
STATUTORY INSTRUMENTS

1993 No. 2133 (L.20)

SUPREME COURT OF ENGLAND AND WALES

The Rules of the Supreme Court (Amendment) 1993

Made - - - - *30th July 1993*
Laid before Parliament *8th September 1993*
Coming into force - - *1st October 1993*

We, the Supreme Court Rule Committee, having power under section 85 of the Supreme Court Act 1981(1) to make rules of court under sections 18(1A)(2), 60 and 84 of that Act for the purpose of regulating and prescribing the practice and procedure to be followed in the Supreme Court, hereby exercise those powers as follows—

Citation, commencement and interpretation

1. These Rules may be cited as the Rules of the Supreme Court (Amendment) 1993 and shall come into force on 1st October 1993.
2. In these Rules, an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(3) and a reference to Appendix A is a reference to Appendix A of those Rules.

Transfer of proceedings in contentious probate cases

3. In Order 4, rule 5—
 - (1) at the beginning of paragraph (3), for the word “Where”, there shall be substituted the words “Subject to paragraph (5A), where”;
 - (2) at the beginning of paragraph (4), for the word “Without”, there shall be substituted the words “Subject to paragraph (5A), without”; and
 - (3) at the end of paragraph (5) there shall be inserted the following new paragraph—

“(5A) A probate cause or matter may only be transferred under this rule to Chancery Chambers or to one of the Chancery district registries.”.

(1) 1981 c. 54; section 85 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 36(1).
(2) Subsection (1A) was inserted by the Courts and Legal Services Act 1990, section 7(3).
(3) S.I.1965/1776; the relevant amending instruments are S.I. 1970/1208, 1971/1269, 1977/1955, 1979/1716, 1982/1111, 1982/1786, 1983/1181, 1984/1051, 1985/69, 1987/1423, 1988/1340, 1989/1307, 1989/2427, 1991/1884 and 1992/1907.

Duration of Admiralty writs in rem

4. In Order 6, rule 8, for paragraph (1) there shall be substituted the following—

“(1) For the purposes of service, a writ (other than a concurrent writ) is valid in the first instance—

- (a) if an Admiralty writ *in rem*, for 12 months;
- (b) where leave to serve the writ out of the jurisdiction is required under Order 11, for 6 months;
- (c) in any other case, for 4 months

beginning with the date of its issue.”.

Originating summons procedure

5. In Order 28, rule 2(2), for the words “rule 1A(2) and (3)” there shall be substituted the words “rule 1A(1) and (2)”.

Extension of requirement for leave

6. Order 59 shall be amended as follows—

(1) in rule 1A, at the beginning of paragraph (6)(aa) the words “subject to section 18(2)(a) of the Act,” shall be omitted; and

(2) after rule 1A, there shall be inserted the following new rule—

“Classes of case where leave to appeal is required

1B.—(1) The classes of case prescribed for the purposes of section 18(1A) of the Act (appeals subject to leave) are the following—

- (a) a determination by a divisional court of any appeal to the High Court;
- (b) orders of the High Court or any other court or tribunal made with the consent of the parties or relating only to costs which are by law left to the discretion of the court or tribunal;
- (c) an order granting or refusing any relief made at the hearing of an application for judicial review, except in proceedings arising from a decision made by virtue of the Immigration Act 1971(4), the British Nationality Act 1981(5), the Immigration Act 1988(6), the Asylum and Immigration Appeals Act 1993(7) or any other enactment relating to nationality or immigration which for the time being is in force in any part of the United Kingdom;
- (d) orders which include the giving or refusing of possession of land;
- (e) orders including the grant or refusal of an application for the grant of a new tenancy under Part II of the Landlord and Tenant Act 1954(8);
- (f) interlocutory orders of the High Court or any other court or tribunal, except in the following cases, namely—
 - (i) where the liberty of the subject is concerned;
 - (ii) where the residence, education or welfare of a minor is concerned;

(4) 1971 c. 77.
(5) 1981 c. 61.
(6) 1988 c. 14.
(7) 1993 c. 23.
(8) 1954 c. 56.

(iii) where an applicant for contact with a minor is refused all contact with the minor;

(iv) in the case of a decree nisi in a matrimonial cause.

(2) For the purposes of sub-paragraph (1)(f), “education” includes training and religious instruction.

(3) Leave to appeal to the Court of Appeal may be given by the court or tribunal from whose decision the appeal is sought or by the Court of Appeal.”; and

(3) in rule 14—

(a) at the end of paragraph (2A) there shall be added the words “before two Lords Justices”; and

(b) at the end of paragraph (2B) there shall be added the words “before two Lords Justices”.

7. Rule 6 shall apply to all proceedings in which an appeal is set down or an application is lodged with the Court of Appeal on or after 1st October 1993.

Copies of documents for other parties

8. Order 66 shall be amended as follows—

(1) for rule 3, there shall be substituted the following—

“Copies of documents for other parties

3.—(1) Where a document has been prepared by a party for use in the Supreme Court, the party by whom it has been prepared must supply any party entitled to a copy of it with a copy of it and, where the document in question is an affidavit, of any document exhibited to it.

(2) Subject to paragraph (3), the document must be ready for delivery within 48 hours after a written request for it, together with an undertaking to pay the proper charges, is received and must be supplied immediately on payment of those charges.

(3) Where a party is joined to existing proceedings, the party joined shall be entitled to require the party joining him to supply, without charge, copies of all pleadings, affidavits and exhibits served in the proceedings by or upon the joining party which relate to any issues between the joining party and the party joined, and copies of all orders made in those proceedings.

The documents must be supplied within 48 hours after a written request for them is received.

(4) Where a document to which paragraph (1) or (3) applies exists in electronic form, a copy must be supplied (at the option of the party entitled to a copy of it) either in electronic form or hard copy, or both, and if supplied in electronic form must be supplied with sufficient technical information to enable the party entitled to such copy to read the document.”; and

(2) in rule 4, paragraph (2) shall be omitted.

Address for service of party whose solicitor is removed

9. Order 67 shall be amended as follows—

(1) in rule 4, after the words “an address” there shall be inserted the words “within the jurisdiction”; and

(2) for rule 7 there shall be substituted the following new rule—

“7.—(1) Where—

- (a) an order is made under rule 5, or
- (b) an order is made under rule 6, and the applicant for that order has complied with rule 6(1), or
- (c) the certificate of an assisted person within the meaning of the Civil Legal Aid (General) Regulations 1989(9) is revoked or discharged,

then, unless and until the party to whose solicitor or to whom, as the case may be, the order or certificate relates either appoints another solicitor and complies with rule 3, or being entitled to act in person, gives notice of his intention so to do and complies with rule 4, his last known address within the jurisdiction or, where the party is a body corporate, its registered or principal office shall for the purpose of the service on him of any document not required to be served personally, be deemed to be his address for service.

(2) Where such party has no last known address or registered or principal office (as the case may be) within the jurisdiction, and the party wishing to serve documents on him does not know, or may not reasonably be expected to know, of any other address for service within the jurisdiction, he shall be deemed to have no address for service for the purposes of Order 65, rule 9.”.

Reciprocal enforcement of judgments

10. In Order 71, after rule 39 there shall be added the following new rule—

“Authentic Instruments and Court Settlements

39A. Rules 27 to 35 inclusive (except rule 28(1)(a)(ii)) shall apply to:

- (1) an authentic instrument to which either article 50 of Schedule 1 to the Act of 1982(10) or article 50 of Schedule 3C to that Act applies; and
- (2) a settlement to which either article 51 of Schedule 1 to the Act of 1982 or article 51 of Schedule 3C to that Act applies,

as they apply to a judgment, subject to any necessary modifications.”.

Action in Chancery Division for possession or payment

11. In Order 88, rule 5, after paragraph (2) there shall be inserted the following new paragraph—

“(2A) Unless the Court otherwise directs, the affidavit may contain statements of information or belief with the sources and grounds thereof.”.

Taking evidence abroad in family proceedings

12. In Order 107, rule 3 shall be amended as follows—

(1) at the beginning of paragraph (1) for the word “A”, there shall be substituted the words “Subject to paragraph (1A), a”; and

(2) after paragraph (1) there shall be inserted the following new paragraphs—

“(1A) In relation to family proceedings in a county court, an application relating to the exercise of the powers conferred upon a master of the Queen’s Bench Division by paragraph (1) shall be made to a district judge of the principal registry of the Family Division.

(9) 1989/339.

(10) “The Act of 1982” means the Civil Jurisdiction and Judgments Act 1982 (c. 27).

(1B) In paragraph (1A) “family proceedings” means family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984(11).”.

Writ of fieri facias to enforce Northern Irish or Scottish judgment—Form No. 62

13. In Appendix A, for Form No. 62 there shall be substituted the following—
“No. 62 Writ of fieri facias to enforce Northern Irish or Scottish judgment

(O.71 r.14)

In the High Court of Justice
Queen’s Bench Division

[Title of action]

ELIZABETH THE SECOND [As in No. 53]

To the Sheriff of _____ greeting:

Whereas by a judgment [or decret] dated the _____ day of _____ 19__ given in our High Court of Justice in Northern Ireland [or our Court of Session in Scotland or as may be] it was adjudged [or decreed] that C.D. do pay A.B. £_____ (1) [with interest at the rate of _____ per centum from _____ until payment], as appears by a certificate registered on the _____ day of _____ 19__ in the register for Judgments in our High Court of Justice in England and Wales pursuant to Schedule 6 to the Civil Jurisdiction and Judgments Act 1982(b).

We command you that the goods, chattels and other property of C.D. in your county authorised by law to be seized in execution you cause to be made the sums of £_____ (1) [together with interest at the rate of _____ per centum per annum from the _____ day of _____ 19__ until _____ [the date of registration of the certificate] at a daily rate of £_____ making a total of £_____ (2)]; and £_____, the costs allowed for obtaining and registering the said certificate; and £_____ costs for execution; and also interest on £_____ (1) [plus (2)] at the rate of _____ per centum from _____ (date of registration of certificate) until payment, together with sheriff’s poundage [remainder as in No. 53].

(1) either principal debt plus interest to date of judgment and costs; or principal debt and costs (Scotland).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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30th July 1993

EXPLANATORY NOTE

(This note is not part of the Rules)

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

- (a) rule 3 provides that a probate cause or matter may only be transferred under Order 4, rule 5 to the Chancery Chambers or to one of the Chancery district registries;
- (b) rule 4 extends from 4 months to 12 months the period within which Admiralty writs *in rem* remain valid for the purposes of service;
- (c) rule 5 corrects an error made in a previous amendment to Order 28, rule 2(2);
- (d) rule 6 specifies when leave is necessary for an appeal to the Court of Appeal; this amendment is made in exercise of the powers conferred by section 18(1A) of the Supreme Court Act 1981; that section and section 77 of the County Courts Act 1984 (c. 28) specify other instances when leave is required;
- (e) rule 6 further amends Order 59 so as to enable litigants to have the grant or refusal of leave to appeal reviewed by two Lords Justices (instead of by a single Lord Justice);
- (f) rule 8 amends the provisions relating to the provision of copies of documents for other parties, including those regarding the documents to which a party will be entitled and the circumstances in which a copy must be supplied;
- (g) rule 9 requires a party who ceases to act by a solicitor in the circumstances mentioned in Order 67, rule 7 to provide an address for service within the jurisdiction, and specifies the consequences of failure to do so;
- (h) rule 10 applies the rules relating to an application for registration of judgments under section 4 of the Civil Jurisdiction and Judgments Act 1982 to authentic instruments and court settlements to which that Act applies;
- (i) rule 11 enables the affidavit in support of an originating summons under Order 88 (mortgage action in the Chancery Division for possession or payment) to contain previously inadmissible statements of information and belief;
- (j) rule 12 provides that applications relating to the powers exercisable by a master of the Queen's Bench Division under section 56 of the County Courts Act 1984 (c. 28) with regard to the taking of evidence abroad in family proceedings shall be made to a district judge of the Principal Registry of the Family Division; and
- (k) rule 13 amends the form of writ of fieri facias to enforce Northern Irish or Scottish judgments to show the element of the judgment which relates to interest on the principal debt.