STATUTORY INSTRUMENTS

2006 No. 1689 (L. 6)

SUPREME COURT OF ENGLAND AND WALESCOUNTY COURTS, ENGLAND AND WALES

The Civil Procedure (Amendment) Rules 2006

Made - - - -	*26th June 2006*
Laid before Parliament	*27th June 2006*
Coming into force - -	*2nd October 2006*

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 2006 and shall come into force on 2nd October 2006.

2. In these Rules—

(a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(**2**);

(b) a reference to an Order by number and prefixed by "RSC" means the RSC Order so numbered in Schedule 1 to those Rules; and

(c) a reference to an Order by number and prefixed by "CCR" means the CCR Order so numbered in Schedule 2 to those Rules.

Amendment to the Civil Procedure Rules 1998

3. In Part 5—

(a) for rule 5.4 (Supply of Documents from court records – general), substitute—

(**1**) 1997 c. 12.
(**2**) S.I.1998/3132. There are relevant amendments in S.I. 1999/1008, S.I. 2000/1317, S.I. 2000/221, S.I. 2000/2092, S.I. 2001/256, S.I. 2001/1388; S.I. 2001/2792, S.I. 2002/2058, S.I. 2003/3361, S.I. 2004/2072, S.I. 2005/352, S.I. 2005/656, S.I. 2005/2292 and S.I. 2005/3515.

"**Register of claims**

5.4.—(1) A court or court office may keep a publicly accessible register of claims which have been issued out of that court or court office.

(2) Any person who pays the prescribed fee may, during office hours, search any available register of claims.

(The practice direction contains details of available registers).";

(b) after rule 5.4A insert—

"**Supply of documents to a party from court records**

5.4B.—(1) A party to proceedings may, unless the court orders otherwise, obtain from the records of the court a copy of any document listed in paragraph 4.2A of the Practice Direction.

(2) A party to proceedings may, if the court gives permission, obtain from the records of the court a copy of any other document filed by a party or communication between the court and a party or another person.

Supply of documents to a non-party from court records

5.4C.—(1) The general rule is that a person who is not a party to proceedings may obtain from the court records a copy of—

(a) a statement of case, but not any documents filed with or attached to the statement of case, or intended by the party whose statement it is to be served with it;

(b) a judgment or order given or made in public (whether made at a hearing or without a hearing).

(2) A non-party may, if the court gives permission, obtain from the records of the court a copy of any other document filed by a party, or communication between the court and a party or another person.

(3) A non-party may obtain a copy of a statement of case or judgment or order under paragraph (1) only if—

(a) where there is one defendant, the defendant has filed an acknowledgment of service or a defence;

(b) where there is more than one defendant, either—

(i) all the defendants have filed an acknowledgment of service or a defence;

(ii) at least one defendant has filed an acknowledgment of service or a defence, and the court gives permission;

(c) the claim has been listed for a hearing; or

(d) judgment has been entered in the claim.

(4) The court may, on the application of a party or of any person identified in a statement of case—

(a) order that a non-party may not obtain a copy of that statement of case under paragraph (1);

(b) restrict the persons or classes of persons who may obtain a copy of that statement of case;

(c) order that persons or classes of persons may only obtain a copy of that statement of case if it is edited in accordance with the directions of the court; or

(d) make such other order as it thinks fit.

(5) A person wishing to apply for an order under paragraph (4) must file an application notice in accordance with Part 23.

(6) Where the court makes an order under paragraph (4), a non-party who wishes to obtain a copy of the statement of case, or to obtain an unedited copy of the statement of case, may apply on notice to the party or person identified in the statement of case who requested the order, for permission.

Supply of documents from court records - general

5.4D.—(1) A person wishing to obtain a copy of a document under rule 5.4B or rule 5.4C must pay any prescribed fee and—

(a) if the court's permission is required, file an application notice in accordance with Part 23; or

(b) if permission is not required, file a written request for the document.

(2) An application for an order under rule 5.4C(4) or for permission to obtain a copy of a document under rule 5.4B or rule 5.4C (except an application for permission under rule 5.4C(6)) may be made without notice, but the court may direct notice to be given to any person who would be affected by its decision.

(3) Rules 5.4, 5.4B and 5.4C do not apply in relation to any proceedings in respect of which a rule or practice direction makes different provision.".

4. After rule 7.2, insert—

"**7.2A** The practice direction supplementing this Part makes provision for procedures to be followed when claims are brought by or against a partnership within the jurisdiction.".

5. In rule 27.14—

(a) for paragraph (2), substitute—

"(2) The court may not order a party to pay a sum to another party in respect of that other party's costs, fees and expenses, including those relating to an appeal, except—

(a) the fixed costs attributable to issuing the claim which—

(i) are payable under Part 45; or

(ii) would be payable under Part 45 if that Part applied to the claim;

(b) in proceedings which included a claim for an injunction or an order for specific performance a sum not exceeding the amount specified in the relevant practice direction for legal advice and assistance relating to that claim;

(c) any court fees paid by that other party;

(d) expenses which a party or witness has reasonably incurred in travelling to and from a hearing or in staying away from home for the purposes of attending a hearing;

(e) a sum not exceeding the amount specified in the relevant practice direction for any loss of earnings or loss of leave by a party or witness due to attending a hearing or to staying away from home for the purposes of attending a hearing;

(f) a sum not exceeding the amount specified in the relevant practice direction for an expert's fees; and

(g) such further costs as the court may assess by the summary procedure and order to be paid by a party who has behaved unreasonably.";

(b) omit paragraph (3);

(c) re-number paragraph (2A) as paragraph (3);

(d) in paragraph (3), for "(2)(d)" substitute "(2)(g)"; and

(e) in paragraph (6), after "Where the parties agree that the fast track costs provisions are to apply, the claim", insert "and any appeal".

6. Omit rule 39.8.

7. In Part 52—

(1) in rule 52.3—

(a) at the beginning of paragraph (4), for "Where" substitute "Subject to paragraph (4A), where"; and

(b) after paragraph (4), insert—

"(4A) Where the Court of Appeal refuses permission to appeal without a hearing, it may, if it considers that the application is totally without merit, make an order that the person seeking permission may not request the decision to be reconsidered at a hearing. The court may not make such an order in family proceedings.

("Family proceedings" is defined by section 32 of the Matrimonial and Family Proceedings Act 1984)

(4B) °Rule 3.3(5) will not apply to an order that the person seeking permission may not request the decision to be reconsidered at a hearing made under paragraph (4A).."; and

(2) in rule 52.7, sub-section (b), for "Immigration Appeal Tribunal" substitute "Asylum and Immigration Tribunal".

8. In Section III of Part 54—

(1) in rule 54.28B(2), sub-section (b), after "by first class post" insert "(or an alternative service which provides for delivery on the next working day)";

(2) after rule 54.31(2), insert—

"**54.31.** The applicant must file with the notice—

(a) a copy of the Tribunal's notification that it does not propose to make an order for reconsideration or does not propose to grant permission for the application to be made outside the relevant time limit (referred to in CPR rule 54.31(2));

(b) any other document which was served on the applicant by the Tribunal giving reasons for its decision in paragraph (a);

(c) written evidence in support of any application by the applicant seeking permission to make the application outside the relevant time limit, if applicable;

(d) a copy of the application for reconsideration under section 103A of the 2002 Act (Form AIT/103A), as submitted to the Tribunal (referred to in Rule 54.29(1)(a).";

(3) after rule 54.35, insert—

"**Continuing an application in circumstances in which it would otherwise be treated as abandoned**

54.36.—(1) This rule applies to an application under section 103A of the 2002 Act which—

(a) would otherwise be treated as abandoned under section 104(4A) of the 2002 Act; but

(b) meets the conditions set out in section 104(4B) or section 104(4C) of the 2002 Act.

(2) Where section 104(4A) of the 2002 Act applies and the applicant wishes to pursue the application, the applicant must file a notice at the Administrative Court Office—

(a) where section 104(4B) of the 2002 Act applies, within 28 days of the date on which the applicant received notice of the grant of leave to enter or remain in the United Kingdom for a period exceeding 12 months; or

(b) where section 104(4C) of the 2002 Act applies, within 28 days of the date on which the applicant received notice of the grant of leave to enter or remain in the United Kingdom.

(3) Where the applicant does not comply with the time limits specified in paragraph (2), the application will be treated as abandoned in accordance with section 104(4) of the 2002 Act.

(4) The applicant must serve the notice filed under paragraph (2) on the other party to the appeal.

(5) Where section 104(4B) of the 2002 Act applies, the notice filed under paragraph (2) must state—

(a) the applicant's full name and date of birth;

(b) the Administrative Court reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the applicant was granted leave to enter or remain in the United Kingdom for a period exceeding 12 months; and

(e) that the applicant wishes to pursue the application insofar as it is brought on grounds relating to the Refugee Convention specified in section 84(1)(g) of the 2002 Act.

(6) Where section 104(4C) of the 2002 Act applies, the notice filed under paragraph (2) must state—

(a) the applicant's full name and date of birth;

(b) the Administrative Court reference number;

(c) the Home Office reference number, if applicable;

(d) the date on which the applicant was granted leave to enter or remain in the United Kingdom; and

(e) that the applicant wishes to pursue the application insofar as it is brought on grounds relating to section 19B of the Race Relations Act 1976 specified in section 84(1)(b) of the 2002 Act.

(7) Where an applicant has filed a notice under paragraph (2) the court will notify the applicant of the date on which it received the notice.

(8) The court will send a copy of the notice issued under paragraph (7) to the other party to the appeal.".

9. In rule 59.1(3), for sub-paragraph (a), substitute—

"(a) "Mercantile Court" means a specialist list established within the courts listed in the Practice Direction;".

10. After rule 73.21, insert—

"**73.22** The practice direction supplementing this Part makes provision for the procedure to be followed when applying for an order under section 23 of the Partnership Act 1890.".

11. In rule 76.34, for "rule 5.4 (supply of court documents – general) does", substitute "rule 5.4 (Register of Claims), rule 5.4B (Supply of documents from court records – a party) and rule 5.4C (Supply of documents from court records – a non-party) do".

12. The following provisions are revoked—

(a) RSC Order 81;

(b) RSC Order 93, rule 1;

(c) RSC Order 112;

(d) CCR Order 5;

(e) CCR Order 25, rules 9 and 10;

(f) CCR Order 47;

(g) CCR Order 49, rule 17.

John Dyson, L.J.
Rupert Jackson, J.
Terence Etherton, J.
Stephen Oliver-Jones
Steven Whitaker
Carlos Dabezies
David di Mambro
Juliet Herzog
Philip Rainey
Andrew Parker

I allow these Rules

Date 26th June 2006 *Flaconer of Thoroton, C*

EXPLANATORY NOTE

(This note is not part of the Rules)

These rules add the following new provisions to the Civil Procedure Rules 1998—

- New rules 5.4B, 5.4C and 5.4D, to follow rule 5.4A. Rule 5.4B deals with the supply of documents to parties and rule 5.4C the supply of documents to non-parties. Rule 5.4D makes general provision about access to court documents.
- A new rule 7.2A relating to claims by and against partnerships.
- A new rule 52.3(4A) and rule 52.3(4B) allowing the Court of Appeal to make an order that a person refused permission to appeal may not request the decision to be reconsidered at a hearing.
- A new rule 54.31(2A) to specify the documents to be filed with a notice to the High Court under rule 54.31.
- A new rule 54.36 to implement a procedure for notifying the High Court that an appellant wishes to continue with an appeal which would otherwise be deemed to be abandoned, in accordance with section 9 of the Immigration, Asylum and Nationality Act 2006.
- A new rule 73.22 to make provision for the procedure to be followed when applying for an order under section 23 of the Partnership Act 1890.

Rule 27.14 has been amended to make provision for the costs of appeals from small claims.

Minor amendments are made to rule 52.7, rule 54.28B(2), rule 59.1(3) and rule 76.34.

The opportunity also has been taken to revoke a number of Rules of the Supreme Court and County Court Rules.