

## 1970 No. 671 (L.14)

## SUPREME COURT OF JUDICATURE, ENGLAND

## PROCEDURE

## The Rules of the Supreme Court (Amendment) 1970

<i>Made</i> - - - -	30th April 1970
<i>Laid before Parliament</i>	11th May 1970
<i>Coming into Operation</i>	26th May 1970

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) 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 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) 1970 and shall come into operation on 26th May 1970.

(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 a Form referred to by number means the Form so numbered in Appendix A 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 47, rule 4, for the words “£40” there shall be substituted the words “£100”.

3. The following Appendix shall be substituted for Appendix 3 to Order 62:—

## “APPENDIX 3

## FIXED COSTS

*(In this Appendix decimal equivalents are shown in italics and brackets)*

## PART I

*Costs on recovery of a liquidated sum without trial*

1. The scale of costs following paragraph 2 of this Part of this Appendix shall apply in relation to the following cases if the writ of summons therein was issued on or after 26th May 1970 and was indorsed in accordance with Order 6, rule 2(1)(b), with a claim for a debt or liquidated demand only of £100 or upwards, that is to say—

- 
- (a) 1925 c. 49. (b) S.I. 1965/1776 (1965 III, p. 4995).  
 (c) The relevant amending instrument is S.I. 1968/1244 (1968 II, p. 3360).  
 (d) 1889 c. 63.

- (a) cases in which the defendant pays the amount claimed or a sum of not less than £100 within the time and in the manner required by the indorsement of the writ;
- (b) cases in which the plaintiff obtains judgment in default of appearance under Order 13, rule 1, or under that rule by virtue of Order 83, rule 4, or Order 84, rule 3, or judgment in default of defence under Order 19, rule 2, or under that rule by virtue of Order 83, rule 4, or Order 84, rule 3, being in any case judgment for a sum of £100 or upwards;
- (c) cases in which the plaintiff obtains judgment under Order 14, for a sum of £100 or upwards, either unconditionally or unless that sum is paid into court or to the plaintiff's solicitors.

2. In every case to which the said scale applies there shall be added to the basic costs set out in the said scale the fee paid on the issue of the writ.

#### SCALE OF COSTS

##### A. Basic costs

*Amount to be allowed in cases under the following sub-paragraphs of paragraph 1 of this Appendix*

	(a)		(b)		(c)	
	£.	s. (£. p)	£.	s. (£. p)	£.	s. (£. p)
If the amount recovered is:—						
not less than £100 but less than £500 ... ..	7	0 (7-00)	8	10 (8-50)	11	0 (11-00)
not less than £500 ... ..	10	5 (10-25)	16	0 (16-00)	21	0 (21-00)

##### B. Additional costs

*Amount to be allowed where the amount recovered is—*

	(i)		(ii)	
	<i>not less than £100 but less than £500</i>		<i>not less than £500</i>	
	£.	s. (£. p)	£.	s. (£. p)
(1) Where there is more than one defendant, in respect of each additional defendant served	1	0 (1-00)	1	10 (1-50)
(2) Where substituted service is ordered and effected, in respect of each defendant served	2	0 (2-00)	6	5 (6-25)
(3) Where the plaintiff's solicitor has no place of business within 5 miles of the Royal Courts of Justice or his nearest District Registry, or where he has a place of business within that area but any defendant is served outside that area ... ..	10	0 (10-00)	1	10 (1-50)
(4) Where service out of the jurisdiction is ordered and effected, in the case of service—				
(a) in Scotland, Northern Ireland, the Isle of Man or the Channel Islands ...	6	0 (6-00)	8	10 (8-50)
(b) in any other place out of the jurisdiction	9	0 (9-00)	13	0 (13-00)
(5) In the case of judgment in default of defence or judgment under Order 14, where notice of appearance is not given on the day				



(2) Where the plaintiff is also entitled under the judgment to damages to be assessed, or where the plaintiff claims any relief of the nature specified in Order 88, rule 1, this Part of this Appendix shall not apply.

2. The costs to be allowed under this Part of this Appendix shall be the costs which would be allowed under Part I (together with the fee paid on the writ) if judgment had been obtained in the same circumstances, that is to say, in default of appearance or defence or under Order 14, but the writ has been indorsed with a claim for a debt or liquidated demand only of £100 or upwards and judgment for not less than £100 but less than £500 had been obtained.

### PART III

#### Miscellaneous

1. Where a plaintiff or defendant signs judgment for costs under rule 10, there shall be allowed—

Costs of the judgment ... .. £1. 12s. (£1·60)

2. Where a certificate of a judgment or decree is registered in the High Court in the Register for Irish Judgments or the Register for Scottish Judgments under the Judgments Extension Act 1868 (a), within 12 months of the date of the judgment and without an order, there shall be allowed—

Costs of registration ... .. £7. 0s. (£7·00)

3. Where the Court orders a judgment or order of an inferior court to be removed into the High Court for enforcement, there shall be allowed in the case of a judgment or order—

(a) of the Mayor's and City of London Court ... .. £2. 10s. (£2·50)

(b) of the Salford Hundred Court, the Liverpool Court  
of Passage or any other court ... .. £5. 5s. (£5·25)

4. Where, upon the application of any person who has obtained a judgment or order against a debtor for the recovery or payment of money, a garnishee order, is made under Order 49, rule 1, against a garnishee attaching debts due or accruing due from him to the debtor, the following costs shall be allowed—

(a) to the garnishee, to be deducted by him from any debt due by him as aforesaid before payment to the applicant—

	<i>If no affidavit used</i>		<i>If affidavit used</i>	
	£.	s. (£. p)	£.	s. (£. p)
(i) where the garnishee resides within 5 miles of the court office from which the garnishee order was obtained ...	1	10 (1·50)	3	5 (3·25)
(ii) where the garnishee does not so reside	2	10 (2·50)	4	10 (4·50)

(b) to the applicant, to be retained, unless the Court otherwise orders, out of the money recovered by him under the garnishee order and in priority to the amount of the debt owing to him under the judgment or order—

<i>Basic costs</i>		£.	s.	(£.	p
If the amount recovered by the applicant from the garnishee is—					
less than £5	... ..			Nil	
not less than £5 but not more than £10	... ..	2	5	(2·2	
more than £10	... ..	7	0	(7·0	
<i>Additional costs</i>					
Where the garnishee fails to attend the hearing of the application and an affidavit of service is required ... ..					
		2	10	(2·5	
5. Where a charging order is made—					
(a) in respect of any securities, under Order 50, rule 2; or					
(b) in respect of any partnership property or profits, under section 23 of the Partnership Act 1890(a); or					
(c) in respect of land, under section 35 of the Administration of Justice Act 1956(b) there shall be allowed—					
		£.	s.	(£.	p
Basic costs	... ..	9	0	(9·00	
Additional costs where an affidavit of service is required	... ..	2	10	(2·50	
6. Where leave is given under Order 45, rule 3, to enforce a judgment or order for the giving of possession of land by writ of possession, if costs are allowed on that judgment or order there shall be allowed the following costs, which shall be added to the judgment or order—					
		£.	s.	(£.	p
Basic costs	... ..	2	10	(2·50	
Where notice of the proceedings has been given to more than one person, in respect of each additional person	... ..	8		(0·40	
7. Where a writ of execution within the meaning of Order 46, rule 1, is issued against any party, there shall be allowed—					
		£.	s.	(£.	p
Costs of issuing execution	... ..	3	10	(3·50	
4. In Form 53 for the words “the sums of £            and £            for costs of execution” there shall be substituted the words “the sum[s] of £            †[a £            for costs of execution]” and in the note for the words “£40” there shall be substituted the words “£100”.					

Dated 30th April 1970.

*Gardiner, C.*  
*Parker of Waddington, C.J.*  
*Denning, M.R.*  
*J. E. S. Simon, P.*  
*Cyril Salmon, L.J.*  
*Denys B. Buckley, J.*  
*John R. Willis, J.*  
*Nigel Bridge, J.*  
*E. S. Fay.*  
*Oliver Lodge.*  
*W. O. Carter.*  
*Arthur J. Driver.*

(a) 1890 c. 39.

(b) 1956 c. 46.

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules are mainly consequential on the amendments made by section 4 of the Administration of Justice Act 1969 (C.58) in the provisions of section 47 of the County Courts Act 1959 relating to the costs of actions brought in the High Court which could have been brought in a county court. Rule 2 prevents a plaintiff recovering any costs of execution where he issues a writ of *feri facias* to enforce a judgment without costs for less than £100, instead of £40 as at present. Rule 3 substitutes new items of fixed costs for those set out in Appendix 3 to Order 62. Rule 4 makes minor drafting and consequential amendments in the form of writ of *feri facias*.

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