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STATUTORY INSTRUMENTS

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**1981 No. 562**

**SUPREME COURT OF JUDICATURE,  
ENGLAND AND WALES**

**PROCEDURE**

**The Rules of the Supreme Court (Amendment) 1981**

<i>Made</i>	- - - -	<i>6th April 1981</i>
<i>Laid before Parliament</i>		<i>9th April 1981</i>
<i>Coming into Operation</i>		<i>1st May 1981</i>

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925 to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers as follows:—

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment) 1981 and shall come into operation on 1st May 1981.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(1).

**Misjoinder and nonjoinder of parties**

2. Order 15, rule 6 shall be amended as follows:—

(1) Paragraph (2) shall be amended by inserting, at the beginning, the words “Subject to the provisions of this rule,” and by omitting the words “but no person shall be added as a plaintiff” to the end.

(2) After paragraph (3) there shall be added the following paragraphs:—

“(4) No person shall be added as a plaintiff without his consent signified in writing or in such other manner as may be authorised.

(5) No person shall be added or substituted as a party after the expiry of any relevant period of limitation unless either—

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- (a) the relevant period was current at the date when proceedings were commenced and it is necessary for the determination of the action that the new party should be added, or substituted, or
- (b) the relevant period arises under the provisions of section 11 or 12 of the Limitation Act 1980(2) and the Court directs that those provisions should not apply to the action by or against the new party.

In this paragraph “any relevant period of limitation” means a time limit under the Limitation Act 1980.

(6) The addition or substitution of a new party shall be treated as necessary for the purposes of paragraph (5)(a) if the Court is satisfied that—

- (a) the new party is a necessary party to the action in that property is vested in him at law or in equity and the plaintiff's claim in respect of an equitable interest in that property is liable to be defeated unless the new party is joined, or
- (b) the relevant cause of action is vested in the new party and the plaintiff jointly but not severally, or
- (c) the new party is the Attorney General and the proceedings should have been brought by relator proceedings in his name, or
- (d) the new party is a company in which the plaintiff is a shareholder and on whose behalf the plaintiff is suing to enforce a right vested in the company, or
- (e) the new party is sued jointly with the defendant and is not also liable severally with him and failure to join the new party might render the claim unenforceable.”.

#### **Amendment of writ or pleading with leave**

3. Order 20, rule 5 shall be amended by substituting, for the existing paragraph (4), the following paragraph:—

“(4) An amendment to alter the capacity in which a party sues may be allowed under paragraph (2) if the new capacity is one which that party had at the date of the commencement of the proceedings or has since acquired.”.

#### **Application for a direction under the Limitation Act 1980**

4. Order 32 shall be amended by inserting, after rule 9, the following rule:—

##### **“Application for a direction under the Limitation Act 1980**

**9A.** The jurisdiction to direct, under section 33 of the Limitation Act 1980, that section 11 or 12 of that Act should not apply to an action or to any specified cause of action to which the action relates shall be exercisable by the Court.”

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*Hailsham of St. Marylebone, C*  
*Lane, C. J*  
*Denning, M. R*  
*John Arnold, P*  
*John Donaldson, L. J*  
*R. E. Megarry, V. -C*  
*Hilary Talbot, J*  
*Iain Glidewell, J*  
*Mark Potter*  
*John G. McK. Laws*  
*R. J. Pannone*  
*P. F. Carter-Ruck*

Dated 6th April 1981

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## EXPLANATORY NOTE

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

- (1) to make provision for the addition or substitution of a party after the expiry of a period of limitation (rule 2);
- (2) to enlarge the power to allow amendments as to the capacity in which a party sues (rule 3); and
- (3) to enable a master or other judicial officer to make a direction under section 33 of the Limitation Act 1980 (rule 4).