3. These Rules may be cited as the Rules of the Supreme Court (Landlord and Tenant) 1954, and shall come into operation on the 6th day of December, 1954.

Dated the 26th day of November, 1954.

Kilmuir, C.
Goddard, C.J.
Raymond Evershed, M.R.
Merriman, P.
H. B. Vaisey, J.
G. Justin Lynskey, J.
Frederic Sellers, J.
J. N. Gray.
R. G. Micklethwait.
L. S. Holmes.
W. Charles Norton.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

The new Order 53D which these Rules substitute for the existing Order, prescribes the procedure on applications to the High Court under the Landlord and Tenants Acts, 1927 and 1954. Such applications are assigned to the Chancery Division but the proceedings may be commenced in the district registry in which the premises are situated.

Order 47 is amended so as to restrict the issue of a writ of possession in certain cases where Part I of the Landlord and Tenant Act, 1954, applies to the premises and an application for relief has been made under section 16 of that Act.

1954 No. 1727 (L. 24)

The Rules of the Supreme Court (Special Indorsements and Trial Without Pleadings), 1954

Made - - - -	21*st December*, 1954
Laid before Parliament	4*th January*, 1955
Coming into Operation	20*th April*, 1955

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. For Rule 6 of the Order III (which relates to the indorsement of claim) the following Rule shall be substituted—

"6.—(1) In any action in the Chancery Division or Queen's Bench Division other than one which includes—

(*a*) a claim by the plaintiff for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage; or

(*b*) a claim by the plaintiff based on an allegation of fraud,

the writ of summons may, at the option of the plaintiff, be specially indorsed with or accompanied by a statement of his claim.

(2) In any action to which paragraph (1) of this Rule applies, a plaintiff who does not exercise his option to have his writ specially indorsed with or accompanied by a statement of his claim shall not be entitled to any greater costs than he would have been entitled to if he had exercised that option, unless the order for his costs otherwise expressly provides, and such an order shall not otherwise expressly provide unless a court or judge making the order is satisfied that there was good reason for the plaintiff not exercising his option:

Provided that this paragraph shall not apply to any action which includes a claim by the plaintiff for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under a statute or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages—

(*a*) in respect of personal injuries to any person; or

(*b*) in respect of damage to a vehicle, being damage to a vehicle arising out of an accident on any road, whether a highway or not;

or to any action in respect of the death of any person under the Fatal Accidents Act, 1846, as amended by any subsequent enactment, or the Carriage by Air Act, 1932.

In this paragraph "personal injuries" includes any disease and any impairment of a person's physical or mental condition."

2. After Order XIVA there shall be inserted the following Order—

"ORDER XIVB

Applications for Trial Without Pleadings

1. A writ of summons specially indorsed with or accompanied by a statement of claim under Rule 6 of Order III may, at the option of the plaintiff, include (instead of the notice, if any, to the defendant that if he enters an appearance he must also deliver a defence) a notice that, if an appearance is entered to the writ, the plaintiff intends to apply under this Order for trial without further pleadings:

Provided that this Rule shall not apply to any action which includes a claim by the plaintiff for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under a statute or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages—

(*a*) in respect of personal injuries to any person; or

(*b*) in respect of damage to a vehicle, being damage to a vehicle arising out of an accident on any road, whether a highway or not;

or to any action in respect of the death of any person under the Fatal Accidents Act, 1846, as amended by any subsequent enactment, or the Carriage by Air Act, 1932.

In this Rule "personal injuries" includes any disease and any impairment of a person's physical or mental condition.

2.—(1) Where an appearance has been entered to any writ of summons which includes such a notice as aforesaid, the plaintiff shall apply to the court or a judge for an order that the action shall be tried without further pleadings.

(2) Any such application shall be made by summons served within seven days from the entry of appearance and returnable not less than twenty-one days after the service thereof:

Provided that where there are two or more defendants who have been served with the writ, the time for the service of the summons shall not expire until seven days from the last entry of appearance or, where one or more of them do not enter an appearance, from the expiration of the time limited for their entry of an appearance.

(3) Any such application shall be supported by an affidavit, made by the plaintiff or by any person who can swear positively to the facts—

(*a*) summarising the questions believed to be at issue between the parties; and

(*b*) indicating, so far as necessary, the grounds for the contention that the case is suitable to be tried without further pleadings.

(4) A copy of the said affidavit must be served with the summons.

(5) If the plaintiff fails to perform his obligations under this Rule within the time limited, the defendant may, at the expiration of that time, apply to the court or a judge to dismiss the action with costs for want of prosecution; and on the hearing of the application the court or judge may order the action to be dismissed accordingly or make such other order on such terms as the court or judge may think just.

3.—(1) Within fourteen days from the service upon a defendant of any such summons or affidavit as aforesaid, he must file an affidavit, made by himself or some other person who can swear positively to the facts, stating the nature and the extent of his defence and counterclaim, if any, and indicating so far as necessary, any reasons which he may have for submitting that the case should not be tried without further pleadings.

(2) A copy of the said affidavit must be served upon the plaintiff and upon the other parties, if any, within the said fourteen days.

(3) If a defendant fails to perform his obligations under this Rule within the time limited, the court or judge may, on the return of the summons, give leave to the plaintiff to enter judgment for such remedy or relief as on the statement of claim the plaintiff may be entitled to or may make such other order on such terms as the court or judge may think just.

(4) Where a defendant has filed an affidavit as aforesaid, the plaintiff may, if he so desires, file an affidavit in reply.

(5) If on the hearing of the summons the court or judge is satisfied that the action is one that can properly be tried without further pleadings, the court or judge shall order that the affidavits shall stand as pleadings and, subject as hereinafter provided, shall, whether it or he is so satisfied or not, give such other directions as may be appropriate and Rules 2 to 7 of Order XXX shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application under this Order were a summons for directions under that Order:

Provided that, if the court or judge is not so satisfied as aforesaid, the court or judge may, without giving any such directions, dismiss the summons with costs which may, unless the plaintiff is an assisted person, be ordered to be paid forthwith by the plaintiff, and, where the summons is so dismissed, the action shall proceed as if no notice of an intention to apply under this Order had been included in the writ but as if the time limited for the defendant to deliver his defence began to run from the date of the dismissal of the summons."

3.—(1) In Rule 1 of Order XXI (which relates to defence and counterclaim) the words "comprised in Order III Rule 6" shall be omitted.

(2) For Rule 3 of Order XXI the following Rule shall be substituted—

"3. In actions for goods bargained and sold or sold and delivered, a defence in denial must deny the order or contract, the delivery, or the amount claimed, and in an action for money had and received, a defence in denial must deny the receipt of the money or the existence of those facts which are alleged to make the receipt by the defendant a receipt to the use of the plaintiff."

(3) For Rule 6 of Order XXI the following Rule shall be substituted—

"6. Where a defendant has entered an appearance, he shall deliver his defence within fourteen days from the time limited for appearance or from the delivery of the statement of claim, whichever is the later, unless—

(*a*) the time is extended by consent in writing or by the court or a judge; or

(*b*) the writ of summons is specially indorsed with or accompanied by a statement of claim under Rule 6 of Order III and the plaintiff in the meantime serves a summons for judgment under Order XIV: or

(*c*) the writ of summons is specially indorsed with or accompanied by a statement of claim under Rule 6 of Order III and contains a notice that the plaintiff intends to apply under Order XIVB for a trial without pleadings."

(4) In sub-paragraph (*a*) of paragraph (2) of Rule 1 of Order XXX (which relates to the summons for directions) after the words "or Order XIVA" there shall be inserted the words "or for a trial without further pleadings under Order XIVB."

4.—(1) These Rules may be cited as the Rules of the Supreme Court (Special Indorsements and Trial Without Pleadings), 1954.

(2) These Rules shall come into force on the twentieth day of April, 1955, but shall not affect any proceedings commenced before that date.

Dated the 21st day of December, 1954.

Kilmuir, C.
Goddard, C.J.
Raymond Evershed, M.R.
Merriman, P.
A. J. Denning, L.J.
H. B. Vaisey, J.
G. Justin Lynskey, J.
J. N. Gray.
R. G. Micklethwait.
L. S. Holmes.
W. Charles Norton.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules give effect to the recommendation in Section I of the Final Report (Cmd. 8878) of the Committee on Supreme Court Practice and Procedure that in appropriate cases it should be open to a plaintiff whose writ is specially indorsed with, or accompanied by, a statement of his claim to apply on affidavit for an order for trial of the action without further

pleadings. The new Order XIVB added by these Rules does not apply to actions for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage, to cases in which fraud is alleged by the plaintiff, or to actions for personal injuries.

Rule 6 of Order III has been amended so as to enable the court to penalise in costs a plaintiff in the Chancery Division or Queen's Bench Division who does not exercise his option to have his writ specially indorsed with, or accompanied by, a statement of his claim in any case not excluded from the operation of Order XIVB.

1954 No. 761 (L. 5)

The Rules of the Supreme Court (Summons for Directions, etc.) 1954

Made - - - -	*8th June,* 1954
Laid before Parliament	*14th June,* 1954
Coming into Operation	*1st October,* 1954

We, the Rule Committee of the Supreme Court, hereby make the following Rules—

1. For Rule 8 of Order XIV there shall be substituted the following Rule—

"8. Where leave, whether conditional or unconditional, is given to defend or leave is given to enter final judgment subject to a suspension of execution pending the trial of a counterclaim, the court or judge shall give directions as to the further conduct of the action and Rules 2 to 7 of Order XXX shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application for judgment were a summons for directions under that Order.".

2. In Order XIVA (which relates to summary judgment for specific performance) the following Rule shall be substituted for Rule 5—

"5. Where leave to defend is given, the judge shall give directions as to the further conduct of the action and Rules 2 to 7 of Order XXX shall, with the omission of so much of paragraph (1) of Rule 7 as requires parties to serve a notice in writing specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application for judgment were a summons for directions under that Order.".

3. The heading of Order XVIA shall be changed to "THIRD PARTY PROCEDURE AND CONTRIBUTION BETWEEN DEFENDANTS" and after Rule 12 of that Order there shall be inserted the following Rule—

"12A. A party to an action who, either as a third party or as one of two or more tortfeasors liable in respect of the same damage, stands to be held liable in the action to another party to contribute towards any debt or damages which may be recovered by the plaintiff in the action, and who, at any time before the trial of the action, makes a