

1975 No. 911 (L.10)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (Amendment No. 2) 1975

<i>Made</i> - - - -	27th May 1975
<i>Laid before Parliament</i>	6th June 1975
<i>Coming into Operation</i>	1st July 1975

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under subsection (4) of section 99 of the Supreme Court of Judicature (Consolidation) Act 1925(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby, with the concurrence of the Treasury, so far as is required by subsection (2) of that section, exercise those powers and all other powers enabling us in that behalf as follows:—

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 2) 1975 and shall come into operation on 1st July 1975.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(b), as amended (c), and Appendix B means Appendix B to those Rules.

(3) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

2. In Order 5, rule 2, paragraph (d) and the words from “In this rule” to “condition” shall be omitted and paragraph (e) shall stand as paragraph (d).

3. In Order 8, rule 3(4), there shall be inserted at the end the words “or, in an Admiralty matter, in the Admiralty registry.”

4. In Order 12, rule 8(2), for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs:—

- “(a) in an Admiralty action *in rem*, by motion;
 (b) in any other action in the Queen’s Bench Division, by summons;
 (c) in any other action, by summons or motion.”

5. In Order 14—

(a) for paragraph (2) of rule 1 there shall be substituted the following paragraph:—

(a) 1925 c. 49. (b) S.I. 1965/1776 (1965 III, p. 4995).
 (c) The relevant amending instruments are S.I. 1969/1894, 1970/671, 1971/1269, 1955, 1974/1115, 1360 (1969 III, p. 5852; 1970 II, p. 2172; 1971 II, p. 3634; III, p. 5274; 1974 II, pp. 4176, 5230). (d) 1889 c. 63.

“(2) Subject to paragraph (3), this rule applies to every action begun by writ in the Queen’s Bench Division (including the Admiralty Court) or the Chancery Division other than—

- (a) an action which includes a claim by the plaintiff for libel, slander, malicious prosecution, false imprisonment or seduction,
- (b) an action which includes a claim by the plaintiff based on an allegation of fraud, or
- (c) an Admiralty action *in rem*.”;

(b) in rule 5(1) after the words “Queen’s Bench Division” there shall be inserted the words “(including the Admiralty Court)”.

6. In Order 15, rule 13(1)(a), the words “the administration of” shall be omitted.

7. In Order 17, rule 4, for the last paragraph there shall be substituted the following paragraph:—

“Where the action in question is proceeding in the Admiralty Court or the Family Division, references in this rule to a master shall be construed as references to the Admiralty registrar or to a registrar of that Division.”

8. In Order 24, rule 7A(7), the words from “(including” to “condition)” shall be omitted.

9. In Order 30, rule 4(4), after the word “master” there shall be inserted the words “the Admiralty registrar”.

10. Order 32, rule 14, shall be amended as follows:—

(1) In paragraph (1) after the words “any party” there shall be inserted the words “, as provided by paragraph (3).”.

(2) After paragraph (1) there shall be inserted the following paragraphs:—

“(2) Rule 12 of this Order shall apply to a master of the Chancery Division as it applies to a master of the Queen’s Bench Division.

(3) A party may require an adjournment to the judge only—

- (a) on the pronouncement of the master’s order, or
- (b) within such time as the master may allow at the request of that party on the pronouncement of the order, or
- (c) if the order has not already been entered, within 7 days after the pronouncement of the order,

and if no request for an adjournment to the judge is so made, a master’s order may be drawn up and entered notwithstanding any subsequent request for an adjournment.”

(3) Paragraphs (2) and (3) shall stand as paragraphs (4) and (5) respectively and in paragraph (5) as so re-numbered for the words from “in chambers” to the end there shall be substituted the words “by a master shall bear his name upon it and not the name of a judge”.

11. In Order 32, rule 15, paragraph (4) shall be omitted and in paragraph (1) the word “and” shall be transferred from the end of sub-paragraph (b) to the end of sub-paragraph (c) and after that sub-paragraph there shall be added the following sub-paragraph:—

“(d) examine any party or witness either orally or on interrogatories.”

12. In Order 42, rule 7(4), the words “not being an order to be acted upon by the Accountant-General” shall be omitted.

13. In Order 59, rule 5(5)(a), for the word “case” there shall be substituted the words “cause or matter.”

14. The following paragraph shall be inserted in Order 62, rule 32, after paragraph (1):—

“(1A) On any taxation completed on or after 1st July 1975 the total of the amounts allowed in respect of the items mentioned in Appendix 2 to this Order, other than items 26 and 27, shall be increased by 35 per centum.”

15. Appendix 3 to Order 62 shall be amended as follows:—

(1) In the heading the words from “(*In this Appendix*” to “*brackets*)” shall be omitted.

(2) Every amount shown in italics and brackets shall appear in Roman type without brackets and the equivalent sum in pounds, shillings and pence shall be omitted.

(3) In Part I—

(a) in paragraph 1 for the words “26th May 1970” there shall be substituted the words “1st July 1975”;

(b) in that part of the scale headed Basic Costs which relates to cases in which not less than £650 is recovered, for the figures “10·25”, “16·00” and “21·00” there shall be substituted the figures “13·85”, “20·40” and “26·00” respectively;

(c) in the part of the scale headed Additional Costs, for the figures set out in column (ii) there shall be substituted the figures set out in the second column of the following table opposite the items to which they relate:—

<i>Item</i>	<i>Figures to be substituted</i>
(1)	2·05
(2)	7·75
(3)	2·05
(4)(a)	11·15
(b)	17·20
(5)	3·40
(6)	3·40
(7)	2·05
(8)(a)	5·15
(b)	3·70
(c)	2·05
(9)	4·35
each additional defendant	1·35
(10)	0·15

(4) In Part III, item 3 shall be omitted and for the figures set out against the other items there shall be substituted the figures set out in the second column of the following table opposite the items to which they relate:—

<i>Item</i>	<i>Figures to be substituted</i>
1	2·15
2	9·45

	<i>if no affidavit used</i>	<i>if affidavit used</i>
4(a)(i)	2·05	4·50
(ii)	3·40	6·15
(b) not less than £5 but not more than £10 recovered		2·75
more than £10 recovered		9·20
additional costs		3·45
5 basic costs		12·05
additional costs		3·45
6 basic costs		3·45
additional costs		0·55
7		7·40

16. In Order 75—

(1) in the definition of “limitation action” in rule 1(2) for “1970” there shall be substituted “1971”;

(2) rule 5 shall be amended as follows:—

(a) in paragraph (4) for the words “and (9)” there shall be substituted the words “(9) and (11)”;

(b) in paragraph (5) after the word “court” there shall be inserted the words “or where notice has been given under paragraph (11)”;

(c) in paragraph (9) for the word “annexed” there shall be substituted the word “exhibited”;

(d) the following paragraph shall be added after paragraph (10):—

“(11) Where, by any convention or treaty, the United Kingdom has undertaken to minimise the possibility of arrest of ships of another State, no application shall be made for the issue of a warrant of arrest in an action *in rem* against a ship owned by that State until notice in Form No. 15 in Appendix B has been served on a consular officer at the consular office of that State in London or the port at which it is intended to cause the ship to be arrested.

In a case to which this paragraph applies the affidavit required by paragraph (4) shall state that the notice required by this paragraph has been served and a copy of the notice shall be exhibited to the affidavit.”;

(3) in rule 8(3) for the words from “then, if the plaintiff” to “effected by the marshal, he” there shall be substituted the words “the plaintiff may request service of the writ to be effected by the marshal if, but only if, a warrant of arrest has been issued for service against the property or the property is under arrest, and in that case the plaintiff”.

17. In Order 93, rule 10(2), after sub-paragraph (m) there shall be inserted the following sub-paragraph:—

“(n) section 86 of the Social Security Act 1973(a).

18. Order 103 shall be amended as follows:—

(1) Rule 1 shall stand as paragraph (1) of that rule and at the end there shall be added the following paragraph:—

“(2) References in this Order to an order under section 24 of the Act include references to an order under that section on an application made by virtue of section 25 of the Act.”.

(2) In rule 3(1) for the words from “once in a newspaper” to the end there shall be substituted the words “and once in a newspaper circulating throughout the United Kingdom”.

(3) In rule 3(2) for the words “the two next following” there shall be substituted the words “two successive”.

(4) In rule 3(3)—

(a) for sub-paragraph (a) there shall be substituted the following sub-paragraphs:—

“(a) the section of the Act under which the petition is to be presented;

(b) the object of the petition;

(c) the number, the name of the grantee and of the patentee, if different, and the title of the patent in question;”;

(b) sub-paragraphs (b), (c) and (d) shall stand as sub-paragraphs (d), (e) and (f) respectively, and in sub-paragraph (e) as so re-lettered for the words “14 days” there shall be substituted the words “7 days”.

(5) In rule 4—

(a) for paragraph (1) there shall be substituted the following paragraph:—

“(1) A petition under section 23 of the Act must be presented after the publication of all the advertisements required by rule 3 but within 8 weeks from the date on which the first of those advertisements is published.”;

(b) for paragraph (6) there shall be substituted the following paragraph:—

“(6) At the time when the petition is presented the petitioner must serve on the Treasury Solicitor 3 copies of the petition and of every affidavit accompanying it under paragraph (5).”

(6) In rule 5(1) for the words “14 days” there shall be substituted the words “7 days”, and for the words “the solicitor to the Board of Trade” there shall be substituted the words “3 copies on the Treasury Solicitor”.

(7) In rule 6(1)—

(a) sub-paragraph (a) shall be omitted and sub-paragraphs (b), (c) and (d) shall stand as sub-paragraphs (a), (b) and (c) respectively;

(b) in sub-paragraph (a) as so re-lettered for the words “lodge in the said Office two copies of” there shall be substituted the word “serve”;

(c) in sub-paragraph (b) as so re-lettered after the words “in which the evidence” there shall be inserted the words “(including any accounts of expenditure and receipts relating to the petition)”.

(8) In rule 7—

(a) for paragraphs (1) to (3) there shall be substituted the following paragraphs:—

“(1) Where directions are given under rule 6(1)(a) for the service of particulars of objections to a petition under section 23 of the Act, the person opposing the petition must serve one copy of the particulars on the petitioner and 3 copies on the Treasury Solicitor.

(2) The petitioner and every person by whom notice has been served under rule 5(1) shall serve on the Treasury Solicitor 3 copies of any affidavit, and as far as practicable any exhibits thereto on which he intends to rely at the hearing of the petition.

(3) On receiving notice in that behalf, the petitioner must give to the Treasury Solicitor or a person deputed by him for the purpose reasonable facilities for inspecting and taking extracts from the books of account by which the petitioner proposes to verify the accounts mentioned in rule 6(1)(b) or from which those accounts have been derived.

(4) Subject to rule 14, a person who fails to comply with paragraph (1) or the directions referred to therein shall be deemed to have abandoned his opposition to the petition.”;

(b) paragraph (4) shall stand as paragraph (5) and paragraph (5) shall be omitted.

(9) In rule 8(1)—

(a) for the words “14 days” there shall be substituted the words “7 days”;

(b) for the words “solicitor to the Board of Trade” there shall be substituted the words “Treasury Solicitor”;

(c) after the words “Chancery Registrars’ Office” there shall be added the words “together with a bundle consisting of one copy of each of the documents to be used at the hearing arranged in the proper chronological order on numbered pages”.

(10) In rule 9(1) the words from “and to such” to the end shall be omitted.

(11) In rule 10(1) the words from “or such” to “section 25 of the Act” shall be omitted and for the words “solicitor to the Board of Trade” there shall be substituted the words “Treasury Solicitor”.

(12) In rule 10(2) for the words from “and serve” to the end there shall be substituted the words “an affidavit of the facts on which the plaintiff relies, and serve 3 copies on the Treasury Solicitor”.

(13) In rule 11(3)—

(a) for sub-paragraph (a) there shall be substituted the following sub-paragraphs:—

“(a) the section of the Act under which the originating summons has been issued;

(b) the object of the originating summons;

(c) the number, the name of the grantee and of the patentee, if different, and the title of the patent in question;”;

(b) sub-paragraphs (b), (c) and (d) shall stand as sub-paragraphs (d), (e) and (f) respectively.

(14) In rule 11(4) for the words “the two next following” there shall be substituted the words “two successive”.

(15) In rule 12(1) for the words “the solicitor to the Board of Trade” there shall be substituted the words “3 copies on the Treasury Solicitor”.

(16) In rule 16—

- (a) in paragraph (1) the words from “or an application” to “thereof” shall be omitted;
- (b) in paragraphs (2) and (5) for the words “solicitor to the Board of Trade”, in each place where they appear, there shall be substituted the words “Treasury Solicitor”;
- (c) in paragraph (2), for the words “two copies” there shall be substituted the words “3 copies”.

(17) The following paragraph shall be inserted in rule 26 after paragraph (3):—

“(3A) Order 38, rule 36, shall not apply to an action or proceedings in which a summons for directions is required to be taken out under this rule and, without prejudice to its powers under paragraph (2), the court hearing the summons may exercise the powers conferred by Order 38, rule 38, as if the summons were an application under the said rule 36.”

19. In Order 107, rule 4, there shall be added after paragraph (6):—

“(7) In relation to a judgment or order given or made in the Admiralty Court any reference in this rule to a master shall be construed as a reference to the Admiralty registrar and any reference to the head clerk of the summons and order department of the Central Office shall be construed as a reference to the chief clerk of the Admiralty registry.”

20.—(1) Order 111 shall be amended as follows:—

(a) For the title to the Order, there shall be substituted the words “THE SOCIAL SECURITY ACT 1975”.

(b) In rule 1—

- (i) for the words “Minister of Pensions and National Insurance (in this Order referred to as “the Minister”)” there shall be substituted the words “Secretary of State” and for the words “by the Minister” there shall be substituted the words “by the Secretary of State”;
- (ii) for the words “National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965” there shall be substituted the words “Social Security Act 1975(a)”;
- (iii) for the words “either of those Acts” there shall be substituted the words “the Act”.

(c) In rule 2—

- (i) for the words from “section 65” to “National Insurance (Industrial Injuries) Act 1965” there shall be substituted the words “section 94 or 114(5) of the Social Security Act 1975”;
- (ii) for the word “Minister”, wherever it appears (including the shoulder heading) there shall be substituted the words “Secretary of State”;
- (iii) the words “in question” shall be omitted.

(d) In rules 3, 4 and 5—

- (i) for the words “section 65, 73(4) or 35”, wherever they appear, there shall be substituted the words “section 94 or 114(5)”;

(ii) for the words “the Minister”, wherever they appear, there shall be substituted the words “the Secretary of State”.

(2) In the Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 for the title of Order 111 there shall be substituted the title “The Social Security Act 1975”.

21. In Appendix B after Form 14 there shall be added the following form:—

“No. 15

Notice to Consular Officer of Intention to
Apply for Warrant of Arrest
(0.75 r.5(11))

[Heading as in action]

To the Consular Officer of *[name of State]*
The *[state nationality]* ship *[name]*

TAKE NOTICE that as solicitors for *[name or description of plaintiff as in writ]* we did on the day of 19 *[or we intend to]* institute proceedings in the Queen’s Bench Division, Admiralty Court, of the High Court of Justice against the above-named ship in respect of a claim by *[name or description of plaintiff]* for *[state nature of claim as indorsed on writ]* and that we intend to apply to the Admiralty Court to arrest the said ship.

Dated this day of 19

(Signed)

Solicitors for the Plaintiff”

22. Nothing in rule 15(3) of these Rules shall apply to an action begun before 1st July 1975 and nothing in rule 20 shall apply in relation to any appeal under section 65 of the National Insurance Act 1965(a) in so far as that section continues in force.

Dated 23rd May 1975.

Elwyn-Jones, C.
Widgery, C. J.
Denning, M. R.
George Baker, P.
J. A. Plowman, V-C.
Eustace Roskill, L. J.
Nigel Bridge, J.
Ralph Cusack, J.
P. J. Millett.
John Blofeld.
H. Montgomery-Campbell.
R. K. Denby.

We concur,
Dated 27th May 1975.

M. Cocks,
J. Dormand,
Two of the Lords Commissioners
of Her Majesty’s Treasury.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court so as—

- (1) to apply the provisions of Order 14 to Admiralty actions *in personam*, to confine service of a writ by the Admiralty Marshal to cases in which a warrant of arrest has been issued against the property, and to make a number of other changes in the rules relating to Admiralty proceedings (rules 3, 4, 5, 7, 9, 13, 16(1), (3) and 19);
- (2) to enable representation orders to be made in contentious probate actions (rule 6);
- (3) to enlarge the powers of the Chancery Masters and to prescribe a time limit for requesting an adjournment from the Master to a Judge (rules 10, 11 and 12);
- (4) to provide for a percentage addition to the amount allowed on a taxation of costs in respect of the non-discretionary items in Appendix 2 to Order 62 and the fixed costs in Appendix 3 (rules 14 and 15);
- (5) to minimise the possibility of the arrest of a vessel of another State where the United Kingdom is bound by treaty to do so (rules 16(2) and 21);
- (6) to provide for appeals from and references to the Occupational Pensions Board to be heard by a single judge of the Chancery Division and to make amendments in Order 111 consequential on recent social security legislation (rules 17 and 20);
- (7) to bring the rules relating to proceedings for the extension or infringement of patents into line with current practice and to clarify the powers of the court in regard to the admission of expert evidence in patent proceedings (rule 18);
- (8) to delete various obsolete or redundant provisions (rules 2 and 8).

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