

1979 No. 35 (L. 1)
SUPREME COURT OF JUDICATURE, ENGLAND
PROCEDURE
The Rules of the Supreme Court (Amendment) 1979

Made - - - - - 12th January 1979

Laid before Parliament 22nd January 1979

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) 1979.

(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).

2. In Order 18, rule 2(2), the following words shall be inserted after the words “Order 14, rule 1,”:—

“or under Order 86, rule 1,”.

3. Order 59 shall be amended as follows:—

(1) The following new paragraph shall be added to rule 3:—

“(6) No notice of appeal shall be given by a respondent in a case to which rule 6(1) relates.”.

(2) The following words shall be added to rule 5(4):—

“and any extension of time allowed under paragraph (1).”.

(3) The following rule shall be substituted for rule 6:—

“*Respondent’s notice*

6.—(1) A respondent who, having been served with a notice of appeal, desires—

(a) to contend on the appeal that the decision of the court below should be varied, either in any event or in the event of the appeal being allowed in whole or in part, or

(a) 1925 c. 49.

(b) S.I. 1965/1776.

(c) The relevant amending instruments are S.I. 1970/671, 944, 1208; 1971/354, 1269; 1972/813, 1194; 1974/1360; 1975/911; 1976/1196; 1977/960; 1978/1066.

(b) to contend that the decision of the court below should be affirmed on grounds other than those relied upon by that court, or

(c) to contend by way of cross-appeal that the decision of the court below was wrong in whole or in part,

must give notice to that effect, specifying the grounds of his contention and, in a case to which paragraph (a) or (c) relates, the precise form of the order which he proposes to ask the Court to make.

(2) Except with the leave of the Court of Appeal, a respondent shall not be entitled on the hearing of the appeal to apply for any relief not specified in a notice under paragraph (1) or to rely, in support of any contention, upon any ground which has not been specified in such a notice or relied upon by the court below.

(3) Any notice given by a respondent under this rule (in this Order referred to as a “respondent’s notice”) must be served on the appellant, and on all parties to the proceedings in the court below who are directly affected by the contentions of the respondent, and must be served—

(a) where the notice of appeal related to an interlocutory order, within seven days, and

(b) in any other case, within 21 days,

after the service of the notice of appeal on the respondent.

(4) A party by whom a respondent’s notice is given must, within two days after service of the notice, furnish two copies of the notice to the proper officer as defined by rule 5(5).”

(4) Rule 8 shall be amended as follows:—

(a) For the words “the notice of appeal” in paragraph (1) there shall be substituted the words “a notice of appeal or respondent’s notice”.

(b) Paragraph (2) shall be omitted and paragraph (3) shall be re-numbered as paragraph (2).

4. Order 62 shall be amended as follows:—

(1) Rule 32(1A) shall be revoked.

(2) In place of Parts I to IX inclusive of Appendix 2 there shall be substituted the following Parts:—

“PART I

PREPARATION OF DOCUMENTS

Note: The following items shall not apply to any cause or matter to which Part 2 applies.

ITEM

1. *Institution of proceedings:*

(a) Preparing, issuing, filing and service of writ of summons, including statement of claim endorsed thereon, originating summons, notice of originating motion, or third party notice £4–£14

- (b) Preparing, presenting and issuing any petition, case or special case stated Discretionary
- (c) Preparing and issuing concurrent writ of summons or originating summons, renewing writ of summons or originating summons...£3

2. *Interlocutory proceedings and proceedings in chambers:*

Preparing, issuing, filing and service of any summons or application or notice of motion (other than an originating motion), notice of interlocutory appeal or any writ of execution (including renewing) £2-£14

3. *Other Documents:*

Preparing (including where necessary filing, serving or delivering) any document not otherwise provided for, including—

- (a) any documents to renew a writ of summons or originating summons, to amend any document or to obtain an order for substituted service or giving leave to serve out of the jurisdiction
- (b) statement of claim, if not endorsed on writ, and other pleadings, answer to petition, particulars of pleadings, requests for such particulars, interrogatories, affidavits and lists of documents, notice to produce, admit or inspect documents and amendments to any documents
- (c) any affidavit or other document for use in connection with item 1 or item 2
- (d) any brief to counsel or case to counsel to advise in writing or in conference, or instructions to counsel to settle any document
- | | | | |
|-----------------------------|-----|-----|----------------------|
| for first 5 A4 pages | ... | ... | £3 per page |
| | | | (or proportionately) |
| for each A4 page thereafter | ... | ... | £1 |
| | | | (or proportionately) |

Note: Items 1, 2 and 3 include engrossing and one copy for service. Any additional copies required are to be charged under item 4. Item 3(d) includes the copy for counsel.

4. *Copy documents:*

- (a) Typed top copy
- | | | | | | |
|---------------|-----|-----|-----|-----|--------------|
| A5 (quarto) | ... | ... | ... | ... | 20p per page |
| A4 (foolscap) | ... | ... | ... | ... | 35p per page |
| A3 (brief) | ... | ... | ... | ... | 50p per page |
- (b) Photographic, printed and carbon copies
- | | | | | | |
|-----------|-----|-----|-----|-----|--------------|
| A5 and A4 | ... | ... | ... | ... | 15p per page |
| A3 | ... | ... | ... | ... | 30p per page |

PART II

BLOCK ALLOWANCE

5. In any action for damages for personal injuries, and in any other cause or matter as the party entitled to receive the costs may elect, a block allowance shall be made in place of the items prescribed in Part I unless, in any such case, the taxing officer otherwise directs; and the allowance shall be £20-£100

PART III

ATTENDANCES

6. *Interlocutory attendances*: Attending the hearing of any summons or other application at court or in chambers or elsewhere, attending to settle draft minutes of any order in the Chancery Division; attending to draw up and enter any order or judgment, attending to obtain appointment to examine witnesses and attending on such appointment £2-£17

7. *Counsel*: Attending counsel in conference including attending to appoint the conference

for each half hour or part thereof £4

8. *Trial or hearing*: Attending the trial or hearing of a cause or matter, or an appeal from an interlocutory or final order or judgment, or to hear a deferred judgment

per day or part of a day £5-£21

9. *Accountant General*: Attendances at his office or at the Bank of England for any necessary purpose, including the preparation of any relevant document or certificate Discretionary

PART IV

PREPARATION FOR TRIAL

10. *Instructions for trial or hearing* of any cause or matter, whatever the mode of trial or hearing, or for the hearing of any appeal...Discretionary

Note to item 10

This item is intended to cover:—

- (a) the doing of any work not otherwise provided for and which was properly done in preparing for a trial, hearing or appeal, or before a settlement of the matters in dispute, including—
- (i) *The client*: taking instructions to sue, defend, counterclaim, appeal or oppose etc.; attending upon and corresponding with client;
 - (ii) *Witnesses*: interviewing and corresponding with witnesses and potential witnesses, taking and preparing proofs of evidence and, where appropriate, arranging attendance at Court, including issue of subpoena;
 - (iii) *Expert evidence*: obtaining and considering reports or advice from experts and plans, photographs and models; where appropriate arranging their attendance at Court, including issue of subpoena;
 - (iv) *Inspections*: inspecting any property or place material to the proceedings;
 - (v) *Searches and Inquiries*: making searches in the Public Record Office and elsewhere for relevant documents; searches in the Companies Registry and similar matters;
 - (vi) *Special damages*: obtaining details of special damages and making or obtaining any relevant calculations;

- (vii) *Other parties*: attending upon and corresponding with other parties or their solicitors;
 - (viii) *Discovery*: perusing, considering or collating documents for affidavit or list of documents; attending to inspect or produce for inspection any documents required to be produced or inspected by order of the court or by virtue of Order 24;
 - (ix) *Documents*: consideration of pleadings, affidavits, cases and instructions to and advice from counsel, any law involved and any other relevant documents, including collating;
 - (x) *Negotiations*: work done in connection with negotiations with a view to settlement;
 - (xi) *Agency*: correspondence with and attendance upon or other work done by London or other agents;
 - (xii) *Interest*: where relevant the calculation of interest on damages;
 - (xiii) *Notices*: preparation and service of miscellaneous notices, including notices to witnesses to attend court.
- (b) The general care and conduct of the proceedings.

Note: The sums sought under each sub-paragraph (i) to (xiii) of paragraph (a) should be shown separately against each item followed by the total of all items under paragraph (a); the sum charged under paragraph (b) should be shown separately; and the total of the items under (a) and (b) should then follow.

PART V
ADMIRALTY

11.	(a) Obtaining arrest or release of property	£9
	(b) Entry or withdrawal of any caveat	£2
	(c) Obtaining bail or guarantee or undertaking in lieu of bail	£5
	(d) Giving bail (i) one surety	£10
	(ii) two sureties	£11

Note to item 11(d)

This item includes drawing the bail bond, affidavits and other documents required in connection with the giving of bail and any attendances required to procure the signing of the bond, the swearing of any such affidavit and the filing and service of any such document.

(e) Giving guarantee or undertaking in lieu of bail	£6
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Note to item 11(e)

This item includes preparing the guarantee or undertaking and any attendances required to procure the signing and stamping thereof.

(f) Issuing commission of appraisement or appraisement and sale	£5
(g) Lodging a preliminary act	Discretionary

Note to items 11(a) to 11(g)

These items include where applicable the preparation, filing, lodging, service and perusal of documents; the swearing of any affidavit; the obtaining or giving of consent and the provision of any undertaking in writing to the Marshal or a District Registrar.

(h) Attendance at the Registry or Marshal's Office not otherwise provided for £2

PART VI

TAXATION OF COSTS

12. (a) *Taxation*

Obtaining the reference, preparing bill of costs and copies and attending to lodge; attending taxation; vouching and completing bill; paying taxing fee and lodging for certificate or order

Discretionary

(b) *Review*

Preparing and delivering objections to decision of taxing officer on taxation, or answers to objections, including copies for service and lodging, considering opponent's answers or objections, as the case may be, attending hearing of review Discretionary"

(3) Part X of Appendix 2 shall be renumbered as Part VII.

(4) In sub-paragraphs (3) and (4) of paragraph 7 of Part VII, as so renumbered, for the number "82" there shall be substituted the number "4".

(5) Sub-paragraphs (5) and (6) of the said paragraph 7 shall be revoked.

5. The amendments made by the preceding rule shall apply to all bills lodged for taxation on or after 24th April 1979, save that for the period of two months thereafter a party entitled to require any costs to be taxed may prepare and lodge a bill in the form required before 24th April 1979 and shall be entitled to have a bill so lodged taxed as if the amendments had not been made.

6.—(1) In Part I of Appendix 3 to Order 62 the following amounts shall be substituted for the basic costs opposite the words "not less than £350 but less than £1,000" and "not less than £1,000 but less than £1,200", respectively:—

	(a)	(b)	(c)
	£ p	£ p	£ p
not less than £350 but less than £1,000	"10-00"	"13-00"	"16-00"
not less than £1,000 but less than £1,200	"15-00"	"20-00"	"26-00"

(2) Nothing in this rule shall apply in relation to a writ of summons issued before 5th February 1979, unless judgment in default of appearance or defence or judgment under Order 14 is obtained on or after that date.

7. Order 73, rule 10, shall be amended as follows:—

(1) The following shall be substituted for the title:—

"Enforcement of arbitration awards"

(2) In paragraph (1) the following words shall be inserted after the words “Arbitration Act 1950” :—

“or under section 3(1)(a) of the Arbitration Act 1975”.

(3) In paragraph (3) the following sub-paragraph shall be substituted for sub-paragraph (a) :—

“(a) exhibiting—

- (i) where the application is under section 26 of the Arbitration Act 1950, the arbitration agreement and the original award or, in either case, a copy thereof;
- (ii) where the application is under section 3(1)(a) of the Arbitration Act 1975, the documents required to be produced by section 4 of that Act.”.

8.—(1) These Rules, except rules 4 and 5, shall come into operation on 5th February 1979.

(2) Rules 4 and 5 shall come into operation on 24th April 1979.

Elwyn-Jones, C.
Widgery, C.J.
Denning, M.R.
George Baker, P.
Eustace Roskill, L.J.
R. E. Megarry, V-C.
Hilary Talbot, J.
Patrick O'Connor, J.
J. Maurice Price.
John Toulmin.
H. Montgomery-Campbell.
Harold Hewitt.

Dated 12th January 1979.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

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

- (a) to prevent the plaintiff from obtaining a judgment in default of a defence if a summons under Order 86 has been served (rule 2);
- (b) to allow a respondent the same time for appealing against the decision of the court below as he has, under the existing rules, for serving a respondent's notice (rule 3);
- (c) to introduce a new and simpler scheme in Appendix 2 to Order 62 for the taxation of costs (rules 4 and 5);
- (d) to substitute new fixed costs for the basic costs allowable under Appendix 3 to Order 62 where the sum recovered is either £350 or between £350 and £1,200 (rule 6); and
- (e) to extend Order 73, rule 10, so as to cover the enforcement of awards under the Arbitration Act 1975 (c. 3) (rule 7).

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