
STATUTORY INSTRUMENTS

2023 No. 788

The Civil Procedure (Amendment No. 3) Rules 2023

Amendment of Part 23

- 14.—**(1) In the Table of Contents to the Part—
- (a) in the entry for rule 23.1, for “Meaning of “application notice” and “respondent”” substitute “Definitions”;
 - (b) in the entry for rule 23.8, for “dealt with” substitute “decided”;
 - (c) in the entry for rule 23.9, after “of” insert “order and”; and
 - (d) in the entry for rule 23.12, for “Dismissal of totally without merit applications” substitute “Applications that are totally without merit”.
- (2) In rule 23.1—
- (a) in the heading, for “Meaning of “application notice” and “respondent”” substitute “Definitions”;
 - (b) in the definition of “application notice”—
 - (i) for “his” substitute “their”; and
 - (ii) omit “and” at the end of the definition; and
 - (c) after the definition of “application notice” insert—

““hearing” means the occasion on which any interim or final decision is or may be made by a judge, at which a person is, or has a right to be, heard in person, by telephone, by video or by any other means which permits simultaneous communication; and”.
- (3) In rule 23.2—
- (a) in paragraph (4)—
 - (i) for “paragraph (4A)” substitute “paragraph (5)”;
 - (ii) for “it is likely” to “will be” substitute “the claim is most likely to be”;
 - (b) paragraph (4A) is renumbered as paragraph (5), and in paragraph (5) as so renumbered, for “provides” substitute “states”; and
 - (c) paragraph (5) is renumbered as paragraph (6), and in paragraph (6) as so renumbered, for “provides” substitute “states”.
- (4) For rules 23.3 and 23.4 substitute—

“Application notice to be filed

- 23.3.** An applicant must file an application notice unless—
- (a) a rule or practice direction states otherwise; or
 - (b) the court dispenses with the requirement.

Notice of an application

23.4. A copy of the application notice must be served on each respondent unless a rule, practice direction or court order permits otherwise.”

- (5) In rule 23.5, for “so made” substitute “made in time”.
- (6) In rule 23.6, in the words in parentheses at the end of the rule, for “his” substitute “the”.
- (7) In rule 23.7—
 - (a) for paragraph (1) substitute—
 - “(1) A copy of the application notice must be served—
 - (a) as soon as practicable after it is filed; and
 - (b) at least 3 days before the court is to deal with the application unless a different time limit is stated in a rule, practice direction or court order.”;
 - (b) in paragraph (2)—
 - (i) for “he files” substitute “they file”; and
 - (ii) for “written evidence in support” substitute “supporting written evidence”;
 - (c) in paragraph (3)—
 - (i) in sub-paragraph (a), for “written evidence in support” substitute “supporting written evidence”; and
 - (ii) in sub-paragraph (b), for “his” substitute “the”;
 - (d) in paragraph (4), before “hear” insert “may”; and
 - (e) in paragraph (5), omit the words in parentheses at the end of the paragraph.
 - (8) For rule 23.8 substitute—

“Applications which may be decided without a hearing

23.8.—(1) The court may deal with an application without a hearing if—

- (a) the parties agree the terms of the order sought;
- (b) the parties agree to dispense with a hearing; or
- (c) the court does not consider that a hearing would be appropriate.

(2) If the parties agree to dispense with a hearing, a party may not without the court’s permission apply to have the order set aside, varied or stayed.

(3) If the court decides the application without a hearing under paragraph (1)(c) and does so without giving the parties an opportunity to make representations—

- (a) a party affected by the court’s order may within such period as the court may specify apply to have the order set aside, varied or stayed;
- (b) if no period is specified, the application must be made within 7 days after the date the order was served on the party applying; and
- (c) the order must contain a statement of the right to make such an application.

(4) An application under paragraph (3) shall be considered at an oral hearing unless the court decides and states in an order that the application is totally without merit.

(5) If the court decides under paragraph (4) that the application is totally without merit, an application under paragraph (3) may be made for reconsideration without an oral hearing.”

- (9) In rule 23.9—
 - (a) in the heading, after “of” insert “order and”; and

- (b) in paragraph (2), for “evidence in support” substitute “supporting evidence”.
- (10) In rule 23.10, in paragraph (2), after “must” insert “, unless the court directs otherwise,”.
- (11) In rule 23.11, in paragraph (1), for “his” substitute “their”.
- (12) In rule 23.12, in the heading, for “Dismissal of totally without merit applications” substitute “Applications that are totally without merit”.