

## 1975 No. 128 (L. 2)

## SUPREME COURT OF JUDICATURE, ENGLAND

## PROCEDURE

## The Rules of the Supreme Court (Amendment) 1975

*Made* - - - - - *5th February 1975*  
*Laid before Parliament* *7th February 1975*  
*Coming into Operation in accordance with Rule 8*

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) 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).

(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 the title of Order 106 in the Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 for “1957” there shall be substituted “1974”.

3. Order 15, rule 18, and Order 93, rule 13, shall be revoked.

4. In Order 99, rule 4, the words “any permission of the court under section 2 of the Act and” shall be omitted and for the words “section 1, 4 or 4A” there shall be substituted the words “section 1 or 4”.

5. Order 104 shall be amended as follows:—

(1) In rule 21(1), after the words “that Act” there shall be added the words

(a) 1925 c. 49.

(b) S.I. 1965/1776 (1965 III, p. 4995).

(c) The relevant amending instruments are S.I. 1966/1514, 1971/1955, 1974/295, 1115 (1966 III, p. 4196; 1971 III, p. 5274; 1974 I, p. 1034; II, p. 4176).

(d) 1889 c. 63.

“and in relation to a country or territory with respect to which an Order in Council has been made under section 40 of the Act of 1972 any reference in this Part of this Order to a provision of that Act is a reference to that provision as applied by the Order in Council”.

(2) After rule 27 there shall be added the following rule:—

*“Application of Part VI to the Republic of Ireland*

28.—(1) In relation to the Republic of Ireland rules 21 to 27 shall have effect subject to the provisions of this rule.

(2) The following paragraphs shall be added to rule 22:—

“(f) a statement as to whether or not the payer appeared in the proceedings in which the maintenance order was made and, if he did not, the original or a copy certified by the applicant or his solicitor to be a true copy of a document which establishes that notice of the institution of the proceedings was served on the payer;

(g) a document which establishes that notice of the order was sent to the payer; and

(h) if the payee received legal aid in the proceedings in which the order was made, a copy certified by the applicant or his solicitor to be a true copy of the legal aid certificate.”

(3) For rule 23 there shall be substituted the following rule:—

*“Certification of evidence given on application for variation or revocation*

23. Where an application is made to the High Court for the variation or revocation of an order to which section 5 of the Act of 1972 applies, the certified copy of the application and the documents required by subsection (2) of that section to set out or summarise the evidence in support of the application shall be authenticated by a certificate signed by the registrar.”

(4) Rule 24 shall not apply.

(5) For rule 26 there shall be substituted the following rule:—

*“Notification of variation or revocation*

26. Where the High Court makes an order varying or revoking a maintenance order to which section 5 of the Act of 1972 applies, the registrar shall send a certified copy of the order and a statement as to the service on the payer on the documents mentioned in subsection (2) of that section to the court in the Republic of Ireland by which the maintenance order is being enforced.”

(6) Rule 27 shall not apply.”

6. Order 106 shall be amended as follows:—

(1) In the title for “1957” there shall be substituted “1974”.

(2) For rule 1 there shall be substituted the following rule:—

*“Interpretation*

1.—(1) In this Order—

“the Act” means the Solicitors Act 1974(a) and a section referred to

by number means the section so numbered in that Act;

“appeal” means an appeal to the High Court against an order made by the Tribunal on an application or complaint under the Act.

(2) Expressions used in this Order which are used in the Act have the same meanings in this Order as in the Act.”

(3) Rule 6 shall be amended as follows:—

(a) For paragraph (3) there shall be substituted the following paragraph:—

“(3) Where an order has been made under paragraph 9(4), 9(5) or 10 of the said Schedule an application for an order under paragraph 9(8) or 9(10) may be made by summons in the proceedings in which the first mentioned order was made.”

(b) Paragraph (4) shall be omitted.

(4) In rule 7 for paragraphs (a) to (f) there shall be substituted the following paragraphs:—

“(a) if the application is for an order under paragraph 5 thereof, the solicitor or, as the case may be, every member of the firm, on whose behalf the money in respect of which the order is sought is held;

(b) if the application is for an order under paragraph 6(4) or 9(8) thereof, the Law Society;

(c) if the application is for an order under paragraph 8, 9(4) or 9(5) thereof, the person against whom the order is sought;

(d) if the application is for an order under paragraph 9(10) thereof, the person from whom the Law Society obtained possession of the documents by virtue of paragraph 9 or 10;

(e) if the application is for an order under paragraph 10 thereof for the re-direction of postal packets addressed to a solicitor or his firm, the solicitor or, as the case may be, every member of the firm;

(f) if the application is for an order under paragraph 11 thereof, the solicitor or personal representative in substitution for whom the appointment of a new trustee is sought and, if he is a co-trustee, the other trustee or trustees.”

(5) In rules 8 and 10(2) for the words “paragraph 7” wherever they appear there shall be substituted the words “paragraph 5”.

(6) In rule 12 for paragraph (4) there shall be substituted the following paragraph:—

“(4) Order 55, rule 4(4), shall not apply and the said period of 14 days shall begin with the day on which a statement of the Tribunal’s findings was filed pursuant to section 48(1).”

(7) In rules 12(2), 13(1)(b) and (c), 14, 15 and 17 for the words “disciplinary committee”, wherever they appear, there shall be substituted the word “Tribunal”.

(8) In rule 13(1)(c) for the words “the committee” there shall be substituted the words “the Tribunal”.

(9) In rule 13(1)(a) for the words “prefaced by the statement of the disciplinary committee’s findings required by section 49 of the Act” there shall be substituted the words “together with the statement of the Tribunal’s findings required by section 48(1)”.

(10) In rule 14 the words from “or, in the case of” to “an objector” shall be omitted.

7. Notwithstanding anything in rule 6 of the Rules of the Supreme Court (Amendment No. 2) 1974(a) the provisions of Order 98 in force immediately before the coming into operation of those Rules shall apply in relation to an audit under Part X of the Local Government Act 1933(b), whether or not it was completed before 1st April 1974.

8.—(1) Rule 5 of these Rules shall come into operation on 1st April 1975.

(2) Rules 2 and 6 of these Rules shall come into operation on the day appointed by order made under section 90(2) of the Solicitors Act 1974 for the coming into force of that Act and shall apply with such modifications as may be necessary for giving effect to any savings made by that order.

(3) The remaining provisions of these Rules shall come into operation on 1st March 1975.

Dated 5th February 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.*

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(a) S.I. 1974/1115 (1974 II, p. 4176).

(b) 1933 c. 51.

## EXPLANATORY NOTE

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

These Rules make modifications in Order 104 of the Rules of the Supreme Court 1965 necessitated by the extension of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18) to the Republic of Ireland by the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974 (S.I. 1974/2140) (rule 5). They also amend Order 106 in consequence of the alterations made by the Solicitors (Amendment) Act 1974 (c. 26) in the Solicitors Act 1957 (c. 27) and the replacement of those Acts by the Solicitors Act 1974 (c. 47) (rules 2 and 6). Two rules relating to obsolete Acts are revoked (rule 3) and minor amendments are made in the rules relating to proceedings under the Inheritance (Family Provision) Act 1938 (c. 45) as amended (rule 4) and in the transitional provisions of the Rules of the Supreme Court (Amendment No. 2) 1974 (rule 7).

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