taxation and the powers of taxing masters and taxing officers (except such of those provisions as refer to the Official Solicitor or court fees) shall apply in relation to proceedings in a county court as they apply in relation to proceedings in the High Court.”.

13. For the title to rule 20, there shall be substituted the following title “*Taxation of costs inter partes*”.

14. For Order 38, rule 20(4) and (5) there shall be substituted the following paragraph:—

“(4) In this rule, “party entitled to be heard on the taxation” means—

(a) a person who has taken any part in the proceedings which give rise to the taxation and who is directly liable under an order for costs made against him, or

(b) a person who has given the applicant and the proper officer written notice that he has a financial interest in the outcome of the taxation, or

(c) a person who is so entitled by virtue of a direction given by the registrar.”.

15. Order 38, rule 21 shall be amended by substituting, for paragraph (1), the following paragraph:—

“(1) In this rule references to a taxation of costs as between solicitor and client include references to the taxation of—

- (a) costs payable to a solicitor by his own client;
- (b) costs payable to a solicitor out of the legal aid fund, and
- (c) costs payable to a trustee or personal representative out of any fund.”.

16. Order 38, rule 21(5A) shall be amended by substituting, for the words “Paragraphs (1), (2), (3), (3A) and (3B)”, the words “Paragraphs (1), (2), (3), (3A), (3B) and (4)”.

17. Order 38, rule 21(6) shall be amended by substituting, for the words “period of 7 days”, the words “period of 14 days”.

18. Order 38, rules 23 and 25 shall be revoked.

19. Appendix A shall be amended by substituting, for the entries in the last 3 columns corresponding to the numbered items, the following:—

“

<i>Item No.</i>			
1.		FOR ALL SCALES 5-23	
2.		FOR ALL SCALES 5-22	
3.		FOR ALL SCALES 3.90 per page (or proportionately) 2.70 per page (or proportionately)	
4. (a)		FOR ALL SCALES 0.52 per page 0.88 per page 1.20 per page	
4. (b)		FOR ALL SCALES 0.18 per page 0.34 per page	
5.		FOR ALL SCALES 9-60	
6.	such sum as is fair and reasonable not exceeding 333	such sum as is fair and reasonable not exceeding 853	Discretionary
7.	5.50	5.50	9.50
8.		FOR ALL SCALES 9.60	
	not exceeding	not exceeding	not exceeding
9. (a)	24	67.50	84.25
(b)	5-11.50	5-18	5-24

10.	FOR ALL SCALES 2-9.00		
	not exceeding	not exceeding	not exceeding
11. (a)	41.50	100	145
(b)	5-13	5-50	5-73
12. (a)	24-85	30-198	Discretionary
(b)	12-44	15-100	Discretionary
(c)	9-35	11-49	13-68
(d)	FOR ALL SCALES 17		
(e) On conference in chambers or else where: for each half- hour or part thereof and for leading counsel	5 6	9.00 15.50	13 24
(f)	5.50-9.50	9.50-25	11-35
(g)	4-10.50	10.50-30	12-60
13. (a)	6.25-17.50	6.25-49	6.25-62.50
(b)	6.25	6.25-17.50	6.25-25"

20. Appendix B Part I paragraph 4 shall be amended by substituting, for the Tables of Fixed Costs, the following Tables:

“

TABLES OF FIXED COSTS

TABLE I

Where claim exceeds £25 but does not exceed £250

	Amount of charges £
(a) Where service is not by solicitor	18.00
(b) Where service is by solicitor	19.50

TABLE II

Where claim exceeds £250 but does not exceed £600

	Amount of charges £
(a) Where service is not by solicitor	24.00
(b) Where service is by solicitor	28.00

TABLE III

Where claim exceeds £600 but does not exceed £2,000

	Amount of charges £
(a) Where service is not by solicitor	40.00
(b) Where service is by solicitor	44.00

TABLE IV

Where claim exceeds £2,000

	Amount of charges £
(a) Where service is not by solicitor	44.00
(b) Where service is by solicitor	48.00”.

21. Appendix B Part II shall be amended by substituting, for the Table, the following Table:—

“ Fixed Costs on Judgments

Column 1	Column 2		
	Sum of money		
	A <i>Exceeding £25 but not exceeding £600</i>	B <i>Exceeding £600 but not exceeding £3,000</i>	C <i>Exceeding £3,000</i>
	£	£	£
(a) Where judgment is entered in a default action in default of defence	6.75	12.00	13.50
(b) Where judgment is entered on the defendant's admission and the plaintiff's acceptance of his proposal as to mode of payment	11.00	24.00	27.00
(c) Where judgment is entered on an admission delivered by the defendant and the court's decision is given as to the date of payment or instalments by which payment is to be made	15.00	30.00	35.50
(d) Where judgment is given in a fixed date action for:— (i) delivery of goods, or (ii) possession of land suspended on payment of arrears of rent, whether claimed or not, in addition to current rent, and the defendant has neither delivered a defence, admission or counterclaim nor otherwise denied liability	22.00	33.00	41.00
	<i>Exceeding £500 but not exceeding £3,000</i>	<i>Exceeding £3,000</i>	
(e) Where summary judgment is given under Order 9, rule 14	£52.00	£59.00 ”.	

22. Appendix B Part III shall be amended by substituting, for paragraphs (a) and (b) of item 7 and for the amounts to be allowed corresponding to the numbered items, the following:—

	<i>Amount to be allowed</i>
1.	£7.25
2.	£7.25
3.	£1.20
4.	£4.60
5.	£14.50
6.	£4.75
7. (a) where the money recovered is less than £52	one half of the amount recovered
(b) where the money recovered is not less than £52	£27.00
8.	£27.00
9.	£4.60”.

23. Appendix C paragraph 2 shall be amended by substituting, for the Table, the following:—

<i>Column 1 Scale</i>	<i>Column 2 Amount of Charges</i>
Lower Scale	£33.50 to £51
Scale 1	£37.50 to £95
Scale 2	£58 to £353
Scale 3	£84 to £426”

24.—(1) Where the judgment or order or the event giving rise to a right to an immediate taxation of costs was made or occurred before 28th April 1986, the amendments effected by Rules 8, 9, 12 and 13 to 18 shall not apply and in any such case the costs shall be taxed in accordance with rules 1, 5, 20, 21, 23 and 25 of Order 38 as in force immediately before 28th April 1986.

(2) Nothing in Rules 10, 11 and 19 to 23 shall, unless expressly so provided, apply to anything done before they come into operation.

(3) Where costs fall to be fixed or assessed under Appendix B or C by virtue of a judgment or order given, entered or made after the date of the coming into force of the preceding Rules, they may be fixed, or assessed, as the case may be, as if all the work to which they relate had been done after that date.

(4) Order 38 as in force immediately before 28th April 1986 shall continue to have effect for the purpose of the Matrimonial Clauses (Costs) Rules 1979(a).

Registrars' trial jurisdiction

25. Order 21, rule 5(1)(b) shall be amended by substituting, for the sum “£500”, the sum “£1,000”.

Matrimonial and Family Proceedings Act 1984, Part V(a)

26. After Order 16, rule 11 there shall be added the following new rule:—

“Family business and family proceedings

12.—(1) In this rule—

“the 1984 Act” means the Matrimonial and Family Proceedings Act 1984, and “family business” and “family proceedings” have the meanings given by section 32 of the 1984 Act.

(2) An order transferring family business or family proceedings to the High Court in accordance with any directions given under section 37 of the 1984 Act may be made by the judge or the registrar either—

(a) of his own motion after considering any representations which he shall give the parties an opportunity of making, or

(b) on the application of any party on notice to all other parties.”.

27. Order 47, rule 2 shall be amended by inserting, after paragraph (2), the following new paragraph—

“(2A) An application under the said section 17 shall be filed—

(a) subject to sub-paragraph (b), in the court for the district in which the applicant or the respondent resides, or

(b) in the divorce county court in which any pending matrimonial cause has been commenced by or on behalf of either the applicant or the respondent or in which any matrimonial cause is intended to be commenced by or on behalf of the applicant.

In this paragraph “divorce county court” and “matrimonial cause” have the meanings given by section 33 and 32 respectively of the Matrimonial and Family Proceedings Act 1984.”.

28. Order 47, rule 4(7) shall be amended by substituting, for sub-paragraph (a), the following new sub-paragraph—

“(a) a matrimonial cause within the meaning of section 32 of the Matrimonial and Family Proceedings Act 1984, or”.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 75 of the County Courts Act 1984(b), 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.

C. R. Oddie,	Norman Francis,
C. S. Stuart-White,	D. McKinney,
R. Lockett,	A. W. Donaldson,
P. G. Hebbert,	J. F. Molt,
Peter Crane,	Alan K. Griesbach.
Anthony Girling,	

I allow these Rules, which shall come into operation on 28th April 1986.

Dated 26th March 1986.

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 provide for the service of documents through document exchanges (Rules 2 to 5);
- (b) to amend Order 6, rule 5(1A) which relates to proceedings in respect of a dwelling house subject to a mortgage (Rule 6);
- (c) to revise the provisions relating to costs (Rules 7 to 24);
- (d) to increase the trial jurisdiction of registrars to £1000 (Rule 25); and
- (e) to give effect to the provisions of Part V of the Matrimonial and Family Proceedings Act 1984 relating to the distribution and transfer of family business and family proceedings (Rules 26 to 28).

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