1955 No. 1295 (L. 9)

The Salford Hundred Court of Record (Extension of Jurisdiction) Rules, 1955

Made - - - - *5th August*, 1955
Coming into Operation *1st September*, 1955

We, the Rule Committee of the Salford Hundred Court of Record, hereby make the following Rules:—

1. An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the Salford Hundred Court of Record Rules, 1912(**a**) as amended in 1935 and 1939, the Rules of the Salford Hundred Court of Record (Crown Proceedings), 1950(**b**) and the Salford Hundred Court of Record (Amendment) Rules, 1952(**c**).

2. In Order II (which relates to the Writ of Summons and Procedure, etc.) there shall be inserted after Rule 3 the following Rules 3A and 3B:—

APP. A. Part 1 No. 1

"3A.—(1) Where the plaintiff's claim exceeds the sum of £100, there shall be added to the Writ of Summons, a notice informing the defendant that he may, within eight days of the service of the Writ on him, inclusive of the day of service, give notice that he objects to the action being tried in the Court, and that if such notice is given, the Judge will order the action to be transferred to the High Court of Justice.

(2) Paragraph (1) of this Rule shall not apply where the parties have signed and filed a Consent that the Court shall have full Power and Jurisdiction to try the action."

APP. A. Part 1 No. 3

"3B. Where a defendant does not reside or carry on business within the Jurisdiction of the Court there shall be added to the Writ of Summons, a notice informing the defendant that he can apply to have the action transferred to the County Court in which he resides or carries on business.

3. In Order XLIX (which relates to Transfer and Consolidation) there shall be added after Rule 3 the following Rules 4 and 5:

"4.—(1) Where an action has been commenced and the plaintiff's claim exceeds the sum of £100 and the defendant has given notice within the eight days allowed pursuant to Order II Rule 3A (1) that he objects to the action being tried in the Court, the Judge shall order that the action be transferred to the High Court of Justice.

(2) When the Judge has ordered that the action be transferred to the High Court of Justice the Registrar shall:—

(*a*) send by post to all parties entitled to be served, a copy of the Judge's order; and

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(**a**) S.R. & O. 1913/1250 (1913, p. 1757). (**b**) S.I. 1950/263 (1950 II, p. 841).
(**c**) S.I. 1952/2290 (1952 III, p. 2927).

(*b*) send to the proper officer of the High Court of Justice the original order of transfer and a certified list of the documents filed in the action, together with all the documents in his custody relating to the proceedings and thereafter the action shall proceed in the High Court of Justice in accordance with the Rules of the Supreme Court.

(3) Where an action is ordered to be transferred to the High Court of Justice, the costs of the whole proceedings both before and after the transfer shall, subject to any order of the Judge in ordering the transfer, be in the discretion of the High Court of Justice.

"5.—(1) If the Judge of the Court is satisfied that any action pending in the Court against a defendant who does not reside or carry on business within the jurisdiction of the Court can be more conveniently or fairly tried in some County Court he may, notwithstanding that no application for such transfer has been made by the defendant, order the action to be transferred to the County Court.

(2) Without prejudice to the generality of the last preceding paragraph, where an action has been commenced in the Court against a defendant who does not reside or carry on business within the jurisdiction of the Court, and the defendant desires the action to be transferred to the County Court for the district in which he resides or carries on business, he may at any time before Judgment has been given in the action, apply ex parte in writing without fee to the Court for an order transferring the action to a County Court, and the Registrar or the Judge may, if after considering the application and the question whether the claim is disputed, he thinks that it would be a hardship on the defendant for the action to proceed in the Court, order the action to be transferred to the County Court: Provided that the Registrar or the Judge may if he thinks fit, before dealing with the application, cause notice to be given to the plaintiff that the application has been made and the day and hour when the plaintiff may attend and be heard, and if necessary may adjourn the hearing of the action or extend the time for entering an appearance or delivering any pleading.

(3) Where an action is ordered to be transferred to a County Court, the costs of the whole proceedings both before and after the transfer, shall, subject to any order of the Registrar or the Judge who ordered the transfer, be in the discretion of the County Court to which the action is transferred.

(4) The costs of the certified list of the documents filed in the action and of transmission shall be paid in the first instance by the party on whose application the transfer has been made or if made by the Judge on his own motion, by the Plaintiff, without prejudice to the question how they shall ultimately be borne.

(5) Where an order of transfer has been made, the Registrar of this Court shall send to the Registrar of the County Court to which the action has been transferred, the original order of transfer and a certified list of the documents filed in the action, together with all the documents in his custody relating to the proceedings, and thereafter the action shall proceed in the County Court to which it has been transferred in accordance with County Court Rules.

4. The following Notice shall be added to Form No. 1 (General Form of Writ of Summons) in Appendix A, Part 1.

"Notice to be added to a Writ of Summons where the claim exceeds £100."

If you object to this action being tried in this Court, you must within eight days of the service of the Writ on you, inclusive of the day of service, file with the Registrar of the Court and serve on the plaintiff or his solicitor, a notice in writing giving the title of the action and the year, letter and number of the Writ, and stating that you object to this action being tried in this Court. In that case the action will be transferred to the High Court of Justice.

5. The following Notice shall be added to Form No. 3 (Writ for Service out of the Jurisdiction) in Appendix A, Part 1.

"Notice to be added to a Writ for Service out of the Jurisdiction."

The defendant can apply at any time before Judgment is given to have the action transferred to the County Court of the district in which he resides or carries on business by sending to the Registrar an application in writing stating the grounds on which he asks for the action to be transferred.

6. These Rules may be cited as the Salford Hundred Court of Record (Extension of Jurisdiction) Rules, 1955 and shall come into operation on the first day of September, 1955.

We, the undersigned members of the Rule Committee appointed by the Chancellor of the Duchy of Lancaster under Section 13 of the Salford Hundred Court of Record Act, 1911(a) and complying with the directions contained in Section 83 of the Manchester Corporation Act, 1954(b) which Section was brought into force by Order of the Chancellor of the Duchy of Lancaster dated the 21st day of August, 1954(c), having by virtue of the powers vested in us in this behalf and of all other powers enabling us made the foregoing Rules, do hereby certify the same under our hands and submit them to the Chancellor of the Duchy of Lancaster accordingly.

Fenton Atkinson, Chairman.
John Addleshaw,
F. S. Stancliffe, } Members.

Dated this 4th day of February, 1955.

Approved by the Rule Committee of the Supreme Court.

George Coldstream,
Secretary.

Executed this 5th day of August, 1955.

(a) 1 & 2 Geo. 5. c. clxxii. (b) 2 & 3 Eliz. 2. c. xlviii. (c) S.I. 1954/1140 (1954 I, p. 1002).