

SCHEDULE 1

RSC ORDER 82 DEFAMATION CLAIMS

Application

Rule 1 These rules apply to claims for libel or slander subject to the following rules of this Order.

Indorsement of claim in libel claim

Rule 2 Before a claim form in a claim for libel is issued it must be indorsed with a statement giving sufficient particulars of the publications in respect of which the claim is brought to enable them to be identified.

Obligation to give particulars

Rule 3.—(1) Where in a claim for libel or slander the claimant alleges that the words or matters complained of were used in a defamatory sense other than their ordinary meaning, he must give particulars of the facts and matters on which he relies in support of such sense.

(2) Where in a claim for libel or slander the defendant alleges that, in so far as the words complained of consist of statements of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, or states in his statement of case to the like effect, he must give particulars stating which of the words complained of he alleges are statements of fact and of the facts and matters he relies on in support of the allegation that the words are true.

(2A) Subject to paragraph (2B), where the defendant makes an allegation as described in paragraph (2), the claimant shall serve a reply specifically admitting or denying any such allegation raised by the defendant and specifying any fact or matter upon which he relies in opposition to the defendant's allegations.

(2B) No reply shall be required under paragraph (2A) where all the facts or matters on which the claimant intends to rely in opposition to the defendant's allegations as described in paragraph (2) are already particularised elsewhere in the statements of case.

(3) Where in a claim for libel or slander the claimant alleges that the defendant maliciously published the words or matters complained of, he need not in his particulars of claim give particulars of the facts on which he relies in support of the allegation of malice, but if the defendant states in his statement of case that any of those words or matters are fair comment on a matter of public interest or were published upon a privileged occasion and the claimant intends to allege that the defendant was actuated by express malice, he must serve a reply giving particulars of the fact and matters from which the malice is to be inferred.

(3A) The claimant must give full particulars in the particulars of claim of the facts and matters on which he relies in support of his claim for damages, including details of any conduct by the defendant which it is alleged has increased the loss suffered and of any loss which is peculiar to the claimant's own circumstances.

(4) This rule shall apply in relation to a counterclaim for libel or slander as if the party making the counterclaim were the claimant and the party against whom it is made the defendant.

Ruling on meaning

Rule 3A.—(1) At any time after the service of the particulars of claim either party may apply to a judge sitting in private for an order determining whether or not the words complained of are capable of bearing a particular meaning or meanings attributed to them in the statements of case.

(2) If it appears to the judge on the hearing of an application under paragraph (1) that none of the words complained of are capable of bearing the meaning or meanings attributed to them in the statements of case, he may dismiss the claim or make such other order or give such judgment in the proceedings as may be just.

(3) Subject to paragraph (4), each party to the proceedings may make only one application under paragraph (1).

(4) Where a party has made an application under paragraph (1) and the respondent to that application subsequently amends his statements of case to allege a new meaning, the Court may allow the other party to make a further application under paragraph (1) in relation to that new meaning.

(5) This rule shall apply in relation to a counterclaim for libel or slander as if the party making the counterclaim were the claimant and the party against whom it is made the defendant, and as if the counterclaim were the statement of claim.

Provisions as to payment into Court

Rule 4.—(1) Where in a claim for libel or slander against several defendants sued jointly the claimant, in accordance with CPR rule 36.11(1) accepts money paid into court by any of those defendants in satisfaction of his cause of action against that defendant, then, notwithstanding anything in CPR rule 36.17, the claim shall be stayed as against that defendant only, but—

- (a) the sum recoverable under any judgment given in the claimant's favour against any other defendant in the claim by way of damages shall not exceed the amount (if any) by which the amount of the damages exceeds the amount paid into court by the defendant as against whom the claim has been stayed, and
- (b) the claimant shall not be entitled to his costs of the claim against the other defendant after the date of the payment into court unless either the amount of the damages awarded to him is greater than the amount paid into court and accepted by him or the judge is of opinion that there was reasonable ground for him to proceed with the claim against the other defendant.

(2) Where in a claim for libel a party in his statement of case relies on the defence for which section 2 of the Libel Act 1843(1), provides, CPR rule 36.19 shall not apply in relation to that statement of case.

Statement in open Court

Rule 5.—(1) Where a party wishes to accept money paid into Court in satisfaction of a cause of action for libel or slander, malicious prosecution or false imprisonment, that party may before or after accepting the money apply to a Judge sitting in private in accordance with CPR Part 23 for permission to make in open Court a statement in terms approved by the judge.

(2) Where a party to a claim for libel or slander, malicious prosecution or false imprisonment which is settled before trial desires to make a statement in open Court, an application must be made to the Court for an order that the claim be set down for trial, and before the date fixed for the trial the statement must be submitted for the approval of the Judge before whom it is to be made.

(1) 1843 (c. 96); section 2 was amended by the Statute Law Revision Act 1891 (c. 67); and by the Statute Law Revision Act 1892 (c. 19).

(3) A Judge sitting in private may approve a statement under paragraph (1) or (2) which refers not only to a cause of action mentioned in those paragraphs but also to any other cause of action joined thereto.

Further information not allowed in certain cases

Rule 6 In a claim for libel or slander where the defendant states in his statement of case that the words or matters complained of are fair comment on a matter of public interest or were published on a privileged occasion, no further information as to the defendant's sources of information or grounds of belief shall be allowed.

Fulfilment of offer of amends under s.4 of the Defamation Act 1952(2)

Rule 8.—(1) An application to the Court under section 4 of the Defamation Act 1952, to determine any question as to the steps to be taken in fulfilment of an offer of amends made under that section must, unless the application is made in the course of proceedings for libel or slander in respect of the publication to which the offer relates, be made in private in the Queen's Bench Division, but only a judge may determine such question.

(2) Such an application is to be made by a claim form.