
 STATUTORY INSTRUMENTS

1977 No. 2194 (L. 33)

 COUNTY COURTS
 PROCEDURE

The County Court (Amendment No. 4) Rules 1977

Made - - - - 20th December 1977

Coming into Operation
 (except as to Rules

6(2) and 15) - - - 1st February 1978

1.—(1) These Rules may be cited as the County Court (Amendment No. 4) Rules 1977.

(2) In these Rules, unless the context otherwise requires, an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(a) as amended(b); Appendix A means Appendix A to those Rules, and a form referred to by number means the form so numbered in Appendix A.

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

2. In Order 1, Rule 4, shall be revoked.

3. Order 5, Rule 34A, shall be amended as follows:—

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

“(3) An action purporting to have been commenced against a person shall be treated, if he was dead at its commencement, as having been commenced against his estate in accordance with paragraph (1), whether or not a grant of probate or administration was made before its commencement.”

(2) In paragraph (4)(a) the words “since the commencement of the action” shall be omitted.

4. In Order 7, the following Rule shall be inserted after Rule 3:—

“4. Where the plaintiff claims under section 51A of the Act an injunction or declaration in respect of, or relating to, any land, or the possession, occupation, use or enjoyment of any land, the particulars shall contain the information which would be required under paragraph (a) and (b) of the last foregoing rule if the action were for recovery of the relevant land.”

Injunction
 or
 declaration
 relating
 to land.

(a) S.R. & O. 1936/626 (1936 I, p. 282).

(b) The relevant amending instruments are S.R. & O. 1938/1475, S.I. 1950/1231, 1953/1728, 1954/1394, 1955/1799, 1959/1251, 1970/673, 1971/2152, 1973/1412, 1974/1138, 1354, 1975/1345, 1977/604 (1938 I, p. 990; 1950 I, p. 400; 1953 I, p. 404; 1954 I, p. 526; 1955 I, p. 530; 1959 I, p. 795; 1970 II, p. 2180; 1971 III, p. 6305; 1973 II, p. 4335; 1974 II, pp. 4361, 5184; 1975 II, p. 4570; 1977 I, p. 1911).

(c) 1889 c. 63.

5. For Order 19, Rule 1, there shall be substituted the following rule:—

Reference
under s. 92
of Act

“1.—(1) In this Rule, unless the context otherwise requires, “reference” means the reference of proceedings to arbitration under section 92 of the Act, “order” means an order referring proceedings to arbitration under that section and “outside arbitrator” means an arbitrator other than the judge or registrar.

(2) A reference shall be made only on the application of a party to the proceedings sought to be referred.

(3) Unless the court otherwise directs, an application by a party to any proceedings for a reference may be made—

(a) in the case of a plaintiff, by notice incorporated in his particulars of claim or praecipe;

(b) in the case of a defendant, by notice incorporated in any defence or counterclaim of his;

(c) in any case, on notice under Order 13, Rule 1.

(4) Where in any proceedings in which the sum claimed or amount involved does not exceed the sum mentioned in Order 23, Rule 1(1)(a), an application for a reference is made in accordance with paragraph (3)(a) or (b), then, unless the application is for a reference to an outside arbitrator, the proceedings shall be referred to arbitration by the registrar.

Form 111

(5) Where, on the application of a party, any proceedings have been referred to arbitration under paragraph (4), any other party to the proceedings may, within 14 clear days after the service on him of the summons (if he is a defendant) or the defence or counterclaim (if he is the plaintiff) apply to the registrar to rescind the reference, and the registrar shall, if he is satisfied that a charge of fraud against a party is in issue in the proceedings or that for any other reason the proceedings are unsuitable to be referred to arbitration, rescind the reference accordingly.

(6) Where an application for a reference is made under paragraph (2) and the proceedings are not referred to arbitration under paragraph (4), the following provisions shall apply:—

Form 111A

(a) Subject to sub-paragraphs (b) to (d), an order may be made by the registrar.

(b) Where the sum claimed or amount involved in the proceedings exceeds the sum mentioned in Order 23, Rule 1(1)(a), any party to the proceedings may, at any time before the application is heard, request the registrar in writing to refer the application to the judge and thereupon the registrar shall fix a day for the hearing of the application by the judge and give notice thereof to the parties.

(c) An order shall not be made referring proceedings to the judge except by or with the leave of the judge.

(d) An order shall not be made referring proceedings to an outside arbitrator except with the consent of the parties.

(e) If the court is satisfied that a charge of fraud against a party is in issue in the proceedings, an order shall not be made except with the consent of that party.

(7) If it appears to the court at any time after a reference has been made, whether by order or otherwise, that there are any other matters within the jurisdiction of the court in dispute between the parties, the court may order them also to be referred to arbitration.

(8) Where proceedings are referred to an outside arbitrator, the order shall be served on the arbitrator as well as on the parties, but it shall not, unless the court directs, be served on anyone until each party has paid into court such sum as the registrar may determine in respect of the arbitrator's remuneration.

(9) Subject to any directions of the court as to the conduct of the reference, Rule 2(3)(a) to (e) of this Order shall apply, with the necessary modifications, in relation to a reference or order as they apply in relation to an order under section 93 of the Act.

(10) Any proceedings referred to arbitration under this Rule shall be referred on such terms as the court thinks fit, but any party who objects to any term may, within 10 days after being notified of the term, apply to the court to vary it."

6.—(1) Order 22 shall be revoked.

(2) After Order 21 there shall be inserted the following Order:—

“Order 22

ADMINISTRATION ORDERS

1. Any power conferred on the court by Part VII of the Act, section 4 of the Attachment of Earnings Act 1971 or this Order 1971 c. 32. may be exercised by the registrar.

2.—(1) A debtor who desires to obtain an administration order under Part VII of the Act shall file in the court office a request in Form 413.

Form 413

(2) Where on his examination under Order 25, Rule 2, or otherwise, a debtor furnishes to the court on oath a list of his creditors and the amounts which he owes to them respectively and sufficient particulars of his resources and needs, the court may proceed as if the debtor had filed a request in Form 413.

(3) Where a debtor is ordered to furnish a list under section 4(1)(b) of the said Act 1971, the list shall be in Form 414 and, unless otherwise directed, shall be filed within 14 days after the making of the order. Form 414

3. The statements in Form 413 or 414 shall be verified by the debtor on oath.

4.—(1) The court to which a request is made for an administration order may give notice to the debtor to show cause why a certificate of the judgment obtained against him in that court should not be forwarded to another court pursuant to section 148(2) of the Act.

(2) If the court causes such a certificate to be sent to another court, the registrar of the first-mentioned court shall send notice to the debtor that the certificate has been sent.

5. On the filing of a request in Form 413 or a list in Form 414 or the receipt of a certificate of judgment forwarded pursuant to section 148 (2) of the Act, the registrar shall appoint a day for consideration of the question whether an administration order should be made and shall give not less than 10 clear days' notice thereof to the debtor and to each creditor mentioned in the list furnished by the debtor.

6.—(1) Any creditor to whom notice has been given under Rule 5 and who objects to any debt included in the list furnished by the debtor shall, not less than 5 clear days before the day of hearing, give notice of his objection, stating the grounds thereof, to the registrar, to the debtor and to the creditor to whose debt he objects.

(2) Except with the leave of the court, no creditor may object to a debt unless he has given notice of his objection under paragraph (1).

7. On the day of hearing—

- (a) any creditor, whether or not he is mentioned in the list furnished by the debtor, may attend and prove his debt or, subject to Rule 6, object to any debt included in such list;
- (b) every debt included in such list shall be taken to be proved unless it is objected to by a creditor or disallowed by the court or required by the court to be supported by evidence;
- (c) any creditor whose debt is required by the court to be supported by evidence shall prove his debt;
- (d) the court may adjourn the proof of any debt and, if it does so, may either adjourn consideration of the question whether an administration order should be made or proceed to determine the question, in which case, if an administration order is made, the debt, when proved, shall be added to the debts scheduled to the order;
- (e) any creditor whose debt is admitted or proved, and, with the leave of the court, any creditor the proof of whose debt has been adjourned, shall be entitled to be heard and to adduce evidence on the question whether an administration order should be made and, if so, in what terms.

8.—(1) The court may, on making an administration order or at any subsequent time, direct that the order shall be subject to review at such time or at such intervals as the court may specify.

(2) Where the court has directed that an administration order shall be subject to review, the registrar shall give to the debtor and to every creditor who appeared when the order was made not less than 7 clear days' notice of any day appointed for such a review.

Form 415

9. An administration order shall be in Form 415 and the registrar shall send a copy to—

- (a) the debtor.

- (b) every creditor whose name was included in the list furnished by the debtor,
- (c) any other creditor who has proved his debt, and
- (d) every other court in which, to the knowledge of the registrar, judgment has been obtained against the debtor or proceedings are pending in respect of any debt scheduled to the order.

10.—(1) After an administration order has been made, a creditor who has not received notice under Rule 5 and who wishes to object to a debt scheduled to the order, or to the manner in which payment is directed to be made by instalments, shall give notice to the registrar of his objection stating the grounds thereof.

(2) On receipt of such notice the court shall consider the objection and may—

- (a) allow it,
- (b) dismiss it, or
- (c) adjourn it for hearing on notice being given to such persons and on such terms as to security for costs or otherwise as the court thinks fit.

(3) Without prejudice to the generality of paragraph (2), the court may dismiss an objection if it is not satisfied that the creditor gave notice of it within a reasonable time of his becoming aware of the administration order.

11.—(1) Any creditor whose debt is not scheduled to an administration order, and any person who after the date of the order became a creditor of the debtor, shall, if he wishes to prove his debt, send particulars of his claim to the registrar, who shall give notice thereof to the debtor and to every creditor whose debt is so scheduled.

(2) If neither the debtor nor any creditor gives notice to the registrar within 7 days thereafter that he objects to the claim, then, unless it is required by the court to be supported by evidence, the claim shall be taken to be proved.

(3) If the debtor or a creditor gives notice of objection within the said period of 7 days or the court requires the claim to be supported by evidence, the registrar shall fix a day for consideration of the claim and give notice thereof to the debtor, the creditor by whom the claim was made and the creditor, if any, making the objection, and on the hearing the court may either disallow the claim or allow it in whole or in part.

(4) If a claim is taken to be proved under paragraph (2) or allowed under paragraph (3), the debt shall be added to the schedule to the order and a copy of the order shall then be sent to the creditor by whom the claim was made.

12. An application by a creditor under section 20(3) of the Administration of Justice Act 1965 for leave to present or join in a bankruptcy petition shall be made on notice to the debtor in accordance with Order 13, Rule 1, but the court may, if it thinks fit

order that notice be given to any other creditor whose debt is scheduled to the administration order.

13.—(1) The chief clerk or such other officer of the court as the court making an administration order shall from time to time appoint shall have the conduct of the order and shall take all proper steps to enforce the order or to bring to the attention of the court any matter which may make it desirable to review the order.

(2) Without prejudice to section 151 of the Act, any creditor whose debt is scheduled to the order may, with the leave of the court, take proceedings to enforce the order.

(3) The debtor or, with the leave of the court, any such creditor may apply to the court to review the order.

(4) When on a matter being brought to its attention under paragraph (1) the court so directs or the debtor or a creditor applies for the review of an administration order, Rule 8(2) shall apply as if the order were subject to review under that Rule.

1976 c. 60 14.—(1) On the review of an administration order the court, without prejudice to its powers under section 11 of the Insolvency Act 1976, may—

(a) if satisfied that the debtor is unable from any cause to pay any instalment due under the order, suspend the operation of the order for such time and on such terms as it thinks fit;

(b) if satisfied that there has been a material change in any relevant circumstances since the order was made, vary any provision of the order made by virtue of section 148(4) of the Act;

(c) if satisfied that the debtor has failed without reasonable cause to comply with any provision of the order or that it is otherwise just and expedient to do so, revoke the order, either forthwith or on failure to comply with any condition specified by the court; or

(d) make an attachment of earnings order to secure the payments required by the administration order or vary or discharge any such attachment of earnings order already made.

(2) The registrar shall send a copy of any order varying or revoking an administration order to the debtor, to every creditor whose debt is scheduled to the administration order and, if the administration order is revoked, to any other court to which a copy of the administration order was sent pursuant to Rule 9.

15. Where a court which has no bankruptcy jurisdiction makes an order referring to a court which has such jurisdiction the question whether an administration order should be revoked and a receiving order made under section 11 of the Insolvency Act 1976, the registrar of the first-mentioned court shall send a copy of the order, together with all the documents in his custody relating to the proceedings, to the registrar of the court to which the question is referred and shall send notice of the reference to the debtor and

to every creditor whose debt is scheduled to the administration order.

16. On the revocation of an administration order any attachment of earnings order made to secure the payments required by the administration order shall be discharged.

17.—(1) The officer having the conduct of an administration order shall from time to time declare dividends and distribute them among the creditors entitled thereto.

(2) When a dividend is declared, notice shall be sent by the officer to each of the said creditors.

18. All creditors scheduled under section 149(d) of the Act before an administration order is superseded under section 155 of the Act shall rank equally in proportion to the amount of their debts subject to the priority given by the said paragraph (d) to those scheduled as having been creditors before the date of the order, but no payment made to any creditor by way of dividend or otherwise shall be disturbed by reason of any subsequent proof by any other creditor under the said paragraph (d).

19.—(1) A debtor who changes his residence shall forthwith inform the court of his new address.

(2) Where the debtor becomes resident in the district of another court, the court in which the administration order is being conducted may transfer the proceedings to that other court."

7. In Order 23, Rule 1(1)(a), for the words from "by leave" to "parties" there shall be substituted the words "subject to any arrangements made by the judge for the proper distribution of business between himself and the registrar".

8. Order 35 shall be amended as follows:—

(1) In Rule 21(1), for the figure "£20" there shall be substituted the figure "£100".

(2) In Rule 47(1), for the figure "£10" there shall be substituted the figure "£25".

9. The following Rule shall be added to Order 46 after Rule 28:—

RENTCHARGES ACT 1977

"29. Where for the purposes of section 9 of the Rentcharges Act 1977 the sum required to redeem a rentcharge is to be paid into the county court, it shall be paid into the court for the district in which the land affected by the rentcharge or any part thereof is situated."

10. Forms 15, 19 and 27(2) shall be omitted and Form 27(1) shall be renumbered as Form 27.

11. In the title of Form 18A the figure "19" shall be omitted.

12.—(1) Form 111A shall be revoked.

(2) Form 111 shall be re-numbered as Form 111A and shall be amended as follows:—

- (a) For the side-note “Order 19, r.1(1)” there shall be substituted “Order 19, r.1(6)(a)”.
- (b) At the end of the form there shall be added the following paragraph: —
 “If you object to any term of this order, you may apply to the Court within 10 days to vary that term.”

13. The following form shall be inserted in Appendix A after Form 110:—

“Form 111

Order 22,
Rule 1(4)

NOTICE OF REFERENCE TO ARBITRATION
[General Title—Form 1]

TAKE NOTICE that on the application of these proceedings have been referred to the arbitration of the Registrar of this Court on the following terms: —

If you object to any such term, you may apply to the Court within 10 days to vary that term.”

14. In Form 309 for the words “ten pounds” there shall be substituted the figure “£25”.

15. The following forms shall be added to Appendix A after Form 412:—

“Form 413

Order 22,
Rule 2(1)

REQUEST FOR ADMINISTRATION ORDER

In the County Court

Request No.

Plaint No.

BETWEEN

Plaintiff

and

Defendant

I,

of

the above-named defendant, state that a judgment was obtained against me in this action on the day of 19 , for the sum of £ and that I am unable to pay the amount forthwith.

I owe the persons mentioned in the list below, including the plaintiff in this action, the sums given opposite their names, which do not total more than £2,000. To the best of my knowledge I am not indebted to any other person whatsoever.

I request that an order be made for the administration of my estate under section 148 of the County Courts Act 1959, providing for the payment of my debts in full [or to the extent of pence in the pound] by instalments of £ for every month.

LIST OF CREDITORS

Name of creditor (and plaint number in the case of a judgment debt)	Address of creditor	Description	Amount of debt £	Name and address of any other person liable for the debt	Particulars and estimated value of any security given in respect of the debt
		TOTAL £			

NOTE: The plaintiff's judgment debt must be inserted as well as all other debts. If any of the above creditors, in addition to the plaintiff, has sued the defendant in any court, the summons or order in each case must be produced to the registrar.

Answer *all* the following questions. Do not leave blanks.

Particulars of Defendant's Resources and Needs

1. EMPLOYMENT

- (a) What is your age?
- (b) By whom are you employed? (BLOCK CAPITALS) (If you have more than one employer give answers in respect of each of them)
- (c) Where are you employed?
(FULL ADDRESS)
- (d) In what capacity are you employed?
- (e) What is the address of your employer's Head Office if different from (c) above?
- (f) What is your works number?
pay reference?

2. PAY AND INCOME

- (a) What is your basic pay before deductions? £ per week/month
- (b) What overtime, bonuses, fees, allowances or commission do you receive?

- (c) What deductions are normally made from your pay? £.....per week/month for
- (d) What is your usual take-home pay? £.....per week/month
- (e) Do you receive a pension or any other income? Please give details

3. LIABILITIES

- (a) What persons, if any, are financially dependent on you? Please give details (including the age of any dependent children) and mention any contribution they make to your household expenses.
- (b) What rent or mortgage instalments do you have to pay? £.....per week/month for
- (c) What rates, if any, do you have to pay? £.....per week/month
- (d) Do you have to pay under any other court orders? Please give details.
- (e) What other regular payments have you to make?
- (f) Have you any other liabilities which you would like the court to take into account? Please give details.

I, aforesaid make oath and say that, to the best of my knowledge, the names of all my creditors, and the debts due from me to them, are truly set forth in the above list of creditors, and that the particulars contained in my request and the above statements are true.

Sworn at this in the day of of 19 }

Before me..... officer of a court, appointed by the Judge to take affidavits.

Form 414

LIST OF CREDITORS FURNISHED UNDER ACT OF 1971

Order 22, Rule 2(3) In the County Court Plaintiff No. [or Attachment Application No.]

BETWEEN Plaintiff and Defendant

I, of

the above-named defendant, state that I owe the persons mentioned in the list below, including the plaintiff in this action, the sums given opposite their names, which do not total more than £2,000. To the best of my knowledge I am not indebted to any other person whatsoever.

If an order is made for the administration of my estate, I request that it may provide for the payment of my debts in full [or to the extent of pence in the pound] by instalments of £ for every month.

LIST OF CREDITORS

Name of creditor (and plaintiff number in the case of a judgment debt)	Address of creditor	Description	Amount of debt £	Name and address of any other person liable for the debt	Particulars and estimated value of any security given in respect of the debt
		TOTAL £			

NOTE: The plaintiff's judgment debt must be inserted as well as all other debts. If any of the above creditors, in addition to the plaintiff, has sued the defendant in any court, the summons or order in each case must be produced to the registrar.

I, aforesaid make oath and say that, to the best of my knowledge, the names of all my creditors, and the debts due from me to them, are truly set forth in the above list of my creditors, and that the above particulars and statements are true.

Sworn at in the of }
this day of 19

Before me.....
officer of a court, appointed by
the Judge to take affidavits.

Form 415

ADMINISTRATION ORDER

Order 22,
Rule 9In the County Court
Administration Order No

SEAL

IN THE MATTER of an Administration Order against

Debtor

IT IS ORDERED that the above-named debtor do pay the debts in the schedule to this order, and all other debts now due and afterwards proved under this order, in full [or to the extent of pence in the pound], by instalments of £ for every month until this order is complied with.

[AND IT IS ORDERED that the said debtor do pay the said instalments to the Registrar of the court, the first of such payments to be made on the day of 19 .]

[AND IT IS DIRECTED that this order be subject to review after [or at intervals of].]

AND IT IS [FURTHER] DIRECTED that of have the conduct of this order.

Dated 19 .

Registrar.

SCHEDULE OF DEBTS

Name of Creditor	Amount £
TOTAL £	

To THE DEBTOR: Take notice that if you change your address you must at once give notice to the Registrar of your new address."

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Acts 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.

Conolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Granville Wingate.
T. Richard Nevin.
E. A. Everett.
A. A. Hibbert.
Arnold Russell Vick.
E. Somerset Jones.
D. A. Marshall.
Emyr O. Parry.

I allow these Rules, which shall come into operation on 1st February 1978 with the exception of Rules 6(2) and 15 which shall come into operation on the day appointed for the coming into force of section 12 of the Insolvency Act 1976.

Dated 20th December 1977.

Elwyn-Jones, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the County Court Rules 1936 so as to reflect changes made in the County Courts Act 1959 by the Administration of Justice Act 1977. In particular—

- (a) a plaintiff seeking an injunction or declaration relating to land under the new s. 51A of the 1959 Act inserted by s.14 of the 1977 Act will be required to state the net annual value for rating of the land in his particulars of claim (rule 4);
- (b) following the amendment of s.92 of the 1959 Act by s.17 of the 1977 Act, provision is made for the automatic reference to arbitration of cases within the registrar's jurisdiction at the request of one of the parties, but the reference is to be revoked if the registrar is satisfied on the application of any other party that the case is unsuitable for arbitration (rule 5);
- (c) in consequence of the amendment of s.102 of the 1959 Act by s.19(1) of the 1977 Act, the registrar's jurisdiction will no longer be exercisable only with the leave of the judge and in the absence of objection by a party, but it will be subject to any arrangements made by the judge for the proper distribution of business between himself and the registrar (rules 2, 6(1) and 7).

Following the amendment of s.2 of the Proceedings Against Estates Act 1970 by s.27 of the 1977 Act, proceedings purporting to have been commenced against a person who has died will be treated as having been brought against his estate even if a grant of probate or administration was made before the commencement of the proceedings (rule 3).

The power to make rules under Part VII of the 1959 Act having been prospectively transferred to the County Court Rule Committee by s.12 of the Insolvency Act 1976, a new set of Administration Order Rules is inserted, as Order 22, in the County Court Rules. These will, *inter alia*, enable the court to make an administration order without an application by the debtor, where he has given evidence of his debts and resources, and to review an administration order from time to time (rules 6(2) and 15).

Provision is also made for payments into court of redemption money under the Rentcharges Act 1977 (rule 9) and minor amendments are made in the rules relating to preliminary acts and the sale of property in Admiralty actions (rule 8).

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