
STATUTORY INSTRUMENTS

2000 No. 221 (L.1)

**SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment) Rules 2000

Made - - - - 24th January 2000

Laid before Parliament 3rd February 2000

Coming into force in accordance with rule 1

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(1) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following Rules:—

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 2000 and shall come into force—

- (a) for the purposes of rules 2, 8, 20 and 40 of these Rules and this rule, on 28th February 2000; and
- (b) for all other purposes, on 2nd May 2000.

2. In these Rules—

- (a) “the Rules” means the Civil Procedure Rules 1998(2) and a reference to a Part or rule by number alone means the Part or rule so numbered in the Rules;
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to the Rules; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to the Rules.

Amendments to Civil Procedure Rules 1998

3. In rule 3.5—

- (a) paragraph (3) stands as paragraph (4);

(1) 1997 c. 12.

(2) S.I. 1998/3132 as amended by S.I. 1999/1008.

- (b) paragraph (4) stands as paragraph (5); and
- (c) after paragraph (2), insert—
 - “(3) Where judgment is obtained under this rule in a case to which paragraph (2)(b) (iii) applies, it will be judgment requiring the defendant to deliver the goods, or (if he does not do so) pay the value of the goods as decided by the court (less any payments made).”.

4.—(1) In Part 6, at the end of the list of contents, insert the text as set out in Part I of Schedule 1 to these Rules.

- (2) After rule 6.1, in the cross-reference—
 - (a) omit sub-paragraph (a);
 - (b) sub-paragraph (b) stands as sub-paragraph (a); and
 - (c) sub-paragraph (c) stands as sub-paragraph (b).
 - (3) In rule 6.5, for “RSC Order 11”, substitute “Section III of this Part”.
 - (4) In rule 6.7—
 - (a) after paragraph (1), insert “(Rule 2.8 excludes a Saturday, Sunday, a Bank Holiday, Christmas Day or Good Friday from calculations of periods of 5 days or less)”; and
 - (b) for paragraph (2), substitute—
 - “(2) If a document is served personally—
 - (a) after 5 p.m., on a business day; or
 - (b) at any time on a Saturday, Sunday or a Bank Holiday,it will be treated as being served on the next business day.”.
 - (5) After rule 6.16, insert Section III as set out in Part II of Schedule 1 to these Rules.
5. After rule 8.2, insert—

“Issue of claim form without naming defendants

8.2A.—(1) A practice direction may set out the circumstances in which the court may give permission for a claim form to be issued under this Part without naming a defendant.

(2) An application for permission must be made by application notice before the claim form is issued.

- (3) The application notice for permission—
 - (a) need not be served on any other person; and
 - (b) must be accompanied by a copy of the claim form that the applicant proposes to issue.

(4) Where the court gives permission it will give directions about the future management of the claim.”.

6. In rule 12.3—
- (a) for paragraph (2), substitute—
 - “(2) Judgment in default of defence may be obtained only—
 - (a) where an acknowledgment of service has been filed but a defence has not been filed;
 - (b) in a counterclaim made under rule 20.4, where a defence has not been filed,and, in either case, the relevant time limit for doing so has expired.”;

- (b) after paragraph (2), insert—
 - “(Rule 20.4 makes general provision for a defendant’s counterclaim against a claimant, and rule 20.4(3) provides that Part 10 (acknowledgment of service) does not apply to a counterclaim made under that rule)”;and
 - (c) in paragraph (3), for sub-paragraph (a) substitute—
 - “(a) the defendant has applied—
 - (i) to have the claimant’s statement of case struck out under rule 3.4; or
 - (ii) for summary judgment under Part 24,and, in either case, that application has not been disposed of;”.
7. In rule 17.1—
- (a) after paragraph (2) insert—
 - “(3) If a statement of case has been served, an application to amend it by removing, adding or substituting a party must be made in accordance with rule 19.4.”;and
 - (b) omit—
 - “(Part 19 also applies where the amendment relates to the addition, substitution or removal of a party)”.
8. After rule 18.1, insert—
- “(Part 53 (defamation) restricts requirements for providing further information about sources of information in defamation claims)”.
9. For Part 19, substitute Part 19 (parties and group litigation) as set out in Schedule 2 to these Rules.
10. In rule 20.3—
- (a) for paragraph (3), substitute—
 - “(3) Part 12 (default judgment) applies to a Part 20 claim only if it is a counterclaim.”;
 - (b) after paragraph (3), insert—
 - “(4) With the exception of—
 - (a) rules 14.1(1) and 14.1(2) (which provide that a party may admit the truth of another party’s case in writing); and
 - (b) rule 14.3(1) (admission by notice in writing—application for judgment),which apply to all Part 20 claims, Part 14 (admissions) applies to a Part 20 claim only if it is a counterclaim.”;and
 - (c) for the cross-reference, substitute—
 - “(Rule 12.3(2) sets out how to obtain judgment in default of defence where the Part 20 claim is a counterclaim against the claimant, and rule 20.11 makes special provision for default judgment in some categories of Part 20 claims)”.
11. In rule 23.10, for paragraph (1), substitute—
- “(1) A person who was not served with a copy of the application notice before an order was made under rule 23.9 may apply to have the order set aside ^(g) or varied.”.
12. In Part 24—
- (a) after rule 24.1, insert—

“(Part 53 makes special provision about summary disposal of defamation claims in accordance with the Defamation Act 1996)”(3) and

(b) in rule 24.4, after paragraph (3), insert—

“(4) A practice direction may provide for a different period of notice to be given.”.

13.—(1) In Part 25, the title is amended to “INTERIM REMEDIES AND SECURITY FOR COSTS”.

(2) For the list of contents in Part 25, substitute the list of contents and insert the section heading as set out in Part I of Schedule 3 to these Rules.

(3) After rule 25.11, insert Section II as set out in Part II of Schedule 3 to these Rules.

14. In rule 26.7, paragraph (3)—

(a) substitute “the” for “any”; and

(b) omit “in those proceedings”.

15. In rule 27.2, in sub-paragraph (e) of paragraph (1), before “and 35.8” insert “, 35.7 (court’s power to direct that evidence is to be given by single joint expert)”.

16. After rule 31.22, insert—

“False, disclosure statements

31.23.—(1) Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false disclosure statement, without an honest belief in its truth.

(2) Proceedings under this rule may be brought only—

(a) by the Attorney General; or

(b) with the permission of the court.”.

17. In rule 32.6, in paragraph (2), omit “, in support of his application,”.

18.—(1) In Part 40, the title is amended to “JUDGMENTS, ORDERS, SALE OF LAND ETC.”.

(2) For the list of contents in Part 40, substitute the list of contents and insert the section heading as set out in Part I of Schedule 4 to these Rules.

(3) For rule 40.1 substitute—

“Scope of this section

40.1 This Section sets out rules about judgments and orders which apply except where any other of these Rules makes a different provision in relation to the judgment or order in question.”.

(4) After rule 40.14, insert Section II as set out in Part II of Schedule 4 to these Rules.

19. After Part 51, insert Part 52 (appeals) as set out in Schedule 5 to these Rules.

20. After Part 52, insert Part 53 (defamation) as set out in Schedule 6 to these Rules.

21. In RSC Order 53, in rule 8, for paragraph (2), substitute—

“(2) Any appeal from an order made by a Master pursuant to paragraph (1) shall lie to a Divisional Court and not to a Judge.”.

22. In RSC Order 71—
- (a) in rule 7(2) for “Order 11, rules 5, 6 and 8”, substitute “CPR rules 6.24, 6.25 and 6.29”;
 - (b) in rule 22, for “by claim form”, substitute “in accordance with CPR Part 23 and”;
 - (c) in rule 29 for “Order 23”, substitute “Section II of CPR Part 25”;
 - (d) in rule 32(2) for “Order 11, rules 5, 6 and 8”, substitute “CPR rules 6.24, 6.25 and 6.29”;
and
 - (e) in rule 33 in paragraph (2), for “A claim form”, substitute “An application notice”.
23. In RSC Order 81, in rule 5(3) for “Order 11”, substitute “Section III of CPR Part 6”.
24. In RSC Order 91, in sub-paragraph (a)(i) of rule 1, before “of” insert, “and 13B”(4).
25. In RSC Order 94—
- (a) for rule 8, substitute—

“8.—(1) A person who was a party to proceedings before any such tribunal as is mentioned in section 11(1) of the Tribunals and Inquiries Act 1992(5) and is dissatisfied in point of law with the decision of the tribunal may appeal to the High Court.

(2) The appellant’s notice must be served—

 - (a) on the chairman of the tribunal;
 - (b) in the case of a tribunal which has no chairman or member who acts as a chairman, on the member or members of that tribunal; or
 - (c) in the case of any such tribunal as is specified in paragraph 16 of Schedule 1 to the said Act of 1992, on the secretary of the tribunal.

(3) Where an appeal is against the decision of a tribunal constituted under section 46 of the National Health Service Act 1977(6) the appellants’s notice must be filed at the High Court within 14 days after the date of that decision.

(4) Where an appeal is against the decision of a tribunal established under section 1 of the Employment Tribunals Act 1996(7) the appellant’s notice must be filed at the High Court within 42 days after the date of that decision.”;
 - (b) in rule 12 for “claim form”, wherever it occurs, substitute “appellant’s notice”; and
 - (c) in rule 13—
 - (i) in paragraph (5) for “claim form”, substitute “appellant’s notice”; and
 - (ii) omit paragraph (8).
26. In RSC Order 99, in rule 4(2) for “Order 15, rule 13”, substitute “CPR rule 19.7”.
27. In RSC Order 106—
- (a) in rule 12—
 - (i) in paragraph (1) for “notice of appeal”, substitute “appellant’s notice”;
 - (ii) for paragraph (3), substitute—

“(3) The appellant’s notice must be filed at the court within 14 days after the date on which a statement of the tribunal’s findings was filed pursuant to section 48(1) of the Act.”(8); and

(4) Section 13B of the Stamp Act 1891 (c. 39) was inserted by the Finance Act 1999 (c. 16), Schedule 12, paragraph 2.

(5) 1992 c. 53.

(6) 1977 c. 49.

(7) 1996 c. 17; see section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8).

(8) Solicitors Act 1974 (c. 47).

- (iii) omit paragraph (4);
 - (b) in rule 13(1) for “notice of appeal”, substitute “appellant’s notice”; and
 - (c) in rule 16 for “notice of appeal”, substitute “appellant’s notice”.
- 28.** In RSC Order 108, in rule 5—
- (a) for “notice of appeal”, wherever it appears, substitute “appellant’s notice”; and
 - (b) in paragraph (2), for “defendant” wherever it appears, substitute “respondent”.
- 29.** In RSC Order 109—
- (a) in rule 2, omit paragraph (3); and
 - (b) after rule 3, insert rule 4 as set out in Schedule 7 to these Rules.
- 30.** In RSC Order 114, in rule 6, for “the period” until “days.”, substitute “an appellant’s notice must be filed at the Court of Appeal within 14 days after the date the order was made.”.
- 31.** In RSC Order 115, in each of rules 17 and 33, for paragraph (2), substitute—
- “(2) Permission is not required to serve such a notice out of the jurisdiction and CPR rules 6.24, 6.25 and 6.29 shall apply in relation to such notice as they apply in relation to a claim form.”.
- 32.** In CCR Order 25—
- (a) in rule 3—
 - (i) for paragraph (3), substitute—
 - “(3) The order shall be served—
 - (a) by the judgment creditor delivering the order to the debtor personally; or
 - (b) by the court sending it by first-class post to the debtor—
 - (i) at his address for service; or
 - (ii) where CPR rule 6.5(5) applies, at the place of service specified in that rule.”; and
 - (ii) after paragraph (3), insert—
 - “(3A) Unless the judgment creditor otherwise requests, service shall be effected in accordance with paragraph (3)(b).
 - (3B) Where an order is served in accordance with paragraph (3)(b) the date of service shall, unless the contrary is shown, be deemed to be the seventh day after the date on which the order was sent to the debtor.
 - (3C) Where—
 - (a) an order has been sent by post in accordance with paragraph (3)(b) to the debtor’s address for service; and
 - (b) the order has been returned to the court office undelivered, the court shall send notice of non-service to the judgment creditor pursuant to CPR rule 6.11 together with a notice informing him that he may request bailiff service at that address.
 - (3D) If the appellant requests bailiff service under paragraph (3C), it shall be effected by a bailiff of the court—
 - (a) inserting the order, enclosed in an envelope addressed to the debtor, through the letter-box at the debtor’s address for service;

- (b) delivering the order to some person, apparently not less than 16 years old, at the debtor’s address for service; or
 - (c) delivering the order to the debtor personally.”; and
 - (b) in rule 9—
 - (i) in paragraph (2)(b), for “leave of the court under RSC Order 11, rule 1”, substitute “permission of the court under CPR rule 6.20”; and
 - (ii) in paragraph (4), for “the notice of the day of hearing in accordance with Order 3, rule 6”, substitute “an order under Order 25, rule 3”.
- 33.** In CCR Order 27—
 - (a) in rule 5, for paragraph (1), substitute—

“(1) Notice of the application together with a form of reply in the appropriate form, shall be served on the debtor in the manner required for service of an order under Order 25, rule 3.”;
 - (b) in rule 17—
 - (i) for paragraph (3A), substitute—

“(3A) Notice of the application together with a form of reply in the appropriate form, shall be served on the debtor in the manner required for service of an order under Order 25, rule 3.”;
 - (ii) paragraph (3B) stands as paragraph (3C); and
 - (iii) after paragraph (3A), insert—

“(3B) Service of the notice shall be effected not less than 21 days before the hearing, but service may be effected at any time before the hearing on the applicant satisfying the court by witness statement or affidavit that the respondent is about to remove from his address for service.”.
- 34.** In CCR Order 30, in rule 3(2)(a), for “the notice of the day of hearing in accordance with Order 3, rule 6”, substitute “an order under Order 25, rule 3”.
- 35.** In CCR Order 33, in rule 4(3), for “notice of the day of hearing in accordance with Order 3, rule 6.”, substitute “an order under Order 25, rule 3”.
- 36.** In CCR Order 42, in rule 7(1), for “RSC Order 11”, substitute “Section III of CPR Part 6”.
- 37.** In CCR Order 45, in rule 1(3), for “the notice of the day of hearing, in accordance with Order 3, rule 6.”, substitute “an order under Order 25, rule 3”.
- 38.** In CCR Order 49, in rules 6(9) and 6A(11), for “(8) and (9) of Order 3, rule 6 (commencement of proceedings)”, substitute “(3C) and (3D) of Order 25, rule 3”.

Transitional provisions

- 39.** Where a person seeks to appeal a judgment or order made before 2nd May 2000—
 - (a) rule 19 of these Rules shall have no effect; and
 - (b) the rules of court relating to appeals in force immediately before 2nd May 2000 shall apply as if they had not been revoked.

Revocations

- 40.** RSC Order 82 is revoked.

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41. The Orders set out in column 1 of Schedule 8 are revoked to the extent set out in column 2 of that Schedule.

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Richard Scott V-C.
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Richard Holman
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John Leslie
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I allow these Rules

Dated 24th January 2000

Irvine of Lairg, C.

SCHEDULE 1

Rule 4

PART I

**III SPECIAL PROVISIONS ABOUT
SERVICE OUT OF THE JURISDICTION**

Scope of this Section	Rule 6.17
Definitions	Rule 6.18
Service out of the jurisdiction where the permission of the court is not required	Rule 6.19
Service out of the jurisdiction where the permission of the court is required	Rule 6.20
Application for permission to serve claim form out of the jurisdiction	Rule 6.21
Period for acknowledging service or for admitting the claim where claim form served out of the jurisdiction under rule 6.19	Rule 6.22
Period for filing a defence where claim form served out of the jurisdiction under rule 6.19	Rule 6.23
Method of service—general provisions	Rule 6.24
Service through foreign governments, judicial authorities and British Consular authorities	Rule 6.25
Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities	Rule 6.26
Service of claim form on State where court permits service out of the jurisdiction	Rule 6.27
Translation of claim form	Rule 6.28
Undertaking to be responsible for expenses of the Foreign and Commonwealth Office	Rule 6.29
Service of documents other than the claim form	Rule 6.30
Proof of service	Rule 6.31

PART II

**III SPECIAL PROVISIONS ABOUT
SERVICE OUT OF THE JURISDICTION**

Scope of this Section

- 6.17** This Section contains rules about—
- (a) service out of the jurisdiction;

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- (b) how to obtain the permission of the court to serve out of the jurisdiction; and
- (c) the procedure for serving out of the jurisdiction.

(Rule 2.3 defines “jurisdiction”)

Definitions

6.18 For the purposes of this Part—

- (a) “the 1982 Act” means the Civil Jurisdiction and Judgments Act 1982⁽⁹⁾;
- (b) “the Hague Convention” means the Convention on the service abroad of judicial and extra-judicial documents in civil or commercial matters signed at the Hague on November 15, 1965⁽¹⁰⁾;
- (c) “Contracting State” has the meaning given by section 1(3) of the 1982 Act;
- (d) “Convention territory” means the territory or territories of any Contracting State to which the Brussels or Lugano Conventions (as defined in section 1(1) of the 1982 Act) apply;
- (e) “Civil Procedure Convention” means the Brussels and Lugano Conventions and any other Convention entered into by the United Kingdom regarding service outside the jurisdiction;
- (f) “United Kingdom Overseas Territory” means those territories as set out in the relevant practice direction.
- (g) “domicile” is to be determined in accordance with sections 41 to 46 of the 1982 Act;
- (h) “claim form” includes petition and application notice; and
- (i) “claim” includes petition and application.

(Rule 6.30 provides that where an application notice is to be served out of the jurisdiction under this Part, rules 6.21(4), 6.22 and 6.23 do not apply)

Service out of the jurisdiction where the permission of the court is not required

6.19.—(1) A claim form may be served on a defendant out of the jurisdiction where each claim included in the claim form made against the defendant to be served is a claim which the court has power to determine under the 1982 Act and—

- (a) no proceedings between the parties concerning the same claim are pending in the courts of any part of the United Kingdom or any other Convention territory; and
- (b)
 - (i) the defendant is domiciled in the United Kingdom or in any Convention territory;
 - (ii) Article 16 of Schedule 1, 3C or 4 to the 1982 Act refers to the proceedings; or
 - (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1, 3C or 4 to the 1982 Act refers.

(2) A claim form may be served on a defendant out of the jurisdiction where each claim included in the claim form made against the defendant to be served is a claim which, under any other enactment, the court has power to determine, although—

- (a) the person against whom the claim is made is not within the jurisdiction; or
- (b) the facts giving rise to the claim did not occur within the jurisdiction.

(3) Where a claim form is to be served out of the jurisdiction under this rule, it must contain a statement of the grounds on which the claimant is entitled to serve it out of the jurisdiction.

⁽⁹⁾ 1982 c. 27, as amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12).

⁽¹⁰⁾ Cmnd. 3986.

Service out of the jurisdiction where the permission of the court is required

6.20 In any proceedings to which rule 6.19 does not apply, a claim form may be served out of the jurisdiction with the permission of the court if—

General grounds

- (1) a claim is made for a remedy against a person domiciled within the jurisdiction;
- (2) a claim is made for an injunction^(g1) ordering the defendant to do or refrain from doing an act within the jurisdiction;
- (3) a claim is made against someone on whom the claim form has been or will be served and—
 - (a) there is between the claimant and that person a real issue which it is reasonable for the court to try; and
 - (b) the claimant wishes to serve the claim form on another person who is a necessary or proper party to that claim;

Claims for interim remedies

- (4) a claim is made for an interim remedy under section 25(1) of the 1982 Act⁽¹¹⁾;

Claims in relation to contracts

- (5) a claim is made in respect of a contract where the contract—
 - (a) was made within the jurisdiction;
 - (b) was made by or through an agent trading or residing within the jurisdiction;
 - (c) is governed by English law; or
 - (d) contains a term to the effect that the court shall have jurisdiction to determine any claim in respect of the contract;
- (6) a claim is made in respect of a breach of contract committed within the jurisdiction;
- (7) a claim is made for a declaration that no contract exists where, if the contract was found to exist, it would comply with the conditions set out in paragraph (5);

Claims in tort

- (8) a claim is made in tort where—
 - (a) damage was sustained within the jurisdiction; or
 - (b) the damage sustained resulted from an act committed within the jurisdiction;

Enforcement

- (9) a claim is made to enforce any judgment or arbitral award;

Claims about property within the jurisdiction

- (10) the whole subject matter of a claim relates to property located within the jurisdiction;

⁽¹¹⁾ 1982 c. 27. Section 25 has been amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12), Schedule 2, paragraph 12, and extended by S.I. 1997/302.

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Claims about trusts etc.

(11) a claim is made for any remedy which might be obtained in proceedings to execute the trusts of a written instrument where—

- (a) the trusts ought to be executed according to English law; and
- (b) the person on whom the claim form is to be served is a trustee of the trusts;

(12) a claim is made for any remedy which might be obtained in proceedings for the administration of the estate of a person who died domiciled within the jurisdiction;

(13) a claim is made in probate proceedings which includes a claim for the rectification of a will;

(14) a claim is made for a remedy against the defendant as constructive trustee where the defendant's alleged liability arises out of acts committed within the jurisdiction;

(15) a claim is made for restitution where the defendant's alleged liability arises out of acts committed within the jurisdiction;

(Probate proceedings are defined in the Contentious Probate Proceedings practice direction supplementing Part 49)

Claims by the Inland Revenue

(16) a claim is made by the Commissioners of the Inland Revenue relating to duties or taxes against a defendant not domiciled in Scotland or Northern Ireland;

Claim for costs order in favour of or against third parties

(17) a claim is made by a party to proceedings for an order that the court exercise its power under section 51 of the Supreme Court Act 1981(12) to make a costs order in favour of or against a person who is not a party to those proceedings;

(Rule 48.2 sets out the procedure where the court is considering whether to exercise its discretion to make a costs order in favour of or against a non-party)

Claims under various enactments

- (18) a claim made under an enactment specified in the relevant practice direction.

Application for permission to serve claim form out of jurisdiction

6.21.—(1) An application for permission under rule 6.20 must be supported by written evidence stating—

- (a) the grounds on which the application is made and the paragraph or paragraphs of rule 6.20 relied on;
- (b) that the claimant believes that his claim has a reasonable prospect of success; and
- (c) the defendant's address or, if not known, in what place or country the defendant is, or is likely, to be found.

(2) Where the application is made in respect of a claim referred to in rule 6.20(3), the written evidence must also state the grounds on which the witness believes that there is between the claimant and the person on whom the claim form has been, or will be served, a real issue which it is reasonable for the court to try.

(12) 1981 c. 54. Section 51 was substituted by section 4 of the Courts and Legal Services Act 1990 (c. 41), and is amended prospectively by section 31 of the Access to Justice Act 1999 (c. 22).

(3) Where—

- (a) the application is for permission to serve a claim form in Scotland or Northern Ireland; and
- (b) it appears to the court that the claimant may also be entitled to a remedy there, the court, in deciding whether to give permission, shall—
 - (i) compare the cost and convenience of proceeding there or in the jurisdiction; and
 - (ii) (where relevant) have regard to the powers and jurisdiction of the Sheriff court in Scotland or the county courts or courts of summary jurisdiction in Northern Ireland.

(4) An order giving permission to serve a claim form out of the jurisdiction must specify the periods within which the defendant may—

- (a) file an acknowledgment of service;
- (b) file or serve an admission; and
- (c) file a defence.

(Part 11 sets out the procedure by which a defendant may dispute the court’s jurisdiction)

Period for acknowledging service or admitting the claim where the claim form is served out of the jurisdiction under rule 6.19

6.22.—(1) This rule sets out the period for filing an acknowledgment of service or filing or serving an admission where a claim form has been served out of the jurisdiction under rule 6.19.

(Part 10 contains rules about the acknowledgment of service and Part 14 contains rules about admissions)

(2) If the claim form is to be served under rule 6.19(1) in Scotland, Northern Ireland or in the European territory of another Contracting State the period is—

- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 21 days after the service of the particulars of claim; and
- (b) in any other case, 21 days after service of the claim form.

(3) If the claim form is to be served under rule 6.19(1) in any other territory of a Contracting State the period is—

- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 31 days after the service of the particulars of claim; and
- (b) in any other case, 31 days after service of the claim form.

(4) If the claim form is to be served under—

- (a) rule 6.19(1) in a country not referred to in paragraphs (2) or (3); or
- (b) rule 6.19(2),

the period is set out in the relevant practice direction.

Period for filing a defence where the claim form is served out of the jurisdiction under rule 6.19

6.23.—(1) This rule sets out the period for filing a defence where a claim form has been served out of the jurisdiction under rule 6.19.

(Part 15 contains rules about the defence)

(2) If the claim form is to be served under rule 6.19(1) in Scotland, Northern Ireland or in the European territory of another Contracting State the period is—

- (a) 21 days after service of the particulars of claim; or

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- (b) if the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.
- (3) If the claim form is to be served under rule 6.19(1) in any other territory of a Contracting State the period is—
 - (a) 31 days after service of the particulars of claim; or
 - (b) if the defendant files an acknowledgment of service, 45 days after service of the particulars of claim.
- (4) If the claim form is to be served under—
 - (a) rule 6.19(1) in a country not referred to in paragraphs (2) or (3); or
 - (b) rule 6.19(2),the period is set out in the relevant practice direction.

Method of service—general provisions

- 6.24.**—(1) Where a claim form is to be served out of the jurisdiction, it may be served by any method—
- (a) permitted by the law of the country in which it is to be served;
 - (b) provided for by—
 - (i) rule 6.25 (service through foreign governments, judicial authorities and British Consular authorities); or
 - (ii) rule 6.26 (service on a State); or
 - (c) permitted by a Civil Procedure Convention.
- (2) Nothing in this rule or in any court order shall authorise or require any person to do anything in the country where the claim form is to be served which is against the law of that country.

Service through foreign governments, judicial authorities and British Consular authorities

- 6.25.**—(1) Where a claim form is to be served on a defendant in any country which is a party to the Hague Convention, the claim form may be served—
- (a) through the authority designated under the Hague Convention in respect of that country; or
 - (b) if the law of that country permits—
 - (i) through the judicial authorities of that country, or
 - (ii) through a British Consular authority in that country.
- (2) Where—
- (a) paragraph (4) (service in Scotland etc., other than under the Hague Convention) does not apply; and
 - (b) a claim form is to be served on a defendant in any country which is a party to a Civil Procedure Convention (other than the Hague Convention) providing for service in that country,
- the claim form may be served, if the law of that country permits—
- (i) through the judicial authorities of that country; or
 - (ii) through a British Consular authority in that country (subject to any provisions of the applicable convention about the nationality of persons who may be served by such a method).
- (3) Where—

- (a) paragraph (4) (service in Scotland etc., other than under the Hague Convention) does not apply; and
 - (b) a claim form is to be served on a defendant in any country with respect to which there is no Civil Procedure Convention providing for service in that country,
- the claim form may be served, if the law of that country so permits—
- (i) through the government of that country, where that government is willing to serve it; or
 - (ii) through a British Consular authority in that country.
- (4) Except where a claim form is to be served in accordance with paragraph (1) (service under the Hague Convention), the methods of service permitted by this rule are not available where the claim form is to be served in—
- (a) Scotland, Northern Ireland, the Isle of Man or the Channel Islands;
 - (b) any Commonwealth State;
 - (c) any United Kingdom Overseas Territory; or
 - (d) the Republic of Ireland.

Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities

- 6.26.**—(1) This rule applies where the claimant wishes to serve the claim form through—
- (a) the judicial authorities of the country where the claim form is to be served;
 - (b) a British Consular authority in that country;
 - (c) the authority designated under the Hague Convention in respect of that country; or
 - (d) the government of that country.
- (2) Where this rule applies, the claimant must file—
- (a) a request for service of the claim form by the method in paragraph (1) that he has chosen;
 - (b) a copy of the claim form;
 - (c) any translation required under rule 6.28; and
 - (d) any other documents, copies of documents or translations required by the relevant practice direction.
- (3) When the claimant files the documents specified in paragraph (2), the court officer will—
- (a) seal ^(g) the copy of the claim form; and
 - (b) forward the documents to the Senior Master.
- (4) The Senior Master will send documents forwarded under this rule—
- (a) where the claim form is being served through the authority designated under the Hague Convention, to that authority; or
 - (b) in any other case, to the Foreign and Commonwealth Office with a request that it arranges for the claim to be served by the method indicated in the request for service filed under paragraph (2) or, where that request indicates alternative methods, by the most convenient method.
- (5) An official certificate which—
- (a) states that the claim form has been served in accordance with this rule either personally, or in accordance with the law of the country in which service was effected;
 - (b) specifies the date on which the claim form was served; and

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- (c) is made by—
 - (i) a British Consular authority in the country where the claim form was served;
 - (ii) the government or judicial authorities in that country; or
 - (iii) any other authority designated in respect of that country under the Hague Convention,shall be evidence of the facts stated in the certificate.

(6) A document purporting to be an official certificate under paragraph (5) shall be treated as such a certificate, unless it is proved not to be.

Service of claim form on State where court permits service out of the jurisdiction

6.27.—(1) This rule applies where a claimant wishes to serve the claim form on a State.

(2) The claimant must file in the Central Office of the Royal Courts of Justice—

- (a) a request for service to be arranged by the Foreign and Commonwealth Office;
- (b) a copy of the claim form; and
- (c) any translation required under rule 6.28.

(3) The Senior Master will send documents filed under this rule to the Foreign and Commonwealth Office with a request that it arranges for the claim form to be served.

(4) An official certificate by the Foreign and Commonwealth Office stating that a claim form has been duly served on a specified date in accordance with a request made under this rule shall be evidence of that fact.

(5) A document purporting to be such a certificate shall be treated as such a certificate, unless it is proved not to be.

(6) Where—

- (a) section 12(6) of the State Immunity Act 1978(**13**) applies; and
- (b) the State has agreed to a method of service other than through the Foreign and Commonwealth Office,

the claim may be served either by the method agreed or in accordance with this rule.

(Section 12(6) of the State Immunity Act 1978 provides that section 12(1) of that Act, which prescribes a method for serving documents on a State, does not prevent the service of a claim form or other document in a manner to which the State has agreed)

(7) In this rule “State” has the meaning given by section 14 of the State Immunity Act 1978.

Translation of claim form

6.28.—(1) Except where paragraph (4) or (5) applies, every copy of the claim form filed under rule 6.26 (service through judicial authorities, foreign governments etc.) or 6.27 (service on State) must be accompanied by a translation of the claim form.

(2) The translation must be—

- (a) in the official language of the country in which it is to be served; or
- (b) if there is more than one official language of that country, in any official language which is appropriate to the place in the country where the claim form is to be served.

(3) Every translation filed under this rule must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include—

(13) 1978 c. 33.

- (a) the name of the person making the translation;
- (b) his address; and
- (c) his qualifications for making a translation.

(4) The claimant is not required to file a translation of a claim form filed under rule 6.26 (service through judicial authorities, foreign governments etc.) where the claim form is to be served—

- (a) in a country of which English is an official language; or
- (b) on a British subject,

unless a Civil Procedure Convention expressly requires a translation.

(5) The claimant is not required to file a translation of a claim form filed under rule 6.27 (service on State) where English is an official language of the State where the claim form is to be served.

Undertaking to be responsible for expenses of the Foreign and Commonwealth Office

6.29 Every request for service filed under rule 6.26 (service through judicial authorities, foreign governments etc.) or rule 6.27 (service on State) must contain an undertaking by the person making the request—

- (a) to be responsible for all expenses incurred by the Foreign and Commonwealth Office or foreign judicial authority; and
- (b) to pay those expenses to the Foreign and Commonwealth Office or foreign judicial authority on being informed of the amount.

Service of documents other than the claim form

6.30.—(1) Where an application notice is to be served out of the jurisdiction under this Section of this Part—

- (a) rules 6.21(4), 6.22 and 6.23 do not apply; and
- (b) where the person on whom the application notice has been served is not a party to proceedings in the jurisdiction in which the application is made, that person may make an application to the court under rule 11(1) as if he were a defendant and rule 11(2) does not apply.

(Rule 6.21(4) provides that an order giving permission to serve a claim form out of the jurisdiction must specify the periods within which the defendant may (a) file an acknowledgment of service, (b) file or serve an admission, and (c) file a defence)

(Rule 6.22 provides rules for the period for acknowledging service or admitting the claim where the claim form is served out of the jurisdiction under rule 6.19)

(Rule 6.23 provides rules for the period for filing a defence where the claim form is served out of the jurisdiction under rule 6.19)

(The practice direction supplementing this Section of this Part provides that where an application notice is to be served out of the jurisdiction in accordance with this Section of this Part, the court must have regard to the country in which the application notice is to be served in setting the date for the hearing of the application and giving any direction about service of the respondent's evidence)

(Rule 11(1) provides that a defendant may make an application to the court to dispute the court's jurisdiction to try the claim or argue that the court should not exercise its jurisdiction. Rule 11(2) provides that a defendant who wishes to make such an application must first file an acknowledgment of service in accordance with Part 10)

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(2) Unless paragraph (3) applies, where the permission of the court is required for a claim form to be served out of the jurisdiction the permission of the court must also be obtained for service out of the jurisdiction of any other document to be served in the proceedings.

(3) Where—

- (a) the court gives permission for a claim form to be served out of the jurisdiction; and
- (b) the claim form states that particulars of claim are to follow, the permission of the court is not required to serve the particulars of claim out of the jurisdiction.

Proof of service

6.31 Where—

- (a) a hearing is fixed when the claim is issued;
- (b) the claim form is served on a defendant out of the jurisdiction; and
- (c) that defendant does not appear at the hearing,

the claimant may take no further steps against that defendant until the claimant files written evidence showing that the claim form has been duly served.

SCHEDULE 2

Rule 9

PART 19

PARTIES AND GROUP LITIGATION

Contents of this Part

Parties—general	Rule 19.1
I ADDITION AND SUBSTITUTION OF PARTIES	Rule 19.2
Change of parties—general	
Provisions applicable where two or more persons are jointly entitled to a remedy	Rule 19.3
Procedure for adding and substituting parties	Rule 19.4
Special provisions about adding or substituting parties after the end of a relevant limitation period	Rule 19.5
II REPRESENTATIVE PARTIES	Rule 19.6
Representative parties with same interest	
Representation of interested persons who cannot be ascertained etc.	Rule 19.7
Death	Rule 19.8
Derivative claims	Rule 19.9

III GROUP LITIGATION Rule 19.10

Definition

Group Litigation Order Rule 19.11

Effect of the GLO Rule 19.12

Case management Rule 19.13

Removal from the register Rule 19.14

Test claims Rule 19.15

Parties—general

19.1 Any number of claimants or defendants may be joined as parties to a claim.

I ADDITION AND SUBSTITUTION OF PARTIES

Change of parties—general

19.2.—(1) This rule applies where a party is to be added or substituted except where the case falls within rule 19.5 (special provisions about changing parties after the end of a relevant limitation period^(gl)).

(2) The court may order a person to be added as a new party if—

- (a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings; or
- (b) there is an issue involving the new party and an existing party which is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so that the court can resolve that issue.

(3) The court may order any person to cease to be a party if it is not desirable for that person to be party to the proceedings.

(4) The court may order a new party to be substituted for an existing one if—

- (a) the existing party's interest or liability has passed to the new party; and
- (b) it is desirable to substitute the new party so that the court can resolve the matters in dispute in the proceedings.

Provisions applicable where two or more persons are jointly entitled to a remedy

19.3.—(1) Where a claimant claims a remedy to which some other person is jointly entitled with him, all persons jointly entitled to the remedy must be parties unless the court orders otherwise.

(2) If any person does not agree to be a claimant, he must be made a defendant, unless the court orders otherwise.

(3) This rule does not apply in probate proceedings.

Procedure for adding and substituting parties

19.4.—(1) The court's permission is required to remove, add or substitute a party, unless the claim form has not been served.

(2) An application for permission under paragraph (1) may be made by—

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- (a) an existing party; or
 - (b) a person who wishes to become a party.
- (3) An application for an order under rule 19.2(4) (substitution of a new party where existing party's interest or liability has passed)—
- (a) may be made without notice; and
 - (b) must be supported by evidence.
- (4) Nobody may be added or substituted as a claimant unless—
- (a) he has given his consent in writing; and
 - (b) that consent has been filed with the court.
- (5) An order for the removal, addition or substitution of a party must be served on—
- (a) all parties to the proceedings; and
 - (b) any other person affected by the order.
- (6) When the court makes an order for the removal, addition or substitution of a party, it may give consequential directions about—
- (a) filing and serving the claim form on any new defendant;
 - (b) serving relevant documents on the new party; and
 - (c) the management of the proceedings.

Special provisions about adding or substituting parties after the end of a relevant limitation period

- 19.5.**—(1) This rule applies to a change of parties after the end of a period of limitation under—
- (a) the Limitation Act 1980⁽¹⁴⁾;
 - (b) the Foreign Limitation Periods Act 1984⁽¹⁵⁾;
 - (c) section 190 of the Merchant Shipping Act 1995⁽¹⁶⁾; or
 - (d) any other statutory provision.
- (2) The court may add or substitute a party only if—
- (a) the relevant limitation period^(gl) was current when the proceedings were started; and
 - (b) the addition or substitution is necessary.
- (3) The addition or substitution of a party is necessary only if the court is satisfied that—
- (a) the new party is to be substituted for a party who was named in the claim form in mistake for the new party;
 - (b) the claim cannot properly be carried on by or against the original party unless the new party is added or substituted as claimant or defendant; or
 - (c) the original party has died or had a bankruptcy order made against him and his interest or liability has passed to the new party.
- (4) In addition, in a claim for personal injuries the court may add or substitute a party where it directs that—
- (a) (i) section 11 (special time limit for claims for personal injuries); or
 - (ii) section 12 (special time limit for claims under fatal accidents legislation),

⁽¹⁴⁾ 1980 c. 58.

⁽¹⁵⁾ 1984 c. 16.

⁽¹⁶⁾ 1995 c. 21.

of the Limitation Act 1980 shall not apply to the claim by or against the new party; or
(b) the issue of whether those sections apply shall be determined at trial.
(Rule 17.4 deals with other changes after the end of a relevant limitation period^(g1))

II REPRESENTATIVE PARTIES

Representative parties with same interest

19.6.—(1) Where more than one person has the same interest in a claim—

- (a) the claim may be begun; or
- (b) the court may order that the claim be continued,

by or against one or more of the persons who have the same interest as representatives of any other persons who have that interest.

(2) The court may direct that a person may not act as a representative.

(3) Any party may apply to the court for an order under paragraph (2).

(4) Unless the court otherwise directs any judgment or order given in a claim in which a party is acting as a representative under this rule—

- (a) is binding on all persons represented in the claim; but
- (b) may only be enforced by or against a person who is not a party to the claim with the permission of the court.

(5) This rule does not apply to a claim to which rule 19.7 applies.

Representation of interested persons who cannot be ascertained etc.

19.7.—(1) This rule applies to claims about—

- (a) the estate of a deceased person;
- (b) property subject to a trust; or
- (c) the meaning of a document, including a statute.

(2) The court may make an order appointing a person to represent any other person or persons in the claim where the person or persons to be represented—

- (a) are unborn;
- (b) cannot be found;
- (c) cannot easily be ascertained; or
- (d) are a class of persons who have the same interest in a claim and—
 - (i) one or more members of that class are within sub-paragraphs (a), (b) or (c); or
 - (ii) to appoint a representative would further the overriding objective.

(3) An application for an order under paragraph (2)—

- (a) may be made by—
 - (i) any person who seeks to be appointed under the order; or
 - (ii) any party to the claim; and
- (b) may be made at any time before or after the claim has started.

(4) An application notice for an order under paragraph (2) must be served on—

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- (a) all parties to the claim, if the claim has started;
 - (b) the person sought to be appointed, if that person is not the applicant or a party to the claim; and
 - (c) any other person as directed by the court.
- (5) The court's approval is required to settle a claim in which a party is acting as a representative under this rule.
- (6) The court may approve a settlement where it is satisfied that the settlement is for the benefit of all the represented persons.
- (7) Unless the court otherwise directs, any judgment or order given in a claim in which a party is acting as a representative under this rule—
- (a) is binding on all persons represented in the claim; but
 - (b) may only be enforced by or against a person who is not a party to the claim with the permission of the court.

Death

- 19.8.**—(1) Where a person who had an interest in a claim has died and that person has no personal representative the court may order—
- (a) the claim to proceed in the absence of a person representing the estate of the deceased; or
 - (b) a person to be appointed to represent the estate of the deceased.
- (2) Where a defendant against whom a claim could have been brought has died and—
- (a) a grant of probate or administration has been made, the claim must be brought against the persons who are the personal representatives of the deceased;
 - (b) a grant of probate or administration has not been made—
 - (i) the claim must be brought against “the estate of” the deceased; and
 - (ii) the claimant must apply to the court for an order appointing a person to represent the estate of the deceased in the claim.
- (3) A claim shall be treated as having been brought against “the estate of” the deceased in accordance with paragraph (2)(b)(i) where—
- (a) the claim is brought against the “personal representatives” of the deceased but a grant of probate or administration has not been made; or
 - (b) the person against whom the claim was brought was dead when the claim was started.
- (4) Before making an order under this rule, the court may direct notice of the application to be given to any other person with an interest in the claim.
- (5) Where an order has been made under paragraphs (1) or (2)(b)(ii) any judgment or order made or given in the claim is binding on the estate of the deceased.

Derivative Claims

- 19.9.**—(1) This rule applies where a company, other incorporated body or trade union is alleged to be entitled to claim a remedy and a claim is made by one or more members of the company, body or trade union for it to be given that remedy (a “derivative claim”).
- (2) The company, body or trade union for whose benefit a remedy is sought must be a defendant to the claim.
- (3) After the claim form has been issued the claimant must apply to the court for permission to continue the claim and may not take any other step in the proceedings except—

- (a) as provided by paragraph (5); or
 - (b) where the court gives permission.
- (4) An application in accordance with paragraph (3) must be supported by written evidence.
- (5) The—
- (a) claim form;
 - (b) application notice; and
 - (c) written evidence in support of the application,

must be served on the defendant within the period within which the claim form must be served and, in any event, at least 14 days before the court is to deal with the application.

(6) If the court gives the claimant permission to continue the claim, the time within which the defence must be filed is 14 days after the date on which the permission is given or such period as the court may specify.

(7) The court may order the company, body or trade union to indemnify the claimant against any liability in respect of costs incurred in the claim.

III GROUP LITIGATION

Definition

19.10 A Group Litigation Order (“GLO”) means an order made under rule 19.11 to provide for the case management of claims which give rise to common or related issues of fact or law (the “GLO issues”).

Group Litigation Order

19.11.—(1) The court may make a GLO where there are or are likely to be a number of claims giving rise to the GLO issues.

(The practice direction provides the procedure for applying for a GLO)

- (2) A GLO must—
- (a) contain directions about the establishment of a register (the “group register”) on which the claims managed under the GLO will be entered;
 - (b) specify the GLO issues which will identify the claims to be managed as a group under the GLO; and
 - (c) specify the court (the “management court”) which will manage the claims on the group register.
- (3) A GLO may—
- (a) in relation to claims which raise one or more of the GLO issues—
 - (i) direct their transfer to the management court;
 - (ii) order their stay ^(gl) until further order; and
 - (iii) direct their entry on the group register;
 - (b) direct that from a specified date claims which raise one or more of the GLO issues should be started in the management court and entered on the group register; and
 - (c) give directions for publicising the GLO.

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Effect of the GLO

19.12.—(1) Where a judgment or order is given or made in a claim on the group register in relation to one or more GLO issues—

- (a) that judgment or order is binding on the parties to all other claims that are on the group register at the time the judgment is given or the order is made unless the court orders otherwise; and
- (b) the court may give directions as to the extent to which that judgment or order is binding on the parties to any claim which is subsequently entered on the group register.

(2) Unless paragraph (3) applies, any party who is adversely affected by a judgment or order which is binding on him may seek permission to appeal the order.

(3) A party to a claim which was entered on the group register after a judgment or order which is binding on him was given or made may not—

- (a) apply for the judgment or order to be set aside^(gl), varied or stayed^(gl); or
- (b) appeal the judgment or order,

but may apply to the court for an order that the judgment or order is not binding on him.

(4) Unless the court orders otherwise, disclosure of any document relating to the GLO issues by a party to a claim on the group register is disclosure of that document to all parties to claims—

- (a) on the group register; and
- (b) which are subsequently entered on the group register.

Case management

19.13 Directions given by the management court may include directions—

- (a) varying the GLO issues;
- (b) providing for one or more claims on the group register to proceed as test claims;
- (c) appointing the solicitor of one or more parties to be the lead solicitor for the claimants or defendants;
- (d) specifying the details to be included in a statement of case in order to show that the criteria for entry of the claim on the group register have been met;
- (e) specifying a date after which no claim may be added to the group register unless the court gives permission; and
- (f) for the entry of any particular claim which meets one or more of the GLO issues on the group register.

(Part 3 contains general provisions about the case management powers of the court)

Removal from the register

19.14.—(1) A party to a claim entered on the group register may apply to the management court for the claim to be removed from the register.

(2) If the management court orders the claim to be removed from the register it may give directions about the future management of the claim.

Test claims

19.15.—(1) Where a direction has been given for a claim on the group register to proceed as a test claim and that claim is settled, the management court may order that another claim on the group register be substituted as the test claim.

(2) Where an order is made under paragraph (1), any order made in the test claim before the date of substitution is binding on the substituted claim unless the court orders otherwise.

SCHEDULE 3

Rule 13

PART I

Contents of this Part

I INTERIM REMEDIES

Orders for interim remedies	Rule 25.1
Time when an order for an interim may be made	Rule 25.2
How to apply for an interim remedy	Rule 25.3
Application for an interim remedy where there is no related claim	Rule 25.4
Inspection of property before commencement or against a non-party	Rule 25.5
Interim payments—general procedure	Rule 25.6
Interim payments—conditions to be satisfied and matters to be taken into account	Rule 25.7
Powers of the court where it has made an order for interim payment	Rule 25.8
Restriction on disclosure of an interim payment	Rule 25.9
Interim injunction to cease if claim stayed	Rule 25.10
Interim injunction to cease after 14 days if claim struck out	Rule 25.11
II SECURITY FOR COSTS	Rule 25.12
Security for costs	
Conditions to be satisfied	Rule 25.13
Security for costs other than from the claimant	Rule 25.14
Security for costs of appeal	Rule 25.15

I INTERIM REMEDIES

PART II

II SECURITY FOR COSTS

25.12.—(1) A defendant to any claim may apply under this Section of this Part for security for his costs of the proceedings.

(Part 3 provides for the court to order payment of sums into court in other circumstances. Rule 20.3 provides for this Section of this Part to apply to Part 20 claims)

- (2) An application for security for costs must be supported by written evidence.
- (3) Where the court makes an order for security for costs, it will—
 - (a) determine the amount of security; and
 - (b) direct—
 - (i) the manner in which; and
 - (ii) the time within which the security must be given.

Conditions to be satisfied

- 25.13.**—(1) The court may make an order for security for costs under rule 25.12 if—
- (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and
 - (b) (i) one or more of the conditions in paragraph (2) applies, or
(ii) an enactment permits the court to require security for costs.
- (2) The conditions are—
- (a) the claimant is an individual—
 - (i) who is ordinarily resident out of the jurisdiction; and
 - (ii) is not a person against whom a claim can be enforced under the Brussels Conventions or the Lugano Convention, as defined by section 1(1) of the Civil Jurisdiction and Judgments Act 1982⁽¹⁷⁾;
 - (b) the claimant is a company or other incorporated body—
 - (i) which is ordinarily resident out of the jurisdiction; and
 - (ii) is not a body against whom a claim can be enforced under the Brussels Conventions or the Lugano Convention;
 - (c) the claimant is a company or other body (whether incorporated inside or outside Great Britain) and there is reason to believe that it will be unable to pay the defendant's costs if ordered to do so;
 - (d) the claimant has changed his address since the claim was commenced with a view to evading the consequences of the litigation;
 - (e) the claimant failed to give his address in the claim form, or gave an incorrect address in that form;
 - (f) the claimant is acting as a nominal claimant, other than as a representative claimant under Part 19, and there is reason to believe that he will be unable to pay the defendant's costs if ordered to do so;

⁽¹⁷⁾ 1982 c. 27; section 1(1) was amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12), sections 2(2) and 2(3).

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- (g) the claimant has taken steps in relation to his assets that would make it difficult to enforce an order for costs against him.

(Rule 3.4 allows the court to strike out a statement of case and Part 24 for it to give summary judgment)

Security for costs other than from the claimant

25.14.—(1) The defendant may seek an order against someone other than the claimant, and the court may make an order for security for costs against that person if—

- (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and
- (b) one or more of the conditions in paragraph (2) applies.

(2) The conditions are that the person—

- (a) has assigned the right to the claim to the claimant with a view to avoiding the possibility of a costs order being made against him; or
- (b) has contributed or agreed to contribute to the claimant’s costs in return for a share of any money or property which the claimant may recover in the proceedings; and

is a person against whom a costs order may be made.

(Rule 48.2 makes provision for costs orders against non-parties)

Security for costs of an appeal

25.15.—(1) The court may order security for costs of an appeal against—

- (a) an appellant;
- (b) a respondent who also appeals,

on the same grounds as it may order security for costs against a claimant under this Part.

(2) The court may also make an order under paragraph (1) where the appellant, or the respondent who also appeals, is a limited company and there is reason to believe it will be unable to pay the costs of the other parties to the appeal should its appeal be unsuccessful.

SCHEDULE 4

Rule 18

PART I

Contents of this Part

I JUDGMENTS AND ORDERS	Rule 40.1
Scope of this Section	
Standard requirements	Rule 40.2
Drawing up and filing of judgments and orders	Rule 40.3
Service of judgments and orders	Rule 40.4

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Power to require judgment or order to be served on a party as well as his solicitor	Rule 40.5
Consent judgments and orders	Rule 40.6
When judgment or order takes effect	Rule 40.7
Time from which interest begins to run	Rule 40.8
Who may apply to set aside or vary a judgment or order	Rule 40.9
Judgment against a State in default of acknowledgement of service	Rule 40.10
Time for complying with a judgment or order	Rule 40.11
Correction of errors in judgments and orders	Rule 40.12
Cases where court gives judgment both on claim and counterclaim	Rule 40.13
Judgment in favour of certain part owners relating to the detention of goods	Rule 40.14
II SALE OF LAND ETC. AND CONVEYANCING COUNSEL	Rule 40.15
Scope of this Section	
Power to order sale etc.	Rule 40.16
Power to order delivery up of possession etc.	Rule 40.17
Reference to conveyancing counsel	Rule 40.18
Party may object to report	Rule 40.19

I JUDGMENTS AND ORDERS

PART II

II SALE OF LAND ETC. AND CONVEYANCING COUNSEL

Scope of this Section

40.15.—(1) This Section—

- (a) deals with the court’s power to order the sale, mortgage, partition or exchange of land; and
- (b) contains provisions about conveyancing counsel.

(Section 131 of the Supreme Court Act 1981(18) provides for the appointment of the conveyancing counsel of the Supreme Court)

- (2) In this Section “land” includes any interest in, or right over, land.

(18) 1981 c. 54; section 131 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 10, paragraph 48.

Power to order sale etc.

40.16 In any proceedings relating to land, the court may order the land, or part of it, to be—

- (a) sold;
- (b) mortgaged;
- (c) exchanged; or
- (d) partitioned.

Power to order delivery up of possession etc.

40.17 Where the court has made an order under rule 40.16, it may order any party to deliver up to the purchaser or any other person—

- (a) possession of the land;
- (b) receipt of rents or profits relating to it; or
- (c) both.

Reference to conveyancing counsel

40.18.—(1) The court may direct conveyancing counsel to investigate and prepare a report on the title of any land or to draft any document.

(2) The court may take the report on title into account when it decides the issue in question.

(Provisions dealing with the fees payable to conveyancing counsel are set out in the practice direction relating to Part 44)

Party may object to report

40.19.—(1) Any party to the proceedings may object to the report on title prepared by conveyancing counsel.

(2) Where there is an objection, the issue will be referred to a judge for determination.

(Part 23 contains general rules about making an application)

SCHEDULE 5

Rule 19

PART 52

APPEALS

Contents of this Part

I GENERAL RULES ABOUT APPEALS Rule 52.1

Scope and interpretation

Parties to comply with practice direction Rule 52.2

Permission Rule 52.3

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

Appellant’s notice	Rule 52.4
Respondent’s notice	Rule 52.5
Variation of time	Rule 52.6
Stay	Rule 52.7
Amendment of appeal notice	Rule 52.8
Striking out appeal notice, setting aside or imposing conditions on permission to appeal	Rule 52.9
Appeal court’s powers	Rule 52.10
Hearing of appeals	Rule 52.11
Non-disclosure of Part 36 offers and payments	Rule 52.12
II SPECIAL PROVISIONS APPLYING TO THE COURT OF APPEAL	Rule 52.13
Second appeals to the court	
Assignment of appeals to the Court of Appeal	Rule 52.14
Judicial review appeals	Rule 52.15
Who may exercise the powers of the Court of Appeal	Rule 52.16

I GENERAL RULES ABOUT APPEALS

Scope and interpretation

52.1.—(1) The rules in this Part apply to appeals to—

- (a) the civil division of the Court of Appeal;
- (b) the High Court; and
- (c) a county court.

(2) This Part does not apply to—

- (a) an appeal against an order under Part 27 (the small claims track); or
- (b) an appeal in detailed assessment proceedings against a decision of an authorised court officer.

(Rules 27.12 and 27.13 deal with appeals against orders under Part 27 (the small claims track))

(Rules 47.21 to 47.26 deal with appeals against a decision of an authorised court officer in detailed assessment proceedings)

(3) In this Part—

- (a) “appeal” includes an appeal by way of case stated;
- (b) “appeal court” means the court to which an appeal is made;
- (c) “lower court” means the court, tribunal or other person or body from whose decision an appeal is brought;
- (d) “appellant” means a person who brings or seeks to bring an appeal;
- (e) “respondent” means—

- (i) a person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal; and
 - (ii) a person who is permitted by the appeal court to be a party to the appeal; and
 - (f) “appeal notice” means an appellant’s or respondent’s notice.
- (4) This Part is subject to any rule, enactment or practice direction which sets out special provisions with regard to any particular category of appeal.

Parties to comply with the practice direction

52.2 All parties to an appeal must comply with the relevant practice direction.

Permission

52.3.—(1) An appellant or respondent requires permission to appeal—

- (a) where the appeal is from a decision of a judge in a county court or the High Court, except where the appeal is against—
 - (i) a committal order;
 - (ii) a refusal to grant habeas corpus; or
 - (iii) a secure accommodation order made under section 25 of the Children Act 1989⁽¹⁹⁾;or
- (b) as provided by the relevant practice direction.

(Other enactments may provide that permission is required for particular appeals)

(2) An application for permission to appeal may be made—

- (a) to the lower court at the hearing at which the decision to be appealed was made; or
- (b) to the appeal court in an appeal notice.

(Rule 52.4 sets out the time limits for filing an appellant’s notice at the appeal court. Rule 52.5 sets out the time limits for filing a respondent’s notice at the appeal court. Any application for permission to appeal to the appeal court must be made in the appeal notice (see rules 52.4(1) and 52.5(3))

(Rule 52.13(1) provides that permission is required from the Court of Appeal for all appeals to that court from a decision of a county court or the High Court which was itself made on appeal)

(3) Where the lower court refuses an application for permission to appeal, a further application for permission to appeal may be made to the appeal court.

(4) Where the appeal court, without a hearing, refuses permission to appeal, the person seeking permission may request the decision to be reconsidered at a hearing.

(5) A request under paragraph (4) must be filed within seven days after service of the notice that permission has been refused.

(6) Permission to appeal will only be given where—

- (a) the court considers that the appeal would have a real prospect of success; or
- (b) there is some other compelling reason why the appeal should be heard.

(7) An order giving permission may—

- (a) limit the issues to be heard; and
- (b) be made subject to conditions.

(Rule 3.1(3) also provides that the court may make an order subject to conditions)

(19) 1989 c. 41.

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(Rule 25.15 provides for the court to order security for costs of an appeal)

Appellant's notice

52.4.—(1) Where the appellant seeks permission from the appeal court it must be requested in the appellant's notice.

(2) The appellant must file the appellant's notice at the appeal court within—

- (a) such period as may be directed by the lower court; or
- (b) where the court makes no such direction, 14 days after the date of the decision of the lower court that the appellant wishes to appeal.

(3) Unless the appeal court orders otherwise, an appeal notice must be served on each respondent—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days,

after it is filed.

Respondent's notice

52.5.—(1) A respondent may file and serve a respondent's notice.

(2) A respondent who—

- (a) is seeking permission to appeal from the appeal court; or
- (b) wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court,

must file a respondent's notice.

(3) Where the respondent seeks permission from the appeal court it must be requested in the respondent's notice.

(4) A respondent's notice must be filed within—

- (a) such period as may be directed by the lower court; or
- (b) where the court makes no such direction, 14 days after the date in paragraph (5).

(5) The date referred to in paragraph (4) is—

- (a) the date the respondent is served with the appellant's notice where—
 - (i) permission to appeal was given by the lower court; or
 - (ii) permission to appeal is not required;
- (b) the date the respondent is served with notification that the appeal court has given the appellant permission to appeal; or
- (c) the date the respondent is served with notification that the application for permission to appeal and the appeal itself are to be heard together.

(6) Unless the appeal court orders otherwise a respondent's notice must be served on the appellant and any other respondent—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days,

after it is filed.

Variation of time

52.6.—(1) An application to vary the time limit for filing an appeal notice must be made to the appeal court.

- (2) The parties may not agree to extend any date or time limit set by—
- (a) these Rules;
 - (b) the relevant practice direction; or
 - (c) an order of the appeal court or the lower court.

(Rule 3.1(2)(a) provides that the court may extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired))

(Rule 3.1(2)(b) provides that the court may adjourn or bring forward a hearing)

Stay^(gl)

52.7 Unless—

- (a) the appeal court or the lower court orders otherwise; or
- (b) the appeal is from the Immigration Appeal Tribunal,

an appeal shall not operate as a stay of any order or decision of the lower court.

Amendment of appeal notice

52.8 An appeal notice may not be amended without the permission of the appeal court.

Striking out ^(gl) appeal notices and setting aside or imposing conditions on permission to appeal

52.9.—(1) The appeal court may—

- (a) strike out the whole or part of an appeal notice;
- (b) set aside^(gl) permission to appeal in whole or in part;
- (c) impose or vary conditions upon which an appeal may be brought.

(2) The court will only exercise its powers under paragraph (1) where there is a compelling reason for doing so.

(3) Where a party was present at the hearing at which permission was given he may not subsequently apply for an order that the court exercise its powers under sub-paragraphs (1)(b) or (1)(c).

Appeal court's powers

52.10.—(1) In relation to an appeal the appeal court has all the powers of the lower court.

(Rule 52.1(4) provides that this Part is subject to any enactment that sets out special provisions with regard to any particular category of appeal—where such an enactment gives a statutory power to a tribunal, person or other body it may be the case that the appeal court may not exercise that power on an appeal)

(2) The appeal court has power to—

- (a) affirm, set aside or vary any order or judgment made or given by the lower court;
- (b) refer any claim or issue for determination by the lower court;

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- (c) order a new trial or hearing;
 - (d) make orders for the payment of interest;
 - (e) make a costs order.
- (3) In an appeal from a claim tried with a jury the Court of Appeal may, instead of ordering a new trial—
- (a) make an order for damages^(g1) or
 - (b) vary an award of damages made by the jury.
- (4) The appeal court may exercise its powers in relation to the whole or part of an order of the lower court.
- (Part 3 contains general rules about the court's case management powers)

Hearing of appeals

- 52.11.**—(1) Every appeal will be limited to a review of the decision of the lower court unless—
- (a) a practice direction makes different provision for a particular category of appeal; or
 - (b) the court considers that in the circumstances of an individual appeal it would be in the interests of justice to hold a re-hearing.
- (2) Unless it orders otherwise, the appeal court will not receive—
- (a) oral evidence; or
 - (b) evidence which was not before the lower court.
- (3) The appeal court will allow an appeal where the decision of the lower court was—
- (a) wrong; or
 - (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.
- (4) The appeal court may draw any inference of fact which it considers justified on the evidence.
- (5) At the hearing of the appeal a party may not rely on a matter not contained in his appeal notice unless the appeal court gives permission.

Non-disclosure of Part 36 offers and payments

- 52.12.**—(1) The fact that a Part 36 offer or Part 36 payment has been made must not be disclosed to any judge of the appeal court who is to hear and finally determine an appeal until all questions (other than costs) have been determined.
- (2) Paragraph (1) does not apply if the Part 36 offer or Part 36 payment is relevant to the substance of the appeal.
- (3) Paragraph (1) does not prevent disclosure in any application in the appeal proceedings if disclosure of the fact that a Part 36 offer or Part 36 payment has been made is properly relevant to the matter to be decided.

II SPECIAL PROVISIONS APPLYING TO THE COURT OF APPEAL

Second appeals to the court

- 52.13.**—(1) Permission is required from the Court of Appeal for any appeal to that court from a decision of a county court or the High Court which was itself made on appeal.

- (2) The Court of Appeal will not give permission unless it considers that—
- (a) the appeal would raise an important point of principle or practice; or
 - (b) there is some other compelling reason for the Court of Appeal to hear it.

Assignment of appeals to the Court of Appeal

52.14.—(1) Where the court from or to which an appeal is made or from which permission to appeal is sought (“the relevant court”) considers that—

- (a) an appeal which is to be heard by a county court or the High Court would raise an important point of principle or practice; or
- (b) there is some other compelling reason for the Court of Appeal to hear it,

the relevant court may order the appeal to be transferred to the Court of Appeal.

(The Master of the Rolls has the power to direct that an appeal which would be heard by a county court or the High Court should be heard instead by the Court of Appeal—see section 57 of the Access to Justice Act 1999)(20)

(2) The Master of the Rolls or the Court of Appeal may remit an appeal to the court in which the original appeal was or would have been brought.

Judicial review appeals

52.15.—(1) Where permission to apply for judicial review has been refused at a hearing in the High Court, the person seeking that permission may apply to the Court of Appeal for permission to appeal.

(2) An application in accordance with paragraph (1) must be made within 7 days of the decision of the High Court to refuse to give permission to apply for judicial review.

(3) On an application under paragraph (1), the Court of Appeal may, instead of giving permission to appeal, give permission to apply for judicial review.

(4) Where the Court of Appeal gives permission to apply for judicial review in accordance with paragraph (3), the case will proceed in the High Court unless the Court of Appeal orders otherwise.

Who may exercise the powers of the Court of Appeal

52.16.—(1) A court officer assigned to the Civil Appeals Office who is—

- (a) a barrister; or
- (b) a solicitor

may exercise the jurisdiction of the Court of Appeal with regard to the matters set out in paragraph (2) with the consent of the Master of the Rolls.

(2) The matters referred to in paragraph (1) are—

- (a) any matter incidental to any proceedings in the Court of Appeal;
- (b) any other matter where there is no substantial dispute between the parties; and
- (c) the dismissal of an appeal or application where a party has failed to comply with any order, rule or practice direction.

(3) A court officer may not decide an application for—

- (a) permission to appeal;
- (b) bail pending an appeal;

(20) 1999 c. 22.

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- (c) an injunction^(gl);
 - (d) a stay^(gl) of any proceedings, other than a temporary stay of any order or decision of the lower court over a period when the Court of Appeal is not sitting or cannot conveniently be convened.
- (4) Decisions of a court officer may be made without a hearing.
- (5) A party may request any decision of a court officer to be reviewed by the Court of Appeal.
- (6) At the request of a party, a hearing will be held to reconsider a decision of—
- (a) a single judge; or
 - (b) a court officer,
- made without a hearing.
- (7) A single judge may refer any matter for a decision by a court consisting of two or more judges.
- (Section 54(6) of the Supreme Court Act 1981⁽²¹⁾ provides that there is no appeal from the decision of a single judge on an application for permission to appeal)
- (Section 58(2) of the Supreme Court Act 1981⁽²²⁾ provides that there is no appeal to the House of Lords from decisions of the Court of Appeal that—
- (a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and
 - (b) do not involve the determination of an appeal or of an application for permission to appeal,
- and which may be called into question by rules of court. Rules 52.16(5) and (6) provide the procedure for the calling into question of such decisions)

SCHEDULE 6

Rule 20

PART 53

DEFAMATION CLAIMS

Contents of this Part

Scope of this Part	Rule 53.1
Summary disposal under the Defamation Act 1996	Rule 53.2
Sources of information	Rule 53.3

Scope of this Part

53.1 This Part contains rules about defamation claims.

⁽²¹⁾ 1981 c. 54; section 54 was amended by section 59 of the Access to Justice Act 1999 (c. 22).

⁽²²⁾ 1981 c. 54; section 58 was amended by section 60 of the Access to Justice Act 1999 (c. 22).

Summary disposal under the Defamation Act 1996

53.2.—(1) This rule provides for summary disposal in accordance with the Defamation Act 1996 (“the Act”)(23).

(2) In proceedings for summary disposal under sections 8 and 9 of the Act, rules 24.4 (procedure), 24.5 (evidence) and 24.6 (directions) apply.

(3) An application for summary judgment under Part 24 may not be made if—

(a) an application has been made for summary disposal in accordance with the Act, and that application has not been disposed of; or

(b) summary relief has been granted on an application for summary disposal under the Act.

(4) The court may on any application for summary disposal direct the defendant to elect whether or not to make an offer to make amends under section 2 of the Act.

(5) When it makes a direction under paragraph (4), the court will specify the time by which and the manner in which—

(a) the election is to be made; and

(b) notification of it is to be given to the court and the other parties.

Sources of information

53.3 Unless the court orders otherwise, a party will not be required to provide further information about the identity of the defendant’s sources of information.

(Part 18 provides for requests for further information)

SCHEDULE 7

Rule 29

Release of appellant on bail by the Court of Appeal

Rule 4.—(1) Where, in the case of an appeal under section 13 of the Administration of Justice Act 1960(24) to the Court of Appeal or to the House of Lords from the Court of Appeal, the appellant is in custody, the Court of Appeal may order his release on his giving security (whether by recognisance, with or without sureties, or otherwise and for such reasonable sum as that court may fix) for his appearance within 10 days after the judgment of the Court of Appeal or, as the case may be, of the House of Lords on the appeal shall have been given, before the court from whose order or decision the appeal is brought unless the order or decision is reversed by that judgment.

(2) An application for the release of a person under paragraph (1) pending an appeal to the Court of Appeal or House of Lords under the said section 13 must be made in accordance with CPR Part 23, and the application notice must, at least 24 hours before the day named therein for the hearing, be served on the court from whose order or decision the appeal is brought and on all parties to the proceedings in that court who are directly affected by the appeal.

(3) Order 79, rules 9(6), (6A), (6B) and (8) shall apply in relation to the grant of bail under this rule by the Court of Appeal in a case of criminal contempt of court as they apply in relation to the grant of bail in criminal proceedings by the High Court, but with the substitution for references to

(23) 1996 c. 31.

(24) 1960 c. 65; section 13 was amended by the Courts Act 1971 (c. 23), Schedule 8, paragraph 40, and Schedule 11, Part II; by the County Courts Act 1984 (c. 28), Schedule 2, paragraph 25; by the Magistrates' Courts Act 1980 (c. 43), section 154, Schedule 7, paragraph 37; by the Criminal Appeal Act 1968 (c. 19), Schedule 5; and by the Supreme Court Act 1981 (c. 54), Schedule 7.

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a judge of references to the Court of Appeal and for references to the defendant of references to the appellant.

(4) When granting bail under this rule in a case of civil contempt of court, the Court of Appeal may order that the recognisance or other security to be given by the appellant or the recognisance of any surety shall be given before any person authorised by virtue of section 119(1) of the Magistrates' Courts Act 1980⁽²⁵⁾ to take a recognisance where a magistrates' court having power to take it has, instead of taking it, fixed the amount in which the principal and his sureties, if any, are to be bound. An order by the Court of Appeal granting bail as aforesaid must be in Form 98 in the relevant practice direction with the necessary adaptations.

(5) Where in pursuance of an order of the Court of Appeal under paragraph (4) of this rule a recognisance is entered into or other security given before any person, it shall be the duty of that person to cause the recognisance of the appellant or any surety or, as the case may be, a statement of the other security given, to be transmitted forthwith to the clerk of the court which committed the appellant; and a copy of such recognisance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the appellant is detained, unless the recognisance or security was given before such governor or keeper.

(6) The powers conferred on the Court of Appeal by paragraphs (1), (3) and (4) of this rule may be exercised by a single judge.

SCHEDULE 8

Rule 41

(1) Order	(2) Extent of revocation
RSC Order 11	The whole Order.
RSC Order 15	Rules 6A, 7, 11, 12, 12A, 13, 15 and 17.
RSC Order 23	The whole Order.
RSC Order 31	The whole Order.
RSC Order 44	Rule 12.
RSC Order 55	The whole Order.
RSC Order 56	The whole Order.
RSC Order 58	The whole Order.
RSC Order 59	The whole Order.
RSC Order 60	The whole Order.
RSC Order 61	The whole Order.
RSC Order 64	Sub-paragraphs (c) and (d) of rule 4.
RSC Order 74	Rule 2.
RSC Order 91	Rules 2, 3, 4, 5, 5A and 6.
RSC Order 93	Rules 10(2), 10(3), 11, 12, 16(2) and 16(3).
RSC Order 94	Rules 6, 7, 10, 10A and 11.

⁽²⁵⁾ 1980 c. 43.

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(1) Order	(2) Extent of revocation
RSC Order 98	Rule 3.
RSC Order 101	The whole Order.
RSC Order 111	The whole Order.
CCR Order 3	The whole Order.
CCR Order 5	Rules 5 to 8.
CCR Order 13	The whole Order.
CCR Order 37	Rule 6.
CCR Order 49	Rules 10 and 11.

EXPLANATORY NOTE

(This note is not part of the Rules)

The Civil Procedure Rules 1998, which provided a new code of procedure for the civil courts, re-enacted with minor amendments a number of provisions of the Rules of the Supreme Court 1965 and the County Court Rules 1981. This statutory instrument replaces some of the most frequently used provisions of the earlier rules with rules to form an integral part of the new code. There are new provisions on service out of the jurisdiction (Schedule 1); representative parties (Schedule 2); security for costs (Schedule 3); sale of land and conveyancing counsel (Schedule 4); and appeals (Schedule 5).

Additionally, new rules have been provided on group litigation (Schedule 2), and on the procedure which will be used when the remaining provisions of the Defamation Act 1996 are brought into force in England and Wales (Schedule 6).

These new provisions have made it possible to revoke a substantial part of the remaining Rules of the Supreme Court and County Court Rules which are scheduled to the Civil Procedure Rules 1998. The opportunity has also been taken to make a number of minor amendments to the rules currently in force.