
 STATUTORY INSTRUMENTS

1989 No. 2426 (L.19)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 4) Rules 1989

Made - - - - 18th December 1989

Coming into force

*as to all provisions
except rules 2 to 4,
7 to 11, and 23 to 27*

as to rules 23 to 27

as to rules 2 to 4, 7 to 11

5th February 1990

1st April 1990

4th June 1990

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment No. 4) Rules 1989.

(2) In these Rules, unless the context otherwise requires, an Order referred to by number means the Order so numbered in the County Court Rules 1981(a).

Medical reports

2. Order 3, rule 3(2)(c) shall be amended by inserting, after the words “summons for service”, the words “a copy of any documents filed under Order 6, rule 1(5) and”.

3.—(1) After Order 6, rule 1(4), there shall be inserted the following—

“ (5) Subject to paragraph (6), a plaintiff in an action for personal injuries shall file with his particulars of claim—

(a) a medical report, and

(b) a statement of the special damages claimed,

together with a copy of those documents for each defendant.

(6) Where the documents to which paragraph (5) applies are not filed with the particulars of claim, the Court—

(a) may specify the period of time within which they are to be provided, in which case the plaintiff shall within the time so specified file a copy of them and serve further copies on each defendant; or

(b) may make such other order as it thinks fit (including an order dispensing with the requirements of paragraph (5) or staying the proceedings).

(7) For the purposes of this rule,

“medical report” means a report substantiating all the personal injuries alleged in the particulars of claim which the plaintiff proposes to adduce in evidence as part of his case at the trial;

“a statement of the special damages claimed” means a statement giving full particulars of the special damages claimed for expenses and losses already incurred and an estimate of any future expenses and losses (including loss of earnings and of pension rights).”

4. Nothing in rule 2 or 3 shall apply to any action commenced by a summons issued before those rules come into force.

(a) S.I. 1981/1687; the relevant amending instruments are S.I. 1982/1794, 1983/275, 1716, 1984/878, 1985/566, 1988/278, 1989/236 and 1838.

Provisional damages

5. After Order 6, rule 1A, there shall be inserted the following—

“Aggravated, exemplary and provisional damages

1B. Where a plaintiff claims aggravated, exemplary or provisional damages, his particulars of claim shall contain a statement to that effect and shall state the facts on which he relies in support of his claim for such damages.”.

6. After Order 22, rule 6, there shall be inserted the following—

“Provisional damages

6A.—(1) This rule applies to actions to which section 51 of the Act applies.

(2) Subject to paragraph (3), rules 7(2) and 8 to 10 of R.S.C. Order 37 shall apply to actions to which this rule applies as they apply in relation to proceedings or subsequent proceedings in the High Court with the following modifications—

- (a) references to section 32A of the Supreme Court Act 1981 shall be construed as references to section 51 of the Act;
- (b) the reference in the said rule 8 to R.S.C. Orders 13 and 19 shall be construed as a reference to rules 3 and 6 of Order 9 in these rules;
- (c) references in the said rule 10 to the provisions of R.S.C. Order 29 relating to the making of interim payments shall be construed as references to Part II of R.S.C. Order 29 as applied to proceedings in a county court by Order 13, rule 12 of these rules;
- (d) references in the said rule 10 to a summons for directions shall be construed as references to an application for directions as to the future conduct of the action.

(3) Where a defendant delivers an admission of whole or part of the plaintiff's claim, Order 9, rule 4 of these rules shall apply as if the action were a fixed date action; and that rule shall also so apply, with the necessary modifications, where the defendant fails to deliver a defence within the period of 14 days mentioned in that rule.”.

Service of process

7. For Order 7, rule 20(1), there shall be substituted the following—

“ (1) The time within which a summons may be served shall, unless extended under the following provisions of this rule, be limited—

- (a) where leave to serve the summons out of England and Wales is required under Order 8, rule 2, to a period of 6 months;
- (b) in any other case, to a period of 4 months, beginning with the date of issue of the summons.”.

8. In Order 7, rule 20(2), for the words from the beginning to the words “exceeding 12 months”, there shall be substituted the words “Subject to paragraph (3), the court may extend the period for service of a summons from time to time for such period, not exceeding 4 months”.

9. After Order 7, rule 20(2), there shall be added the following—

“ (3) Where the court is satisfied on an application under paragraph (2) that, despite the making of all reasonable efforts, it may not be possible to serve the summons within 4 months, the court may, if it thinks fit, extend the period for service for such period, not exceeding 12 months, as the court may specify.”.

10. For Order 43, rule 6(3), there shall be substituted the following—

“ (3) The provisions of Order 7, rule 20(1) and (2) shall apply to an originating application under this rule with the substitution of references to two months for the references therein to 6 months and to 4 months.”.

11. Nothing in rules 7 to 10 shall apply to proceedings commenced by a summons or an originating application issued before those rules come into force.

Automatic directions in personal injuries actions

12. In Order 9, rule 5, for the word “If”, there shall be substituted the words “Subject to Order 17, rule 11, if”.

13. After Order 17, rule 10, there shall be inserted the following—

“Automatic directions in actions for personal injuries

11.—(1) This rule applies to any action for personal injuries except—

- (a) any Admiralty action;
- (b) any action in which an allegation is made of a negligent act or omission in the course of medical treatment;
- (c) proceedings to which Order 12 applies (third party and similar proceedings);
- (d) proceedings which stand referred for arbitration under Order 19, rule 2(3).”.

(2) In an action to which this rule applies, Order 9, rule 5 and the foregoing provisions of this Order shall not apply and directions shall take effect automatically in accordance with the following paragraphs of this rule.

(3) When the pleadings are deemed to be closed, the following directions shall take effect—

- (a) there shall be discovery of documents within 14 days, and inspection within 7 days thereafter, in accordance with paragraph (7);
- (b) where any party intends to place reliance at the trial on expert evidence, he shall, within 10 weeks, disclose the substance of that evidence to the other parties in the form of a written report, which shall be agreed if possible;
- (c) unless such reports are agreed, the parties shall be at liberty to call as expert witnesses those witnesses the substance of whose evidence has been disclosed in accordance with the preceding sub-paragraph, except that the number of expert witnesses shall be limited in any case to two medical experts and one expert of any other kind;
- (d) photographs, a sketch plan and the contents of any police accident report book shall be receivable in evidence at the trial, and shall be agreed if possible;
- (e) the action shall be tried by a judge or registrar in accordance with the provisions of these rules relating to the distribution of business;
- (f) unless the proper officer has already fixed a date for the hearing, the plaintiff shall within 6 months request that the action be listed for hearing whereupon the proper officer shall fix a day for the hearing of the action and give to all parties not less than 14 days' notice of the day so fixed;
- (g) where a request is made under paragraph (f), the plaintiff shall notify the proper officer and all other parties of the estimated length of the hearing, and any such party who disagrees with the plaintiff's estimate shall give notice to that effect.

(4) Nothing in paragraph (3) shall require a party to produce a further medical report if he proposes to rely at the trial only on the report provided pursuant to Order 6, rule 1(5) or (6) but, where a party claiming damages for personal injuries discloses a further report, that report shall be accompanied by a statement of the special damages claimed.

(5) Without prejudice to the generality of paragraph (3)(b), where that provision requires disclosure to be made by more than one party the reports shall be disclosed by mutual exchange, medical for medical and non-medical for non-medical, within the time provided.

(6) Nothing in paragraph (3) shall—

- (a) prevent the court from giving, of its own motion or on the application of any party, such further or different directions or orders as may, in the circumstances, be appropriate; or
- (b) prevent the making of an order for the transfer of the proceedings to the High Court or another county court.

(7) The parties must make discovery by serving lists of documents and—

- (a) subject to sub-paragraph (c), each party must make and serve on every other party a list of documents which are or have been in his possession, custody or power relating to any matter in question between them in the action;
- (b) the court may, on application,—
 - (i) order that discovery under this paragraph shall be limited to such documents or classes of documents only, or as to such only of the matters in question, as may be specified in the order, or
 - (ii) if satisfied that discovery by all or any of the parties is not necessary, order that there shall be no discovery of documents by any or all of the parties;

and the court shall make such an order if and so far as it is of opinion that discovery is not necessary either for disposing fairly of the action or for saving costs;

- (c) where liability is admitted or where the action arises out of a road accident, discovery shall be limited to disclosure by the plaintiff of any documents relating to special damages;
 - (d) discovery under this paragraph shall not apply in civil proceedings to which the Crown is a party;
 - (e) any list of documents made in compliance with this paragraph shall be filed;
 - (f) the provisions of Order 14 of these rules relating to inspection of documents shall apply where discovery is made under this paragraph as it applies where discovery is made under that Order.
- (8) For the purposes of this rule—
- (a) pleadings shall be deemed to be closed 14 days after the delivery of the document specified in Order 9, rule 5 of these rules;
 - (b) “a road accident” means an accident on land due to a collision or apprehended collision involving a vehicle;
 - (c) “a statement of the special damages claimed” has the same meaning as in Order 6, rule 1(7) and “documents relating to special damages” include—
 - (i) documents relating to any industrial injury, industrial disablement or sickness benefit rights, and
 - (ii) where the claim is made under the Fatal Accidents Act 1976(a), documents relating to any claim for dependency on the deceased.”.

14. Nothing in rule 12 or 13 shall apply to proceedings commenced before those rules come into force.

Summary judgment

15. For Order 9, rule 14(1), there shall be substituted the following—

“(1) This rule applies to any action except—

- (a) an action in which the sum claimed or amount involved does not exceed £500;
- (b) an action in which a claim is made for possession of land or in which the title to any land is in question;
- (c) an action which includes a claim by the plaintiff for libel, slander, malicious prosecution or false imprisonment;
- (d) an action which includes a claim by the plaintiff based on an allegation of fraud;
- (e) an Admiralty action *in rem*.

(1A) Without prejudice to rule 11 and Order 13, rule 5, where the defendant in an action to which this rule applies has delivered at the court office a document purporting to be a defence, the plaintiff may apply to the court for judgment against the defendant on the ground that, notwithstanding the delivery of that document, the defendant has no defence to the claim or to a particular part of the claim.”.

16. For Order 9, rule 14(5), there shall be substituted the following—

“(5) The provisions of the R.S.C. relating to—

- (a) showing cause against an application under Order 14 of those rules,
- (b) giving the plaintiff judgment or granting the defendant leave to defend on such an application, and
- (c) granting summary judgment on a counterclaim,

shall apply in relation to an application under this rule as they apply in relation to an application under the said Order 14.”.

Split trials

17. For Order 13, rule 2(2), there shall be substituted the following—

“(2) In the exercise of the power conferred by paragraph (1) the court may, in particular,

- (a) order any party to deliver any pleading or give any particulars which the court thinks necessary for defining the issues in the proceedings; and

- (b) at the same or any subsequent time direct that the action or matter be dismissed or, as the case may be, the defendant be debarred from defending altogether or that anything in any pleading of which particulars have been ordered be struck out unless the order is obeyed within such time as the court may allow; and
- (c) order one or more questions or issues to be tried before the others.”.

Interrogatories

18. After Order 14, rule 11(1), there shall be inserted the following—

“(1A) Subject to paragraph (1B), where interrogatories without order are administered, a note at the end of the interrogatories shall set out the effect of R.S.C. Order 26, rule 3(2) (right of the party served to apply to the court for the interrogatories to be varied or withdrawn).

(1B) Interrogatories without order shall not be administered in proceedings which stand referred for arbitration under Order 19, rule 2(3).”.

Costs sanction for failure to admit facts or documents

19. For Order 20, rule 2(2), there shall be substituted the following—

“(2) If the party served with a notice to admit facts under paragraph (1) does not deliver a written admission of the facts within 7 days after service of the notice on him, the costs of proving the facts and the costs occasioned by and thrown away as a result of his failure to admit the facts shall, unless the court otherwise directs, be borne by him.”.

20. For Order 20, rule 3(2), there shall be substituted the following—

“(2) If the party served with a notice under paragraph (1) desires to challenge the authenticity of the document, he must, within 7 days after service of the notice, serve on the party by whom it was given a notice that he does not admit the authenticity of the document and requires it to be proved at the trial.

(2A) Where a party serves a notice under paragraph (2) and the document to which it relates is proved at the trial, the costs of proving the document and the costs occasioned by and thrown away as a result of that party’s non-admission shall, unless the court otherwise directs, be borne by him.”.

21. After Order 38, rule 17A, there shall be inserted the following new rule—

“Assessment of costs for failure to admit facts or documents

17B.—(1) Subject to paragraph (3), where a party is entitled to costs under Order 20, rule 2(2) or 3(2A) the amount of those costs may be assessed by the court without taxation and may be ordered to be paid forthwith.

(2) Where costs are assessed under paragraph (1), the court may allow such sums as it thinks reasonable.

(3) No order may be made under paragraph (1) in a case where the person against whom the order is made is an assisted person within the meaning of the statutory provisions relating to legal aid.”.

Exchange of witness statements

22. After Order 20, rule 12, there shall be inserted the following—

“Exchange of witness statements

12A.—(1) Subject to paragraph (2), at any stage in an action or matter the court may, if it thinks fit for the purpose of disposing fairly and expeditiously of the action or matter and saving costs, direct any party to serve on the other parties, on such terms as the court shall think just, written statements of the oral evidence which the party intends to lead on any issues of fact to be decided at the trial and R.S.C. Order 38, rule 2A shall apply to a direction under this rule as it applies to a direction under paragraph (2) of the said rule 2A.

(2) No direction shall be made under this rule in proceedings which stand referred for arbitration under Order 19, rule 2(3).”.

Miscellaneous amendments

23. After Order 22, rule 8(2), there shall be inserted the following—

“(3) Without prejudice to paragraph (2), for the purposes of section 12(2) of the Act a certificate under this rule may be signed by the chief clerk or any other officer of the court acting on his behalf.”.

24. In Order 25, rule 3(1A), the words from “and that the whole” to the end shall be omitted.

25. At the end of Order 25, rule 3(4), there shall be inserted the words “and any such order shall direct that any payments made thereafter shall be paid into court and not direct to the judgment creditor”.

26. For the heading to Order 26, rule 14, there shall be substituted the following—

“Notification to foreign court of payment made”.

27. Order 28, rule 1(2) shall be amended by inserting, after the words “judgment or order”, the words “, the amount in respect of which the judgment summons is to issue”.

Appeals under section 56 of the Representation of the People Act 1983(a)

28. In Order 45, rule 2(2), for the words from “In this paragraph” to the end, there shall be substituted the following—

“In this paragraph “qualifying premises” means the premises in respect of which—

(a) the person whose right to be registered in the register of electors is in question on the appeal is entered on the electors’ list or is registered or claims to be entitled to be registered, or

(b) the person whose right to vote by proxy or by post is in question on the appeal is or will be registered in the register of electors, or

(c) the elector whose proxy’s right to vote by post is in question on the appeal is or will be registered in the register of electors,

as the case may be.”.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 75 of the County Courts Act 1984(b), having by virtue of the powers vested in us in that behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

C. S. Stuart-White,
R. Lockett,
A. N. Fricker,
R. Greenslade,
Patrick Eccles,
Gillian Stuart-Brown,

Eifion Roberts,
R. E. Hammerton,
K. H. P. Wilkinson,
Timothy Stow,
R. C. Newport.

I allow these Rules, which shall come into force on 5th February 1990, except for rules 23 to 27 which shall come into force on 1st April 1990 and rules 2 to 4 and 7 to 11 which shall come into force on 4th June 1990.

Dated 18th December 1989

Mackay of Clashfern, C.

(a) 1983 c.2; section 56 was amended by the Representation of the People Act 1985 (c.50), sections 11, 28, Schedule 2, Part I, paragraphs 1, 2, Schedule 4, paragraph 16, Schedule 5.

(b) 1984 c.28.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the County Court Rules 1981 so as—

- (a) to require the provision of a medical report and of a detailed statement of special damages when an action claiming damages for personal injuries is commenced (*rules 2 to 4*);
- (b) to provide for the making of awards of provisional damages (where the plaintiff's medical condition may deteriorate in the future) (*rules 5 and 6*);
- (c) to reduce from 12 to 4 months the time within which a summons or an originating application may be served (except an originating application under Order 43, rule 6 where, as now, the application has to be served within 2 months) and to amend the rules on allowing extensions of the time for service (*rules 7 to 11*);
- (d) to provide for directions as to the future conduct of a personal injuries case to take effect automatically (*rules 12 to 14*);
- (e) to extend the power to grant summary judgment where the defendant has no real defence (*rules 15 and 16*);
- (f) to make express provision for the separate trial of separate issues (*rule 17*);
- (g) to enable interrogatories to be administered (on not more than two occasions) without a court order (*rule 18*);
- (h) to strengthen the power of the court to penalise in costs a party who unjustifiably fails to make admissions of facts or documents (*rules 19 to 21*);
- (i) to enable the court to require witness statements to be exchanged (*rule 22*);
- (j) to make a number of miscellaneous amendments to the provisions relating to certificates of judgment, oral examinations, transfer of warrants and judgment summonses (*rules 23 to 27*); and
- (k) to amend the venue provisions relating to appeals under section 56 of the Representation of the People Act 1983 (*rule 28*).