
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

PART 1

OVERRIDING OBJECTIVE

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The overriding objective

1.1.—(1) These Rules are a ^{F3}... procedural code with the overriding objective of enabling the court to deal with cases justly [^{F4}and at proportionate cost].

(2) Dealing with a case justly [^{F5}and at proportionate cost] includes, so far as is practicable—

- (a) ensuring that the parties are on an equal footing [^{F6}and can participate fully in proceedings, and that parties and witnesses can give their best evidence];
- (b) saving expense;
- (c) dealing with the case in ways which are proportionate—
 - (i) to the amount of money involved;
 - (ii) to the importance of the case;
 - (iii) to the complexity of the issues; and
 - (iv) to the financial position of each party;
- (d) ensuring that it is dealt with expeditiously and fairly; ^{F7}...
- (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases [^{F8}; and]

[^{F9}(f) enforcing compliance with rules, practice directions and orders.]

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

- F3** Word in [rule 1.1\(1\)](#) omitted (6.4.2022) by virtue of [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), [rules 1\(1\)](#), [4](#)
- F4** Words in [rule 1.1\(1\)](#) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2](#), [4\(a\)](#) (with [rule 22](#))
- F5** Words in [rule 1.1\(2\)](#) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2](#), [4\(b\)\(i\)](#) (with [rule 22](#))
- F6** Words in [rule 1.1\(2\)\(a\)](#) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), [rules 1\(1\)](#), [4\(2\)](#)
- F7** Word in [rule 1.1\(2\)\(d\)](#) omitted (1.4.2013) by virtue of [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2](#), [4\(b\)\(ii\)](#) (with [rule 22](#))
- F8** Word in [rule 1.1\(2\)\(e\)](#) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2](#), [4\(b\)\(iii\)](#) (with [rule 22](#))
- F9** [Rule 1.1\(2\)\(f\)](#) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2](#), [4\(b\)\(iv\)](#) (with [rule 22](#))

Commencement Information

- I1** [Rule 1.1](#) in force at 26.4.1999, see [Signature](#)

Application by the court of the overriding objective

- 1.2** The court must seek to give effect to the overriding objective when it—
- exercises any power given to it by the Rules; or
 - interprets any rule [^{F10}, subject to [^{F11}rules 76.2, 79.2 [^{F12}, 80.2 [^{F13}, 82.2 and 88.2]]]].

Textual Amendments

- F10** Words in [rule 1.2\(b\)](#) inserted (14.3.2005) by [The Civil Procedure \(Amendment No. 2\) Rules 2005 \(S.I. 2005/656\)](#), [rules 1](#), [3](#)
- F11** Words in [rule 1.2\(b\)](#) substituted (15.12.2011) by [The Civil Procedure \(Amendment No. 3\) Rules 2011 \(S.I. 2011/2970\)](#), [rules 1](#), [3](#)
- F12** Words in [rule 1.2](#) substituted (27.6.2013) by [The Civil Procedure \(Amendment No. 5\) Rules 2013 \(S.I. 2013/1571\)](#), [rules 1](#), [3](#)
- F13** Words in [rule 1.2](#) substituted (27.2.2015) by [The Civil Procedure \(Amendment\) Rules 2015 \(S.I. 2015/406\)](#), [rules 1](#), [3](#)

Commencement Information

- I2** [Rule 1.2](#) in force at 26.4.1999, see [Signature](#)

Duty of the parties

- 1.3** The parties are required to help the court to further the overriding objective.

Commencement Information

- I3** [Rule 1.3](#) in force at 26.4.1999, see [Signature](#)

Court's duty to manage cases

- 1.4.—(1) The court must further the overriding objective by actively managing cases.
- (2) Active case management includes —
- (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
 - (b) identifying the issues at an early stage;
 - (c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
 - (d) deciding the order in which issues are to be resolved;
 - (e) encouraging the parties to use an alternative dispute resolution^(GL) procedure if the court considers that appropriate and facilitating the use of such procedure;
 - (f) helping the parties to settle the whole or part of the case;
 - (g) fixing timetables or otherwise controlling the progress of the case;
 - (h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
 - (i) dealing with as many aspects of the case as it can on the same occasion;
 - (j) dealing with the case without the parties needing to attend at court;
 - (k) making use of technology; and
 - (l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

Commencement Information

I4 [Rule 1.4](#) in force at 26.4.1999, see [Signature](#)

[^{F14}The Welsh language

1.5.—(1) Nothing in the overriding objective undermines the principles provided by the Welsh Language (Wales) Measure 2011 that the Welsh language has official status in Wales or by the Welsh Language Act 1993 that in any legal proceedings in Wales the Welsh language may be used by any person who desires to use it.

(2) The parties are required to assist the court to put into effect the principles set out in paragraph (1).]

Textual Amendments

F14 [Rule 1.5](#) inserted (1.10.2018) by [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **3(b)**

[^{F15}Participation of vulnerable parties or witnesses

1.6. Practice Direction 1A makes provision for how the court is to give effect to the overriding objective in relation to vulnerable parties or witnesses.]

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F15 Rule 1.6 inserted (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), 4(3)

PART 2

APPLICATION AND INTERPRETATION OF THE RULES

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Application of the Rules

2.1.—(1) Subject to paragraph (2), these Rules apply to all proceedings in—

- (a) [^{F18}County Court];
- (b) the High Court; and
- (c) the Civil Division of the Court of Appeal.

(2) These Rules do not apply to proceedings of the kinds specified in the first column of the following Table (proceedings for which rules may be made under the enactments specified in the second column) except to the extent that they are applied to those proceedings by another enactment—

<i>Proceedings</i>	<i>Enactments</i>
1. Insolvency proceedings	Insolvency Act 1986(1), ss.411 and 412

(1) 1986 c. 45.

<i>Proceedings</i>	<i>Enactments</i>
2. Non-contentious or common form probate proceedings	Supreme Court Act 1981(2), s.127
3. Proceedings in the High Court when acting as a Prize Court	Prize Courts Act 1894(3), s.3
[^{F19} 4. Proceedings before the Court of Protection	Mental Capacity Act 2005, s.51]
5. Family proceedings	[^{F20} Courts Act 2003, s.75]
[^{F21} 6. Adoption proceedings]	[^{F22} ... [^{F23} or Adoption and Children Act 2002, s.141][^{F24} or Courts Act 2003, s.75]
[^{F25} 7. Election petitions in the High Court]	[^{F26} Representation of the People Act 1983, s.182]

[^{F27}(3) These Rules apply to proceedings under—

- (a) the Companies Act 1985(**2**);
- (b) the Companies Act [^{F28}2006]; and
- (c) other legislation relating to companies and limited liability partnerships,

subject to the provisions of the relevant practice direction which applies to those proceedings.]

Textual Amendments

- F18** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)
- F19** Words in rule 2.1 Table substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **3(a)**
- F20** Words in rule 2.1 Table substituted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, **18(a)** (with art. 39)
- F21** Words in rule 2.1 Table inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **3(a)**
- F22** Words in rule 2.1 Table omitted (6.4.2011) by virtue of [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, **18(b)(i)** (with art. 39)
- F23** Words in rule 2.1 Table inserted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **3**
- F24** Words in rule 2.1 Table inserted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, **18(b)(ii)** (with art. 39)
- F25** Words in rule 2.1 Table inserted (2.6.2003) by [The Civil Procedure \(Amendment No. 2\) Rules 2003 \(S.I. 2003/1242\)](#), rules 1, **3(a)**
- F26** Words in rule 2.1 Table inserted (2.6.2003) by [The Civil Procedure \(Amendment No. 2\) Rules 2003 \(S.I. 2003/1242\)](#), rules 1, **3(b)**
- F27** [Rule 2.1\(3\)](#) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **3(2)**

(2) 1981 c. 54.
 (3) 1894 c. 39.
 (2) 1981 c. 54.

F28 Word in rule 2.1(3)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **3(1)**

Commencement Information

I5 Rule 2.1 in force at 26.4.1999, see [Signature](#)

The glossary

2.2.—(1) The glossary at the end of these Rules is a guide to the meaning of certain legal expressions used in the Rules, but is not to be taken as giving those expressions any meaning in the Rules which they do not have in the law generally.

(2) Subject to paragraph (3), words in these Rules which are included in the glossary are followed by “(GL)”.

(3) The words ‘counterclaim’, ‘damages’, ‘practice form’ and ‘service’, which appear frequently in the Rules, are included in the glossary but are not followed by “(GL)”.

Commencement Information

I6 [Rule 2.2](#) in force at 26.4.1999, see [Signature](#)

Interpretation

2.3.—(1) In these Rules—

“child” has the meaning given by rule 21.1(2);

[^{F29}“civil restraint order” means an order restraining a party—

- (a) from making any further applications in current proceedings (a limited civil restraint order);
- (b) from issuing certain claims or making certain applications in specified courts (an extended civil restraint order); or
- (c) from issuing any claim or making any application in specified courts (a general civil restraint order).]

“claim for personal injuries” means proceedings in which there is a claim for damages in respect of personal injuries to the claimant or any other person or in respect of a person’s death, and “personal injuries” includes any disease and any impairment of a person’s physical or mental condition;

“claimant” means a person who makes a claim;

“CCR” is to be interpreted in accordance with Part 50;

“court officer” means a member of the court staff;

“defendant” means a person against whom a claim is made;

[^{F30}“defendant’s home court” means—

- (a) [^{F31}if a claim is proceeding in the County Court, the County Court hearing centre serving the address where the defendant resides or carries on business; and]
- (b) if the claim is proceeding in the High Court, the district registry for the district in which the defendant resides or carries on business or, where there is no such district registry, the Royal Courts of Justice;]

F32
...

F33
...

[^{F34}“filing” means delivering a document or information, by post or otherwise, to the court office;]

“judge” means, unless the context otherwise requires, a judge, Master or [^{F35}District Judge] or a person authorised to act as such;

[^{F36}“judge of the County Court” has the meaning given in section 5 of the County Courts Act 1984;]

“jurisdiction” means, unless the context otherwise requires, England and Wales and any part of the territorial waters of the United Kingdom adjoining England and Wales;

[^{F37}“justices’ legal adviser” means a person nominated by the Lord Chancellor who is authorised to exercise functions under section 28(1) of the Courts Act 2003;]

[^{F38}“legal representative” means a—

- (a) barrister;
- (b) solicitor;
- (c) solicitor’s employee;
- (d) manager of a body recognised under section 9 of the Administration of Justice Act 1985; or
- (e) person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act),

who has been instructed to act for a party in relation to proceedings;]

“litigation friend” has the meaning given by Part 21;

[^{F39}“MyHMCTS” means the online case management tool managed by [^{F40}His Majesty’s] Courts and Tribunals Service;]

[^{F41}“preferred hearing centre” means, if the claim is proceeding in the County Court, the County Court hearing centre the claimant has specified in practice form N1 as the hearing centre to which the proceedings should be sent if necessary;]

[^{F42}“protected party”] has the meaning given by rule 21.1(2);

“RSC” is to be interpreted in accordance with Part 50;

“statement of case”—

- (a) means a claim form, particulars of claim where these are not included in a claim form, defence, [^{F43}counterclaim or other additional claim], or reply to defence; and
- (b) includes any further information given in relation to them voluntarily or by court order under rule 18.1;

“statement of value” is to be interpreted in accordance with rule 16.3;

“summary judgment” is to be interpreted in accordance with Part 24[^{F44};]

[^{F45}“tape recorded” includes (as do references to tape recording and tape recorders) recording by the use or means of any other instrument or device.]

[^{F46}(1A) Unless the contrary is indicated, a definition that applies to a Part of these Rules applies also to a practice direction supplementing that Part.]

(2) A reference to a “specialist list” is a reference to a list^(GL) that has been designated as such by a [^{F47}rule or] practice direction.

(3) Where the context requires, a reference to “the court” means a reference to [^{F48}the County Court], a [^{F49}District Registry], or the Royal Courts of Justice.

Textual Amendments

- F29** Words in rule 2.3(1) inserted (1.10.2004) by [The Civil Procedure \(Amendment No.2\) Rules 2004 \(S.I. 2004/2072\)](#), rules 1(b), **3**
- F30** Words in rule 2.3(1) substituted (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **3**
- F31** Words in rule 2.3(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **5(a)(i)**; S.I. 2014/954, art. 2(a)
- F32** Words in rule 2.3(1) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **3(3)(a)**
- F33** Words in rule 2.3 omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **5(a)(ii)**; S.I. 2014/954, art. 2(a)
- F34** Words in rule 2.3(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **3(3)(b)**
- F35** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)
- F36** Words in rule 2.3 inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **5(a)(iii)**; S.I. 2014/954, art. 2(a)
- F37** Words in rule 2.3(1) inserted (6.4.2020) by [The Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(Consequential, Transitional and Saving Provision\) Regulations 2020 \(S.I. 2020/100\)](#), reg. 1(2), **Sch. para. 5(2)** (with reg. 4)
- F38** Words in rule 2.3(1) substituted (1.2.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(3), **3(a)**
- F39** Words in rule 2.3(1) inserted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **5(b)**
- F40** Words in rule 2.3(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **3(2)(a)**
- F41** Words in rule 2.3 substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **5(a)(iv)**; S.I. 2014/954, art. 2(a)
- F42** Words in rule 2.3(1) substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **3(b)**
- F43** Words in rule 2.3(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **3(2)(b)**
- F44** Rule 2.3(1): semicolon substituted for full stop (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **3(a)**
- F45** Words in rule 2.3(1) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **3(b)**
- F46** Rule 2.3(1A) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **3(3)(c)**
- F47** Words in rule 2.3(2) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **3**
- F48** Words in rule 2.3(3) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **5(a)(v)(aa)**; S.I. 2014/954, art. 2(a)
- F49** Words in rule 2.3(3) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **5(a)(v)(bb)**; S.I. 2014/954, art. 2(a)

Commencement Information

I7 Rule 2.3 in force at 26.4.1999, see [Signature](#)

[^{F50}Power to perform an act of the court]

2.4.—[^{F51}(1)] Where these Rules provide for the court to perform any act then, except where an enactment, rule or practice direction provides otherwise, that act may be performed—

- (a) in relation to proceedings in the High Court, by any judge, Master [^{F52}, Registrar in Bankruptcy] or [^{F35}District Judge] of that Court; and
- (b) in relation to proceedings in [^{F53}the County Court], by any judge [^{F54}of the County Court].

[^{F55}(2)] A legal adviser, defined in paragraph 1.2(b) of Practice Direction 2E, may exercise the jurisdiction of the County Court specified in, and subject to, that Practice Direction.

Textual Amendments

- F35** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)
- F50** Rule 2.4 heading substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), rules 1(1), **3(4)(a)**
- F51** Rule 2.4 renumbered as rule 2.4(1) (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), rules 1(1), **3(4)(b)**
- F52** Words in rule 2.4(a) inserted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016](#) (S.I. 2016/788), rules 2, **5**
- F53** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)
- F54** Words in rule 2.4(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **5(b)**; S.I. 2014/954, art. 2(a)
- F55** Rule 2.4A renumbered as rule 2.4(2) (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), rules 1(1), **3(5)(b)**

Commencement Information

I8 Rule 2.4 in force at 26.4.1999, see [Signature](#)

^{F56} ...

^{F57}**2.4A.**

Textual Amendments

- F56** Rule 2.4A heading omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), rules 1(1), **3(5)(a)**
- F57** Rule 2.4A renumbered as rule 2.4(2) (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), rules 1(1), **3(5)(b)**

Court staff

2.5.—(1) Where these Rules require or permit the court to perform an act of a formal or administrative character, that act may be performed by a court officer.

(2) A requirement that a court officer carry out any act at the request of a party is subject to the payment of any fee required by a Fees Order for the carrying out of that act.

(Rule 3.2 allows a court officer to refer [^{F58}a matter for judicial decision] taking any step)

Textual Amendments

F58 Words in rule 2.5 substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **3(6)**

Commencement Information

I9 Rule 2.5 in force at 26.4.1999, see [Signature](#)

Court documents to be sealed

2.6.—(1) The court must seal^(GL) the following documents on issue—

- (a) the claim form; and
- (b) any other document which a rule or practice direction requires it to seal.

[^{F59}(2) The court may place the seal on the document by hand, by printing or electronically.]

(3) A document [^{F60}appearing] to bear the court's seal^(GL) shall be admissible in evidence without further proof.

Textual Amendments

F59 Rule 2.6(2) substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **3(7)(a)**

F60 Word in rule 2.6(3) substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **3(7)(b)**

Commencement Information

I10 Rule 2.6 in force at 26.4.1999, see [Signature](#)

Court's discretion as to where it deals with cases

2.7 The court may deal with a case at any place that it considers appropriate.

Commencement Information

I11 Rule 2.7 in force at 26.4.1999, see [Signature](#)

Time

2.8.—(1) This rule shows how to calculate any period of time for doing any act which is specified—

- (a) by these Rules;
- (b) by a practice direction; or
- (c) by a judgment or order of the court.

(2) A period of time expressed as a number of days shall be computed as clear days.

- (3) In this rule “clear days” means that in computing the number of days—
- (a) the day on which the period begins; and
 - (b) if the end of the period is defined by reference to an event, the day on which that event occurs,

are not included.

Examples

- (i) Notice of an application must be served at least 3 days before the hearing.

An application is [^{F61}listed] to be heard on Friday 20 October.

The last date for service is Monday 16 October.

- (ii) The court is to fix a date for a hearing.

The hearing must be at least 28 days after the date of notice.

If the court gives notice of the date of the hearing on 1 October, the earliest date for the hearing is 30 October.

- (iii) Particulars of claim must be served within 14 days of service of the claim form.

The claim form is served on 2 October.

The last day for service of the particulars of claim is 16 October.

- (4) Where the specified period—

(a) is 5 days or less; and

(b) includes—

(i) a Saturday or Sunday; or

(ii) a Bank Holiday, Christmas Day or Good Friday,

that day does not count.

Example

Notice of an application must be served at least 3 days before the hearing.

An application is to be heard on Monday 20 October.

The last date for service is Tuesday 14 October.

- (5) [^{F62}Subject to the provisions of Practice Direction 5C, when the period specified—]

(a) by these Rules or a practice direction; or

(b) by any judgment or court order,

for doing any act at the court office ends on a day on which the office is closed, that act shall be in time [^{F63}under these rules] if done on the next day on which the court office is open.

Textual Amendments

F61 Word in rule 2.8(3)(b)(i) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **3(8)(a)**

F62 Words in rule 2.8(5) substituted (1.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(5), **3(b)**

F63 Words in rule 2.8(5) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **3(8)(b)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Modifications etc. (not altering text)

- C1** Rule 2.8 applied (7.10.2001) by The Railway Administration Order Rules 2001 (S.I. 2001/3352), rules 1.1, **9.8(1)**
- C2** Rule 2.8 applied (1.11.2009) by The Water Industry (Special Administration) Rules 2009 (S.I. 2009/2477), rules 2, **121(1)**
- C3** Rule 2.8 applied (30.6.2011) by The Investment Bank Special Administration (England and Wales) Rules 2011 (S.I. 2011/1301), rules 2, **324(1)** (with rule 5)
- C4** Rule 2.8 applied (31.1.2014) by The Postal Administration Rules 2013 (S.I. 2013/3208), rules 1, **199(1)** (with rules 3, 210)
- C5** Rule 2.8 applied in part (6.4.2017) by The Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024), rule 1, **Sch. 5 para. 1** (with rule 3(3), Sch. 2)
- C6** Rule 2.8 applied in part (5.7.2018) by The Housing Administration (England and Wales) Rules 2018 (S.I. 2018/719), rules 1.1, **7.1(1)** (with rule 1.2)
- C7** Rule 2.8 applied in part (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rules 1, **7.1(1)** (with rule 1.2)
- C8** Rule 2.8 applied in part (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **193(1)** (with rules 4(1), 193(2))
- C9** Rule 2.8 applied (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **285(1)**
- C10** Rule 2.8 applied in part (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **181(1)** (with rule 2)

Commencement Information

- I12** Rule 2.8 in force at 26.4.1999, see [Signature](#)

Dates for compliance to be calendar dates and to include time of day

2.9.—(1) Where the court gives a judgment, order or direction which imposes a time limit for doing any act, the last date for compliance must, wherever practicable—

- (a) be expressed as a calendar date; and
- (b) include the time of day by which the act must be done.

(2) Where the date by which an act must be done is inserted in any document, the date must, wherever practicable, be expressed as a calendar date.

Commencement Information

- I13** Rule 2.9 in force at 26.4.1999, see [Signature](#)

Meaning of “month” in judgments, etc.

2.10 Where “month” occurs in any judgment, order, direction or other document, it means a calendar month.

Commencement Information

- I14** Rule 2.10 in force at 26.4.1999, see [Signature](#)

Time limits may be varied by parties

2.11 Unless these Rules or a practice direction provide otherwise or the court orders otherwise, the time specified by a rule or by the court for a person to do any act may be varied by the written agreement of the parties.

(Rules 3.8 (sanctions have effect unless defaulting party obtains relief), [F64]28.3 (variation of case management timetable – fast track and intermediate track)] and 29.5 (variation of case management timetable—multi-track) provide for time limits that cannot be varied by agreement between the parties)

Textual Amendments

F64 Words in [rule 2.11](#) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 4](#) (with [rule 2](#))

Commencement Information

I15 [Rule 2.11](#) in force at 26.4.1999, see [Signature](#)

PART 3

THE COURT'S CASE [F65] AND COSTS] MANAGEMENT POWERS

Textual Amendments

F65 Words in [Pt. 3](#) heading inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2, 5\(a\)](#) (with [rule 22](#))

Modifications etc. (not altering text)

C11 [Pt. 3](#) applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007 \(S.I. 2007/1744\)](#), [rules 1, 184\(a\)](#)

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[^{F76}SECTION I
Case Management]

Textual Amendments

F76 Pt. 3 Section 1 heading inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 5(c) (with rule 22)

The court's general powers of management

3.1.—(1) The list of powers in this rule is in addition to any powers given to the court by any other rule or practice direction or by any other enactment or any powers it may otherwise have.

(2) Except where these Rules provide otherwise, the court may —

(a) extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired);

(b) adjourn or bring forward a hearing;

[^{F77}(bb) require that any proceedings in the High Court be heard by a Divisional Court of the High Court;]

(c) require a party or a party's legal representative to attend the court;

(d) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;

(e) direct that part of any proceedings (such as a counterclaim) be dealt with as separate proceedings;

(f) stay^(GL) the whole or part of any proceedings or judgment either generally or until a specified date or event;

(g) consolidate proceedings;

(h) try two or more claims on the same occasion;

(i) direct a separate trial of any issue;

(j) decide the order in which issues are to be tried;

(k) exclude an issue from consideration;

(l) dismiss or give judgment on a claim after a decision on a preliminary issue;

[^{F78}(ll) order any party to file and [^{F79}exchange a costs budget];]

(m) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective [^{F80}, including hearing an Early Neutral Evaluation with the aim of helping the parties settle the case].

(3) When the court makes an order, it may —

(a) make it subject to conditions, including a condition to pay a sum of money into court; and

(b) specify the consequence of failure to comply with the order or a condition.

[^{F81}(3A) Where the court has made a direction in accordance with paragraph (2)(bb) the proceedings shall be heard by a Divisional Court of the High Court and not by a single judge.]

(4) Where the court gives directions it [^{F82}will] take into account whether or not a party has complied with [^{F83}the Practice Direction (Pre-Action Conduct) and] any relevant pre-action protocol^(GL).

(5) The court may order a party to pay a sum of money into court if that party has, without good reason, failed to comply with a rule, practice direction or a relevant pre-action protocol.

(6) When exercising its power under paragraph (5) the court must have regard to—

- (a) the amount in dispute; and
- (b) the costs which the parties have incurred or which they may incur.

[^{F84}(6A) Where a party pays money into court following an order under paragraph (3) or (5), the money shall be security for any sum payable by that party to any other party in the proceedings ^{F85}....
^{F86}...]

(7) A power of the court under these Rules to make an order includes a power to vary or revoke the order.

[^{F87}(8) The court may contact the parties from time to time in order to monitor compliance with directions. The parties must respond promptly to any such enquiries from the court.]

Textual Amendments

- F77** Rule 3.1(2)(bb) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/889), rules 1(1), **3(a)**
- F78** Rule 3.1(2)(ll) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **3**
- F79** Words in rule 3.1(2)(ll) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **4(a)**
- F80** Words in rule 3.1(2)(m) inserted (1.10.2015) by [The Civil Procedure \(Amendment No. 4\) Rules 2015](#) (S.I. 2015/1569), rules 1(2), **4**
- F81** Rule 3.1(3A) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/889), rules 1(1), **3(b)**
- F82** Word in rule 3.1(4) substituted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008](#) (S.I. 2008/3327), rules 1, **3(a)**
- F83** Words in rule 3.1(4) inserted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008](#) (S.I. 2008/3327), rules 1, **3(b)**
- F84** Rule 3.1(6A) and words inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), rules 1, **4**
- F85** Words in rule 3.1(6A) omitted (6.4.2007) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2006](#) (S.I. 2006/3435), rules 1, **3(a)**
- F86** Words in rule 3.1(6A) omitted (6.4.2007) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2006](#) (S.I. 2006/3435), rules 1, **3(b)**
- F87** Rule 3.1(8) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), rules 2, **5(d)** (with rule 22)

Modifications etc. (not altering text)

- C12** Rule 3.1(2)(a) applied (7.10.2001) by [The Railway Administration Order Rules 2001](#) (S.I. 2001/3352), rules 1.1, **9.8(2)**
- C13** Rule 3.1(2)(a) applied (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009](#) (S.I. 2009/2477), rules 2, **121(2)**
- C14** Rule 3.1(2)(a) applied (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011](#) (S.I. 2011/1301), rules 2, **324(2)** (with rule 5)
- C15** Rule 3.1(2)(a) applied (31.1.2014) by [The Postal Administration Rules 2013](#) (S.I. 2013/3208), rules 1, **199(2)** (with rules 3, 210)
- C16** Rule 3.1(2)(a) applied (6.4.2017) by [The Insolvency \(England and Wales\) Rules 2016](#) (S.I. 2016/1024), rule 1, **Sch. 5 para. 3** (with rule 3(3), Sch. 2 Sch. 5 para. 3)

- C17** Rule 3.1(2)(a) applied (5.7.2018) by The Housing Administration (England and Wales) Rules 2018 (S.I. 2018/719), rules 1.1, **7.1(3)** (with rules 1.2, 7.1(4))
- C18** Rule 3.1(2)(a) applied (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rules 1, **7.1(3)(4)** (with rule 1.2)
- C19** Rule 3.1(2)(a) applied (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **193(3)** (with rules 4(1), 193(4))
- C20** Rule 3.1(2)(a) applied (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **285(2)**
- C21** Rule 3.1(2)(a) applied (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **181(3)(4)** (with rule 2)

Commencement Information

- I16** Rule 3.1 in force at 26.4.1999, see [Signature](#)

[^{F88}Case management – unrepresented parties

3.1A.—(1) This rule applies in any proceedings where at least one party is unrepresented.

(2) When the court is exercising any powers of case management, it must have regard to the fact that at least one party is unrepresented.

(3) Both the parties and the court must, when drafting case management directions in the multi-track [^{F89}, intermediate track] and fast track, take as their starting point any relevant standard directions which can be found online at www.justice.gov.uk/courts/procedure-rules/civil and adapt them as appropriate to the circumstances of the case.

(4) The court must adopt such procedure at any hearing as it considers appropriate to further the overriding objective.

(5) At any hearing where the court is taking evidence this may include—

- (a) ascertaining from an unrepresented party the matters about which the witness may be able to give evidence or on which the witness ought to be cross-examined; and
- (b) putting, or causing to be put, to the witness such questions as may appear to the court to be proper.]

Textual Amendments

- F88** Rule 3.1A inserted (1.10.2015) by The Civil Procedure (Amendment No. 4) Rules 2015 (S.I. 2015/1569), rules 1(2), **5**
- F89** Words in rule 3.1A(3) inserted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **5(1)** (with rule 2)

Court officer's power to refer to a judge

3.2 Where a step is to be taken by a court officer—

- (a) the court officer may consult a judge before taking that step;
- (b) the step may be taken by a judge instead of the court officer.

Commencement Information

- I17** Rule 3.2 in force at 26.4.1999, see [Signature](#)

Court's power to make order of its own initiative

3.3.—(1) Except where a rule or some other enactment provides otherwise, the court may exercise its powers on an application or of its own initiative.

(Part 23 sets out the procedure for making an application)

- (2) Where the court proposes to make an order of its own initiative—
- (a) it may give any person likely to be affected by the order an opportunity to make representations; and
 - (b) where it does so it must specify the time by and the manner in which the representations must be made.
- (3) Where the court proposes—
- (a) to make an order of its own initiative; and
 - (b) to hold a hearing to decide whether to make the order,

it must give each party likely to be affected by the order at least 3 days' notice of the hearing.

(4) The court may make an order of its own initiative without hearing the parties or giving them an opportunity to make representations.

- (5) Where the court has made an order under paragraph (4)—
- (a) a party affected by the order may apply to have it set aside^(GL), varied or stayed^(GL); and
 - (b) the order must contain a statement of the right to make such an application.
- (6) An application under paragraph (5)(a) must be made—
- (a) within such period as may be specified by the court; or
 - (b) if the court does not specify a period, not more than 7 days after the date on which the order was served on the party making the application.

^{F90}(7) An application under paragraph (5)(a) shall be considered at an oral hearing unless the court decides and states in an order that the application is totally without merit.

(8) If the court decides under paragraph (7) that the application is totally without merit, an application under paragraph (5)(a) may be made for reconsideration without an oral hearing.]

^{F91}[^{F92}(9)] If the court of its own initiative strikes out a statement of case or dismisses an application [^{F93}(including an application for permission to appeal or for permission to apply for judicial review)], and it considers that the claim or application is totally without merit—

- (a) the court's order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.]

Textual Amendments

- F90** Rule 3.3(7)(8) inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **3(2)(a)**
- F91** Rule 3.3(7) inserted (1.10.2004) by [The Civil Procedure \(Amendment No.2\) Rules 2004 \(S.I. 2004/2072\)](#), rules 1(b), **4**
- F92** Rule 3.3(7) renumbered as rule 3.3(9) (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **3(2)(b)**
- F93** Words in rule 3.3(7) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **4**

Commencement Information

I18 Rule 3.3 in force at 26.4.1999, see [Signature](#)

Power to strike out a statement of case

3.4.—(1) In this rule and rule 3.5, reference to a statement of case includes reference to part of a statement of case.

- (2) The court may strike out^(GL) a statement of case if it appears to the court—
- (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;
 - (b) that the statement of case is an abuse of the court’s process or is otherwise likely to obstruct the just disposal of the proceedings; or
 - (c) that there has been a failure to comply with a rule, practice direction or court order.
- (3) When the court strikes out a statement of case it may make any consequential order it considers appropriate.
- (4) Where—
- (a) the court has struck out a claimant’s statement of case;
 - (b) the claimant has been ordered to pay costs to the defendant; and
 - (c) before the claimant pays those costs, [^{F94}the claimant] starts another claim against the same defendant, arising out of facts which are the same or substantially the same as those relating to the claim in which the statement of case was struck out,

the court may, on the application of the defendant, stay^(GL) that other claim until the costs of the first claim have been paid.

(5) Paragraph (2) does not limit any other power of the court to strike out^(GL) a statement of case.

[^{F95}(6) If the court strikes out a claimant’s statement of case and it considers that the claim is totally without merit—

- (a) the court’s order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.]

[^{F96}(7) If a defendant applies to strike out all or part of the claim form or particulars of claim, that defendant need not file a defence before the hearing.]

Textual Amendments

- F94** Words in rule 3.4(4)(c) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), [6\(a\)](#); S.I. 2014/954, [art. 2\(a\)](#)
- F95** Rule 3.4(6) inserted (1.10.2004) by [The Civil Procedure \(Amendment No.2\) Rules 2004 \(S.I. 2004/2072\)](#), rules 1(b), [5](#)
- F96** Rule 3.4(7) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), [4\(1\)](#)

Commencement Information

I19 Rule 3.4 in force at 26.4.1999, see [Signature](#)

Judgment without trial after striking out

3.5.—(1) This rule applies where—

- (a) the court makes an order which includes a term that the statement of case of a party shall be struck out if the party does not comply with the order; and
 - (b) the party against whom the order was made does not comply with it.
- (2) A party may obtain judgment with costs by filing a request for judgment if—
- (a) the order referred to in paragraph (1)(a) relates to the whole of a statement of case; and
 - (b) where the party wishing to obtain judgment is the claimant, the claim is for—
 - (i) a specified amount of money;
 - (ii) an amount of money to be decided by the court;
 - (iii) delivery of goods where the claim form gives the defendant the alternative of paying their value; or
 - (iv) any combination of these remedies.

[^{F97}(3) Where judgment is obtained under this rule in a case to which paragraph (2)(b)(iii) applies, it will be judgment requiring the defendant to deliver the goods, or (if [^{F98}the defendant] does not do so) pay the value of the goods as decided by the court (less any payments made).]

[^{F99}(4) The request must state that the right to enter judgment has arisen because the court's order has not been complied with.

[^{F100}(5) A party must make an application in accordance with Part 23 if [^{F101}they wish] to obtain judgment under this rule in a case to which paragraph (2) does not apply.

Textual Amendments

- F97** Rule 3.5(3) inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **3(c)**
- F98** Words in rule 3.5(3) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(c)(i)**; S.I. 2014/954, art. 2(a)
- F99** Rule 3.5(3) renumbered as rule 3.5(4) (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **3(a)**
- F100** Rule 3.5(4) renumbered as rule 3.5(5) (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **3(b)**
- F101** Words in rule 3.5(5) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(c)(ii)**; S.I. 2014/954, art. 2(a)

Commencement Information

- I20** Rule 3.5 in force at 26.4.1999, see [Signature](#)

[^{F102}Judgment without trial after striking out a claim in the [^{F103}Civil National Business Centre]

3.5A.—(1) If a claimant files a request for judgment in the [^{F104}Civil National Business Centre] in accordance with rule 3.5, in a claim which includes an amount of money to be decided by the court, the claim will be sent to the preferred hearing centre.

(2) If a claim is sent to a preferred hearing centre pursuant to paragraph (1), any further correspondence should be sent to, and any further requests should be made at, the hearing centre to which the claim was sent.]

Textual Amendments

- F102** Rule 3.5A substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(d)**; S.I. 2014/954, art. 2(a)
- F103** Words in rule 3.5A heading substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **3(3)**
- F104** Words in rule 3.5A(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **3(3)**

Setting aside judgment entered after striking out

3.6.—(1) A party against whom the court has entered judgment under rule 3.5 may apply to the court to set the judgment aside.

(2) An application under paragraph (1) must be made not more than 14 days after the judgment has been served on the party making the application.

(3) If the right to enter judgment had not arisen at the time when judgment was entered, the court must set aside^(GL) the judgment.

(4) If the application to set aside^(GL) is made for any other reason, rule 3.9 (relief from sanctions) shall apply.

Commencement Information

- I21** [Rule 3.6](#) in force at 26.4.1999, see [Signature](#)

^{F105}**3.6A.** If—

- (a) a party against whom judgment has been entered under rule 3.5 applies to set the judgment aside;
- (b) the claim is for a specified sum;
- (c) the claim was started in the ^{F106}Civil National Business Centre]; and
- (d) the claim has not been sent to a County Court hearing centre,

the claim will be sent to—

- (i) if the defendant is an individual, the defendant’s home court; and
- (ii) if the defendant is not an individual, the preferred hearing centre.]

Textual Amendments

- F105** [Rule 3.6A](#) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(e)**; S.I. 2014/954, art. 2(a)
- F106** Words in [rule 3.6A\(c\)](#) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **3(4)**

Sanctions for non—payment of certain fees ^{F107}by the claimant]

3.7.—^{F108}(1) ^{F109}Except where rule 3.7A1 applies, this rule applies to fees payable by the claimant where—]

^{F110}(a)

^{F110}(b)

^{F110}(c)

(d) the court has made an order giving permission to proceed with a claim for judicial review [^{F111}; or]

^{F112}(e) the fee payable for a hearing specified by the [^{F113}Civil Proceedings Fees Order 2008 (Fees Order 2008)] is not paid.]

^{F114} ...

(Rule 54.12 provides for the service of the order giving permission to proceed with a claim for judicial review)

(2) The court will serve a notice on the claimant requiring payment of the fee specified in the [^{F115}Fees Order 2008] if, at the time the fee is due, the claimant has not paid it or made an application for [^{F116}full or part] remission.]

(3) The notice will specify the date by which the claimant must pay the fee.

(4) If the claimant does not—

(a) pay the fee; or

(b) make an application for [^{F117}full or part] remission of the fee,

by the date specified in the notice—

(i) [^{F118}the claim will automatically be struck out without further order of the court]; and

(ii) the claimant [^{F119}will] be liable for the costs which the defendant has incurred unless the court orders otherwise.

(Rule [^{F120}44.9] provides for the basis of assessment where a right to costs arises under this rule [^{F121}and contains provisions about when a costs order is deemed to have been made and applying for an order under section 194(3) of the Legal Services Act 2007])

^{F122}(5) Where an application for—

(a) full or part remission of a fee is refused, the court will serve notice on the claimant requiring payment of the full fee by the date specified in the notice; or

(b) part remission of a fee is granted, the court will serve notice on the claimant requiring payment of the balance of the fee by the date specified in the notice.]

(6) If the claimant does not pay the fee by the date specified in the notice—

(a) [^{F123}the claim will automatically be struck out without further order of the court]; and

(b) the claimant [^{F124}will] be liable for the costs which the defendant has incurred unless the court orders otherwise.

^{F125}(7) If—

(a) a claimant applies to have the claim reinstated; and

(b) the court grants relief,

the relief [^{F126}will] be conditional on the claimant either paying the fee or filing evidence of [^{F127}full or part] remission of the fee within the period specified in paragraph (8).

(8) The period referred to in paragraph (7) is—

(a) if the order granting relief is made at a hearing at which a claimant is present or represented, 2 days from the date of the order;

(b) in any other case, 7 days from the date of service of the order on the claimant.]

Textual Amendments

- F107** Words in rule 3.7 heading inserted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(2)** (with rule 13(1)(2))
- F108** Rule 3.7(1)(2) substituted (2.10.2000) by The Civil Procedure (Amendment No. 4) Rules 2000 (S.I. 2000/2092), rules 1, **4**
- F109** Words in rule 3.7(1) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(a)** (with rule 13(1)(2))
- F110** Rules 3.7(1)(a)-(c) omitted (6.3.2017) by virtue of The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(b)** (with rule 13(1)(2))
- F111** Word in rule 3.7(1)(d) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(b)**
- F112** Rule 3.7(1)(e) inserted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(c)**
- F113** Words in rule 3.7(1)(e) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(c)** (with rule 13(1)(2))
- F114** Words in rule 3.7(1) omitted (6.3.2017) by virtue of The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(d)** (with rule 13(1)(2))
- F115** Words in rule 3.7(2) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(4)** (with rule 13(1)(2))
- F116** Words in rule 3.7(2) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(d)**
- F117** Words in rule 3.7(4)(b) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(e)**
- F118** Words in rule 3.7(4)(i) substituted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **5(a)**
- F119** Word in rule 3.7(4)(ii) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(a)**
- F120** Word in rule 3.7 substituted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, **4(b)**
- F121** Words in rule 3.7(4)(ii) inserted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(b)**
- F122** Rule 3.7(5) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(f)**
- F123** Words in rule 3.7(6)(a) substituted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **5(b)**
- F124** Word in rule 3.7(6)(b) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(c)**
- F125** Rule 3.7(7)(8) substituted for rule 3.7(7) (2.6.2003) by The Civil Procedure (Amendment No. 2) Rules 2003 (S.I. 2003/1242), rules 1, **4**
- F126** Word in rule 3.7(7) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(d)**
- F127** Words in rule 3.7(7) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(g)**

Commencement Information

- I22** Rule 3.7 in force at 26.4.1999, see [Signature](#)

^{F128}Sanctions for non-payment of the trial fee by the claimant

- 3.7A1.**—(1) In this rule and in rule 3.7AA—

- (a) “Fees Order 2008” means the Civil Proceedings Fees Order 2008;
 - (b) “fee notice” means a notice of—
 - (i) the amount of a trial fee;
 - (ii) the trial fee payment date; and
 - (iii) the consequences of non-payment of the trial fee;
 - (c) “trial date” means the date of the trial in relation to which the trial fee is payable, and if the trial in relation to which the trial fee is payable is scheduled to commence during the course of a specified period, “trial date” means the date of the Monday of the first week of that specified period;
 - (d) “trial fee” means fee 2.1 set out in the Table in Schedule 1 to the Fees Order 2008 and payable for the trial of a case on the multi-track, [^{F129}intermediate track] fast track or small claims track;
 - (e) “trial fee payment date” means the date by which the trial fee must be paid, calculated in accordance with the Fees Order 2008;
 - (f) “revised trial fee payment date” means, if an application for fee remission is denied in whole or part, the revised date by which the fee or part of it is to be paid, calculated in accordance with the Fees Order 2008.
- (2) This rule applies in relation to trial fees where that fee is to be paid by the claimant and the court notifies the parties in writing of the trial date.
- (3) When the court notifies the parties in writing of the trial date, the court must also send a fee notice to the claimant.
- (4) The fee notice may be contained in the same document as the notice of trial date, or may be a separate document.
- (5) Where an application for full or part remission of a trial fee is refused, when the court sends written notice to the claimant of the refusal, the court must also notify the claimant in writing—
- (a) that the claimant is required to pay the full trial fee by the revised trial fee payment date; and
 - (b) of the consequences of non-payment of the trial fee.
- (6) Where part remission of a fee is granted, when the court sends written notice to the claimant of the part remission, the court must also notify the claimant in writing—
- (a) that the claimant is required to pay the balance of the trial fee by the revised trial fee payment date; and
 - (b) of the consequences of non-payment of the balance of the trial fee.
- (7) If—
- (a) the claimant has had notice in accordance with this rule to pay the trial fee;
 - (b) the claimant has not applied to have the trial fee remitted in whole or part; and
 - (c) the trial fee has not been paid on or before the trial fee payment date,
- the claim will automatically be struck out without further order of the court, and unless the court orders otherwise, the claimant will be liable for the costs which the defendant has incurred.
- (8) If—
- (a) the claimant has had notice in accordance with this rule to pay the trial fee;
 - (b) the claimant has applied to have the trial fee remitted in whole or part;
 - (c) remission is refused or only part remission of the trial fee is granted;

- (d) following the decision on remission, the claimant has had notice in accordance with this rule to pay the full trial fee or balance of it; and
- (e) the full trial fee or balance of it (as appropriate) has not been paid on or before the revised trial fee payment date,

the claim will automatically be struck out without further order of the court, and, unless the court orders otherwise, the claimant will be liable for the costs which the defendant has incurred.

(Rule 44.9 provides for the basis of assessment where a right to costs arises under this rule and contains provisions about when a costs order is deemed to have been made and applying for an order under section 194(3) of the Legal Services Act 2007.)

- (9) If—
 - (a) a claimant applies to have the claim reinstated; and
 - (b) the court grants relief,

the relief must be conditional on the claimant either paying the trial fee or filing evidence of full or part remission of that fee within the period specified in paragraph (10).

- (10) The period referred to in paragraph (9) is—
 - (a) if the order granting relief is made at a hearing at which the claimant is present or represented, 2 days from the date of the order;
 - (b) in any other case, 7 days from the date of service of the order on the claimant.

(11) If a fee is not paid for a claim where there is also a counterclaim, the counterclaim will still stand.]

Textual Amendments

F128 Rule 3.7A1 inserted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(5)** (with rule 13(1)(2))

F129 Words in rule 3.7A1(1)(d) inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **5(2)** (with rule 2)

[^{F130}Sanctions for non-payment of certain fees by the defendant]

[^{F131}**3.7A.**—[^{F132}(1) [^{F133}Except where rule 3.7AA applies, this rule applies to fees payable by the defendant where—]

- (a) a defendant files a counterclaim without—
 - (i) payment of the fee specified by the [^{F134}Civil Proceedings Fees Order 2008 (Fees Order 2008)]; or
 - (ii) making an application for full or part remission of the fee; or
- (b) the proceedings continue on the counterclaim alone and—
 - ^{F135}(i)
 - ^{F135}(ii)
 - ^{F135}(iii)
 - (iv) the fee payable for a hearing specified by the [^{F136}Fees Order 2008] is not paid.]

(2) The court will serve a notice on the defendant requiring payment of the fee specified in the [^{F137}Fees Order 2008] if, at the time the fee is due, the defendant has not paid it or made an application for [^{F138}full or part] remission.

- (3) The notice will specify the date by which the defendant must pay the fee.
- (4) If the defendant does not—
- (a) pay the fee; or
 - (b) make an application for [^{F139}full or part] remission of the fee,
- by the date specified in the notice, the counterclaim will automatically be struck out without further order of the court.
- [^{F140}(5) Where an application for—
- (a) full or part remission of a fee is refused, the court will serve notice on the defendant requiring payment of the full fee by the date specified in the notice; or
 - (b) part remission of a fee is granted, the court will serve notice on the defendant requiring payment of the balance of the fee by the date specified in the notice.]
- (6) If the defendant does not pay the fee by the date specified in the notice, the counterclaim will automatically be struck out without further order of the court.
- (7) If—
- (a) the defendant applies to have the counterclaim reinstated; and
 - (b) the court grants relief,
- the relief will be conditional on the defendant either paying the fee or filing evidence of [^{F141}full or part] remission of the fee within the period specified in paragraph (8).
- (8) The period referred to in paragraph (7) is—
- (a) if the order granting relief is made at a hearing at which the defendant is present or represented, 2 days from the date of the order;
 - (b) in any other case, 7 days from the date of service of the order on the defendant.]

Textual Amendments

- F130** Rule 3.7A heading inserted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(6)** (with rule 13(1)(2))
- F131** Rule 3.7A inserted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **6**
- F132** Rule 3.7A(1) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(a)**
- F133** Words in rule 3.7A(1) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(7)(a)** (with rule 13(1)(2))
- F134** Words in rule 3.7A(1)(a)(i) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(7)(b)** (with rule 13(1)(2))
- F135** Rules 3.7A(1)(b)(i)-(iii) omitted (6.3.2017) by virtue of The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(7)(c)(i)** (with rule 13(1)(2))
- F136** Words in rule 3.7A(1)(b)(iv) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(7)(c)(ii)** (with rule 13(1)(2))
- F137** Words in rule 3.7A(2) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(8)** (with rule 13(1)(2))
- F138** Words in rule 3.7A(2) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(b)**
- F139** Words in rule 3.7A(4)(b) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(c)**
- F140** Rule 3.7A(5) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(d)**

F141 Words in rule 3.7A(7) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), 4(e)

[^{F142}S] Sanctions for non-payment of the trial fee by the defendant, where proceedings continue on the counterclaim alone

3.7AA.—(1) This rule applies in relation to trial fees where that fee is to be paid by the defendant and the court notifies the defendant in writing of the trial date.

(Definitions contained in rule 3.7A1(1) apply to this rule also.)

(2) When the court notifies the parties in writing of the trial date, the court must also send a fee notice to the defendant.

(3) The fee notice may be contained in the same document as the notice of trial date, or may be a separate document.

(4) Where an application for full or part remission of a trial fee is refused, when the court sends written notice to the defendant of the refusal, the court must also notify the defendant in writing—

- (a) that the defendant is required to pay the full trial fee by the revised trial fee payment date; and
- (b) of the consequences of non-payment of the trial fee.

(5) Where part remission of a fee is granted, when the court sends written notice to the defendant of the part remission, the court must also notify the defendant in writing—

- (a) that the defendant is required to pay the balance of the trial fee by the revised trial fee payment date; and
- (b) of the consequences of non-payment of the balance.

(6) If—

- (a) the defendant has had notice in accordance with this rule to pay the trial fee;
- (b) the defendant has not applied to have the trial fee remitted in whole or part; and
- (c) the trial fee has not been paid on or before the trial fee payment date,

the counterclaim will automatically be struck out without further order of the court.

(7) If—

- (a) the defendant has had notice in accordance with this rule to pay the trial fee;
- (b) the defendant has applied to have the trial fee remitted in whole or part;
- (c) remission is refused or only part remission of the trial fee is granted;
- (d) following the decision on remission, the defendant has had notice in accordance with this rule to pay the full trial fee or balance of it; and
- (e) the full trial fee or balance of it (as appropriate) has not been paid on or before the revised trial fee payment date,

the counterclaim will automatically be struck out without further order of the court.

(8) If—

- (a) a defendant applies to have the counterclaim reinstated; and
- (b) the court grants relief,

the relief will be conditional on the defendant either paying the trial fee or filing evidence of full or part remission of the fee within the period specified in paragraph (9).

(9) The period referred to in paragraph (8) is—

- (a) if the order granting relief is made at a hearing at which the defendant is present or represented, 2 days from the date of the order;
- (b) in any other case, 7 days from the date of service of the order on the defendant.]

Textual Amendments

F142 Rule 3.7AA inserted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(9)** (with [rule 13\(1\)\(2\)](#))

[^{F143}Sanctions for dishonouring cheque

3.7B.—(1) This rule applies where any fee is paid by cheque and that cheque is subsequently dishonoured.

(2) The court will serve a notice on the paying party requiring payment of the fee which will specify the date by which the fee must be paid.

- (3) If the fee is not paid by the date specified in the notice—
 - (a) where the fee is payable by the claimant, the claim will automatically be struck out without further order of the court;
 - (b) where the fee is payable by the defendant, the defence will automatically be struck out without further order of the court,

and the paying party shall be liable for the costs which any other party has incurred unless the court orders otherwise.

(Rule [^{F144}44.9] provides for the basis of assessment where a right to costs arises under this rule)

- (4) If—
 - (a) the paying party applies to have the claim or defence reinstated; and
 - (b) the court grants relief,

the relief shall be conditional on that party paying the fee within the period specified in paragraph (5).

- (5) The period referred to in paragraph (4) is—
 - (a) if the order granting relief is made at a hearing at which the paying party is present or represented, 2 days from the date of the order;
 - (b) in any other case, 7 days from the date of service of the order on the paying party.

(6) For the purposes of this rule, “claimant” includes a [^{F145}claimant in a counterclaim or other additional claim] and “claim form” includes a [^{F146}counterclaim or other additional claim].]

Textual Amendments

F143 Rule 3.7B inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), 7

F144 Word in rule 3.7B substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **4(c)**

F145 Words in rule 3.7B(6) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **4(1)(a)**

F146 Words in rule 3.7B(6) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **4(1)(b)**

Sanctions have effect unless defaulting party obtains relief

3.8.—(1) Where a party has failed to comply with a rule, practice direction or court order, any sanction for failure to comply imposed by the rule, practice direction or court order has effect unless the party in default applies for and obtains relief from the sanction.

(Rule 3.9 sets out the circumstances which the court [^{F147}will] consider on an application to grant relief from a sanction)

(2) Where the sanction is the payment of costs, the party in default may only obtain relief by appealing against the order for costs.

(3) Where a rule, practice direction or court order—

- (a) requires a party to do something within a specified time, and
- (b) specifies the consequence of failure to comply,

the time for doing the act in question may not be extended by agreement between the parties [^{F148}except as provided in paragraph (4)].

[^{F149}(4) In the circumstances referred to in paragraph (3) and unless the court orders otherwise, the time for doing the act in question may be extended by prior written agreement of the parties for up to a maximum of 28 days, provided always that any such extension does not put at risk any hearing date]

Textual Amendments

F147 Word in [rule 3.8\(1\)](#) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2, 5\(f\)](#) (with [rule 22](#))

F148 Words in [rule 3.8\(3\)](#) inserted (5.6.2014) by [The Civil Procedure \(Amendment No. 5\) Rules 2014 \(S.I. 2014/1233\)](#), [rules 1, 3\(a\)](#)

F149 [Rule 3.8\(4\)](#) inserted (5.6.2014) by [The Civil Procedure \(Amendment No. 5\) Rules 2014 \(S.I. 2014/1233\)](#), [rules 1, 3\(b\)](#)

Commencement Information

I23 [Rule 3.8](#) in force at 26.4.1999, see [Signature](#)

Relief from sanctions

3.9.—[^{F150}(1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order, the court will consider all the circumstances of the case, so as to enable it to deal justly with the application, including the need—

- (a) for litigation to be conducted efficiently and at proportionate cost; and
- (b) to enforce compliance with rules, practice directions and orders.]

(2) An application for relief must be supported by evidence.

Textual Amendments

F150 [Rule 3.9\(1\)](#) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2, 5\(g\)](#) (with [rule 22](#))

Commencement Information

I24 [Rule 3.9](#) in force at 26.4.1999, see [Signature](#)

General power of the court to rectify matters where there has been an error of procedure

3.10 Where there has been an error of procedure such as a failure to comply with a rule or practice direction—

- (a) the error does not invalidate any step taken in the proceedings unless the court so orders; and
- (b) the court may make an order to remedy the error.

Commencement Information

I25 Rule 3.10 in force at 26.4.1999, see [Signature](#)

[^{F151}Orders restraining civil proceedings]

3.11.—[^{F152}(1) A “civil proceedings order” and an “all proceedings order” under section 42(1A) of the Senior Courts Act 1981 shall include provision for applying to begin, continue or make any application in any civil proceedings.]

[^{F153}(2)] A practice direction may set out—

- (a) the circumstances in which the court has the power to make a civil restraint order against a party to proceedings;
- (b) the procedure where a party applies for a civil restraint order against another party; and
- (c) the consequences of the court making a civil restraint order.

Textual Amendments

F151 Rule 3.11 heading substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(3)(a)**

F152 Rule 3.11(1) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(3)(b)**

F153 Rule 3.11 renumbered as rule 3.11(2) (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(3)(c)**

[^{F154}SECTION II

Costs Management

Textual Amendments

F154 Pt. 3 Sections 2, 3 inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **5(h)** (with rule 22)

Application of this Section and the purpose of costs management

3.12.—[^{F155}(1) This Section and Practice Direction [^{F156}3D] apply to all Part 7 multi-track cases, except—

- (a) where the claim is commenced on or after 22nd April 2014 and the amount of money claimed as stated on the claim form is £10 million or more; or

- (b) where the claim is commenced on or after 22nd April 2014 and is for a monetary claim which is not quantified or not fully quantified or is for a non-monetary claim and in any such case the claim form contains a statement that the claim is valued at £10 million or more; or
- [^{F157}(c) where in proceedings commenced on or after 6th April 2016 a claim is made by or on behalf of a person under the age of 18 (a child) (and on a child reaching majority this exception will continue to apply unless the court otherwise orders); or
- (d) where the proceeding are the subject of fixed costs or scale costs; or
- (e) the court otherwise orders.]

(1A) This Section and Practice Direction [^{F158}3D] will apply to any other proceedings (including applications) where the court so orders.]

(2) The purpose of costs management is that the court should manage both the steps to be taken and the costs to be incurred by the parties to any proceedings [^{F159}(or variation costs as provided in rule 3.15A)] so as to further the overriding objective.

Textual Amendments

F155 Rule 3.12(1)(1A) substituted for rule 3.12(1) (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), rules 1, **4(a)** (with rule 25)

F156 Word in rule 3.12(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(4)**

F157 Rules 3.12(1)(c)-(e) substituted for rule 3.12(1)(c) (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, **5** (with rule 23)

F158 Word in rule 3.12(1A) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(4)**

F159 Words in rule 3.12(2) inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **4(1)**

Modifications etc. (not altering text)

C22 Rules 3.12-3.18 applied (with modifications) (1.7.2015) by [S.I. 2007/1744](#), **rule 160** (as substituted by [The Court of Protection \(Amendment\) Rules 2015 \(S.I. 2015/548\)](#), rules 1(2)(b), **52**)

Filing and exchanging budgets [^{F160} and budget discussion reports]

[^{F161}**3.13**—(1) Unless the court otherwise orders, all parties except litigants in person must file and exchange budgets—

- (a) where the stated value of the claim on the claim form is less than £50,000, with their directions questionnaires; or
- (b) in any other case, not later than 21 days before the first case management conference.

(2) In the event that a party files and exchanges a budget under paragraph (1), all other parties, not being litigants in person, must file an agreed budget discussion report no later than 7 days before the first case management conference.

[^{F162}(3) The court—

- (a) may, on its own initiative or on application, order the parties to file and exchange costs budgets in a case where the parties are not otherwise required by this Section to do so;
- (b) shall (other than in an exceptional case) make an order to file and exchange costs budgets if all parties consent to an application for such an order.

(4) The court may, in a substantial case, direct that budgets are to be limited in the first instance to part only of the proceedings and extended later to cover the whole proceedings.

(5) Every budget must be dated and verified by a statement of truth signed by a senior legal representative of the party.

(6) Even though a litigant in person is not required to prepare a budget, each other party (other than a litigant in person) must provide the litigant in person with a copy of that party's budget.]]

Textual Amendments

F160 Words in rule 3.13 heading inserted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **6(a)** (with rule 23)

F161 Rule 3.13 substituted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **6(b)** (with rule 23)

F162 Rules 3.13(3)-(6) inserted (1.10.2020) by The Civil Procedure (Amendment No. 3) Rules 2020 (S.I. 2020/747), rules 1(1), **4(2)**

Modifications etc. (not altering text)

C22 Rules 3.12-3.18 applied (with modifications) (1.7.2015) by S.I. 2007/1744, **rule 160** (as substituted by The Court of Protection (Amendment) Rules 2015 (S.I. 2015/548), rules 1(2)(b), **52**)

Failure to file a budget

3.14. Unless the court otherwise orders, any party which fails to file a budget despite being required to do so will be treated as having filed a budget comprising only the applicable court fees.

Modifications etc. (not altering text)

C22 Rules 3.12-3.18 applied (with modifications) (1.7.2015) by S.I. 2007/1744, **rule 160** (as substituted by The Court of Protection (Amendment) Rules 2015 (S.I. 2015/548), rules 1(2)(b), **52**)

Costs management orders

3.15.—(1) In addition to exercising its other powers, the court may manage the costs to be incurred [^{F163}(the budgeted costs)] by any party in any proceedings.

(2) The court may at any time make a “costs management order”. [^{F164}Where costs budgets have been filed and exchanged the court will make a costs management order unless it is satisfied that the litigation can be conducted justly and at proportionate cost in accordance with the overriding objective without such an order being made. By a costs management order the court will—]

- (a) record the extent to which the [^{F165}budgeted costs] are agreed between the parties;
- (b) in respect of [^{F166}the budgeted costs] which are not agreed, record the court's approval after making appropriate revisions;

[record the extent (if any) to which incurred costs are agreed]
^{F167}(c)

(3) If a costs management order has been made, the court will thereafter control the parties' budgets in respect of recoverable costs.

[

^{F168}(4) Whether or not the court makes a costs management order, it may record on the face of any case management order any comments it has about the incurred costs which are to be taken into account in any subsequent assessment proceedings.]

]
^{F169}(5) Save in exceptional circumstances—

- (a) the recoverable costs of initially completing Precedent H (the form to be used for a costs budget) shall not exceed the higher of—
 - (i) £1,000; or
 - (ii) 1% of the total of the incurred costs (as agreed or allowed on assessment) and the budgeted costs (agreed or approved); and
- (b) all other recoverable costs of the budgeting and costs management process shall not exceed 2% of the total of the incurred costs (as agreed or allowed on assessment) and the budgeted (agreed or approved) costs.

(Precedent H is annexed to Practice Direction [^{F170}3D].)

(6) The court may set a timetable or give other directions for future reviews of budgets.

(7) After a party's budgeted costs have been approved or agreed, the party must re-file and re-serve the budget—

- (a) in the form approved or agreed with re-cast figures; and
- (b) annexed to the order approving the budgeted costs or recording the parties' agreement.

(8) A costs management order concerns the totals allowed for each phase of the budget, and while the underlying detail in the budget for each phase used by the party to calculate the totals claimed is provided for reference purposes to assist the court in fixing a budget, it is not the role of the court in the costs management hearing to fix or approve the hourly rates claimed in the budget.]

Textual Amendments

- F163** Words in [rule 3.15\(1\)](#) inserted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), [rules 2, 5\(10\)\(a\)](#)
- F164** Words in [rule 3.15\(2\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), [rules 1, 5 \(with rule 25\)](#)
- F165** Words in [rule 3.15\(2\)\(a\)](#) substituted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), [rules 2, 5\(10\)\(b\)\(i\)](#)
- F166** Words in [rule 3.15\(2\)\(b\)](#) substituted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), [rules 2, 5\(10\)\(b\)\(ii\)](#)
- F167** [Rule 3.15\(2\)\(c\)](#) inserted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), [rules 2, 5\(10\)\(b\)\(iii\)](#)
- F168** [Rule 3.15\(4\)](#) inserted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), [rules 2, 5\(10\)\(c\)](#)
- F169** [Rules 3.15\(5\)-\(8\)](#) inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), [rules 1\(1\), 4\(3\)](#)
- F170** Word in [rule 3.15](#) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), [rules 1\(1\), 4\(5\)](#)

Modifications etc. (not altering text)

- C22** [Rules 3.12-3.18](#) applied (with modifications) (1.7.2015) by [S.I. 2007/1744, rule 160](#) (as substituted by [The Court of Protection \(Amendment\) Rules 2015 \(S.I. 2015/548\)](#), [rules 1\(2\)\(b\), 52](#))

[^{F171}Revision and variation of costs budgets on account of significant developments (“variation costs”)]

3.15A.—(1) A party (“the revising party”) must revise its budgeted costs upwards or downwards if significant developments in the litigation warrant such revisions.

(2) Any budgets revised in accordance with paragraph (1) must be submitted promptly by the revising party to the other parties for agreement, and subsequently to the court, in accordance with paragraphs (3) to (5).

(3) The revising party must—

- (a) serve particulars of the variation proposed on every other party, using the form prescribed by Practice Direction [^{F172}3D];
- (b) confine the particulars to the additional costs occasioned by the significant development; and
- (c) certify, in the form prescribed by [^{F173}Practice Direction 3D], that the additional costs are not included in any previous budgeted costs or variation.

(4) The revising party must submit the particulars of variation promptly to the court, together with the last approved or agreed budget, and with an explanation of the points of difference if they have not been agreed.

(5) The court may approve, vary or disallow the proposed variations, having regard to any significant developments which have occurred since the date when the previous budget was approved or agreed, or may list a further costs management hearing.

(6) Where the court makes an order for variation, it may vary the budget for costs related to that variation which have been incurred prior to the order for variation but after the costs management order.]

Textual Amendments

- F171** Rule 3.15A inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **4(4)**
- F172** Word in rule 3.15A(3)(a) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(6)**
- F173** Words in rule 3.15A(3)(c) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **4(2)**

Costs management conferences

3.16.—(1) Any hearing which is convened solely for the purpose of costs management (for example, to approve a revised budget) is referred to as a “costs management conference”.

(2) Where practicable, costs management conferences should be conducted by telephone or in writing.

Modifications etc. (not altering text)

- C22** Rules 3.12-3.18 applied (with modifications) (1.7.2015) by [S.I. 2007/1744](#), **rule 160** (as substituted by [The Court of Protection \(Amendment\) Rules 2015 \(S.I. 2015/548\)](#), rules 1(2)(b), **52**)

Court to have regard to budgets and to take account of costs

3.17.—(1) When making any case management decision, the court will have regard to any available budgets of the parties and will take into account the costs involved in each procedural step.

(2) Paragraph (1) applies whether or not the court has made a costs management order.

[
^{F174}(3) Subject to rule 3.15A, the court—

(a) may not approve costs incurred [^{F175}up to and including] the date of any costs management hearing; but

(b) may record its comments on those costs and take those costs into account when considering the reasonableness and proportionality of all budgeted costs.

(4) If an interim application is made but is not included in a budget, the court may, if it considers it reasonable not to have included the application in the budget, treat the costs of such interim application as additional to the approved budgets.]

Textual Amendments

F174 Rule 3.17(3)(4) inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020](#) (S.I. 2020/747), rules 1(1), **4(5)**

F175 Words in rule 3.17(3)(a) substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021](#) (S.I. 2021/117), rules 1(1), **5**

Modifications etc. (not altering text)

C22 Rules 3.12-3.18 applied (with modifications) (1.7.2015) by [S.I. 2007/1744](#), **rule 160** (as substituted by [The Court of Protection \(Amendment\) Rules 2015](#) (S.I. 2015/548), rules 1(2)(b), **52**)

Assessing costs on the standard basis where a costs management order has been made

3.18. In any case where a costs management order has been made, when assessing costs on the standard basis, the court will—

(a) have regard to the receiving party's last approved or agreed [^{F176}budgeted costs] for each phase of the proceedings; ^{F177}...

(b) not depart from such approved or agreed [^{F178}budgeted costs] unless satisfied that there is good reason to do so [^{F179}; and

(c) take into account any comments made pursuant to rule 3.15(4) or [^{F180}3.17(3)] and recorded on the face of the order]

(Attention is drawn to [^{F181}rules 44.3(2)(a) and 44.3(5)], which concern proportionality of costs.)

Textual Amendments

F176 Words in rule 3.18(a) substituted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017](#) (S.I. 2017/95), rules 2, **5(11)(a)(i)**

F177 Word in rule 3.18(a) omitted (6.4.2017) by virtue of [The Civil Procedure \(Amendment\) Rules 2017](#) (S.I. 2017/95), rules 2, **5(11)(a)(ii)**

F178 Words in rule 3.18(b) substituted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017](#) (S.I. 2017/95), rules 2, **5(11)(b)**

F179 Rule 3.18(c) and word inserted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017](#) (S.I. 2017/95), rules 2, **5(11)(c)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F180 Word in rule 3.18(c) substituted (1.10.2020) by The Civil Procedure (Amendment No. 3) Rules 2020 (S.I. 2020/747), rules 1(1), 4(6)

F181 Words in rule 3.18 substituted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, 7

Modifications etc. (not altering text)

C22 Rules 3.12-3.18 applied (with modifications) (1.7.2015) by S.I. 2007/1744, rule 160 (as substituted by The Court of Protection (Amendment) Rules 2015 (S.I. 2015/548), rules 1(2)(b), 52)

SECTION III

Costs Capping

Costs capping orders – General

3.19.—^{F182}(1) For the purposes of this Section—

- (a) ‘costs capping order’ means an order limiting the amount of future costs (including disbursements) which a party may recover pursuant to an order for costs subsequently made; and
- (b) ‘future costs’ means costs incurred in respect of work done after the date of the costs capping order but excluding the amount of any additional liability.

(2) This Section does not apply to judicial review costs capping orders under Part 4 of the Criminal Justice and Courts Act 2015 or to protective costs orders.

(Rules 46.16 to 46.19 make provision for judicial review costs capping orders under Part 4 of the Criminal Justice and Courts Act 2015.)]

^{F183}(3)

(4) A costs capping order may be in respect of –

- (a) the whole litigation; or
- (b) any issues which are ordered to be tried separately.

(5) The court may at any stage of proceedings make a costs capping order against all or any of the parties, if—

- (a) it is in the interests of justice to do so;
- (b) there is a substantial risk that without such an order costs will be disproportionately incurred; and
- (c) it is not satisfied that the risk in subparagraph (b) can be adequately controlled by–
 - (i) case management directions or orders made under this Part; and
 - (ii) detailed assessment of costs.

(6) In considering whether to exercise its discretion under this rule, the court will consider all the circumstances of the case, including—

- (a) whether there is a substantial imbalance between the financial position of the parties;
- (b) whether the costs of determining the amount of the cap are likely to be proportionate to the overall costs of the litigation;
- (c) the stage which the proceedings have reached; and
- (d) the costs which have been incurred to date and the future costs.

(7) A costs capping order, once made, will limit the costs recoverable by the party subject to the order unless a party successfully applies to vary the order. No such variation will be made unless—

- (a) there has been a material and substantial change of circumstances since the date when the order was made; or
- (b) there is some other compelling reason why a variation should be made.

Textual Amendments

F182 Rule 3.19(1)(2) substituted (8.8.2016) by [The Civil Procedure \(Amendment No. 2\) Rules 2016 \(S.I. 2016/707\)](#), rules 2, [4\(a\)](#) (with rule 6); S.I. 2016/717, art. 3(d)

F183 Rule 3.19(3) omitted (8.8.2016) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2016 \(S.I. 2016/707\)](#), rules 2, [4\(b\)](#) (with rule 6); S.I. 2016/717, art. 3(d)

Application for a costs capping order

3.20.—(1) An application for a costs capping order must be made on notice in accordance with Part 23.

(2) The application notice must –

- (a) set out –
 - (i) whether the costs capping order is in respect of the whole of the litigation or a particular issue which is ordered to be tried separately; and
 - (ii) why a costs capping order should be made; and
- (b) be accompanied by a budget setting out –
 - (i) the costs (and disbursements) incurred by the applicant to date; and
 - (ii) the costs (and disbursements) which the applicant is likely to incur in the future conduct of the proceedings.

(3) The court may give directions for the determination of the application and such directions may –

- (a) direct any party to the proceedings –
 - (i) to file a schedule of costs in the form set out in paragraph 3 of Practice Direction [\[F1843E\]](#) – Costs capping;
 - (ii) to file written submissions on all or any part of the issues arising;
- (b) fix the date and time estimate of the hearing of the application;
- (c) indicate whether the judge hearing the application will sit with an assessor at the hearing of the application; and
- (d) include any further directions as the court sees fit.

Textual Amendments

F184 Word in [rule 3.20\(3\)\(a\)\(i\)](#) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), [4\(7\)](#)

Application to vary a costs capping order

3.21. An application to vary a costs capping order must be made by application notice pursuant to Part 23.]

PART 4

FORMS

^{F185}4.—(1) Forms approved by the Civil Procedure Rule Committee, as published online by ^{F186}His Majesty’s Courts and Tribunals Service and available for downloading or printing, or incorporated as part of any online process specified by these Rules, must be used in the cases to which they apply.

(2) Other forms not approved by the Civil Procedure Rule Committee, published online by ^{F187}His Majesty’s Courts and Tribunals Service and available for downloading, printing or other use, may be used as appropriate.

(3) A form may be varied by the court or a party if the variation is required by the circumstances of a particular case.

(4) A form must not be varied so as to leave out any information or guidance it contains.

(5) Where the court or a party produces a form with the words “Royal Arms”, the form must include a replica of the Royal Arms at the head of the first page.

(6) The court must supply, on request, a paper copy of a form (with relevant explanatory material) to a person who cannot obtain access to the forms published online.]

Textual Amendments

F185 Rule 4 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **5**

F186 Words in rule 4(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **5**

F187 Words in rule 4(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **5**

PART 5

COURT DOCUMENTS

Modifications etc. (not altering text)

C23 Pt. 5 excluded in part (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009 \(S.I. 2009/2477\)](#), rules 2, **81**

C24 Pt. 5 applied (18.6.2012) by [The Penalty Charges Enforcement \(London\) Regulations 2012 \(S.I. 2012/1234\)](#), regs. 1, **5(8)**

Contents of this Part

Scope of this Part	Rule 5.1
Preparation of documents	Rule 5.2
Signature of documents by mechanical means	Rule 5.3
^{F188} Register of claims	Rule 5.4

[^{F189} Supply of documents to Attorney-General from court records	Rule 5.4A]
Supply of documents to a party from court records	Rule 5.4B
Supply of documents to a non-party from court records	Rule 5.4C
Supply of documents from court records – general	Rule 5.4D
Filing and sending documents	Rule 5.5
Documents in the Welsh language	Rule 5.6]

Scope of this Part

- 5.1 This Part contains general provisions about—
- (a) documents used in court proceedings; and
 - (b) the obligations of a court officer in relation to those documents.

Commencement Information

I26 Rule 5.1 in force at 26.4.1999, see [Signature](#)

Preparation of documents

5.2.—(1) Where under these Rules, a document is to be prepared by the court, the document may be prepared by the party whose document it is, unless—

- (a) a court officer otherwise directs; or
- (b) it is a document to which—
 - ^{F190}(i)
 - ^{F191}(ii)
 - (iii) CCR Order 28, rule 11(1) (issue of warrant of committal), applies.

(2) Nothing in this rule shall require a court officer to accept a document which is illegible, has not been duly authorised, or is unsatisfactory for some other similar reason.

Textual Amendments

F190 Rule 5.2(1)(b)(i) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2001](#) (S.I. 2001/2792), [rules 1\(c\), 3](#) (with [rule 24](#))

F191 Rule 5.2(1)(b)(ii) omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2014](#) (S.I. 2014/867), [rules 1, 6](#) (with [rule 25](#))

Commencement Information

I27 Rule 5.2 in force at 26.4.1999, see [Signature](#)

Signature of documents by mechanical means

5.3 Where any of these Rules or any practice direction requires a document to be signed, that requirement shall be satisfied if the signature is printed by computer or other mechanical means.

Commencement Information

I28 Rule 5.3 in force at 26.4.1999, see [Signature](#)

[^{F192}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.

([^{F193}Practice Direction 5A] contains details of available registers).]

Textual Amendments

F192 Rule 5.4 substituted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **3(a)**

F193 Words in rule 5.4 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **4(a)**

[^{F194}Supply of documents to Attorney-General from court records

5.4A.—(1) The Attorney-General may search for, inspect and take a copy of any documents within a court file for the purpose of preparing an application or considering whether to make an application under section 42 of the Supreme Court Act 1981 or section 33 of the Employment Tribunals Act 1996 (restriction of vexatious proceedings).

(2) The Attorney-General must, when exercising the right under paragraph (1)—

- (a) pay any prescribed fee; and
- (b) file a written request, which must—
 - (i) confirm that the request is for the purpose of preparing an application or considering whether to make an application mentioned in paragraph (1); and
 - (ii) name the person who would be the subject of the application.]

Textual Amendments

F194 Rule 5.4A inserted (1.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(a), **3**

[^{F195}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 [^{F196}Practice Direction 5A].

(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.

Textual Amendments

F195 Rules 5.4B-5.4D inserted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **3(b)**

F196 Words in [rule 5.4B\(1\)](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **4(b)**

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) ^{F197}

[
^{F198}(1A) Where a non-party seeks to obtain a copy of a statement of case filed before 2nd October 2006—

- (a) this rule does not apply; and
- (b) the rules of court relating to access by a non-party to statements of case in force immediately before 2nd October 2006 apply as if they had not been revoked.

(The rules relating to access by a non-party to statements of case in force immediately before 2nd October 2006 were contained in the former rule 5.4(5) to 5.4(9). [^{F199}Practice Direction 5A] sets out the relevant provisions as they applied to statements of case.)]

^{F200}(1B)

(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 [^{F201}a statement of case] under paragraph (1);

- (b) restrict the persons or classes of persons who may obtain a copy of [^{F201}a statement of case];
- (c) order that persons or classes of persons may only obtain a copy of [^{F201}a 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.

Textual Amendments

- F195** Rules 5.4B-5.4D inserted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **3(b)**
- F197** Words in rule 5.4C(1)(b) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **3(2)(a)** (with reg. 17) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(a)); 2020 c. 1, Sch. 5 para. 1(1)
- F198** Rule 5.4C(1A) inserted (18.12.2006) by [The Civil Procedure \(Amendment No.2\) Rules 2006 \(S.I. 2006/3132\)](#), rules 1, **3(a)**
- F199** Words in rule 5.4C(1A) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **4(c)**
- F200** Rule 5.4C(1B) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **3(2)(b)** (with reg. 17) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(a)); 2020 c. 1, Sch. 5 para. 1(1)
- F201** Words in rule 5.4C(4) substituted (18.12.2006) by [The Civil Procedure \(Amendment No.2\) Rules 2006 \(S.I. 2006/3132\)](#), rules 1, **3(b)**

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.

[^{F202}(Rules 5.4, 5.4B and 5.4C are disapplied by rules 76.34, 79.30, 80.30, 82.18 and 88.33; and rule 5.4C is disapplied, and rule 5.4B applied subject to court order, by paragraph 23 of Practice Direction [^{F203}49E].)]

Textual Amendments

- F195** Rules 5.4B-5.4D inserted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **3(b)**

F202 Words in rule 5.4D inserted (1.10.2015) by [The Civil Procedure \(Amendment No. 4\) Rules 2015 \(S.I. 2015/1569\)](#), rules 1(2), **6**

F203 Word in rule 5.4D substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **6**

[^{F204}**Filing and sending documents**

5.5.—(1) A practice direction may make provision for documents to be filed or sent to the court by—

- (a) facsimile; or
 - (b) other electronic means.
- (2) Any such practice direction may—
- (a) provide that only particular categories of documents may be filed or sent to the court by such means;
 - (b) provide that particular provisions only apply in specific courts; and
 - (c) specify the requirements that must be fulfilled for any document filed or sent to the court by such means.]

Textual Amendments

F204 [Rule 5.5](#) inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **4**

[^{F205}**Documents in the Welsh language**

5.6.—(1) Any document placed before the court in civil proceedings in or having a connection with Wales may be in the English or Welsh language.

(2) It is the responsibility of any party if acting in person or of that party's legal representative to inform the court as soon as practicable if documents in the Welsh language will or may be placed before the court, so that appropriate arrangements can be made.]

Textual Amendments

F205 [Rule 5.6](#) inserted (1.10.2018) by [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **4(b)**

[^{F206}**PART 6**

SERVICE OF DOCUMENTS

Textual Amendments

F206 Pt. 6 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rule 1(2), **Sch. 1**

Modifications etc. (not altering text)

- C25** Pt. 6 applied (25.2.2009) by The Bank Insolvency (England and Wales) Rules 2009 (S.I. 2009/356), rules 1, **270**, **271** (with rule 3)
- C26** Pt. 6 applied (1.11.2009) by The Water Industry (Special Administration) Rules 2009 (S.I. 2009/2477), rules 2, **122**
- C27** Pt. 6 applied (15.11.2010) by The Building Society Insolvency (England and Wales) Rules 2010 (S.I. 2010/2581), rules 1, **263**
- C28** Pt. 6 applied (15.11.2010) by The Building Society Insolvency (England and Wales) Rules 2010 (S.I. 2010/2581), rules 1, **262**
- C29** Pt. 6 applied (with modifications) (30.6.2011) by The Investment Bank Special Administration (England and Wales) Rules 2011 (S.I. 2011/1301), rules 2, **234-238** (with rule 5)
- C30** Pt. 6 applied (7.6.2013) by The Energy Supply Company Administration Rules 2013 (S.I. 2013/1046), rules 1, **168** (with rules 3, 208)
- C31** Pt. 6 applied (7.6.2013) by The Energy Supply Company Administration Rules 2013 (S.I. 2013/1046), rules 1, **171** (with rules 3, 208)
- C32** Pt. 6 applied (31.1.2014) by The Postal Administration Rules 2013 (S.I. 2013/3208), rules 1, **172** (with rules 3, 210)
- C33** Pt. 6 applied (31.1.2014) by The Postal Administration Rules 2013 (S.I. 2013/3208), rules 1, **170(1)** (with rules 3, 210)
- C34** Pt. 6 applied (with modifications) (6.4.2017) by The Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024), rule 1, **Sch. 4 para. 1** (with rule 3(3), Sch. 2)
- C35** Pt. 6 applied (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rule 1, **Sch. 2 para. 1** (with rule 1.2)
- C36** Pt. 6 applied (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **170(5)** (with rules 4(1), 156)
- C37** Pt. 6 applied (with modifications) (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **187**, 196-200 (with rule 5)
- C38** Pt. 6 applied (with modifications) (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **158** (with rule 2)

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I SCOPE OF THIS PART AND INTERPRETATION

Part 6 rules about service apply generally

6.1. This Part applies to the service of documents, except where—

- (a) another Part, any other enactment or a practice direction makes different provision; or
- (b) the court orders otherwise.

(Other Parts, for example, Part 54 (Judicial Review) and Part 55 (Possession Claims) contain specific provisions about service.)

Interpretation

6.2. In this Part—

- (a) “bank holiday” means a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom where service is to take place;

- (b) “business day” means any day except Saturday, Sunday, a bank holiday, Good Friday or Christmas Day;
- (c) “claim” includes petition and any application made before action or to commence proceedings and “claim form”, “claimant” and “defendant” are to be construed accordingly; ^{F215}...
- [^{F216}(d) “solicitor” includes any other person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act)]^{F217}; and]]
- ^{F218}(e)

Textual Amendments

- F215** Word in rule 6.2(c) revoked (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(b)(i)**
- F216** Rule 6.2(d) substituted (1.2.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(3), **5(a)**
- F217** Word in rule 6.2(d) substituted for full stop (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(b)(ii)**
- F218** Rule 6.2(e) and words omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(3)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

II SERVICE OF THE CLAIM FORM IN THE JURISDICTION ^{F219}...

Textual Amendments

- F219** Words in Pt. 6 Section 2 heading omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(4)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), **9(2)(b)**); 2020 c. 1, Sch. 5 para. 1(1)

Methods of service

- 6.3.**—(1) A claim form may ^{F220}... be served by any of the following methods—
- (a) personal service in accordance with rule 6.5;
 - (b) first class post, document exchange or other service which provides for delivery on the next business day, in accordance with [^{F221}Practice Direction 6A];
 - (c) leaving it at a place specified in rule 6.7, 6.8, 6.9 or 6.10;
 - (d) fax or other means of electronic communication in accordance with [^{F222}Practice Direction 6A]; or
 - (e) any method authorised by the court under rule 6.15.
- (2) A company may be served—
- (a) by any method permitted under this Part; or
 - (b) by any of the methods of service [^{F223}permitted under] the Companies Act 2006.
- (3) A limited liability partnership may be served—
- (a) by any method permitted under this Part; or

- (b) by any of the methods of service [F224] permitted under the Companies Act 2006 as applied with modification by regulations made under the Limited Liability Partnerships Act 2000.]

Textual Amendments

- F220** Words in rule 6.3(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(5)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F221** Words in rule 6.3(1)(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(b)(i)**
- F222** Words in rule 6.3(1)(d) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(b)(i)**
- F223** Words in rule 6.3(2)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **3(a)(i)**
- F224** Words in rule 6.3(3)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **3(a)(ii)**

Who is to serve the claim form

6.4.—(1) [F225]The] court will serve the claim form except where—

- (a) a rule or practice direction provides that the claimant must serve it;
- (b) the claimant notifies the court that the claimant wishes to serve it; or
- (c) the court orders or directs otherwise.

(2) Where the court is to serve the claim form, it is for the court to decide which method of service is to be used.

(3) Where the court is to serve the claim form, the claimant must, in addition to filing a copy for the court, provide a copy for each defendant to be served.

(4) Where the court has sent—

- (a) a notification of outcome of postal service to the claimant in accordance with rule 6.18; or
- (b) a notification of non-service by a bailiff in accordance with rule 6.19,

the court will not try to serve the claim form again.

Textual Amendments

- F225** Word in rule 6.4(1) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(6)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

Personal service

6.5.—(1) Where required by another Part, any other enactment, a practice direction or a court order, a claim form must be served personally.

(2) In other cases, a claim form may be served personally except—

- (a) where rule 6.7 applies; or
- (b) in any proceedings against the Crown.

(Part 54 contains provisions about judicial review claims and Part 66 contains provisions about Crown proceedings.)

- (3) A claim form is served personally on—
- (a) an individual by leaving it with that individual;
 - (b) a company or other corporation by leaving it with a person holding a senior position within the company or corporation; or
 - (c) a partnership (where partners are being sued in the name of their firm) by leaving it with—
 - (i) a partner; or
 - (ii) a person who, at the time of service, has the control or management of the partnership business at its principal place of business.

(^{F226}Practice Direction 6A] sets out the meaning of “senior position”).

Textual Amendments

F226 Words in rule 6.5 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(b)(ii)**

Where to serve the claim form – general provisions

6.6.—(1) The claim form must be served within the jurisdiction except where rule [^{F227}6.7(2) ^{F228}... or] 6.11 applies or as provided by Section IV of this Part.

(2) The claimant must include in the claim form an address at which the defendant may be served. That address must include a full postcode ^{F229}..., unless the court orders otherwise.

^{F230}...

(3) Paragraph (2) does not apply where an order made by the court under rule 6.15 (service by an alternative method or at an alternative place) specifies the place or method of service of the claim form.

Textual Amendments

F227 Words in rule 6.6(1) inserted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(c)**

F228 Words in rule 6.6(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(7)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F229 Words in rule 6.6(2) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(7)(b)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F230 Words in rule 6.6 omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **6(1)**

[^{F231}Service on a solicitor ^{F232}... within the United Kingdom ^{F233}...

6.7.—(1) **Solicitor within the jurisdiction:** Subject to rule 6.5(1), where—

- (a) the defendant has given in writing the business address within the jurisdiction of a solicitor as an address at which the defendant may be served with the claim form; or
- (b) a solicitor acting for the defendant has notified the claimant in writing that the solicitor is instructed by the defendant to accept service of the claim form on behalf of the defendant at a business address within the jurisdiction,

the claim form must be served at the business address of that solicitor.

(“Solicitor” has the extended meaning set out in rule 6.2(d).)

(2) **Solicitor in Scotland or Northern Ireland** ^{F234} ...: Subject to rule 6.5(1) and the provisions of Section IV of this Part, and except where any other rule or practice direction makes different provision, where—

(a) the defendant has given in writing the business address in Scotland or Northern Ireland of a solicitor as an address at which the defendant may be served with the claim form;

[^{F235}(aa) a solicitor acting for the defendant has notified the claimant in writing that the solicitor is instructed by the defendant to accept service of the claim form on behalf of the defendant at a business address within Scotland or Northern Ireland;]

^{F236}(b)

^{F237}(c)

the claim form must be served at the business address of that solicitor.

^{F238}(3)

^{F238} ...

(For Production Centre Claims see paragraph [^{F239}2.3(7A)] of Practice Direction [^{F240}7B]; for Money Claims Online see paragraph 4(6) of Practice Direction [^{F241}7C]; and for Possession Claims Online see paragraph 5.1(4) of Practice Direction 55B.)]

Textual Amendments

F231 Rule 6.7 substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, 4(g)

F232 Words in rule 6.7 heading omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(8)(a)(i) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F233 Words in rule 6.7 heading omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(8)(a)(ii) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F234 Words in rule 6.7(2) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(8)(b)(i) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F235 Rule 6.7(2)(aa) inserted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), 3(a)(i)

F236 Rule 6.7(2)(b) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(8)(b)(ii) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F237 Rule 6.7(2)(c) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(8)(b)(ii) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F238 Rule 6.7(3) and words omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(8)(c) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F239 Word in rule 6.7 substituted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), 3(a)(ii)

F240 Word in rule 6.7 substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), 7(1)(a)

F241 Word in rule 6.7 substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(1)(b)**

Service of the claim form where [^{F242}before service] the defendant gives an address at which the defendant may be served

6.8. Subject to rules 6.5(1) and 6.7^{F243}... [^{F244}, and except where any other rule or practice direction makes different provision]—

- (a) the defendant may be served with the claim form at an address [^{F245}at which the defendant resides or carries on business within the UK^{F246}...and] which the defendant has given for the purpose of being served with the proceedings; or
- (b) in any claim by a tenant [^{F247}or contract-holder] against a landlord, the claim form may be served at an address given by the landlord under section 48 of the Landlord and Tenant Act 1987 [^{F248}or section 39 of the Renting Homes (Wales) Act 2016].

[^{F249}(For Production Centre Claims see paragraph [^{F250}2.3(7A)] of Practice Direction [^{F251}7B]; for Money Claims Online see paragraph 4(6) of Practice Direction [^{F252}7C]; and for Possession Claims Online see paragraph 5.1(4) of Practice Direction 55B.)

(For service out of the jurisdiction see rules 6.40 to 6.47.)]

Textual Amendments

F242 Words in rule 6.8 heading inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(h)(i)**

F243 Words in rule 6.8 omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(9)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F244 Words in rule 6.8 inserted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), **3(b)(i)**

F245 Words in rule 6.8(a) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(h)(iii)**

F246 Words in rule 6.8(a) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(9)(b)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F247 Words in rule 6.8(b) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **6(2)(a)**

F248 Words in rule 6.8(b) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **6(2)(b)**

F249 Words in rule 6.8 inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(h)(iv)**

F250 Word in rule 6.8 substituted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), **3(b)(ii)**

F251 Word in rule 6.8 substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(2)(a)**

F252 Word in rule 6.8 substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(2)(b)**

Service of the claim form where the defendant does not give an address at which the defendant may be served

6.9.—(1) This rule applies where—

- (a) rule 6.5(1) (personal service);
- (b) rule 6.7 (service of claim form on solicitor ^{F253}...); and
- (c) rule 6.8 (defendant gives address at which the defendant may be served),

do not apply and the claimant does not wish to effect personal service under rule 6.5(2).

(2) Subject to paragraphs (3) to (6), the claim form must be served on the defendant at the place shown in the following table.

<i>Nature of defendant to be served</i>	<i>Place of service</i>
1. Individual	Usual or last known residence.
2. Individual being sued in the name of a business	Usual or last known residence of the individual; or principal or last known place of business.
3. Individual being sued in the business name of a partnership	Usual or last known residence of the individual; or principal or last known place of business of the partnership.
4. Limited liability partnership	Principal office of the partnership; or any place of business of the partnership within the jurisdiction which has a real connection with the claim.
5. Corporation (other than a company) incorporated in England and Wales	Principal office of the corporation; or any place within the jurisdiction where the corporation carries on its activities and which has a real connection with the claim.
6. Company registered in England and Wales	Principal office of the company; or any place of business of the company within the jurisdiction which has a real connection with the claim.
7. Any other company or corporation	Any place within the jurisdiction where the corporation carries on its activities; or any place of business of the company within the jurisdiction.

(3) Where a claimant has reason to believe that the address of the defendant referred to in entries 1, 2 or 3 in the table in paragraph (2) is an address at which the defendant no longer resides or carries on business, the claimant must take reasonable steps to ascertain the address of the defendant’s current residence or place of business (“current address”).

(4) Where, having taken the reasonable steps required by paragraph (3), the claimant—

- (a) ascertains the defendant's current address, the claim form must be served at that address; or
- (b) is unable to ascertain the defendant's current address, the claimant must consider whether there is—
 - (i) an alternative place where; or
 - (ii) an alternative method by which, service may be effected.

(5) If, under paragraph (4)(b), there is such a place where or a method by which service may be effected, the claimant must make an application under rule 6.15.

(6) Where paragraph (3) applies, the claimant may serve on the defendant's usual or last known address in accordance with the table in paragraph (2) where the claimant—

- (a) cannot ascertain the defendant's current residence or place of business; and
- (b) cannot ascertain an alternative place or an alternative method under paragraph (4)(b).

[^{F254}(For service out of the jurisdiction see rules 6.40 to 6.47.)]

Textual Amendments

F253 Words in rule 6.9(1)(b) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **4(10)** (with reg. 18) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F254 Words in rule 6.9 inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011](#) (S.I. 2011/88), rules 1, **4(i)(ii)**

Service of the claim form in proceedings against the Crown

6.10. In proceedings against the Crown—

- (a) service on the Attorney General must be effected on the Treasury Solicitor; and
- (b) service on a government department must be effected on the solicitor acting for that department.

([^{F255}Practice Direction 66] gives the list published under section 17 of the Crown Proceedings Act 1947 of the solicitors acting in civil proceedings (as defined in that Act) for the different government departments on whom service is to be effected, and of their addresses.)

Textual Amendments

F255 Words in rule 6.10 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **5(e)**

Service of the claim form by contractually agreed method

6.11.—(1) Where—

- (a) a contract contains a term providing that, in the event of a claim being started in relation to the contract, the claim form may be served by a method or at a place specified in the contract; and
- (b) a claim solely in respect of that contract is started,

the claim form may, subject to paragraph (2), be served on the defendant by the method or at the place specified in the contract.

(2) Where in accordance with the contract the claim form is to be served out of the jurisdiction, it may be served—

- (a) if permission to serve it out of the jurisdiction has been granted under rule 6.36; or
- (b) without permission under rule 6.32 or 6.33.

Service of the claim form relating to a contract on an agent of a principal who is out of the jurisdiction

6.12.—(1) The court may, on application, permit a claim form relating to a contract to be served on the defendant’s agent where —

- (a) the defendant is out of the jurisdiction;
- (b) the contract to which the claim relates was entered into within the jurisdiction with or through the defendant’s agent; and
- (c) at the time of the application either the agent’s authority has not been terminated or the agent is still in business relations with the defendant.

(2) An application under this rule—

- (a) must be supported by evidence setting out—
 - (i) details of the contract and that it was entered into within the jurisdiction or through an agent who is within the jurisdiction;
 - (ii) that the principal for whom the agent is acting was, at the time the contract was entered into and is at the time of the application, out of the jurisdiction; and
 - (iii) why service out of the jurisdiction cannot be effected; and
- (b) may be made without notice.

(3) An order under this rule must state the period within which the defendant must respond to the particulars of claim.

(4) Where the court makes an order under this rule—

- (a) a copy of the application notice and the order must be served with the claim form on the agent; and
- (b) unless the court orders otherwise, the claimant must send to the defendant a copy of the application notice, the order and the claim form.

(5) This rule does not exclude the court’s power under rule 6.15 (service by an alternative method or at an alternative place).

Service of the claim form on children and protected parties

6.13.—(1) Where the defendant is a child who is not also a protected party, the claim form must be served on—

- (a) one of the child’s parents or guardians; or
- (b) if there is no parent or guardian, an adult with whom the child resides or in whose care the child is.

(2) Where the defendant is a protected party, the claim form must be served on—

- (a) one of the following persons with authority in relation to the protected party as—
 - (i) the attorney under a registered enduring power of attorney;
 - (ii) the donee of a lasting power of attorney; or
 - (iii) the deputy appointed by the Court of Protection; or

- (b) if there is no such person, an adult with whom the protected party resides or in whose care the protected party is.
- (3) Any reference in this Section to a defendant or a party to be served includes the person to be served with the claim form on behalf of a child or protected party under paragraph (1) or (2).
- (4) The court may make an order permitting a claim form to be served on a child or protected party, or on a person other than the person specified in paragraph (1) or (2).
- (5) An application for an order under paragraph (4) may be made without notice.
- (6) The court may order that, although a claim form has been sent or given to someone other than the person specified in paragraph (1) or (2), it is to be treated as if it had been properly served.
- (7) This rule does not apply where the court has made an order under rule 21.2(3) allowing a child to conduct proceedings without a litigation friend.

(Part 21 contains rules about the appointment of a litigation friend and “child” and “protected party” have the same meaning as in rule 21.1.)

Deemed service

6.14. A claim form served [^{F256}within the United Kingdom] in accordance with this Part is deemed to be served on the second business day after completion of the relevant step under rule 7.5(1).

Textual Amendments

F256 Word in rule 6.14 inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(j)**

Service of the claim form by an alternative method or at an alternative place

6.15.—(1) Where it appears to the court that there is a good reason to authorise service by a method or at a place not otherwise permitted by this Part, the court may make an order permitting service by an alternative method or at an alternative place.

(2) On an application under this rule, the court may order that steps already taken to bring the claim form to the attention of the defendant by an alternative method or at an alternative place is good service.

- (3) An application for an order under this rule—
- (a) must be supported by evidence; and
 - (b) may be made without notice.
- (4) An order under this rule must specify—
- (a) the method or place of service;
 - (b) the date on which the claim form is deemed served; and
 - (c) the period for—
 - (i) filing an acknowledgment of service;
 - (ii) filing an admission; or
 - (iii) filing a defence.

Power of court to dispense with service of the claim form

6.16.—(1) The court may dispense with service of a claim form in exceptional circumstances.

- (2) An application for an order to dispense with service may be made at any time and—
- (a) must be supported by evidence; and
 - (b) may be made without notice.

Notice and certificate of service relating to the claim form

6.17.—(1) Where the court serves a claim form, the court will send to the claimant a notice which will include the date on which the claim form is deemed served under rule 6.14.

- (2) Where the claimant serves the claim form, the claimant—
- (a) must file a certificate of service within 21 days of service of the particulars of claim, unless all the defendants to the proceedings have filed acknowledgments of service within that time; and
 - (b) may not obtain judgment in default under Part 12 unless a certificate of service has been filed.
- (3) The certificate of service must state—
- (a) where rule 6.7, 6.8, 6.9 or 6.10 applies, the category of address at which the claimant believes the claim form has been served; and
 - (b) the details set out in the following table.

<i>Method of service</i>	<i>Details to be certified</i>
1. Personal service	Date of personal service.
2. First class post, document exchange or other service which provides for delivery on the next business day	Date of posting, or leaving with, delivering to or collection by the relevant service provider.
3. Delivery of document to or leaving it at a permitted place	Date when the document was delivered to or left at the permitted place.
4. Fax	Date of completion of the transmission.
5. Other electronic method	Date of sending the e-mail or other electronic transmission.
6. Alternative method or place	As required by the court.

Notification of outcome of postal service by the court

- 6.18.**—(1) Where—
- (a) the court serves the claim form by post; and
 - (b) the claim form is returned to the court,

the court will send notification to the claimant that the claim form has been returned.

(2) The claim form will be deemed to be served unless the address for the defendant on the claim form is not the relevant address for the purpose of rules 6.7 to 6.10.

Notice of non-service by bailiff

- 6.19.** Where—
- (a) the court bailiff is to serve a claim form; and

(b) the bailiff is unable to serve it on the defendant,
the court will send notification to the claimant.

*III SERVICE OF DOCUMENTS OTHER THAN THE
CLAIM FORM IN THE UNITED KINGDOM ^{F257}...*

Textual Amendments

F257 Words in Pt. 6 Section 3 heading omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **4(11)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), **9(2)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Methods of service

- 6.20.**—(1) [^{F258}A] document may be served by any of the following methods—
- (a) personal service, in accordance with rule 6.22;
 - (b) first class post, document exchange or other service which provides for delivery on the next business day, in accordance with [^{F259}Practice Direction 6A];
 - (c) leaving it at a place specified in rule 6.23;
 - (d) fax or other means of electronic communication in accordance with [^{F260}Practice Direction 6A]; or
 - (e) any method authorised by the court under rule 6.27.
- (2) A company may be served—
- (a) by any method permitted under this Part; or
 - (b) by any of the methods of service [^{F261}permitted under] the Companies Act 2006.
- (3) A limited liability partnership may be served—
- (a) by any method permitted under this Part; or
 - (b) by any of the methods of service [^{F262}permitted under the Companies Act 2006 as applied with modification by regulations made under the Limited Liability Partnerships Act 2000.]

Textual Amendments

- F258** Word in rule 6.20(1) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **4(12)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F259** Words in rule 6.20(1)(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **5(b)(i)**
- F260** Words in rule 6.20(1)(d) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **5(b)(i)**
- F261** Words in rule 6.20(2)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **3(b)(i)**
- F262** Words in rule 6.20(3)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **3(b)(ii)**

Who is to serve

6.21.—(1) [^{F263}A] party to proceedings will serve a document which that party has prepared except where—

- (a) a rule or practice direction provides that the court will serve the document; or
- (b) the court orders otherwise.

(2) The court will serve a document which it has prepared except where—

- (a) a rule or practice direction provides that a party must serve the document;
- (b) the party on whose behalf the document is to be served notifies the court that the party wishes to serve it; or
- (c) the court orders otherwise.

(3) Where the court is to serve a document, it is for the court to decide which method of service is to be used.

(4) Where the court is to serve a document prepared by a party, that party must provide a copy for the court and for each party to be served.

Textual Amendments

F263 Word in rule 6.21(1) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **4(13)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

Personal service

6.22.—(1) Where required by another Part, any other enactment, a practice direction or a court order, a document must be served personally.

(2) In other cases, a document may be served personally except—

- (a) where the party to be served has given an address for service under rule 6.23^{F264} ...; or
- (b) in any proceedings by or against the Crown.

(3) A document may be served personally as if the document were a claim form in accordance with rule 6.5(3).

[^{F265}(For service out of the jurisdiction see rules 6.40 to 6.47.)]

Textual Amendments

F264 Word in rule 6.22(2)(a) omitted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011](#) (S.I. 2011/88), rules 1, **4(n)(i)**

F265 Words in rule 6.22 inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011](#) (S.I. 2011/88), rules 1, **4(n)(ii)**

Address for service [^{F266}to be given after proceedings are started]

6.23.—(1) [^{F267}Unless the court orders otherwise, a party] to proceedings must give an address at which that party may be served with documents relating to those proceedings. The address must include a full postcode ^{F268}... ^{F269}....

^{F270}...

[^{F271}(2) Except where any other rule [^{F272}, practice direction or order] makes different provision, a party’s address for service must be—

(a) the business address ^{F273}... within the United Kingdom ^{F273}... of a solicitor acting for the party to be served; or

^{F274}(b)

(c) where there is no solicitor acting for the party ^{F275}...—

(i) an address within the United Kingdom at which the party resides or carries on business; ^{F276}...

^{F277}(ii)

(For Production Centre Claims see paragraph 2.3(7) [^{F278}and (7A)] of Practice Direction [^{F279}7B]; for Money Claims Online see [^{F280}paragraph 4(3A) and (6)] of Practice Direction [^{F281}7C]; and for Possession Claims Online see [^{F282}paragraph 5.1(3A) and (4)] of Practice Direction 55B.)

(3) Where [^{F283}none of sub-paragraphs (2)(a) ^{F284}... or (c) applies], [^{F285}unless the court orders otherwise] the party must give an address for service within the United Kingdom.

(Part 42 contains provisions about change of solicitor. Rule 42.1 provides that where a party gives the business address of a solicitor as that party’s address for service, that solicitor will be considered to be acting for the party until the provisions of Part 42 are complied with.)

(4) [^{F286}Subject to the provisions of Section IV of this Part (where applicable), any] document to be served in proceedings must be sent or transmitted to, or left at, the party’s address for service under paragraph (2) or (3) unless it is to be served personally or the court orders otherwise.

(5) Where, in accordance with [^{F287}Practice Direction 6A], a party indicates or is deemed to have indicated that they will accept service by fax, the fax number given by that party must be at the address for service.

(6) Where a party indicates in accordance with [^{F288}Practice Direction 6A] that they will accept service by electronic means other than fax, the e-mail address or electronic identification given by that party will be deemed to be at the address for service.

(7) In proceedings by or against the Crown, service of any document in the proceedings on the Crown must be effected in the same manner prescribed in rule 6.10 as if the document were a claim form.

(8) This rule does not apply where an order made by the court under rule 6.27 (service by an alternative method or at an alternative place) specifies where a document may be served.

[^{F289}(For service out of the jurisdiction see rules 6.40 to 6.47.)]

Textual Amendments

F266 Words in rule 6.23 heading inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(o)(i)**

F267 Words in rule 6.23(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **7(3)(a)(i)**

F268 Words in rule 6.23(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(14)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F269 Words in rule 6.23(1) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **7(3)(a)(ii)**

F270 Words in rule 6.23 omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **6(3)**

- F271** Rule 6.23(2) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(o)(iii)**
- F272** Words in rule 6.23(2) substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(3)(b)(i)**
- F273** Words in rule 6.23(2)(a) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(14)(b)(i)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F274** Rule 6.23(2)(b) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(14)(b)(ii)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F275** Words in rule 6.23(2)(c) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(14)(b)(iii)(aa)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F276** Word in rule 6.23(2)(c)(i) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(14)(b)(iii)(bb)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F277** Rule 6.23(2)(c)(ii) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(14)(b)(iii)(cc)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F278** Words in rule 6.23(2) inserted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), **3(c)(i)**
- F279** Word in rule 6.23(2) substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(3)(b)(ii)(aa)**
- F280** Words in rule 6.23(2) substituted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), **3(c)(ii)**
- F281** Word in rule 6.23(2) substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(3)(b)(ii)(bb)**
- F282** Words in rule 6.23(2) substituted (1.9.2011) by The Civil Procedure (Amendment No.2) Rules 2011 (S.I. 2011/1979), rules 1(2), **3(c)(iii)**
- F283** Words in rule 6.23(3) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(o)(iv)**
- F284** Word in rule 6.23(3) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **4(14)(c)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
- F285** Words in rule 6.23(3) inserted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **7(3)(c)**
- F286** Words in rule 6.23(4) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(o)(v)**
- F287** Words in rule 6.23(5) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **5(b)(i)**
- F288** Words in rule 6.23(6) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **5(b)(i)**
- F289** Words in rule 6.23 inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(o)(vi)**

Change of address for service

6.24. Where the address for service of a party changes, that party must give notice in writing of the change as soon as it has taken place to the court and every other party.

Service on children and protected parties

6.25.—(1) An application for an order appointing a litigation friend where a child or protected party has no litigation friend must be served in accordance with rule 21.8(1) and (2).

(2) Any other document which would otherwise be served on a child or a protected party must be served on the litigation friend conducting the proceedings on behalf of the child or protected party.

(3) The court may make an order permitting a document to be served on the child or protected party or on some person other than the person specified in rule 21.8 or paragraph (2).

(4) An application for an order under paragraph (3) may be made without notice.

(5) The court may order that, although a document has been sent or given to someone other than the person specified in rule 21.8 or paragraph (2), the document is to be treated as if it had been properly served.

(6) This rule does not apply where the court has made an order under rule 21.2(3) allowing a child to conduct proceedings without a litigation friend.

Deemed Service

6.26. A document, other than a claim form [^{F290}within the United Kingdom], served in accordance with these Rules or any relevant practice direction is deemed to be served on the day shown in the following table—

<i>Method of service</i>	<i>Deemed date of service</i>
1. First class post (or other service which provides for delivery on the next business day)	The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day.
2. Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day.
3. Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30p.m., on that day; or in any other case, on the next business day after that day.
4. Fax	If the transmission of the fax is completed on a business day before 4.30p.m., on that day; or in any other case, on the next business day after the day on which it was transmitted.
5. Other electronic method	If the e-mail or other electronic transmission is sent on a business day before 4.30p.m., on that day; or in any other case, on the next business day after the day on which it was sent.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

<i>Method of service</i>	<i>Deemed date of service</i>
6. Personal service	If the document is served personally before 4.30p.m. on a business day, on that day; or in any other case, on the next business day after that day.

(Paragraphs 10.1 to 10.7 of [F291]Practice Direction 6A] contain examples of how the date of deemed service is calculated.)

Textual Amendments

F290 Words in rule 6.26 inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(p)**

F291 Words in rule 6.26 substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **5(b)(ii)**

Service by an alternative method or at an alternative place

6.27. Rule 6.15 applies to any document in the proceedings as it applies to a claim form and reference to the defendant in that rule is modified accordingly.

Power to dispense with service

6.28.—(1) The court may dispense with service of any document which is to be served in the proceedings.

(2) An application for an order to dispense with service must be supported by evidence and may be made without notice.

Certificate of service

6.29. Where a rule, practice direction or court order requires a certificate of service, the certificate must state the details required by the following table—

<i>Method of Service</i>	<i>Details to be certified</i>
1. Personal service	Date and time of personal service.
2. First class post, document exchange or other service which provides for delivery on the next business day	Date of posting, or leaving with, delivering to or collection by the relevant service provider.
3. Delivery of document to or leaving it at a permitted place	Date and time of when the document was delivered to or left at the permitted place.
4. Fax	Date and time of completion of the transmission.
5. Other electronic method	Date and time of sending the e-mail or other electronic transmission.
6. Alternative method or place permitted by the court	As required by the court.

IV SERVICE OF THE CLAIM FORM AND OTHER DOCUMENTS OUT OF THE JURISDICTION

Scope of this Section

6.30. This Section contains rules about—

- (a) service of the claim form and other documents out of the jurisdiction;
- (b) when the permission of the court is required and how to obtain that permission; and
- (c) the procedure for service.

(“Jurisdiction” is defined in rule 2.3(1).)

Interpretation

6.31. For the purposes of this Section—

- (a) “the Hague Convention” means the Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters signed at the Hague on 15 November 1965;
- (b) “the 1982 Act” means the Civil Jurisdiction and Judgments Act 1982;
- (c) “Civil Procedure Convention” means [^{F292}any] Convention (including the Hague Convention) entered into by the United Kingdom regarding service out of the jurisdiction;

^{F293}(d)

^{F293} ...

^{F294}(e)

- (f) “Commonwealth State” means a state listed in Schedule 3 to the British Nationality Act 1981;

^{F295}(g)

^{F295}(h)

^{F295}(i)

^{F295}(j)

- [^{F296}(k) “the 2005 Hague Convention” means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague.]

Textual Amendments

F292 Word in rule 6.31(c) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(15)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F293 Rule 6.31(d) and words omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(15)(b)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F294 Rule 6.31(e) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(15)(c)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F295 Rules 6.31(g)-(j) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(15)(d)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F296 Rule 6.31(k) inserted (1.10.2015) by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015/1644), reg. 1(1), **Sch. para. 1**

Service of the claim form where the permission of the court is not required - Scotland and Northern Ireland

6.32.—(1) The claimant may serve the claim form on a defendant in Scotland or Northern Ireland where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine under the 1982 Act and—

- (a) no proceedings between the parties concerning the same claim are pending in the courts of any other part of the United Kingdom; and
- (b) (i) the defendant is domiciled in the United Kingdom;
 - (ii) the proceedings are within paragraph 11 of Schedule 4 to the 1982 Act; or
 - (iii) the defendant is a party to an agreement conferring jurisdiction, within paragraph 12 of Schedule 4 to the 1982 Act.

(2) The claimant may serve the claim form on a defendant in Scotland or Northern Ireland where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine under any enactment other than the 1982 Act notwithstanding that—

- (a) the person against whom the claim is made is not within the jurisdiction; or
- (b) the facts giving rise to the claim did not occur within the jurisdiction.

Service of the claim form where the permission of the court is not required - out of the United Kingdom

6.33.—^{F297}(1)

(2) The claimant may serve the claim form on a defendant out of the United Kingdom where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine [^{F298}under sections 15A to 15E of the 1982 Act] and—

- (a) ^{F299}... no proceedings between the parties concerning the same claim are pending in the courts of any other part of the United Kingdom ^{F300}...; and

[^{F301}(b) ^{F302}(i)

(ii) the defendant is not a consumer, but is a party to a consumer contract within [^{F303}section 15B(1) of the 1982 Act]; [^{F304}or]

(iii) the defendant is an employer and a party to a contract of employment within [^{F305}section 15C(1) of the 1982 Act];

^{F306}(iv)

^{F307}(v)]

^{F308}(2A)

[^{F309}(2B) The claimant may serve the claim form on a defendant outside the United Kingdom where, for each claim made against the defendant to be served and included in the claim form—

- (a) the court has power to determine that claim under the 2005 Hague Convention and the defendant is a party to an exclusive choice of court agreement conferring jurisdiction on that court within the meaning of Article 3 of the 2005 Hague Convention; ^{F310}...

(b) a contract contains a term to the effect that the court shall have jurisdiction to determine that claim ^{F311}; or

(c) the claim is in respect of a contract falling within sub-paragraph (b).]]

(3) The claimant may serve the claim form on a defendant out of the United Kingdom where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine other than under ^{F312}...^{F313} the 2005 Hague Convention^{F312}...] notwithstanding that—

(a) the person against whom the claim is made is not within the jurisdiction; or

(b) the facts giving rise to the claim did not occur within the jurisdiction.

Textual Amendments

- F297** Rule 6.33(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F298** Words in rule 6.33(2) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(i)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F299** Words in rule 6.33(2)(a) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(ii)(aa)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F300** Words in rule 6.33(2)(a) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(ii)(bb)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F301** Rule 6.33(2)(b) substituted (10.1.2015) by [The Civil Procedure \(Amendment No. 7\) Rules 2014 \(S.I. 2014/2948\)](#), rules 2, **4(3)(a)(ii)** (with rule 6)
- F302** Rule 6.33(2)(b)(i) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(iii)(aa)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F303** Words in rule 6.33(2)(b)(ii) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(iii)(bb)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F304** Word in rule 6.33(2)(b)(ii) inserted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(iii)(cc)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F305** Words in rule 6.33(2)(b)(iii) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(iii)(dd)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F306** Rule 6.33(2)(b)(iv) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(iii)(ee)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F307** Rule 6.33(2)(b)(v) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(b)(iii)(ee)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F308** Rule 6.33(2A) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(c)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F309** Rule 6.33(2B) substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **6**
- F310** Word in rule 6.33(2B)(a) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **7(4)(a)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F311** Rule 6.33(2B)(c) and word substituted for full stop (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **7(4)(b)**
- F312** Words in rule 6.33(3) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(16)(d)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F313** Words in rule 6.33(3) substituted (1.10.2015) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) Regulations 2015 \(S.I. 2015/1644\)](#), reg. 1(1), **Sch. para. 2(3)**

Notice of statement of grounds where the permission of the court is not required for service

6.34.—(1) Where the claimant intends to serve a claim form on a defendant under rule 6.32 or 6.33, the claimant must—

- (a) file with the claim form a notice containing a statement of the grounds on which the claimant is entitled to serve the claim form out of the jurisdiction; and
- (b) serve a copy of that notice with the claim form.

(2) Where the claimant fails to file with the claim form a copy of the notice referred to in paragraph (1)(a), the claim form may only be served—

- (a) once the claimant files the notice; or
- (b) if the court gives permission.

Period for responding to the claim form where permission was not required for service

6.35.—(1) This rule sets out the period for—

- (a) filing an acknowledgment of service;
- (b) filing an admission; or
- (c) filing a defence,

where a claim form has been served out of the jurisdiction under rule 6.32 or 6.33.

(Part 10 contains rules about acknowledgments of service, Part 14 contains rules about admissions and Part 15 contains rules about defences.)

Service of the claim form on a defendant in Scotland or Northern Ireland

(2) Where the claimant serves on a defendant in Scotland or Northern Ireland under rule 6.32, the period—

- (a) for filing an acknowledgment of service or admission is 21 days after service of the particulars of claim; or
- (b) for filing a defence is—
 - (i) 21 days after service of the particulars of claim; or
 - (ii) where the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.

(Part 7 provides that particulars of claim must be contained in or served with the claim form or served separately on the defendant within 14 days after service of the claim form.)

^{F314}(3)

^{F315}(4)

Service on a defendant elsewhere

(5) Where the claimant serves the claim form under rule 6.33^{F316} ..., the period for responding to the claim form is set out in [^{F317}Practice Direction 6B].

Textual Amendments

- F314** Rule 6.35(3) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(17)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F315** Rule 6.35(4) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(17)(a)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F316** Words in rule 6.35(5) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(17)(b)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)(3)); 2020 c. 1, Sch. 5 para. 1(1)
- F317** Words in rule 6.35(5) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(g)(i)**

Service of the claim form where the permission of the court is required

6.36. In any proceedings to which rule 6.32 or 6.33 does not apply, the claimant may serve a claim form out of the jurisdiction with the permission of the court if any of the grounds set out in paragraph 3.1 of [^{F318}Practice Direction 6B] apply.

Textual Amendments

- F318** Words in [rule 6.36](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(g)(i)**

Application for permission to serve the claim form out of the jurisdiction

6.37.—(1) An application for permission under rule 6.36 must set out—

- (a) which ground in paragraph 3.1 of [^{F319}Practice Direction 6B] is relied on;
- (b) that the claimant believes that the claim has a reasonable prospect of success; and
- (c) the defendant's address or, if not known, in what place the defendant is, or is likely, to be found.

(2) Where the application is made in respect of a claim referred to in paragraph 3.1(3) of [^{F320}Practice Direction 6B], the application must also state the grounds on which the claimant believes that there is between the claimant and the defendant a real issue which it is reasonable for the court to try.

(3) The court will not give permission unless satisfied that England and Wales is the proper place in which to bring the claim.

(4) In particular, where—

- (a) the application is for permission to serve a claim form in Scotland or Northern Ireland; and
- (b) it appears to the court that the claimant may also be entitled to a remedy in Scotland or Northern Ireland, the court, in deciding whether to give permission, will—
 - (i) compare the cost and convenience of proceeding there or in the jurisdiction; and

- (ii) (where relevant) have regard to the powers and jurisdiction of the Sheriff court in Scotland or the [^{F18}County Court] or courts of summary jurisdiction in Northern Ireland.
- (5) Where the court gives permission to serve a claim form out of the jurisdiction—
- (a) it will specify the periods within which the defendant may—
- (i) file an acknowledgment of service;
 - (ii) file or serve an admission;
 - (iii) file a defence; or
 - (iv) file any other response or document required by a rule in another Part, any other enactment or a practice direction; and
- (b) it [^{F321}may give directions about the method of service].

(The periods referred to in paragraphs (5)(a)(i), (ii) and (iii) are those specified in the Table in [^{F322}Practice Direction 6B].)

Textual Amendments

- F18** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; [S.I. 2014/954](#), art. 2(a)
- F319** Words in rule 6.37(1)(a) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(g)(i)**
- F320** Words in rule 6.37(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(g)(i)**
- F321** Words in rule 6.37(5)(b) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **7(5)**
- F322** Words in rule 6.37 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(g)(ii)**

[^{F323}Service of documents other than the claim form - permission

6.38. Any application notice issued or order made in any proceedings, or other document which is required to be served in the proceedings, may be served on a defendant out of the jurisdiction without permission where—

- (a) the claim form has been served on the defendant out of the jurisdiction with permission; or
- (b) permission is or was not required to serve the claim form (whether within or out of the jurisdiction).]

Textual Amendments

- F323** [Rule 6.38](#) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **7(6)**

Service of application notice on a non-party to the proceedings

6.39.—(1) Where an application notice is to be served out of the jurisdiction on a person who is not a party to the proceedings rules 6.35 and 6.37(5)(a)(i), (ii) and (iii) do not apply.

(2) Where an application is served out of the jurisdiction on a person who is not a party to the proceedings, that person may make an application to the court under Part 11 as if that person were a defendant, but rule 11(2) does not apply.

(Part 11 contains provisions about disputing the court’s jurisdiction.)

Methods of service - general provisions

6.40.—(1) This rule contains general provisions about the method of service of a claim form or other document on a party out of the jurisdiction.

Where service is to be effected on a party in Scotland or Northern Ireland

(2) Where a party serves [^{F324}a claim form or other document] on a party in Scotland or Northern Ireland, it must be served by a method permitted by Section II (and references to “jurisdiction” in that Section are modified accordingly) or Section III of this Part and rule 6.23(4) applies.

Where service is to be effected on a [^{F325}party] out of the United Kingdom

(3) Where [^{F326}a party] wishes to serve a claim form or ^{F327}... other document on a [^{F325}party] out of the United Kingdom, it may be served—

- (a) by any method provided for by—
 - ^{F328}(i)
 - (ii) rule 6.42 (service through foreign governments, judicial authorities and British Consular authorities); or
 - (iii) rule 6.44 (service of claim form or other document on a State);
- (b) by any method permitted by a Civil Procedure Convention[^{F329}or Treaty]; or
- (c) by any other method permitted by the law of the country in which it is to be served.

(4) Nothing in paragraph (3) or in any court order authorises or requires any person to do anything which is contrary to the law of the country where the claim form or other document is to be served.

[^{F330}(The texts of the Civil Procedure Treaties which the United Kingdom has entered into may be found on the Foreign and Commonwealth Office website at <http://www.fco.gov.uk/en/publications-and-documents/treaties/lists-treaties/bilateral-civil-procedure.>)]

Textual Amendments	
F324	Words in rule 6.40(2) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, 4(q)(i)
F325	Word in rule 6.40(3) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, 4(q)(ii)(aa)
F326	Words in rule 6.40(3) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, 4(q)(ii)(bb)
F327	Word in rule 6.40(3) omitted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, 4(q)(ii)(cc)
F328	Rule 6.40(3)(a)(i) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 4(18) (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)
F329	Words in rule 6.40(3) inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, 4(q)(ii)(dd)

F330 Words in rule 6.40 substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, [4\(q\)\(iii\)](#)

Service in accordance with the Service Regulation

^{F331}6.41.

Textual Amendments

F331 Rule 6.41 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), [4\(19\)](#) (with reg. 18) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

Service through foreign governments, judicial authorities and British Consular authorities

6.42.—(1) Where [^{F332}a party] wishes to serve a claim form or any other document ^{F333}... in any country which is a party to a Civil Procedure Convention [^{F334}or Treaty] providing for service in that country, it may be served—

- (a) through the authority designated under the Hague Convention [^{F335}or any other Civil Procedure Convention or Treaty] (where relevant) in respect of that country; or
- (b) if the law of that country permits—
 - (i) through the judicial authorities of that country, or
 - (ii) through a British Consular authority in that country (subject to any provisions of the applicable convention about the nationality of persons who may be served by such a method).

(2) Where [^{F336}a party] wishes to serve a claim form or any other document ^{F337}... in any country with respect to which there is no Civil Procedure Convention [^{F338}or Treaty] providing for service in that country, the claim form or other document may be served, if the law of that country so permits—

- (a) through the government of that country, where that government is willing to serve it; or
- (b) through a British Consular authority in that country.

(3) Where [^{F339}a party] wishes to serve the claim form or other document in—

- (a) any Commonwealth State which is not a party to the Hague Convention [^{F340}or is such a party but HM Government has not declared acceptance of its accession to the Convention];
- (b) the Isle of Man or the Channel Islands; or
- (c) any British overseas territory,

the methods of service permitted by paragraphs (1)(b) and (2) are not available and [^{F341}the party] or the [^{F342}party's] agent must effect service direct, unless [^{F343}Practice Direction 6B] provides otherwise.

(A list of British overseas territories is reproduced in paragraph 5.2 of [^{F344}Practice Direction 6B].)

Textual Amendments

F332 Words in rule 6.42(1) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, [4\(s\)\(i\)\(aa\)](#)

F333 Words in rule 6.42(1) omitted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, [4\(s\)\(i\)\(bb\)](#)

- F334** Words in rule 6.42(1) inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(i)(cc)**
- F335** Words in rule 6.42(1) inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(i)(dd)**
- F336** Words in rule 6.42(2) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(ii)(aa)**
- F337** Words in rule 6.42(2) omitted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(ii)(bb)**
- F338** Words in rule 6.42(2) inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(ii)(cc)**
- F339** Words in rule 6.42(3) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(iii)(aa)**
- F340** Words in rule 6.42(3) inserted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(iii)(bb)**
- F341** Words in rule 6.42(3) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(iii)(cc)**
- F342** Word in rule 6.42(3) substituted (6.4.2011) by The Civil Procedure (Amendment) Rules 2011 (S.I. 2011/88), rules 1, **4(s)(iii)(dd)**
- F343** Words in rule 6.42(3) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **5(g)(i)**
- F344** Words in rule 6.42 substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **5(g)(ii)**

Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities

6.43.—(1) This rule applies where [^{F345}a party] wishes to serve a claim form or any other document under rule 6.42(1) or 6.42(2).

- (2) Where this rule applies, [^{F346}that party] must file—
- (a) a request for service of the claim form or other document specifying one or more of the methods in rule 6.42(1) or 6.42(2);
 - (b) a copy of the claim form or other document;
 - (c) any other documents or copies of documents required by [^{F347}Practice Direction 6B]; and
 - (d) any translation required under rule 6.45.
- (3) Where [^{F348}a party] files the documents specified in paragraph (2), the court officer will—
- (a) seal (GL) the copy of the claim form or other document; and
 - (b) forward the documents to the Senior Master.
- (4) The Senior Master will send documents forwarded under this rule—
- (a) where the claim form or other document is being served through the authority designated under the Hague Convention [^{F349}or any other Civil Procedure Convention or Treaty], to that authority; or
 - (b) in any other case, to [^{F350}the Foreign, Commonwealth and Development Office] with a request that it arranges for the claim form or other document to be served.
- (5) An official certificate which—
- (a) states that the method requested under paragraph (2)(a) has been performed and the date of such performance;

- (b) states, where more than one method is requested under paragraph (2)(a), which method was used; and
- (c) is made by—
 - (i) a British Consular authority in the country where the method requested under paragraph (2)(a) was performed;
 - (ii) the government or judicial authorities in that country; or
 - (iii) the authority designated in respect of that country under the Hague Convention [^{F351}a Civil Procedure Convention or Treaty],

is evidence of the facts stated in the certificate.

(6) A document purporting to be an official certificate under paragraph (5) is to be treated as such a certificate, unless it is proved not to be.

Textual Amendments

- F345** Words in rule 6.43(1) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(t)(i)**
- F346** Words in rule 6.43(2) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(t)(ii)**
- F347** Words in rule 6.43(2)(c) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **5(g)(i)**
- F348** Words in rule 6.43(3) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(t)(iii)**
- F349** Words in rule 6.43(4) inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(t)(iv)**
- F350** Words in rule 6.43(4)(b) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(a)**
- F351** Words in rule 6.43(5) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(t)(v)**

Service of claim form or other document on a State

6.44.—(1) This rule applies where a [^{F352}party] wishes to serve the claim form or other document on a State.

- (2) In this rule, “State” has the meaning given by section 14 of the State Immunity Act 1978.
- (3) The [^{F353}party] must file in the Central Office of the Royal Courts of Justice—
 - (a) a request for service to be arranged by [^{F354}the Foreign, Commonwealth and Development Office];
 - (b) a copy of the claim form or other document; and
 - (c) any translation required under rule 6.45.

(4) The Senior Master will send the documents filed under this rule to [^{F355}the Foreign, Commonwealth and Development Office] with a request that it arranges for them to be served.

(5) An official certificate by [^{F356}the Foreign, Commonwealth and Development Office] stating that a claim form [^{F357}or other document] has been duly served on a specified date in accordance with a request made under this rule is evidence of that fact.

(6) A document purporting to be such a certificate is to be treated as such a certificate, unless it is proved not to be.

(7) Where—

- (a) section 12(6) of the State Immunity Act 1978 applies; and
- (b) the State has agreed to a method of service other than through [^{F358}the Foreign, Commonwealth and Development Office],

the claim form or other document may be served either by the method agreed or in accordance with this rule.

(Section 12(6) of the State Immunity Act 1978 provides that section 12(1) enables the service of a claim form or other document in a manner to which the State has agreed.)

Textual Amendments

- F352** Word in rule 6.44(1) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(u)(i)**
- F353** Word in rule 6.44(3) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(u)(i)**
- F354** Words in rule 6.44(3)(a) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(b)**
- F355** Words in rule 6.44(4) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(b)**
- F356** Words in rule 6.44(5) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(b)**
- F357** Words in rule 6.44(5) inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(u)(ii)**
- F358** Words in rule 6.44(7)(b) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(b)**

Translation of claim form or other document

6.45.—(1) Except where paragraph (4) or (5) applies, every copy of the claim form or other document filed under rule 6.43 (service through foreign governments, judicial authorities etc.) or 6.44 (service of claim form or other document on a State) must be accompanied by a translation of the claim form or other document.

(2) The translation must be—

- (a) in the official language of the country in which it is to be served; or
- (b) if there is more than one official language of that country, in any official language which is appropriate to the place in the country where the claim form or other document is to be served.

(3) Every translation filed under this rule must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include that person's name, address and qualifications for making the translation.

(4) [^{F359}A party] is not required to file a translation of a claim form or other document filed under rule 6.43 (service through foreign governments, judicial authorities etc.) where the claim form or other document is to be served—

- (a) in a country of which English is an official language; or
- (b) on a British citizen (within the meaning of the British Nationality Act 1981),

unless a Civil Procedure Convention^{F360} or Treaty] requires a translation.

(5) [^{F361}A party] is not required to file a translation of a claim form or other document filed under rule 6.44 (service of claim form or other document on a State) where English is an official language of the State in which the claim form or other document is to be served.

F362
...

Textual Amendments

F359 Words in rule 6.45(4) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, **4(v)(i)(aa)**

F360 Words in rule 6.45(4) inserted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, 4(v)(i)(bb)

F361 Words in rule 6.45(5) substituted (6.4.2011) by [The Civil Procedure \(Amendment\) Rules 2011 \(S.I. 2011/88\)](#), rules 1, 4(v)(ii)

F362 Words in rule 6.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(20)** (with reg. 18) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

Undertaking to be responsible for expenses

6.46. Every request for service filed under rule 6.43 (service through foreign governments, judicial authorities etc.) or rule 6.44 (service of claim form or other document on a State) must contain an undertaking by the person making the request—

- (a) to be responsible for all expenses incurred by [^{F363}the Foreign, Commonwealth and Development Office] or foreign judicial authority; and
- (b) to pay those expenses to [^{F364}the Foreign, Commonwealth and Development Office] or foreign judicial authority on being informed of the amount.

Textual Amendments

F363 Words in rule 6.46(a) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(c)**

F364 Words in rule 6.46(b) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(2)(c)**

Proof of service before obtaining judgment

6.47. Where—

- (a) a hearing is fixed when the claim form is issued;
- (b) the claim form is served on a defendant out of the jurisdiction; and

(c) that defendant does not appear at the hearing,
the claimant may not obtain judgment against the defendant until the claimant files written evidence that the claim form has been duly served in accordance with this Part.

V SERVICE OF DOCUMENTS FROM FOREIGN COURTS OR TRIBUNALS

Scope of this Section

6.48. This Section—

(a) applies to the service in England and Wales of any document in connection with civil or commercial proceedings in a foreign court or tribunal,^{F365} ...

^{F366}(b)

Textual Amendments

F365 Word in rule 6.48(a) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(21)(a)** (with reg. 18) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

F366 Rule 6.48(b) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **4(21)(b)** (with reg. 18) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(b)); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation

6.49. In this Section—

- (a) “convention country” means a country in relation to which there is a Civil Procedure Convention (which has the same meaning as in rule 6.31(c));
- (b) “foreign court or tribunal” means a court or tribunal in a country outside of the United Kingdom; and
- (c) “process server” means—
 - (i) a process server appointed by the Lord Chancellor to serve documents to which this Section applies, or
 - (ii) the process server’s agent.

Request for service

6.50. The Senior Master will serve a document to which this Section applies upon receipt of—

- (a) a written request for service—
 - (i) where the foreign court or tribunal is in a convention country, from a consular or other authority of that country; or
 - (ii) from [^{F367}the Secretary of State for Foreign, Commonwealth and Development Affairs], with a recommendation that service should be effected;
- (b) a translation of that request into English;
- (c) two copies of the document to be served; and
- (d) unless the foreign court or tribunal certifies that the person to be served understands the language of the document, two copies of a translation of it into English.

Textual Amendments

F367 Words in rule 6.50(a)(ii) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 13(3)**

Method of service

6.51. The Senior Master will determine the method of service.

After service

6.52.—(1) Where service of a document has been effected by a process server, the process server must—

- (a) send to the Senior Master a copy of the document, and
 - (i) proof of service; or
 - (ii) a statement why the document could not be served; and
 - (b) if the Senior Master directs, specify the costs incurred in serving or attempting to serve the document.
- (2) The Senior Master will send to the person who requested service—
- (a) a certificate, sealed with the seal of the [^{F368}Senior Courts] for use out of the jurisdiction, stating—
 - (i) when and how the document was served or the reason why it has not been served; and
 - (ii) where appropriate, an amount certified by a costs judge to be the costs of serving or attempting to serve the document; and
 - (b) a copy of the document.]

Textual Amendments

F368 Words in rule 6.52(2)(a) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **3(c)**

PART 7

HOW TO START PROCEEDINGS—THE CLAIM FORM

Contents of this Part

Where to start proceedings	Rule 7.1
[^{F369} Claims against Welsh public bodies to be issued and heard in Wales	Rule 7.1A
Claims against Welsh public bodies to be forwarded for issue in Wales	Rule 7.1B]
How to start proceedings	Rule 7.2

Right to use one claim form to start two or more claims	Rule 7.3
Particulars of claim	Rule 7.4
Service of a claim form	Rule 7.5
Extension of time for serving a claim form	Rule 7.6
Application by defendant for service of a claim form	Rule 7.7
Form for defence etc. must be served with particulars of claim	Rule 7.8
Fixed date and other claims	Rule 7.9
Production Centre for claims	Rule 7.10

Where to start proceedings

7.1 Restrictions on where proceedings may be started are set out in [^{F370}the relevant practice directions supplementing this Part].

Textual Amendments

F370 Words in [rule 7.1](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [6\(a\)](#)

Commencement Information

I29 [Rule 7.1](#) in force at 26.4.1999, see [Signature](#)

[^{F371}Claims against Welsh public bodies to be issued and heard in Wales

7.1A. Unless required otherwise by any enactment, rule or practice direction, any claim against Welsh public bodies which challenges the lawfulness of their decisions must be issued and heard in Wales.

Textual Amendments

F371 [Rules 7.1A, 7.1B](#) inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), [rules 1\(1\)](#), [5\(2\)](#)

Claims against Welsh public bodies to be forwarded for issue in Wales

7.1B. If a court or centre in England receives a claim which should pursuant to paragraph (1) be issued in Wales a court officer shall forward it for issue in the Administrative Court Office in Wales or other appropriate court office in Wales.]

Textual Amendments

F371 [Rules 7.1A, 7.1B](#) inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), [rules 1\(1\)](#), [5\(2\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

How to start proceedings

- 7.2.—(1) Proceedings are started when the court issues a claim form at the request of the claimant.
- (2) A claim form is issued on the date entered on the form by the court.

(A person who seeks a remedy from the court before proceedings are started or in relation to proceedings which are taking place, or will take place, in another jurisdiction must make an application under Part 23)

(Part 16 sets out what the claim form must include)

F372

F372

Textual Amendments

F372 Words in rule 7.2 omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, 5

Commencement Information

I30 Rule 7.2 in force at 26.4.1999, see [Signature](#)

[^{F373}7.2A [^{F374}Practice Direction 7A] makes provision for procedures to be followed when claims are brought by or against a partnership within the jurisdiction.]

Textual Amendments

F373 Rule 7.2A inserted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, 4

F374 Words in rule 7.2A substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 6(c)

Right to use one claim form to start two or more claims

7.3 A claimant may use a single claim form to start all claims which can be conveniently disposed of in the same proceedings.

Commencement Information

I31 Rule 7.3 in force at 26.4.1999, see [Signature](#)

Particulars of claim

- 7.4.—(1) Particulars of claim must—
 - (a) be contained in or served with the claim form; or
 - (b) subject to paragraph (2) be served on the defendant by the claimant within 14 days after service of the claim form.
- (2) Particulars of claim must be served on the defendant no later than the latest time for serving a claim form.

(Rule 7.5 sets out the latest time for serving a claim form)

[^{F375}(3) Where the claimant serves particulars of claim on the defendant, the claimant must, within 7 days of service on the defendant, file a copy of the particulars unless a copy has already been filed.

(4) The claimant need not file a copy of the particulars of claim under paragraph (3) if the claim is being dealt with at the Production Centre (under rule 7.10) or the [^{F376}Civil National Business Centre] (under Practice Direction 7C) and is not transferred to another court.]

(Part 16 sets out what the particulars of claim must include)

(Part 22 requires particulars of claim to be verified by a statement of truth)

^{F377} ...

Textual Amendments

F375 Rule 7.4(3)(4) substituted for rule 7.4(3) (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **8(1)**

F376 Words in rule 7.4(4) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **4**

F377 Words in rule 7.4 omitted (1.10.2008) by virtue of [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **6(c)**

Commencement Information

I32 [Rule 7.4](#) in force at 26.4.1999, see [Signature](#)

[^{F378}**Service of a claim form**

7.5.—(1) Where the claim form is served within the jurisdiction, the claimant must complete the step required by the following table in relation to the particular method of service chosen, before 12.00 midnight on the calendar day four months after the date of issue of the claim form.

<i>Method of service</i>	<i>Step required</i>
First class post, document exchange or other service which provides for delivery on the next business day	Posting, leaving with, delivering to or collection by the relevant service provider
Delivery of the document to or leaving it at the relevant place	Delivering to or leaving the document at the relevant place
Personal service under rule 6.5	Completing the relevant step required by rule 6.5(3)
^{F379} ...	^{F379} ...
[^{F380} Electronic] method	Sending the e-mail or other electronic transmission

(2) Where the claim form is to be served out of the jurisdiction, the claim form must be served in accordance with Section IV of Part 6 within 6 months of the date of issue.]

Textual Amendments

F378 [Rule 7.5](#) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **6(d)**

- F379** Words in rule 7.5(1) Table omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **8(2)(a)**
- F380** Word in rule 7.5(1) Table substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **8(2)(b)**

[^{F381}Extension of time for serving a claim form

- 7.6.—**(1) The claimant may apply for an order extending the period for compliance with rule 7.5.
- (2) The general rule is that an application to extend the time for compliance with rule 7.5 must be made—
- (a) within the period specified by rule 7.5; or
 - (b) where an order has been made under this rule, within the period for service specified by that order.
- (3) If the claimant applies for an order to extend the time for compliance after the end of the period specified by rule 7.5 or by an order made under this rule, the court may make such an order only if—
- (a) the court has failed to serve the claim form; or
 - (b) the claimant has taken all reasonable steps to comply with rule 7.5 but has been unable to do so; and
 - (c) in either case, the claimant has acted promptly in making the application.
- (4) An application for an order extending the time for compliance with rule 7.5—
- (a) must be supported by evidence; and
 - (b) may be made without notice.]

Textual Amendments

- F381** Rule 7.6 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **6(d)**

Application by defendant for service of claim form

- 7.7.—**(1) Where a claim form has been issued against a defendant, but has not yet been served on him, the defendant may serve a notice on the claimant requiring him to serve the claim form or discontinue the claim within a period specified in the notice.
- (2) The period specified in a notice served under paragraph (1) must be at least 14 days after service of the notice.
- (3) If the claimant fails to comply with the notice, the court may, on the application of the defendant—
- (a) dismiss the claim; or
 - (b) make any other order it thinks just.

Commencement Information

- I33** [Rule 7.7](#) in force at 26.4.1999, see [Signature](#)

Form for defence etc. must be served with particulars of claim

7.8.—(1) When particulars of claim are served on a defendant, whether they are contained in the claim form, served with it or served subsequently, they must be accompanied by—

- (a) a form for defending the claim;
 - (b) a form for admitting the claim; and
 - (c) a form for acknowledging service.
- (2) Where the claimant is using the procedure set out in Part 8 (alternative procedure for claims)—
- (a) paragraph (1) does not apply; and
 - (b) a form for acknowledging service must accompany the claim form.

Commencement Information

I34 [Rule 7.8](#) in force at 26.4.1999, see [Signature](#)

Fixed date and other claims

7.9 A practice direction—

- (a) may set out the circumstances in which the court may give a fixed date for a hearing when it issues a claim;
- (b) may list claims in respect of which there is a specific claim form for use and set out the claim form in question; and
- (c) may disapply or modify these Rules as appropriate in relation to the claims referred to in paragraphs (a) and (b).

Commencement Information

I35 [Rule 7.9](#) in force at 26.4.1999, see [Signature](#)

Production Centre for claims

7.10.—(1) There shall be a Production Centre for the issue of claim forms and other related matters.

(2) [^{F382}Practice Direction [^{F383}7B]] makes provision for—

- (a) which claimants may use the Production Centre;
- (b) the type of claims which the Production Centre may issue;
- (c) the functions which are to be discharged by the Production Centre;
- (d) the place where the Production Centre is to be located; and
- (e) other related matters.

(3) [^{F384}Practice Direction [^{F385}7B]] may disapply or modify these Rules as appropriate in relation to claims issued by the Production Centre.

Textual Amendments

F382 Words in [rule 7.10\(2\)](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), [rules 1\(2\)](#), [6\(e\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F383** Word in rule 7.10(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **8(3)**
- F384** Words in rule 7.10(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **6(e)**
- F385** Word in rule 7.10(3) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **8(3)**

Commencement Information

I36 [Rule 7.10](#) in force at 26.4.1999, see [Signature](#)

[^{F386}Human Rights

7.11.—(1) A claim under section 7(1)(a) of the Human Rights Act 1998 in respect of a judicial act may be brought only in the High Court.

(2) Any other claim under section 7(1)(a) of that Act may be brought in any court.]

Textual Amendments

F386 [Rule 7.11](#) inserted (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **6**

[^{F387}Electronic issue of claims

7.12.—(1) A practice direction may [^{F388}permit or require] a claimant to start a claim by requesting the issue of a claim form electronically.

(2) The practice direction may, in particular—

- (a) specify—
 - (i) the types of claim which may be issued electronically; and
 - (ii) the conditions which a claim must meet before it may be issued electronically;
- (b) specify—
 - (i) the court where the claim will be issued; and
 - (ii) the circumstances in which the claim will be transferred to another court;
- (c) provide for the filing of other documents electronically where a claim has been started electronically;
- (d) specify the requirements that must be fulfilled for any document filed electronically; and
- (e) provide how a fee payable on the filing of any document is to be paid where that document is filed electronically.

(3) The practice direction may disapply or modify these Rules as appropriate in relation to claims started electronically.]

F389

Textual Amendments

F387 [Rule 7.12](#) inserted (1.2.2004) by [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(a), **3**

F388 Words in rule 7.12(1) substituted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **8(4)(a)**

F389 Words in rule 7.12 omitted (1.10.2022) by virtue of The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **8(4)(b)**

PART 8

ALTERNATIVE PROCEDURE FOR CLAIMS

Contents of this Part

Types of claim in which Part 8 procedure may be followed	Rule 8.1
Contents of the claim form	Rule 8.2
Acknowledgment of service	Rule 8.3
Consequence of not filing an acknowledgment of service	Rule 8.4
Filing and serving written evidence	Rule 8.5
Evidence—general	Rule 8.6
[^{F390} Counterclaims and other additional claims]	Rule 8.7
Procedure where defendant objects to use of Part 8 procedure	Rule 8.8
Modifications to the general rules	Rule 8.9

[^{F391}Types of claim in which the Part 8 procedure is used

8.1.—(1) The Part 8 procedure is the procedure set out in this Part.

(2) A claimant may, unless any enactment, rule or practice direction states otherwise, use the Part 8 procedure where they seek the court's decision on a question which is unlikely to involve a substantial dispute of fact.

(3) In the County Court, a claim under the Part 8 procedure may be made at any County Court hearing centre unless an enactment, rule or practice direction states otherwise.

(4) The court may at any stage order the claim to continue as if the claimant had not used the Part 8 procedure and, if it does so, the court may give any directions it considers appropriate.

(5) Where the claimant uses the Part 8 procedure, they may not obtain default judgment under Part 12.

(6) A rule or practice direction may, in relation to a specified type of proceedings, disapply or modify any of the rules set out in this Part as they apply to those proceedings.

(Rule 8.9 provides for other modifications to the general rules where the Part 8 procedure is being used.)]

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F391 Rule 8.1 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **9(1)**

Contents of the claim form

8.2 Where the claimant uses the Part 8 procedure the claim form must state—

- (a) that this Part applies;
- (b) (i) the question which the claimant wants the court to decide; or
(ii) the remedy which the claimant is seeking and the legal basis for the claim to that remedy;
- (c) if the claim is being made under an enactment, what that enactment is;
- (d) if the claimant is claiming in a representative capacity, what that capacity is; and
- (e) if the defendant is sued in a representative capacity, what that capacity is.

(Part 22 provides for the claim form to be verified by a statement of truth)

(Rule 7.5 provides for service of the claim form)

F392

F392

Textual Amendments

F392 Words in rule 8.2 omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **6(a)**

Commencement Information

I37 Rule 8.2 in force at 26.4.1999, see [Signature](#)

[^{F393}Issue of claim form without naming defendants

8.2A.—[^{F394}(1) A practice direction may set out the circumstances in which a claim form may be issued under this Part without naming a defendant.

(2) The practice direction may set out those cases in which an application for permission must be made by application notice before the claim form is issued.]

- (3) The application notice for permission—
 - (a) need not be served on any other person; and
 - (b) must be accompanied by a copy of the claim form that the applicant proposes to issue.
- (4) Where the court gives permission it will give directions about the future management of the claim.]

Textual Amendments

F393 Rule 8.2A inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **5**

F394 Rule 8.2A(1)(2) substituted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(a), **5**

Acknowledgment of service

8.3.—(1) The defendant must—

- (a) file an acknowledgment of service in the relevant practice form not more than 14 days after service of the claim form; and
- (b) serve the acknowledgment of service on the claimant and any other party.

(2) The acknowledgment of service must state—

- (a) whether the defendant contests the claim; and
- (b) if the defendant seeks a different remedy from that set out in the claim form, what that remedy is.

(3) The following rules of Part 10 (acknowledgment of service) apply—

- (a) rule 10.3(2) (exceptions to the period for filing an acknowledgment of service); and
- (b) rule 10.5 (contents of acknowledgment of service).

^{F395}(4)

^{F396}

^{F396}

Textual Amendments

F395 Rule 8.3(4) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **11**

F396 Words in rule 8.3 omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **6(b)**

Commencement Information

I38 [Rule 8.3](#) in force at 26.4.1999, see [Signature](#)

Consequence of not filing an acknowledgment of service

8.4.—(1) This rule applies where—

- (a) the defendant has failed to file an acknowledgment of service; and
- (b) the time period for doing so has expired.

(2) The defendant may attend the hearing of the claim but may not take part in the hearing unless the court gives permission.

Commencement Information

I39 [Rule 8.4](#) in force at 26.4.1999, see [Signature](#)

[^{F397} **Filing and serving written evidence**

8.5.—(1) When the claimant files the claim form, they must also file any written evidence on which they intend to rely.

(2) The claimant must serve their written evidence on the defendant with the claim form.

(3) A defendant who wishes to rely on written evidence must file it when they file their acknowledgment of service.

(4) If they do so, they must also, at the same time, serve a copy of their evidence on the other parties.

(5) The claimant may, within 14 days of service of the defendant’s evidence on them, file further written evidence in reply.

(6) If they do so, they must also, within the same time limit, serve a copy of their evidence on the other parties.

(7) The claimant may rely on the matters set out in the claim form as evidence under this rule if the claim form is verified by a statement of truth.

(8) A party may apply to the court for an extension of time to serve and file evidence or for permission to serve and file additional evidence under rule 8.6(1).

(9) The parties may agree in writing on an extension of time of not more than 14 days for serving and filing evidence from the defendant and of not more than 28 days for serving and filing evidence in reply.

(10) Any such agreement must be filed with the court with the acknowledgement of service or, if it relates to evidence in reply, within 48 hours of the agreement.]

Textual Amendments

F397 [Rule 8.5](#) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **9(2)**

Evidence—general

8.6.—(1) No written evidence may be relied on at the hearing of the claim unless—

- (a) it has been served in accordance with rule 8.5; or
- (b) the court gives permission.

(2) The court may require or permit a party to give oral evidence at the hearing.

(3) The court may give directions requiring the attendance for cross-examination^(GL) of a witness who has given written evidence.

(Rule 32.1 contains a general power for the court to control evidence)

Commencement Information

I40 [Rule 8.6](#) in force at 26.4.1999, see [Signature](#)

[^{F398}Counterclaims and other additional claims]

8.7 Where the Part 8 procedure is used, Part 20 (counterclaims and other additional claims) applies except that a party may not make a [^{F399}counterclaim or other additional claim] (as defined by rule 20.2) without the court's permission.

Textual Amendments

F398 Rule 8.7 heading substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 7(2)

F399 Words in rule 8.7 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 7(3)

Commencement Information

I41 [Rule 8.7](#) in force at 26.4.1999, see [Signature](#)

Procedure where defendant objects to use of the Part 8 procedure

8.8.—(1) Where the defendant contends that the Part 8 procedure should not be used because—

- (a) there is a substantial dispute of fact; and
- (b) the use of the Part 8 procedure is not required or permitted by a rule or practice direction, he must state his reasons when he files his acknowledgment of service.

(Rule 8.5 requires a defendant who wishes to rely on written evidence to file it when he files his acknowledgment of service)

(2) When the court receives the acknowledgment of service and any written evidence it will give directions as to the future management of the case.

(Rule 8.1(3) allows the court to make an order that the claim continue as if the claimant had not used the Part 8 procedure)

Commencement Information

I42 [Rule 8.8](#) in force at 26.4.1999, see [Signature](#)

Modifications to the general rules

8.9 Where the Part 8 procedure is followed—

- (a) provision is made in this Part for the matters which must be stated in the claim form and the defendant is not required to file a defence and therefore—
 - (i) Part 16 (statements of case) does not apply;
 - (ii) Part 15 (defence and reply) does not apply;
 - (iii) any time limit in these Rules which prevents the parties from taking a step before a defence is filed does not apply; and
 - (iv) the requirement under rule 7.8 to serve on the defendant a form for defending the claim does not apply;
- (b) the claimant may not obtain judgment by request on an admission and therefore—
 - (i) [^{F400}rule 14.2 does] not apply; and

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (ii) the requirement under rule 7.8 to serve on the defendant a form for admitting the claim does not apply; and
- (c) the claim shall be treated as allocated to the multi-track and therefore Part 26 does not apply.

Textual Amendments

F400 Words in rule 8.9(b)(i) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 3

Commencement Information

I43 [Rule 8.9](#) in force at 26.4.1999, see [Signature](#)

PART 9

RESPONDING TO PARTICULARS OF CLAIM—GENERAL

Contents of this Part

Scope of this Part	Rule 9.1
Defence, admission or acknowledgment of service	Rule 9.2

Scope of this Part

9.1.—(1) This Part sets out how a defendant may respond to particulars of claim.

(2) Where the defendant receives a claim form which states that particulars of claim are to follow, he need not respond to the claim until the particulars of claim have been served on him.

Commencement Information

I44 [Rule 9.1](#) in force at 26.4.1999, see [Signature](#)

Defence, admission or acknowledgment of service

9.2 When particulars of claim are served on a defendant, the defendant may—

- (a) file or serve an admission in accordance with Part 14;
- (b) file a defence in accordance with Part 15,

(or do both, if he admits only part of the claim); or

- (c) file an acknowledgment of service in accordance with Part 10.

F401

Textual Amendments

F401 Words in rule 9.2 omitted (6.4.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 8

Commencement Information

I45 [Rule 9.2](#) in force at 26.4.1999, see [Signature](#)

[^{F402}PART 10

ACKNOWLEDGMENT OF SERVICE

Textual Amendments

F402 [Pt. 10](#) substituted (with application in accordance with rule 1(2) of the amending S.I.) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), [Sch. 1](#)

Contents of this Part

<i>Title</i>	<i>Rule number</i>
Acknowledgment of service	Rule 10.1
Consequence of not filing an acknowledgment of service	Rule 10.2
The period for filing an acknowledgment of service	Rule 10.3
Notice to claimant that defendant has filed an acknowledgment of service	Rule 10.4
Contents of acknowledgment of service	Rule 10.5
Amendment or withdrawal of an acknowledgment of service	Rule 10.6

Acknowledgment of service

10.1.—(1) This Part deals with the filing of an acknowledgment of service.

(2) Where the claimant uses the procedure set out in Part 8 (alternative procedure for claims) this Part applies subject to the modifications set out in rule 8.3.

(3) A defendant must file an acknowledgment of service if—

- (a) they are unable to file a defence within the period specified in rule 15.4; or
- (b) they wish to dispute the court’s jurisdiction.

(Part 11 sets out the procedure for disputing the court’s jurisdiction.)

Consequence of not filing an acknowledgment of service

10.2. If—

- (a) a defendant fails to file an acknowledgment of service within the period specified in rule 10.3; and
- (b) does not within that period file a defence in accordance with Part 15 or serve or file an admission in accordance with Part 14,

the claimant may obtain default judgment if Part 12 allows it.

The period for filing an acknowledgment of service

- 10.3.**—(1) The general rule is that the period for filing an acknowledgment of service is—
- (a) 14 days after service of the particulars of claim where the defendant is served with a claim form which states that particulars of claim are to follow; and
 - (b) 14 days after service of the claim form in any other case.
- (2) The general rule is subject to the following rules—
- (a) rule 6.35 (which specifies how the period for filing an acknowledgment of service is calculated where the claim form is served out of the jurisdiction under rule 6.32 or 6.33);
 - (b) rule 6.12(3) (which requires the court to specify the period for responding to the particulars of claim when it makes an order under that rule); and
 - (c) rule 6.37(5) (which requires the court to specify the period within which the defendant may file an acknowledgment of service calculated by reference to Practice Direction 6B when it makes an order giving permission to serve a claim form out of the jurisdiction).

Notice to claimant that defendant has filed an acknowledgment of service

- 10.4.** On receipt of an acknowledgment of service, the court must notify the claimant in writing.

Contents of acknowledgment of service

- 10.5.**—(1) An acknowledgment of service must—
- (a) be on the relevant form;
 - (b) be signed by the defendant or their legal representative or litigation friend; and
 - (c) include the defendant’s address for service;
 - (d) set out the defendant’s name in full. Where the defendant’s name has been incorrectly set out in the claim form, it must be correctly set out in the acknowledgment of service followed by the words ‘described as’ and the incorrect name.

(Rule 6.23 makes provision in relation to addresses for service.)

(Rule [F403 19.13] modifies this Part where a notice of claim is served under that rule to bind a person not a party to the claim.)

(2) If two or more defendants to a claim acknowledge service of the claim through the same legal representative at the same time, only one acknowledgment of service is required.

(3) Where a defendant is a company or other corporation, a person holding a senior position in the company or corporation may sign the statement of truth on its behalf but must state the position they hold.

- (4) Each of the following is a person holding a senior position—
- (a) in respect of a registered company or corporation, a director, the treasurer, secretary, chief executive, manager or other officer of the company or corporation;
 - (b) in respect of a corporation which is not a registered company, in addition to those persons set out in subparagraph (a), the mayor, chairman, president, town clerk or similar officer of the corporation.
- (5) Where a defendant is a partnership—
- (a) service must be acknowledged in the name of the partnership on behalf of all persons who were partners at the time when the cause of action accrued; and
 - (b) the acknowledgment of service may be signed by any of those partners, or by any person authorised by any of those partners to sign it.

(6) Children and protected parties may acknowledge service only by their litigation friend or legal representative unless the court otherwise orders.

Textual Amendments

F403 Word in rule 10.5 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 8

Amendment or withdrawal of an acknowledgment of service

10.6.—(1) An acknowledgment of service may be amended or withdrawn only with the permission of the court.

(2) An application for permission under paragraph (1) must be made in accordance with Part 23 and supported by evidence .]

PART 11

DISPUTING THE COURT'S JURISDICTION

Contents of this Part

Procedure for disputing the court's jurisdiction. Rule 11

Procedure for disputing the court's jurisdiction

11.—(1) A defendant who wishes to—

- (a) dispute the court's jurisdiction to try the claim; or
- (b) argue that the court should not exercise its jurisdiction,

may apply to the court for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction which it may have.

(2) A defendant who wishes to make such an application must first file an acknowledgment of service in accordance with Part 10.

(3) A defendant who files an acknowledgment of service does not, by doing so, lose any right that he may have to dispute the court's jurisdiction.

(4) An application under this rule must—

- ^{F404}(a) be made within 14 days after filing an acknowledgment of service; and]
- (b) be supported by evidence.

^{F405} ...

(5) If the defendant—

- (a) files an acknowledgment of service; and
- (b) does not make such an application within the period [^{F406}specified in paragraph (4)],

he is to be treated as having accepted that the court has jurisdiction to try the claim.

(6) An order containing a declaration that the court has no jurisdiction or will not exercise its jurisdiction may also make further provision including—

- (a) setting aside the claim form;

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (b) setting aside service of the claim form;
 - (c) discharging any order made before the claim was commenced or before the claim form was served; and
 - (d) staying^(GL) the proceedings.
- (7) If on an application under this rule the court does not make a declaration—
- (a) the acknowledgment of service shall cease to have effect; ^{F407} ...
 - (b) the defendant may file a further acknowledgment of service within 14 days or such other period as the court may direct [^{F408}; and
 - (c) the court shall give directions as to the filing and service of the defence in a claim under Part 7 or the filing of evidence in a claim under Part 8 in the event that a further acknowledgment of service is filed.]
- (8) If the defendant files a further acknowledgment of service in accordance with paragraph (7) (b) he shall be treated as having accepted that the court has jurisdiction to try the claim.
- ^{F409}(9) If a defendant makes an application under this rule, he must file and serve his written evidence in support with the application notice, but he need not before the hearing of the application file—
- (a) in a Part 7 claim, a defence; or
 - (b) in a Part 8 claim, any other written evidence.]
- ^{F410}(10)

Textual Amendments

- F404** Rule 11(4)(a) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **12(a)**
- F405** Words in rule 11 omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **12(b)**
- F406** Words in rule 11(5) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **12(c)**
- F407** Word in rule 11(7)(a) omitted (1.10.2005) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **18(a)**
- F408** Rule 11(7)(c) and word inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **18(b)**
- F409** Rule 11(9) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **12(d)**
- F410** Rule 11(10) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **12(e)**

Commencement Information

- I46** Rule 11 in force at 26.4.1999, see [Signature](#)

[^{F411}PART 12 DEFAULT JUDGMENT

Textual Amendments

F411 Pt. 12 substituted (with application in accordance with rule 1(2) of the amending S.I.) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), [Sch. 2](#)

Contents of this Part

<i>Title</i>	<i>Rule number</i>
Meaning of ‘default judgment’	Rule 12.1
Claims in which default judgment may not be obtained	Rule 12.2
Conditions to be satisfied	Rule 12.3
Procedure for obtaining default judgment	Rule 12.4
Nature of judgment where default judgment obtained by filing a request	Rule 12.5
County Court Money Claims	Rule 12.6
Interest	Rule 12.7
Procedure for deciding an amount or value	Rule 12.8
Claim against more than one defendant	Rule 12.9
Procedure for obtaining a default judgment for costs only	Rule 12.10
Default judgment obtained by making an application	Rule 12.11
Supplementary provisions where applications for default judgment are made	Rule 12.12

Meaning of ‘default judgment’

12.1. In these Rules, ‘default judgment’ means judgment without trial where a defendant—

- (a) has failed to file an acknowledgment of service; or
- (b) has failed to file a defence or any document intended to be a defence.

Claims in which default judgment may not be obtained

12.2. A claimant may not obtain a default judgment—

- (a) on a claim for delivery of goods subject to an agreement regulated by the Consumer Credit Act 1974;
- (b) where they use the procedure set out in Part 8 (alternative procedure for claims); or
- (c) in any other case where a rule or practice direction says that the claimant may not obtain default judgment.

Conditions to be satisfied

12.3.—(1) The claimant may obtain judgment in default of an acknowledgment of service only if at the date on which judgment is entered—

- (a) the defendant has not filed an acknowledgment of service or a defence to the claim (or any part of the claim); and
- (b) the relevant time for doing so has expired.

(2) Judgment in default of defence (or any document intended to be a defence) may be obtained only—

- (a) where an acknowledgement of service has been filed but, at the date on which judgment is entered, a defence has not been filed;
- (b) in a counterclaim made under rule 20.4, where at the date on which judgment is entered a defence has not been filed,

and, in either case, the relevant time limit for doing so has expired.

(Rule 20.4 makes general provision for a defendant’s counterclaim against a claimant, and rule 20.4(3) provides that Part 10 (acknowledgement of service) does not apply to a counterclaim made under that rule.)

(3) The claimant may not obtain a default judgment if [^{F412}at the time the court is considering the issue]—

- (a) the defendant has applied—
 - (i) to have the claimant’s statement of case struck out under rule 3.4; or
 - (ii) for summary judgment under Part 24,
 and, in either case, that application has not been dealt with;
- (b) the defendant has satisfied the whole claim (including any claim for costs) on which the claimant is seeking judgment;
- (c) (i) the claimant is seeking judgment on a claim for money; and
 - (ii) the defendant has [^{F413}admitted liability to pay all the money claimed but has requested time to pay]; or
- (d) notice has been given under rule 82.21 of a person’s intention to make an application for a declaration under section 6 of the Justice and Security Act 2013 in relation to the proceedings, and that application has not been dealt with.

(Part 14 sets out the procedure where a defendant admits a money claim and asks for time to pay.)

(Rule 6.17 provides that, where the claim form is served by the claimant, the claimant may not obtain default judgment unless a certificate of service has been filed.)

Textual Amendments

F412 Words in rule 12.3(3) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **9**

F413 Words in rule 12.3(3)(c)(ii) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **5(1)**

Procedure for obtaining default judgment

12.4.—(1) Subject to paragraph (3), a claimant may obtain a default judgment by filing a request in the relevant practice form where the claim is for—

- (a) a specified amount of money (Form N205A or N225);
- (b) an amount of money to be decided by the court (Form N205B or N227);
- (c) delivery of goods where the claim form gives the defendant the alternative of paying their value (N205A, N225); or
- (d) any combination of these remedies.

(2) Where the defendant is an individual, the claimant must provide the defendant's date of birth (if known) where required in the form.

(3) The claimant must make an application in accordance with Part 23 if they wish to obtain a default judgment—

- (a) on a claim which consists of or includes a claim for any other remedy; or
- (b) where rule 12.10 or rule 12.11 says so,

and where the defendant is an individual, the claimant must provide the defendant's date of birth (if known) in Part C of the application notice.

(4) Where a claimant—

- (a) claims any other remedy in the claim form in addition to those specified in paragraph (1); but
- (b) abandons that claim in their request for judgment,

they may still obtain a default judgment by filing a request under paragraph (1).

(5) In civil proceedings against the Crown, as defined in rule 66.1(2), a request for a default judgment must be considered by a Master or District Judge, who must in particular be satisfied that the claim form and particulars of claim have been properly served on the Crown in accordance with section 18 of the Crown Proceedings Act 1947 and rule 6.10.

Nature of judgment where default judgment obtained by filing a request

12.5.—(1) Where the claim is for a specified sum of money, the claimant may specify in a request filed under rule 12.4(1)—

- (a) the date by which the whole of the judgment debt is to be paid; or
- (b) the times and rate at which it is to be paid by instalments.

(2) Except where paragraph (4) applies, a default judgment on a claim for a specified amount of money obtained on filing a request, will be judgment for the amount of the claim (less any payments made) and costs, to be paid—

- (a) by the date or at the rate specified in the request for judgment; or
- (b) if none is specified, immediately.

(Interest may be included in a default judgment obtained by filing a request if the conditions set out in rule 12.7 are satisfied.)

(3) Where the claim is for an unspecified amount of money a default judgment obtained on the filing of a request will be for an amount to be decided by the court together with costs.

(4) Where the claim is for delivery of goods and the claim form gives the defendant the alternative of paying their value, a default judgment obtained on the filing of a request will be judgment requiring the defendant to—

- (a) deliver the goods or (if they do not do so) pay the value of the goods as decided by the court (less any payments made); and
- (b) pay costs.

(Rule 12.8 sets out the procedure for deciding the amount of a judgment or the value of the goods.)

(5) The claimant's right to enter judgment requiring the defendant to deliver goods is subject to rule 40.14 (judgment in favour of certain part owners relating to the detention of goods).

County Court Money Claims

12.6.—(1) If a claimant files a request for judgment in the County Court which includes an amount of money to be decided by the court in accordance with rules 12.4 and 12.5, the claim will be sent to the preferred hearing centre.

(2) If a claim is sent to a preferred hearing centre under paragraph (1), any further correspondence should be sent to, and any further requests should be made at, the hearing centre to which the claim was sent.

Interest

12.7.—(1) A default judgment on a claim for a specified amount of money obtained on the filing of a request may include the amount of interest claimed to the date of judgment if—

- (a) the particulars of claim include the details required by rule 16.4;
- (b) where interest is claimed under section 35A of the [F414Senior Courts Act 1981] or section 69 of the County Courts Act 1984, the rate is no higher than the rate of interest payable on judgment debts at the date when the claim form was issued; and
- (c) the claimant's request for judgment includes a calculation of interest from the date up to which interest was calculated in the claim form up to the date of the request for judgment.

(2) In any case where paragraph (1) does not apply, judgment will be for an amount of interest to be decided by the court.

(Rule 12.8 sets out the procedure for deciding the amount of interest.)

Textual Amendments

F414 Words in rule 12.7(1)(b) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **10(2)**

Procedure for deciding an amount or value

12.8.—(1) This rule applies where the claimant obtains a default judgment on the filing of a request under rule 12.4(1) and judgment is for—

- (a) an amount of money to be decided by the court;
- (b) the value of goods to be decided by the court; or
- (c) an amount of interest to be decided by the court.

(2) Where the court enters judgment it will—

- (a) give any directions it considers appropriate; and
- (b) if it considers it appropriate, allocate the case.

Claim against more than one defendant

12.9.—(1) A claimant may obtain a default judgment on request under this Part on a claim for money or a claim for delivery of goods against one of two or more defendants, and proceed with the claim against the other defendants.

(2) Where a claimant applies for a default judgment against one of two or more defendants—

- (a) if the claim can be dealt with separately from the claim against the other defendants—
 - (i) the court may enter a default judgment against that defendant; and
 - (ii) the claimant may continue the proceedings against the other defendants;
 - (b) if the claim cannot be dealt with separately from the claim against the other defendants—
 - (i) the court will not enter default judgment against that defendant; and
 - (ii) the court must deal with the application at the same time as it deals with the claim against the other defendants.
- (3) A claimant may not enforce against one of two or more defendants any judgment obtained under this Part for possession of land or for delivery of goods unless—
- (a) they have obtained a judgment for possession or delivery (whether or not obtained under this Part) against all the defendants to the claim; or
 - (b) the court gives permission.

Procedure for obtaining a default judgment for costs only

12.10.—(1) Where a claimant wishes to obtain a default judgment for costs only—

- (a) if the claim is for fixed costs, they may obtain it by filing a request in the relevant practice form;
- (b) if the claim is for any other type of costs, they must make an application in accordance with Part 23.

(2) Where an application is made under this rule for costs only, judgment shall be for an amount to be decided by the court.

(Part 45 sets out when a claimant is entitled to fixed costs.)

Default judgment obtained by making an application

12.11. The claimant must make an application in accordance with Part 23 where—

- (a) the claim is—
 - (i) [^{F415}a claim] against a child or protected party; or
 - (ii) [^{F416}a claim] in tort by one spouse or civil partner against the other;
- (b) the claimant wishes to obtain a default judgment where the defendant has failed to file an acknowledgment of service—
 - (i) against a defendant who has been served with the claim out of the jurisdiction under rule 6.32(1) or 6.33(2B); (service where permission of the court is not required under the Civil Jurisdiction and Judgments Act 1982);
 - (ii) against a defendant domiciled in Scotland or Northern Ireland;
 - (iii) against a State;
 - (iv) against a diplomatic agent who enjoys immunity from civil jurisdiction by virtue of the Diplomatic Privileges Act 1964; or
 - (v) against persons or organisations who enjoy immunity from civil jurisdiction under the provisions of the International Organisations Acts 1968 and 1981.

Textual Amendments

- F415** Words in rule 12.11(a)(i) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **10(3)**
- F416** Words in rule 12.11(a)(ii) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **10(3)**

Supplementary provisions where applications for default judgment are made

12.12.—(1) Where the claimant makes an application for a default judgment, the court shall give such judgment as the claimant is entitled to on the statement of case.

(2) Any evidence relied on by the claimant in support of their application need not be served on a party who has failed to file an acknowledgment of service.

(3) An application for a default judgment on a claim against a child or protected party or a claim in tort between spouses or civil partners must be supported by evidence.

(4) On an application against a child or protected party, a litigation friend must be appointed by the court to act on behalf of the child or protected party before judgment can be obtained.

(5) An application for a default judgment may be made without notice if—

- (a) the claim under the Civil Jurisdiction and Judgments Act 1982 or the 2005 Hague Convention or made in respect of a contract which provides that the court shall have jurisdiction to determine each claim made against the defendant to be served was served in accordance with rules 6.32(1) or 6.33(2B) as appropriate;
- (b) the defendant has failed to file an acknowledgment of service; and
- (c) notice does not need to be given under any other provision of these Rules.

(6) Both on a request and on an application for default judgment the court must be satisfied that—

- (a) the particulars of claim have been served on the defendant (a certificate of service on the court file will be sufficient evidence);
- (b) either the defendant has not filed an acknowledgment of service or has not filed a defence and that in either case the relevant period for doing so has expired;
- (c) the defendant has not satisfied the claim; and
- (d) the defendant has not [^{F417}admitted liability to pay all the money claimed and requested time to pay].

(7) On an application where the defendant was served with the claim either—

- (a) outside the jurisdiction without leave under the Civil Jurisdiction and Judgments Act 1982, the 2005 Hague Convention, the Lugano Convention or the Judgments Regulation; or
- (b) within the jurisdiction but when domiciled in Scotland or Northern Ireland or in any other Convention territory or Member State,

and the defendant has not acknowledged service, the evidence must establish that—

- (i) the claim is one that the court has power to hear and decide;
- (ii) no other court has exclusive jurisdiction under the Act, the 2005 Hague Convention, the Lugano Convention or Judgments Regulation to hear and decide the claim; and
- (iii) the claim has been properly served in accordance with Article 20 of Schedule 1 to the Civil Jurisdiction and Judgments Act, Article 9(c) of the 2005 Hague Convention, Article 26 of the Lugano Convention, paragraph 15 of Schedule 4 to the Act, or Article 26 of the Judgments Regulation.

(8) Where an application is made against a State for a default judgment where the defendant has failed to file an acknowledgment of service—

- (a) the application may be made without notice, but the court hearing the application may direct that a copy of the application notice is served on the State;
- (b) if the court—
 - (i) grants the application; or
 - (ii) directs that a copy of the application notice be served on the State,the judgment or application notice (and the supporting evidence) may be served out of the jurisdiction without any further order;
- (c) where paragraph [F418(8)(b)] permits a judgment or an application notice to be served out of the jurisdiction, the procedure for serving the judgment or the application notice is the same as for serving a claim form under Section III of Part 6 except where an alternative method of service has been agreed under section 12(6) of the State Immunity Act 1978.

(Rule 23.1 defines ‘application notice’.)

(9) On an application against a State, the evidence must be way of affidavit and must—

- (a) set out the grounds of the application;
- (b) establish the facts proving that the State is excepted from the immunity conferred by section 1 of the State Immunity Act 1978;
- (c) establish that the claim was sent through the Foreign and Commonwealth Office to the Ministry of Foreign Affairs of the State or, where the State has agreed to another form of service, that the claim was served in the manner agreed; and
- (d) establish that the time for acknowledging service (which is extended to two months by section 12(2) of the Act when the claim is sent through the Foreign and Commonwealth Office to the Ministry of Foreign Affairs of the State) has expired.

(See rule 40.10 for when default judgment against a State takes effect.)

(10) For the purposes of this rule and rule 12.11—

- (a) ‘domicile’ is to be determined—
 - (i) in relation to a Convention territory, in accordance with sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982;
 - (ii) in relation to a Member State, in accordance with the Judgments Regulation and paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001;
- (b) ‘Convention territory’ means the territory or territories of any Contracting State, as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the Brussels Conventions or Lugano Convention apply;
- (c) ‘State’ has the meaning given by section 14 of the State Immunity Act 1978;
- (d) ‘Diplomatic agent’ has the meaning given by Article 1(e) of Schedule 1 to the Diplomatic Privileges Act 1964;
- (e) ‘the Judgments Regulation’ means Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters; and
- (f) ‘the Lugano Convention’ means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark and signed by the European Community on 30th October 2007; (g) ‘the 2005 Hague Convention’ means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague.

(11) Where default judgment is given on a claim for a sum of money expressed in a foreign currency, the judgment should be for the amount of the foreign currency with the addition of ‘or the Sterling equivalent at the time of payment’.

(12) On an application for judgment for delivery up of goods where the defendant will not be given the alternative of paying their value, the evidence must identify the goods and state where the claimant believes the goods to be situated and why their specific delivery up is sought.]

Textual Amendments

F417 Words in rule 12.12(6)(d) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **5(2)**

F418 Word in rule 12.12(8)(c) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **10(4)**

PART 13

SETTING ASIDE OR VARYING DEFAULT JUDGMENT

Contents of this Part

Scope of this Part	Rule 13.1
Cases where the court must set aside judgment entered under Part 12	Rule 13.2
Cases where the court may set aside or vary judgment entered under Part 12	Rule 13.3
Application to set aside or vary judgment— procedure	Rule 13.4
Claimant’s duty to apply to set aside judgment	Rule 13.5
Abandoned claim restored where default judgment set aside	Rule 13.6

Scope of this Part

13.1 The rules in this Part set out the procedure for setting aside or varying judgment entered under Part 12 (default judgment).

F419

Textual Amendments

F419 Words in [rule 13.1](#) omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **9(a)**; S.I. 2014/954, art. 2(a)

Commencement Information

I47 [Rule 13.1](#) in force at 26.4.1999, see [Signature](#)

Cases where the court must set aside judgment entered under Part 12

13.2 The court must set aside^(GL) a judgment entered under Part 12 if judgment was wrongly entered because—

- (a) in the case of a judgment in default of an acknowledgment of service, any of the conditions in rule 12.3(1) and 12.3(3) was not satisfied;
- (b) in the case of a judgment in default of a defence, any of the conditions in rule 12.3(2) and 12.3(3) was not satisfied; or
- (c) the whole of the claim was satisfied before judgment was entered.

Commencement Information

I48 [Rule 13.2](#) in force at 26.4.1999, see [Signature](#)

Cases where the court may set aside or vary judgment entered under Part 12

13.3.—(1) In any other case, the court may set aside^(GL) or vary a judgment entered under Part 12 if—

- (a) the defendant has a real prospect of successfully defending the claim; or
- (b) it appears to the court that there is some other good reason why—
 - (i) the judgment should be set aside or varied; or
 - (ii) the defendant should be allowed to defend the claim.

(2) In considering whether to set aside^(GL) or vary a judgment entered under Part 12, the matters to which the court must have regard include whether the person seeking to set aside the judgment made an application to do so promptly.

(Rule 3.1(3) provides that the court may attach conditions when it makes an order)

F420 ...

Textual Amendments

F420 Words in [rule 13.3](#) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **7(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I49 [Rule 13.3](#) in force at 26.4.1999, see [Signature](#)

Application to set aside or vary judgment—procedure

13.4.—(1) Where—

- (a) the claim is for a specified amount of money;
- (b) the judgment was obtained in a court which is not the defendant's home court;

(c) the claim has not been transferred [^{F421}or, in the County Court, sent] to another defendant’s home court ^{F422}...; and

(d) the defendant is an individual,

[^{F423}in the High Court the court will transfer, or, in the County Court, the court officer will send,] an application by a defendant under this Part to set aside^(GL) or vary judgment to the defendant’s home court

^{F424} ...

^{F425}(1A)

[^{F426}(1B) Where—

- (a) the claim is for a specified amount of money;
- (b) the claim [^{F427}has been started in the [^{F428}Civil National Business Centre]]; and
- (c) the claim has not been [^{F429}sent to a County Court hearing centre; and]
- (d) the defendant is not an individual,]

[^{F430}an application by a defendant under this Part to set aside or vary the judgment will be sent to the preferred hearing centre.].

[^{F431}(1C) If a claim is sent to a preferred hearing centre pursuant to paragraph (1B) any further correspondence should be sent to, and any further requests should be made at, the hearing centre to which the claim was sent.]

13.4.—(2) Paragraph (1) does not apply where the claim was commenced in a specialist list.

(3) An application under rule 13.3 (cases where the court may set aside^(GL) or vary judgment) must be supported by evidence.

Textual Amendments

- F421** Word in rule 13.4(1)(c) inserted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **9(b)(i)(aa)**; S.I. 2014/954, art. 2(a)
- F422** Words in rule 13.4(1)(c) omitted (19.3.2012) by virtue of The Civil Procedure (Amendment No.4) Rules 2011 (S.I. 2011/3103), rules 1, **6(a)**
- F423** Words in rule 13.4 substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **9(b)(i)(cc)**; S.I. 2014/954, art. 2(a)
- F424** Words in rule 13.4 omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **5**
- F425** Rule 13.4(1A) omitted (2.10.2000) by virtue of The Civil Procedure (Amendment No. 4) Rules 2000 (S.I. 2000/2092), rules 1, **7**
- F426** Rule 13.4(1B) inserted (19.3.2012) by The Civil Procedure (Amendment No.4) Rules 2011 (S.I. 2011/3103), rules 1, **6(b)**
- F427** Words in rule 13.4(1B)(b) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **9(b)(ii)(aa)**; S.I. 2014/954, art. 2(a)
- F428** Words in rule 13.4(1B)(b) substituted (14.8.2023) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(2), **6**
- F429** Words in rule 13.4(1B)(c) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **9(b)(ii)(bb)**; S.I. 2014/954, art. 2(a)
- F430** Words in rule 13.4(1B) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **9(b)(ii)(cc)**; S.I. 2014/954, art. 2(a)
- F431** Rule 13.4(1C) inserted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **9(b)(iii)**; S.I. 2014/954, art. 2(a)

Commencement Information

I50 Rule 13.4 in force at 26.4.1999, see [Signature](#)

Claimant’s duty to apply to set aside judgment

^{F432}**13.5**

Textual Amendments

F432 Rule 13.5 revoked (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **21(a)**

Abandoned claim restored where default judgment set aside

13.6 Where—

- (a) the claimant claimed a remedy in addition to one specified in rule 12.4(1) (claims in respect of which the claimant may obtain default judgment by filing a request);
- (b) the claimant abandoned his claim for that remedy in order to obtain default judgment on request in accordance with rule 12.4(3); and
- (c) that default judgment is set aside^(GL) under this Part,

the abandoned claim is restored when the default judgment is set aside.

Commencement Information

I51 Rule 13.6 in force at 26.4.1999, see [Signature](#)

^{F433}**PART 14**
ADMISSIONS

Textual Amendments

F433 Pt. 14 substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rule 1(1), **Sch. 1**

Contents of this Part

<i>Title</i>	<i>Rule number</i>
Admissions made before commencement of proceedings	Rule 14.1
Admissions made after commencement of proceedings	Rule 14.2
Admissions made under the RTA Protocol, the EL/PL Protocol or the RTA Small Claims Protocol	Rule 14.3
Application for judgment on admission	Rule 14.4
Application for permission to withdraw admission	Rule 14.5

<i>Title</i>	<i>Rule number</i>
Time to pay	Rule 14.6
Request for judgment for an amount of money to be decided by the court – claims in the Civil National Business Centre	Rule 14.7

Admissions made before commencement of proceedings

14.1.—(1) A person may, by notice in writing—

- (a) admit the whole or any part of another party’s case before commencement of proceedings (a “pre-action admission”);
- (b) withdraw a pre-action admission before commencement of proceedings, if the person to whom the admission was made agrees.

(2) After commencement of proceedings—

- (a) any party may apply to the court for judgment on the pre-action admission; and
- (b) the maker of the pre-action admission may apply to the court for permission to withdraw it.

Admissions made after commencement of proceedings

14.2.—(1) After commencement of proceedings, a party may admit, by notice in writing, the whole or any part of another party’s claim or case.

(2) Where the claim is for money only, the defendant may admit, by notice in writing—

- (a) the whole or part of the claim for a specified amount;
- (b) the whole or part of the claim for an unspecified amount; or
- (c) liability for an unspecified amount to be determined.

(3) The defendant may offer, by notice in writing, a sum in satisfaction of a claim for a specified or unspecified amount.

(4) Where a defendant—

- (a) admits liability to pay the whole of or part of a claim for a specified sum of money;
- (b) admits liability to pay the whole of a claim for an unspecified amount of money; or
- (c) admits liability to pay a claim for an unspecified amount of money and offers a sum in satisfaction of the claim,

the claimant may file a request for judgment.

(5) Where a claimant files a request for judgment under paragraph (4) the court shall enter judgment.

(6) Where a defendant makes an admission under paragraph (4)(a), or makes an admission under paragraph (4)(c) and the claimant accepts the amount offered, the judgment shall be in accordance with the admission (less any payments made) and costs and shall—

- (a) subject to paragraph (8) below, give effect to any agreement between the parties on time to pay;
- (b) provide for payment at a time and rate decided by the court where there is no such agreement and the defendant has requested time to pay;
- (c) subject to paragraph (8) below, provide for payment on a date or at a rate specified by the claimant, where the defendant has not requested time to pay;

- (d) provide for payment immediately, where the claimant has not so specified and the defendant has not requested time to pay.
- (7) Where the defendant makes an admission under paragraph (4)(b), the judgment shall be for an amount decided by the court and costs.
- (8) If a repayment date is agreed or (where the defendant has not requested time to pay) is specified by the claimant and that date has passed before the court's judgment is made, the judgment must still be in accordance with the admission but—
 - (a) if the whole amount owed is due by the date that has passed, the judgment must state that payment must be made immediately;
 - (b) if the amount owed is to be paid by instalments and the date the first instalment is due has passed, the judgment must state that the first instalment must be paid by the date falling one calendar month after the date of the judgment, with subsequent instalments payable at calendar monthly intervals after that.
- (9) Where the defendant makes an admission under paragraph (4)(c) but the claimant does not accept the amount offered, the judgment shall be for an amount decided by the court and costs.
- (10) Where the claimant or defendant is a child or protected party, the approval of the court is required under rule 21.10 for any settlement, compromise, payment or acceptance of money paid into court.
- (11) The court's permission is required to amend or withdraw an admission.
(Rule 3.1(3) provides that the court may attach conditions when it makes an order.)

Admissions made under the RTA Protocol, the EL/PL Protocol or the RTA Small Claims Protocol

- 14.3.**—(1) This rule applies to a pre-action admission made in a case to which one of the following applies—
- (a) the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”);
 - (b) the Pre-action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”);
 - (c) the Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents (“the RTA Small Claims Protocol”).
- (2) The defendant may, by giving notice in writing, withdraw an admission of causation—
- (a) before commencement of proceedings—
 - (i) during the initial consideration period (or any extension to that period) where the RTA Protocol or the EL/PL Protocol applies, as defined in the relevant Protocol; or
 - (ii) at any time if the person to whom the admission was made agrees; or
 - (b) after commencement of proceedings—
 - (i) if all the parties to the proceedings consent; or
 - (ii) with the court's permission on an application under Part 23.
- (3) Where the RTA Small Claims Protocol applies, the defendant's admissions may be withdrawn under paragraph 8.9 of that Protocol.
- (4) The defendant may, by giving notice in writing withdraw any other pre-action admission after commencement of proceedings—
- (a) if all the parties to the proceedings consent; or

- (b) with the permission of the court on an application under Part 23.

Application for judgment on admission

14.4.—(1) Where a party applies for judgment on an admission, the court shall give such judgment as it considers the applicant is entitled to.

(2) If the claim is not admitted in full, the claimant may give written notice that the claim is to continue in relation to the balance not admitted to be due.

(3) The court shall give appropriate directions for determination of any outstanding issues.

Application for permission to withdraw admission

14.5. In deciding whether to give permission for an admission to be withdrawn, the court shall consider all the circumstances of the case, including—

- (a) the grounds for seeking to withdraw the admission;
- (b) whether there is new evidence that was not available when the admission was made;
- (c) the conduct of the parties;
- (d) any prejudice to any person if the admission is withdrawn or not permitted to be withdrawn;
- (e) what stage the proceedings have reached; in particular, whether a date or period has been fixed for the trial;
- (f) the prospects of success of the claim or of the part of it to which the admission relates; and
- (g) the interests of the administration of justice.

Time to pay

14.6.—(1) A claimant filing a request to enter judgment on an admission, or a defendant who admits all or part of a money claim may include a notice in writing of—

- (a) the date by which the judgment debt is to be paid; or
- (b) the times and rate at which it is to be paid by instalments.

(2) A request or admission under paragraph (1) may include a calculation of interest up to the date of the application or request and continuing thereafter.

(3) A defendant requesting time to pay must include in the notice a statement of income, outgoings, assets and liabilities.

(4) Where the rate of payment is determined by the court under rule 14.2(6)(b), the rate may be determined by a court officer, without a hearing, if the amount outstanding (including interest and costs) is not more than £50,000.

(5) A party may by notice in writing, within 14 days of the court officer's determination, request a re-determination by a judge.

(6) The judge shall determine the rate of payment without a hearing unless the judge directs otherwise.

(7) Where there is a relevant change of circumstances after the court's determination, either party may apply to vary the time and rate of payment of instalments.

Request for judgment for an amount of money to be decided by the court – claims in the Civil National Business Centre

14.7.—(1) If a claimant files a request for judgment in the Civil National Business Centre, for an amount of money to be decided by the court, the claim shall be sent to the preferred hearing centre.

(2) If a claim is sent to a preferred hearing centre under paragraph (1), any further correspondence must be sent to, and any further requests must be made at, the hearing centre to which the claim was sent.]

[^{F434}PART 15

DEFENCE AND REPLY

Textual Amendments

F434 Pt. 15 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rule 1(1), [Sch. 1](#)

Contents of this Part

<i>Title</i>	<i>Rule number</i>
Part not to apply where claimant uses Part 8 procedure	Rule 15.1
Filing a defence	Rule 15.2
Consequence of not filing a defence	Rule 15.3
The period for filing a defence	Rule 15.4
Agreement extending the period for filing a defence	Rule 15.5
Service of copy of defence	Rule 15.6
Making a counterclaim	Rule 15.7
Reply to defence and defence to counterclaim	Rule 15.8
No statement of case after a reply to be filed without court's permission	Rule 15.9
Claimant's notice where defence is that money claimed has been paid	Rule 15.10
Claim stayed if it is not defended or admitted	Rule 15.11

Part not to apply where claimant uses Part 8 procedure

15.1. This Part does not apply where the claimant uses the procedure set out in Part 8.

Filing a defence

15.2. A defendant who wishes to defend all or part of a claim must file a defence.

(Part 14 contains further provisions which apply where the defendant admits a claim.)

Consequence of not filing a defence

15.3. If a defendant fails to file a defence, the claimant may obtain default judgment if Part 12 allows it.

The period for filing a defence

15.4.—(1) The general rule is that the period for filing a defence is—

- (a) 14 days after service of the particulars of claim; or
- (b) if the defendant files an acknowledgment of service under Part 10, 28 days after service of the particulars of claim.

(2) The general rule is subject to rules 3.4(7), 6.12(3), 6.35, 11 and [F435 24.4(4)].

Textual Amendments

F435 Word in rule 15.4(2) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 4

Agreement extending the period for filing a defence

15.5.—(1) The defendant and the claimant may agree to extend the period for filing a defence specified in rule 15.4 by up to 28 days.

(2) Where the defendant and the claimant agree to extend the period for filing a defence, the defendant must notify the court in writing.

Service of copy of defence

15.6. A copy of the defence must be served on every other party.

(Part 16 sets out what a defence must contain.)

Making a counterclaim

15.7. Part 20 applies to a defendant who wishes to make a counterclaim. Where a defendant serves a counterclaim the defence and counterclaim [F436 must, other than for good reason] form one document with the counterclaim following the defence.

Textual Amendments

F436 Words in rule 15.7 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 10

Reply to defence and defence to counterclaim

15.8 If a claimant files a reply to the defence—

- (a) the claimant must—
 - (i) file the reply with a directions questionnaire; and
 - (ii) serve the reply on the other parties at the same time as it is filed; and

- (b) the reply should form one document with any defence to counterclaim, with the defence to counterclaim following the reply, unless the dates on which they are due to be filed differ from one another.

No statement of case after a reply to be filed without court's permission

15.9. A party may not file or serve any statement of case after a reply without the permission of the court.

Claimant's notice where defence is that money claimed has been paid

15.10.—(1) Where—

- (a) the only claim (apart from a claim for costs and interest) is for a specified amount of money; and
- (b) the defendant states in his defence that he has paid to the claimant the amount claimed,
- the court will send notice to the claimant requiring the claimant to state in writing whether the claimant wishes the proceedings to continue.

(2) A copy of the claimant's response must be served on the defendant at the same time as it is filed.

(3) If the claimant fails to respond within 28 days after service of the court's notice the claim shall be stayed.

(4) Any party may apply under Part 23 for the stay to be lifted. The application must include an explanation for the delay in proceeding with or responding to the claim.

(5) If the claimant files a notice stating a wish that the proceedings should continue, the procedure set out in Part 26 shall apply.

Claim stayed if it is not defended or admitted

15.11.—(1) Where—

- (a) at least 6 months have expired since the end of the period for filing a defence specified in rule 15.4;
- (b) no defendant has served or filed an admission or filed a defence or counterclaim; and
- (c) no party has entered or applied for judgment under Part 12 (default judgment), or Part 24 (summary judgment); and
- (d) no defendant has applied to strike out all or part of the claim form or particulars of claim,
- the claim shall be stayed.

(2) Any party may apply under Part 23 for the stay to be lifted. The application must include an explanation for the delay in proceeding with or responding to the claim.]

PART 16

STATEMENTS OF CASE

Contents of this Part

Part not to apply where claimant uses Part 8 procedure Rule 16.1

Contents of the claim form	Rule 16.2
Statement of value to be included in the claim form	Rule 16.3
Contents of the particulars of claim	Rule 16.4
Contents of defence	Rule 16.5
Defence of set-off	Rule 16.6
Reply to defence	Rule 16.7
Court's power to dispense with statements of case	Rule 16.8

Part not to apply where claimant uses Part 8 procedure

16.1 This Part does not apply where the claimant uses the procedure set out in Part 8 (alternative procedure for claims).

Commencement Information

I52 Rule 16.1 in force at 26.4.1999, see [Signature](#)

Contents of the claim form

16.2.—(1) The claim form must—

- (a) contain a concise statement of the nature of the claim;
- (b) specify the remedy which the claimant seeks;
- [^{F437}(c) contain a statement of value in accordance with rule 16.3, where the claimant is making a claim for money;
- (d) contain a statement of the interest accrued on that sum, where the only claim is for a specified sum; and
- (e) contain such other matters as may be set out in a practice direction.]

[^{F438}(1A1) In a claim to which Part 45 does not apply, no amount shall be entered on the claim form for the charges of the claimant's legal representative, but the words 'to be assessed' shall be inserted.]

[^{F439}(1A) In civil proceedings against the Crown, as defined in rule 66.1(2), the claim form must also contain—

- (a) the names of the government departments and officers of the Crown concerned; and
- (b) brief details of the circumstances in which it is alleged that the liability of the Crown arose.]

(2) If the particulars of claim specified in rule 16.4 are not contained in or are not served with the claim form, the claimant must state on the claim form that the particulars of claim will follow.

(3) If the claimant is claiming in a representative capacity, the claim form must state what that capacity is.

(4) If the defendant is sued in a representative capacity, the claim form must state what that capacity is.

(5) The court may grant any remedy to which the claimant is entitled [^{F440},] even if that remedy is not specified in the claim form.

(Part 22 requires a claim form to be verified by a statement of truth)

F441

F441

Textual Amendments

F437 Rule 16.2(1)(c)-(e) substituted for rule 16(1)(c)-(d) (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **12(1)**

F438 Rule 16.2(1A1) inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **6(1)** (with rule 2)

F439 Rule 16.2(1A) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **22**

F440 Rule 16.2(5) comma inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **12(2)**

F441 Words in rule 16.2 omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **8**

Commencement Information

I53 Rule 16.2 in force at 26.4.1999, see [Signature](#)

Statement of value to be included in the claim form

16.3.—(1) This rule applies where the claimant is making a claim for money.

[^{F442}(2) The claimant must, in the claim form, state—

- (a) the amount of money claimed;
- (b) that the claimant expects to recover—
 - (i) not more than [^{F443}£10,000]; [^{F444}or]
 - (ii) more than [^{F445}£10,000] but not more than £25,000; or
 - [^{F446}(iii) more than £25,000 but not more than £100,000; or
 - (iv) more than £100,000; or]

(c) that the claimant cannot say how much is likely to be recovered.]

(3) [^{F447}Subject to [^{F448}paragraphs (3A) and (3AA)], in a claim] for personal injuries, the claimant must also state in the claim form whether the amount which [^{F449}they expect] to recover as general damages for pain, suffering and loss of amenity is—

- (a) not more than [^{F450}£1,500]; or
- (b) more than [^{F451}£1,500].

[^{F452}(3A) Where—

- (a) a claim for personal injuries arises from a road traffic accident which [^{F453}occurred] on or after 31st May 2021; and
- (b) rules [^{F454}26.8, 26.10 or 26.11] do not apply to that claim,

the claimant must state in the claim form whether the amount which [^{F455}they expect] to recover as general damages for pain suffering and loss of amenity is—

- (i) not more than £5,000; or

(ii) more than £5,000.

[
^{F456}(3AA) Where—

- (a) a claim for personal injuries arises from a road traffic accident; and
- (b) rule [^{F457}26.10] applies to that claim,

the claimant must state in the claim form whether the amount which the claimant expects to recover as general damages for pain, suffering and loss of amenity is—

- (i) not more than £1,000; or
- (ii) more than £1,000.]

(3B) ‘Road traffic accident’ has the meaning ascribed to it by rule [^{F458}26.9(3)].]

[^{F459}(4) Where a tenant of residential premises, or a contract-holder of an occupation contract of a dwelling under section 7 of the Renting Homes (Wales) Act 2016, claims an order against a landlord requiring the landlord to carry out repairs or other work, the claimant must also state in the claim form—

- (a) whether the estimated costs of those repairs or other work is—
 - (i) not more than £1,000; or
 - (ii) more than £1,000; and
- (b) whether the value of any other claim for damages is—
 - (i) not more than £1,000; or
 - (ii) more than £1,000.

(5) If the claim form is to be issued in the High Court it must, where this rule applies—

- (a) state that the claimant expects to recover more than £100,000;
- (b) state that some other enactment permits or requires the claim to be brought in the High Court and specify that enactment;
- (c) if the claim is for personal injuries, state that the claimant expects to recover £50,000 or more; or
- (d) state that the claim is to proceed in one of the specialist High Court lists and state which list.

(6) When calculating how much the claimant expects to recover, the claimant must disregard any possibility—

- (a) that the court may make an award of—
 - (i) interest;
 - (ii) costs;
- (b) that the court may make a finding of contributory negligence;
- (c) that the defendant may make a counterclaim or that the defence may include a set-off; or
- (d) that the defendant may (under section 6 of the Social Security (Recovery of Benefits Act 1997) be liable to pay direct to the Secretary of State part of any award of money made by the court to the claimant against the defendant.

(7) The statement of value in the claim form does not limit the power of the court to give judgment for an amount which it finds the claimant is entitled to.]

Textual Amendments

- F442** Rule 16.3(2) substituted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008](#) (S.I. 2008/3327), [rules 1](#), [6\(a\)](#)
- F443** Sum in rule 16.3(2)(b)(i) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), [rules 2](#), [6](#) (with [rule 22](#))
- F444** Word in rule 16.3(2)(b)(i) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), [rules 1\(1\)](#), [12\(3\)\(a\)](#)
- F445** Sum in rule 16.3(2)(b)(ii) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), [rules 2](#), [6](#) (with [rule 22](#))
- F446** Rule 16.3(2)(b)(iii)(iv) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023](#) (S.I. 2023/788), [rules 1\(1\)](#), [8](#)
- F447** Words in rule 16.3(3) substituted (31.5.2021) by [The Civil Procedure \(Amendment No. 2\) Rules 2021](#) (S.I. 2021/196), [rules 1\(1\)](#), [4\(a\)](#)
- F448** Words in rule 16.3(3) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022](#) (S.I. 2022/101), [rules 1\(1\)](#), [8\(a\)\(i\)](#) (with [rule 2](#))
- F449** Words in rule 16.3(3) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), [rules 1\(1\)](#), [12\(3\)\(b\)](#)
- F450** Sum in rule 16.3(3)(a) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022](#) (S.I. 2022/101), [rules 1\(1\)](#), [8\(a\)\(ii\)](#) (with [rule 2](#))
- F451** Sum in rule 16.3(3)(b) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022](#) (S.I. 2022/101), [rules 1\(1\)](#), [8\(a\)\(ii\)](#) (with [rule 2](#))
- F452** Rule 16.3(3A)(3B) inserted (31.5.2021) by [The Civil Procedure \(Amendment No. 2\) Rules 2021](#) (S.I. 2021/196), [rules 1\(1\)](#), [4\(b\)](#)
- F453** Word in rule 16.3(3A)(a) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), [rules 1\(1\)](#), [12\(3\)\(c\)\(i\)](#)
- F454** Words in rule 16.3(3A)(b) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023](#) (S.I. 2023/572), [rules 1\(1\)](#), [6\(2\)\(b\)](#) (with [rule 2](#))
- F455** Words in rule 16.3(3A) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), [rules 1\(1\)](#), [12\(3\)\(c\)\(ii\)](#)
- F456** Rule 16.3(3AA) inserted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022](#) (S.I. 2022/101), [rules 1\(1\)](#), [8\(b\)](#) (with [rule 2](#))
- F457** Word in rule 16.3(3AA)(b) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023](#) (S.I. 2023/572), [rules 1\(1\)](#), [6\(2\)\(c\)](#) (with [rule 2](#))
- F458** Word in rule 16.3(3B) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023](#) (S.I. 2023/572), [rules 1\(1\)](#), [6\(2\)\(d\)](#) (with [rule 2](#))
- F459** Rule 16.3(4)-(7) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), [rules 1\(1\)](#), [12\(3\)\(d\)](#)

Commencement Information

- I54** Rule 16.3 in force at 26.4.1999, see [Signature](#)

^{F460} Contents of the particulars of claim

16.4.—(1) Particulars of claim must include—

- (a) a concise statement of the facts on which the claimant relies;
- (b) if the claimant is seeking interest, a statement to that effect and the details set out in paragraph (2);
- (c) if the claimant is seeking aggravated damages^(GL) or exemplary damages^(GL), a statement to that effect and the grounds for claiming them;

- (d) if the claimant is seeking provisional damages, a statement to that effect and the grounds for claiming them; and
 - (e) such other matters as may be set out in a practice direction.
- (2) If the claimant is seeking interest they must—
- (a) state whether they are doing so—
 - (i) under the terms of a contract;
 - (ii) under an enactment and, if so, which; or
 - (iii) on some other basis and, if so, what that basis is; and
 - (b) if the claim is for a specified amount of money, state—
 - (i) the percentage rate at which interest is claimed;
 - (ii) the date from which it is claimed;
 - (iii) the date to which it is calculated, which must not be later than the date on which the claim form is issued;
 - (iv) the total amount of interest claimed to the date of calculation; and
 - (v) the daily rate at which interest accrues after that date.

(Part 22 requires particulars of claim to be verified by a statement of truth).]

Textual Amendments

F460 Rules 16.4-16.7 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **12(4)**

[^{F460} Contents of defence

16.5.—(1) In the defence, the defendant must deal with every allegation in the particulars of claim, stating—

- (a) which of the allegations are denied;
 - (b) which allegations they are unable to admit or deny, but which they require the claimant to prove; and
 - (c) which allegations they admit.
- (2) Where the defendant denies an allegation—
- (a) they must state their reasons for doing so; and
 - (b) if they intend to put forward a different version of events from that given by the claimant, they must state their own version.
- (3) If a defendant—
- (a) fails to deal with an allegation; but
 - (b) sets out in the defence the nature of their case in relation to the issue to which that allegation is relevant,

the claimant is required to prove the allegation.

(4) Where the claim includes a money claim, the claimant must prove any allegation relating to the amount of money claimed, unless the defendant expressly admits the allegation.

(5) Subject to paragraphs (3) and (4), a defendant who fails to deal with an allegation shall be taken to admit that allegation.

- (6) If the defendant disputes the claimant's statement of value under rule 16.3 they must—
- (a) state why they dispute it; and
 - (b) if they are able, give their own statement of the value of the claim.
- (7) If the defendant is defending in a representative capacity, they must state what that capacity is.
- (8) If the defendant has not filed an acknowledgment of service under Part 10, they must give an address for service.

(Part 22 requires a defence to be verified by a statement of truth.)

(Rule 6.23 makes provision in relation to addresses for service.)]

Textual Amendments

F460 Rules 16.4-16.7 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **12(4)**

[^{F460}Defence of set-off

16.6 Where a defendant—

- (a) contends that they are entitled to money from the claimant; and
- (b) relies on this as a defence to the whole or part of the claim,

the contention may be included in the defence and set off against the claim, whether or not it is also an additional claim.]

Textual Amendments

F460 Rules 16.4-16.7 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **12(4)**

[^{F460}Reply to defence

16.7.—(1) If a claimant does not file a reply to the defence, the defendant must prove the matters raised in the defence.

(2) If a claimant—

- (a) files a reply to a defence; but
- (b) fails to deal with a matter raised in the defence,

the defendant must prove that matter even though it is not dealt with in the reply.

(Part 22 requires a reply to be verified by a statement of truth.)]

Textual Amendments

F460 Rules 16.4-16.7 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **12(4)**

Court's power to dispense with statements of case

16.8 If a claim form has been—

- (a) issued in accordance with rule 7.2; and
- (b) served in accordance with rule 7.5,

the court may make an order that the claim will continue without any other statement of case.

Commencement Information

I55 Rule 16.8 in force at 26.4.1999, see [Signature](#)

PART 17

AMENDMENTS TO STATEMENTS OF CASE

Contents of this Part

Amendments to statements of case	Rule 17.1
Power of court to disallow amendments made without permission	Rule 17.2
Amendments to statements of case with the permission of the court	Rule 17.3
Amendments to statements of case after the end of a relevant limitation period	Rule 17.4

Amendments to statements of case

17.1.—(1) A party may amend [^{F461}their] statement of case [^{F462}, including by removing, adding or substituting a party,] at any time before it has been served on any other party.

(2) If his statement of case has been served, a party may amend it only—

- (a) with the written consent of all the other parties; or
- (b) with the permission of the court.

[^{F463}(3) If a statement of case has been served, an application to amend it by removing, adding or substituting a party must be made in accordance with rule 19.4.]

[^{F464}(4) A party who files a notice under Part 38 discontinuing all or part of a claim may amend their statement of case without the court’s permission to give effect to the discontinuance.]

^{F465} ...

(Part 22 requires amendments to a statement of case to be verified by a statement of truth unless the court orders otherwise)

Textual Amendments

F461 Word in rule 17.1(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(1)(a)(i)**

F462 Words in rule 17.1(1) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(1)(a)(ii)**

F463 Rule 17.1(3) inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **7(a)**

F464 Rule 17.1(4) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(1)(b)**

F465 Words in rule 17.1 omitted (2.5.2000) by virtue of [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **7(b)**

Commencement Information

I56 [Rule 17.1](#) in force at 26.4.1999, see [Signature](#)

Power of court to disallow amendments made without permission

17.2.—(1) If a party has amended [^{F466}their] statement of case where permission of the court was not required, the court may disallow the amendment.

(2) A party may apply to the court for an order under paragraph (1) within 14 days of service of a copy of the amended statement of case on [^{F467}them].

Textual Amendments

F466 Word in [rule 17.2\(1\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(2)(a)**

F467 Word in [rule 17.2\(2\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(2)(b)**

Commencement Information

I57 [Rule 17.2](#) in force at 26.4.1999, see [Signature](#)

Amendments to statements of case with the permission of the court

17.3.—(1) Where the court gives permission for a party to amend [^{F468}their] statement of case, it may give directions as to—

- (a) amendments to be made to any other statement of case; and
- (b) service of any amended statement of case.

(2) The power of the court to give permission under this rule is subject to—

- (a) rule [^{F469}19.2] (change of parties—general);
- (b) rule [^{F470}19.6] (special provisions about adding or substituting parties after the end of a relevant limitation period^(GL)); and
- (c) rule 17.4 (amendments of statement of case after the end of a relevant limitation period).

Textual Amendments

F468 Word in [rule 17.3\(1\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(3)(a)**

F469 Word in [rule 17.3\(2\)\(a\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(3)(b)(i)**

F470 Word in [rule 17.3\(2\)\(b\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **11(3)(b)(ii)**

Commencement Information

I58 Rule 17.3 in force at 26.4.1999, see [Signature](#)

Amendments to statements of case after the end of a relevant limitation period

17.4.—(1) This rule applies where—

- (a) a party applies to amend [^{F471}their] statement of case in one of the ways mentioned in this rule; and
- (b) a period of limitation has expired under—
 - (i) the Limitation Act 1980(**15**);
 - (ii) the Foreign Limitation Periods Act 1984(**16**); [^{F472}or]
 - [^{F473}(iii) any other enactment which allows such an amendment, or under which such an amendment is allowed.]

(2) The court may allow an amendment whose effect will be to add or substitute a new claim, but only if the new claim arises out of the same facts or substantially the same facts [^{F474}as are already in issue on] as a claim in respect of which the party applying for permission has already claimed a remedy in the proceedings.

(3) The court may allow an amendment to correct a mistake as to the name of a party, but only where the mistake was genuine and not one which would cause reasonable doubt as to the identity of the party in question.

(4) The court may allow an amendment to alter the capacity in which a party claims if the new capacity is one which that party had when the proceedings started or has since acquired.

(^{F475}Rule [^{F476}19.6]) specifies the circumstances in which [^{F475}the court] may allow a new party to be added or substituted after the end of a relevant limitation period^(GL))

Textual Amendments

- F471** Word in rule 17.4(1)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **11(4)(a)**
- F472** Word in rule 17.4(1)(b)(ii) inserted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001](#) (S.I. 2001/256), rules 1(a), **7(1)(a)**
- F473** Rule 17.4(1)(b)(iii) substituted for rule 17.4(1)(b)(iii)(iv) (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001](#) (S.I. 2001/256), rules 1(a), **7(1)(b)**
- F474** Words in rule 17.4(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **11(4)(b)**
- F475** Words in rule 17.4 substituted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001](#) (S.I. 2001/256), rules 1(a), **7(2)**
- F476** Word in rule 17.4 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **11(4)(c)**

Commencement Information

I59 Rule 17.4 in force at 26.4.1999, see [Signature](#)

(15) 1980 c. 58.

(16) 1984 c. 16.

PART 18

FURTHER INFORMATION

Modifications etc. (not altering text)

- C39** Pt. 18 applied (with modifications) (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011 \(S.I. 2011/1301\)](#), rules 2, **230**, 251(c)(ii) (with rule 5)
- C40** Pt. 18 applied (31.1.2019) by [The Education Administration Rules 2018 \(S.I. 2018/1135\)](#), rules 1, **4.15(b)(ii)** (with rule 1.2)
- C41** Pt. 18 applied (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), rules 1, **151(1)** (with rules 4(1), 150)
- C42** Pt. 18 applied (with modifications) (12.11.2021) by [The Payment and Electronic Money Institution Insolvency \(England and Wales\) Rules 2021 \(S.I. 2021/1178\)](#), rules 2, **187**, 192, 213(c)(ii)

Contents of this Part

Obtaining further information	Rule 18.1
Restriction on the use of further information	Rule 18.2

Obtaining further information

18.1.—(1) The court may at any time order a party to—

- (a) clarify any matter which is in dispute in the proceedings; or
- (b) give additional information in relation to any such matter,

whether or not the matter is contained or referred to in a statement of case.

(2) Paragraph (1) is subject to any rule of law to the contrary.

(3) Where the court makes an order under paragraph (1), the party against whom it is made must—

- (a) file [^{F477}their] response; and
- (b) serve it on the other parties,

within the time specified by the court.

(Part 22 requires a [^{F478}statement of case, including a] response to be verified by a statement of truth)

[^{F479}(Part 53 (defamation) restricts requirements for providing further information about sources of information in defamation claims)]

Textual Amendments

- F477** Word in rule 18.1(3)(a) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **9(a)**
- F478** Words in rule 18.1 inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **9(b)**
- F479** Words in rule 18.1 inserted (28.2.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(a), **8**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Commencement Information

I60 Rule 18.1 in force at 26.4.1999, see [Signature](#)

Restriction on the use of further information

18.2 The court may direct that information provided by a party to another party (whether given voluntarily or following an order made under rule 18.1) must not be used for any purpose except for that of the proceedings in which it is given.

Commencement Information

I61 [Rule 18.2](#) in force at 26.4.1999, see [Signature](#)

[^{F480}PART 19

PARTIES AND GROUP LITIGATION

Textual Amendments

F480 Pt. 19 substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 2](#)

Contents of this Part

[^{F481} TITLE	NUMBER
Parties – general	Rule 19.1
I ADDITION AND SUBSTITUTION OF PARTIES	
Change of parties – general	Rule 19.2
Provisions applicable where two or more persons are jointly entitled to a remedy	Rule 19.3
Procedure for adding and substituting parties	Rule 19.4
Human Rights	Rule 19.5
Special provisions about adding or substituting parties after the end of a relevant limitation period	Rule 19.6
Special rules about parties in claims for wrongful interference with goods	Rule 19.7
II REPRESENTATIVE PARTIES	
Representative parties with same interest	Rule 19.8
Representation of interested persons who cannot be ascertained etc.	Rule 19.9
Representation of beneficiaries by trustees etc.	Rule 19.10
Postal Services Act 2000 (c.26)	Rule 19.11
Death	Rule 19.12

Power to make judgements binding on non-parties	Rule 19.13
Derivative claims – how started	Rule 19.14
Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – application for permission	Rule 19.15
Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – members of companies taking over claims by companies or other members	Rule 19.16
Derivative claims – other bodies corporate and trade unions	Rule 19.17
Derivative claims arising in the course of other proceedings	Rule 19.18
Derivative claims – costs	Rule 19.19
Derivative claims – discontinuance and settlement	Rule 19.20
III GROUP LITIGATION	
Definition	Rule 19.21
Group Litigation Order	Rule 19.22
Effect of the GLO	Rule 19.23
Case management	Rule 19.24
Removal from the register	Rule 19.25
Test claims	Rule 19.26]

Parties—general

19.1 Any number of claimants or defendants may be joined as parties to a claim.

I ADDITION AND SUBSTITUTION OF PARTIES

Change of parties—general

19.2.—(1) This rule applies where a party is to be added or substituted except where the case falls within rule [F⁴⁸²19.6] (special provisions about changing parties after the end of a relevant limitation period^(g1)).

(2) The court may order a person to be added as a new party if—

- (a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings; or
- (b) there is an issue involving the new party and an existing party which is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so that the court can resolve that issue.

(3) The court may order any person to cease to be a party if it is not desirable for that person to be party to the proceedings.

(4) The court may order a new party to be substituted for an existing one if—

- (a) the existing party's interest or liability has passed to the new party; F⁴⁸³ ...
- (b) it is desirable to substitute the new party so that the court can resolve the matters in dispute in the proceedings.

Textual Amendments

- F482** Word in rule 19.2(1) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 5
- F483** Word in rule 19.4(a) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 12(2)

Provisions applicable where two or more persons are jointly entitled to a remedy

19.3.—(1) [^{F484}All persons] jointly entitled to the remedy [^{F485}claimed by a claimant] must be parties unless the court orders otherwise.

(2) If any [^{F486}such] person does not agree to be a claimant, he must be made a defendant, unless the court orders otherwise.

(3) This rule does not apply in probate proceedings.

Textual Amendments

- F484** Words in rule 19.3(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 12(3)(a)(i)
- F485** Words in rule 19.3(1) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 12(3)(a)(ii)
- F486** Word in rule 19.3(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 12(3)(b)

Procedure for adding and substituting parties

19.4.—(1) The court's permission is required to remove, add or substitute a party, unless the claim form has not been served.

[^{F487}(2) An application for permission under paragraph (1)—

- (a) may be made by—
- (i) an existing party; or
 - (ii) a person who wishes to become a party; and
- (b) must be—
- (i) supported by evidence; and
 - (ii) made under Part 23.]

(3) An application for an order under rule 19.2(4) ^{F488}...—

- (a) may be made without notice; and
- (b) must be supported by evidence.

(4) Nobody may be added or substituted as a claimant unless—

- (a) [^{F489}they have given their] consent in writing; and
- (b) that [^{F490}consent, and the proposed amended claim form and particulars of claim, have] been filed with the court.

[^{F491}(5) If an order is made adding or substituting a person as a claimant prior to the filing of their consent—

- (a) the order; and
 - (b) the addition or substitution of the new party as claimant,
- shall not take effect until the signed, written consent of the new claimant is filed.
- (6) The Commissioners for HM Revenue and Customs may, where a dispute between other parties may have tax consequences, be added as party to proceedings if they consent in writing.
- (7) An order for the removal, addition or substitution of a party must be served on—
- (a) all parties to the proceedings; and
 - (b) any other person affected by the order.
- (8) When the court makes an order for the removal, addition or substitution of a party, it may give consequential directions.
- (9) A new defendant does not become a party to the proceedings until the amended claim form has been served on them.
- (10) A party applying to add a new party by amendment [^{F492}shall] be responsible for the costs of and arising from the amendment [^{F493}unless the court decides otherwise].
- (11) The court may remove, add or substitute parties in existing proceedings on its own initiative.]

Textual Amendments

- F487** Rule 19.4(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(4)(a)**
- F488** Words in rule 19.4(3) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(4)(b)**
- F489** Words in rule 19.4(4)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(4)(c)(i)**
- F490** Words in rule 19.4(4)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(4)(c)(ii)**
- F491** Rule 19.4(5)-(11) substituted for rule 19.4(4A)-(6) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(5)**
- F492** Word in rule 19.4(10) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **10(a)**
- F493** Words in rule 19.4(10) inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **10(b)**

Human Rights

^{F494}**19.4A**

Textual Amendments

- F494** Rule 19.4A substituted and renumbered as rule 19.5 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(6)**

[^{F495}**Human Rights**

- 19.5.**—(1) The court may not make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998 unless 21 days’ notice, or such other period of notice as the court directs, has been given to the Crown by the claimant.
- (2) Where a claim is made under section 9 of the Human Rights Act 1998 for damages in respect of a judicial act—

- (a) that claim, including details of the judicial act, must be set out in the statement of case or the appeal notice; and
- (b) notice must be given to the Crown.
- (3) The court may at any time consider whether notice under paragraph (1) or (2) should be given to the Crown and give directions as to the content and service of such notice.
- (4) A notice served on the Crown must be served on—
- (a) the person named in the list published under section 17 of the Crown Proceedings Act 1947 (which is annexed to Practice Direction 66);
- (b) Senedd Cymru, in the circumstances described in the National Assembly for Wales (Transfer of Functions) (No. 2) Order 2000;
- (c) the Treasury Solicitor on behalf of the Lord Chancellor, in respect of a claim under section 9 of the Human Rights Act 1998, except where the judicial act is of a Court-Martial when service must be on the Treasury Solicitor on behalf of the Secretary of State for Defence;
- (d) all parties.
- (5) Where notice has been given to the Crown, a Minister or other person permitted by the Human Rights Act 1998 shall be joined as a party on notifying their consent to the court and all other parties.
- (6) Where the Minister has, under section 5(2)(a) of the Human Rights Act 1998, nominated a person to be joined, the notice consenting to be joined must be accompanied by the written nomination.
- (7) Where paragraph (2) applies and the appropriate person has not applied to be joined as a party within 21 days, or such other period as the court directs, after the notice is served, the court may join the appropriate person as a party.]

Textual Amendments

F495 Rule 19.4A substituted and renumbered as rule 19.5 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(6)**

Special rules about parties in claims for wrongful interference with goods

^{F496}**19.5A**

Textual Amendments

F496 Rule 19.5A renumbered as rule 19.7 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(8)**

Special provisions about adding or substituting parties after the end of a relevant limitation period

[^{F497}**19.6**].—(1) This rule applies to a change of parties after the end of a period of limitation under—

- (a) the Limitation Act 1980;
- (b) the Foreign Limitation Periods Act 1984; [^{F498}or]

[^{F499}(c) any other enactment which allows such a change, or under which such a change is allowed.]

- (2) The court may add or substitute a party only if—
- (a) the relevant limitation period^(gl) was current when the proceedings were started; and
 - (b) the addition or substitution is necessary.
- (3) The addition or substitution of a party is necessary only if the court is satisfied that—
- (a) the new party is to be substituted for a party who was named in the claim form in mistake for the new party;
 - (b) the claim cannot properly be carried on by or against the original party unless the new party is added or substituted as claimant or defendant; or
 - (c) the original party has died or had a bankruptcy order made against [^{F500}them and their] interest or liability has passed to the new party.
- (4) In addition, in a claim for personal injuries the court may add or substitute a party where it directs that—
- (a) (i) section 11 (special time limit for claims for personal injuries); or
(ii) section 12 (special time limit for claims under fatal accidents legislation), of the Limitation Act 1980 shall not apply to the claim by or against the new party; or
 - (b) the issue of whether those sections apply shall be determined at trial.

F501 ...

Textual Amendments

- F497** Rule 19.5 renumbered as rule 19.6 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(7\)](#)
- F498** Word in rule 19.5(1)(b) inserted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), [rules 1\(a\)](#), [8\(a\)](#)
- F499** Rule 19.5(1)(c) substituted for rule 19.5(1)(c)(d) (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), [rules 1\(a\)](#), [8\(b\)](#)
- F500** Words in rule 19.6(3)(c) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(7\)\(a\)](#)
- F501** Words in rule 19.6 omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(7\)\(b\)](#)

[^{F502}Special rules about parties in claims for wrongful interference with goods

[^{F503}**19.7**].—(1) A claimant in a claim for wrongful interference with goods must, in the particulars of claim, state the name and address of every person who, to [^{F504}the claimant's] knowledge, has or claims an interest in the goods and who is not a party to the claim.

(2) A defendant to a claim for wrongful interference with goods may apply for a direction that another person be made a party to the claim to establish whether the other person—

- (a) has a better right to the goods than the claimant; or
- (b) has a claim which might render the defendant doubly liable under section 7 of the Torts (Interference with Goods) Act 1977.

(3) Where the person referred to in paragraph (2) fails to attend the hearing of the application, or comply with any directions, the court may order that [^{F505}that person] is deprived of any claim against the defendant in respect of the goods.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F506 ...

(4) The application notice must be served on all parties and on the person referred to in paragraph (2).]

Textual Amendments

- F502 Rule 19.5A inserted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(a), **9**
- F503 Rule 19.5A renumbered as rule 19.7 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(8)**
- F504 Words in rule 19.7(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(8)(a)**
- F505 Words in rule 19.7(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(8)(b)**
- F506 Words in rule 19.7 omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(8)(c)**

II REPRESENTATIVE PARTIES

Representation of beneficiaries by trustees etc.

^{F507}**19.7A**

Textual Amendments

- F507 Rule 19.7A renumbered as rule 19.10 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(11)**

Postal Services Act 2000 (c. 26)

^{F508}**19.7B**

Textual Amendments

- F508 Rule 19.7B substituted and renumbered as rule 19.11 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(12)**

Representative parties with same interest

[^{F509}**19.8**].—(1) Where more than one person has the same interest in a claim—

- (a) the claim may be begun; or
- (b) the court may order that the claim be continued,

by or against one or more of the persons who have the same interest as representatives of any other persons who have that interest.

- (2) The court may direct that a person may not act as a representative.
- (3) Any party may apply to the court for an order under paragraph (2).

(4) Unless the court otherwise directs any judgment or order given in a claim in which a party is acting as a representative under this rule—

- (a) is binding on all persons represented in the claim; but
- (b) may only be enforced by or against a person who is not a party to the claim with the permission of the court.

(5) This rule does not apply to a claim to which rule [^{F510}19.9] applies.

Textual Amendments

F509 Rule 19.6 renumbered as rule 19.8 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(9)**

F510 Word in rule 19.8(5) substituted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(9)**

Power to make judgments binding on non-parties

^{F511}**19.8A**

Textual Amendments

F511 Rule 19.8A renumbered as rule 19.13 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)**

Representation of interested persons who cannot be ascertained etc.

[^{F512}**19.9**].—(1) This rule applies to claims about—

- (a) the estate of a deceased person;
- (b) property subject to a trust; or
- (c) the meaning of a document, including a statute.

(2) The court may make an order appointing a person to represent any other person or persons in the claim where the person or persons to be represented—

- (a) are unborn;
- (b) cannot be found;
- (c) cannot easily be ascertained; or
- (d) are a class of persons who have the same interest in a claim and—
 - (i) one or more members of that class are within sub-paragraphs (a), (b) or (c); or
 - (ii) to appoint a representative would further the overriding objective.

(3) An application for an order under paragraph (2)—

- (a) may be made by—
 - (i) any person who seeks to be appointed under the order; or
 - (ii) any party to the claim; and
- (b) may be made at any time before or after the claim has started.

(4) An application notice for an order under paragraph (2) must be served on—

- (a) all parties to the claim, if the claim has started;

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (b) the person sought to be appointed, if that person is not the applicant or a party to the claim; and
- (c) any other person as directed by the court.

(5) The court’s approval is required to settle a claim in which a party is acting as a representative under this rule.

(6) The court may approve a settlement where it is satisfied that the settlement is for the benefit of all the represented persons.

(7) Unless the court otherwise directs, any judgment or order given in a claim in which a party is acting as a representative under this rule—

- (a) is binding on all persons represented in the claim; but
- (b) may only be enforced by or against a person who is not a party to the claim with the permission of the court.

Textual Amendments

F512 Rule 19.7 renumbered as rule 19.9 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(10)**

Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – application for permission

^{F513}**19.9A.**

Textual Amendments

F513 Rule 19.9A renumbered as rule 19.15 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(16)**

Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – members of companies taking over claims by companies or other members

^{F514}**19.9B.**

Textual Amendments

F514 Rule 19.9B renumbered as rule 19.16 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(17)**

Derivative claims – other bodies corporate and trade unions

^{F515}**19.9C.**

Textual Amendments

F515 Rule 19.9C renumbered as rule 19.17 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(18)**

Derivative claims arising in the course of other proceedings

^{F516}**19.9D.**

Textual Amendments

F516 Rule 19.9D renumbered as rule 19.18 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(19)**

Derivative claims – costs

^{F517}**19.9E.**

Textual Amendments

F517 Rule 19.9E renumbered as rule 19.19 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(20)**

Derivative claims – discontinuance and settlement

^{F518}**19.9F.**

Textual Amendments

F518 Rule 19.9F renumbered as rule 19.20 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(21)**

[^{F519}Representation of beneficiaries by trustees etc.

[^{F520}**19.10**].—(1) A claim may be brought by or against trustees, executors or administrators in that capacity without adding as parties any persons who have a beneficial interest in the trust or estate (“the beneficiaries”).

(2) Any judgment or order given or made in the claim is binding on the beneficiaries unless the court orders otherwise in the same or other proceedings.]

Textual Amendments

F519 Rule 19.7A inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **6(a)**

F520 Rule 19.7A renumbered as rule 19.10 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(11)**

[^{F521}Postal Services Act 2000

19.11 A copy of an application notice under section 92 of the Postal Services Act 2000 for permission to bring proceedings in the name of the sender or addressee of a postal packet or their personal representative must be served on the universal service provider and on the person in whose name the applicant seeks to bring the proceedings.]

Textual Amendments

F521 Rule 19.7B substituted and renumbered as rule 19.11 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(12)**

Death

[^{F522}19.12].—(1) Where a person who had an interest in a claim has died and that person has no personal representative the court may order—

- (a) the claim to proceed in the absence of a person representing the estate of the deceased; or
- (b) a person to be appointed to represent the estate of the deceased.

(2) Where a defendant against whom a claim could have been brought has died and—

- (a) a grant of probate or administration has been made, the claim must be brought against the persons who are the personal representatives of the deceased;
- (b) a grant of probate or administration has not been made—
 - (i) the claim must be brought against “the estate of” the deceased; and
 - (ii) the claimant must apply to the court for an order appointing a person to represent the estate of the deceased in the claim.

(3) A claim shall be treated as having been brought against “the estate of” the deceased in accordance with paragraph (2)(b)(i) where—

- (a) the claim is brought against the “personal representatives” of the deceased but a grant of probate or administration has not been made; or
- (b) the person against whom the claim was brought was dead when the claim was started.

(4) Before making an order under this rule, the court may direct notice of the application to be given to any other person with an interest in the claim.

(5) Where an order has been made under paragraphs (1) or (2)(b)(ii) any judgment or order made or given in the claim is binding on the estate of the deceased.

Textual Amendments

F522 Rule 19.8 renumbered as rule 19.12 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(13)**

Power to make judgments binding on non-parties

[^{F523}19.13].—(1) This rule applies to any claim relating to—

- (a) the estate of a deceased person;
- (b) property subject to a trust; or
- (c) the sale of any property.

(2) The court may at any time direct that notice of—

- (a) the claim; or
- (b) any judgment or order given in the claim,

be served on any person who is not a party but who is or may be affected by it.

(3) An application under this rule—

- (a) may be made without notice; and
 - (b) must be supported by written evidence which includes the reasons why the person to be served should be bound by the judgment in the claim.
- (4) Unless the court orders otherwise—
- (a) a notice of a claim or of a judgment or order under this rule must be—
 - (i) in the [^{F524}prescribed] form ^{F525} ...;
 - (ii) issued by the court; and
 - (iii) accompanied by a form of acknowledgment of service with any necessary modifications;
 - (b) a notice of a claim must also be accompanied by—
 - (i) a copy of the claim form; and
 - (ii) such other statements of case, witness statements or affidavits as the court may direct; and
 - (c) a notice of a judgment or order must also be accompanied by a copy of the judgment or order.
- (5) If a person served with notice of a claim files an acknowledgment of service of the notice within 14 days [^{F526}they] will become a party to the claim.
- (6) If a person served with notice of a claim does not acknowledge service of the notice [^{F527}they] will be bound by any judgment given in the claim as if he were a party.
- (7) If, after service of a notice of a claim on a person, the claim form is amended so as substantially to alter the remedy claimed, the court may direct that a judgment shall not bind that person unless a further notice, together with a copy of the amended claim form, is served on [^{F528}them].
- (8) Any person served with a notice of a judgment or order under this rule—
- (a) shall be bound by the judgment or order as if [^{F529}they] had been a party to the claim; but
 - (b) may, provided [^{F530}they] acknowledges service—
 - (i) within 28 days after the notice is served on [^{F531}them], apply to the court to set aside or vary the judgment or order; and
 - (ii) take part in any proceedings relating to the judgment or order.
- (9) The following rules of Part 10 (acknowledgment of service) apply—
- (a) rule 10.4; and
 - (b) rule 10.5, subject to the modification that references to the defendant are to be read as references to the person served with the notice.
- (10) A notice under this rule is issued on the date entered on the notice by the court.

Textual Amendments

F523 Rule 19.8A renumbered as rule 19.13 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)**

F524 Word in rule 19.13(4)(a)(i) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(a)(i)**

F525 Words in rule 19.13(4)(a)(i) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(a)(ii)**

F526 Word in rule 19.13(5) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(b)**

- F527** Word in rule 19.13(6) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(c)**
- F528** Word in rule 19.13(7) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(d)**
- F529** Word in rule 19.13(8)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(e)(i)**
- F530** Word in rule 19.13(8)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(e)(ii)(aa)**
- F531** Word in rule 19.13(8)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(14)(e)(ii)(bb)**

[^{F532}Derivative claims— how started

[^{F533}19.14].—(1) This rule—

- (a) applies to a derivative claim (where a company, other body corporate or trade union is alleged to be entitled to claim a remedy, and a claim is made by a member of it for it to be given that remedy), whether under Chapter 1 of Part 11 of the Companies Act 2006 or otherwise; but
 - (b) does not apply to a claim made pursuant to an order under section [^{F534}996] of that Act.
- (2) A derivative claim must be started by a claim form [^{F535}headed “Derivative Claim”].
- (3) The company, body corporate or trade union for the benefit of which a remedy is sought must be made a defendant to the claim.
- (4) After the issue of the claim form, the claimant must not take any further step in the proceedings without the permission of the court, other than—
- (a) a step permitted or required by rule [^{F536}19.15 or 19.17]; or
 - (b) making an urgent application for interim relief.

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rule 1, **Sch. 1** (with rule 21)
- F533** Rule 19.9 renumbered as rule 19.14 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(15)**
- F534** Word in rule 19.9(1)(b) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **5(a)**
- F535** Words in rule 19.14(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(15)(a)**
- F536** Words in rule 19.14(4)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(15)(b)**

Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – application for permission

[^{F537}19.15].—(1) In this rule—

“the Act” means the Companies Act 2006;

“derivative claim” means a derivative claim under Chapter 1 of Part 11 of the Act;

“permission application” means an application referred to in section [^{F538}261(1)], 262(2) or 264(2) of the Act;

“the company” means the company for the benefit of which the derivative claim is brought.

(2) When the claim form for a derivative claim is issued, the claimant must file—

- (a) an application notice under Part 23 for permission to continue the claim; and
 - (b) the written evidence on which the claimant relies in support of the permission application.
- (3) The claimant must not make the company a respondent to the permission application.

(4) Subject to paragraph (7), the claimant must notify the company of the claim and permission application by sending to the company as soon as reasonably practicable after the claim form is issued—

- (a) a notice in the [^{F539}prescribed] form ^{F540}...;
- (b) copies of the claim form and the particulars of claim;
- (c) the application notice; and
- (d) a copy of the evidence filed by the claimant in support of the permission application.

(5) The claimant may send the notice and documents required by paragraph (4) to the company by any method permitted by Part 6 as if the notice and documents were being served on the company.

(6) The claimant must file a witness statement confirming that the claimant has notified the company in accordance with paragraph (4).

(7) Where notifying the company of the permission application would be likely to frustrate some party of the remedy sought, the court may, on application by the claimant, order that the company need not be notified for such period after the issue of the claim form as the court directs.

[^{F541}(8) An application under paragraph (7)—

- (a) may be made without notice; and
- (b) must state in the application notice the reasons for the application and be filed with any written evidence in support.]

(9) Where the court dismisses the claimant’s permission application without a hearing, the court will notify the claimant and (unless the court orders otherwise) the company of that decision.

(10) The claimant may ask for an oral hearing to reconsider the decision to dismiss the permission application, but the claimant—

- (a) must make the request to the court in writing within seven days of being notified of the decision; and
- (b) must notify the company in writing, as soon as reasonably practicable, of that request unless the court orders otherwise.

(11) Where the court dismisses the permission application at a hearing pursuant to paragraph (10), it will notify the claimant and the company of its decision.

(12) Where the court does not dismiss the application under section 261(2) of the Act, the court will—

- (a) order that the company and any other appropriate party must be made respondents to the permission application; and
- (b) give directions for the service on the company and any other appropriate party of the application notice and the claim form.

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), [rule 1](#), [Sch. 1](#) (with [rule 21](#))
- F537** Rule 19.9A renumbered as rule 19.15 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(16\)](#)
- F538** Word in rule 19.9A(1) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), [rules 1\(b\)](#), [5\(b\)](#)
- F539** Word in rule 19.15(4)(a) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(16\)\(a\)\(i\)](#)
- F540** Words in rule 19.15(4)(a) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(16\)\(a\)\(ii\)](#)
- F541** Rule 19.15(8) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(16\)\(b\)](#)

Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – members of companies taking over claims by companies or other members

^{F542}**19.16**.—(1) This rule applies to proceedings under section 262(1) or 264(1) of the Companies Act 2006.

(2) The application for permission must be made by an application notice in accordance with Part 23.

(3) Rule ^{F543}19.15] (except for paragraphs (1), (2) and (4)(b) of that rule, and paragraph (12)(b) so far as it applies to the claim form) applies to an application under this rule and references to the claimant in rule ^{F543}19.15] are to be read as references to the person who seeks to take over the claim.

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), [rule 1](#), [Sch. 1](#) (with [rule 21](#))
- F542** Rule 19.9B renumbered as rule 19.16 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(17\)](#)
- F543** Word in rule 19.16(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [12\(17\)](#)

Derivative claims – other bodies corporate and trade unions

^{F544}**19.17**.—(1) This rule sets out the procedure where—

(a) either—

(i) a body corporate to which Chapter 1 of Part 11 of the Companies Act 2006 does not apply; or

(ii) a trade union,

is alleged to be entitled to a remedy; and

(b) either—

(i) a claim is made by a member for it to be given that remedy; or

(ii) a member of the body corporate or trade union seeks to take over a claim already started, by the body corporate or trade union or one or more of its members, for it to be given that remedy.

(2) The member who starts, or seeks to take over, the claim must apply to the court for permission to continue the claim.

(3) The application for permission must be made by an application notice in accordance with Part 23.

(4) The procedure for applications in relation to companies under section 261, 262 or 264 (as the case requires) of the Companies Act 2006 applies to the permission application as if the body corporate or trade union were a company.

[^{F545}(5) Rules [^{F546}19.15] (except for paragraph (1) of that rule) and [^{F547}19.16] apply to the permission application as if the body corporate or trade union were a company.]

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rule 1, **Sch. 1** (with rule 21)
- F544** Rule 19.9C renumbered as rule 19.17 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(18)**
- F545** Rule 19.9C(5) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **5(c)**
- F546** Word in rule 19.17(5) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(18)(a)**
- F547** Word in rule 19.17(5) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(18)(b)**

Derivative claims arising in the course of other proceedings

[^{F548}**19.18**]. If a derivative claim (except such a claim in pursuance of an order under section [^{F549}996] of the Companies Act 2006) arises in the course of other proceedings—

- (a) in the case of a derivative claim under Chapter 1 of Part 11 of that Act, rule [^{F550}19.15 or 19.16] applies, as the case requires; and
- (b) in any other case, rule [^{F551}19.17] applies.

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rule 1, **Sch. 1** (with rule 21)
- F548** Rule 19.9D renumbered as rule 19.18 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(19)**
- F549** Word in rule 19.9D substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **5(d)**
- F550** Words in rule 19.18(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(19)(a)**
- F551** Word in rule 19.18(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(19)(b)**

Derivative claims – costs

[^{F552}**19.19**].—[^{F553}(1)] The court may order the company, body corporate or trade union for the benefit of which a derivative claim is brought to indemnify the claimant against liability for costs incurred in the permission application or in the derivative claim or both.

[^{F554}(2) If the claimant seeks an order that the defendant company or other body concerned indemnify the claimant against liability for costs incurred in the permission application or the claim, this should be stated in the permission application or claim form or both.]

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\), rule 1, Sch. 1](#) (with rule 21)
- F552** Rule 19.9E renumbered as rule 19.19 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 12\(20\)](#)
- F553** Rule 19.19 renumbered as rule 19.19(1) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 12\(20\)\(a\)](#)
- F554** Rule 19.19(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 12\(20\)\(b\)](#)

Derivative claims – discontinuance and settlement

[^{F555}**19.20**]. Where the court has given permission to continue a derivative claim, the court may order that the claim may not be [^{F556}discontinued, settled or compromised] without the permission of the court.

Textual Amendments

- F532** Rules 19.9-19.9F substituted for rule 19.9 (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\), rule 1, Sch. 1](#) (with rule 21)
- F555** Rule 19.9F renumbered as rule 19.20 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 12\(21\)](#)
- F556** Words in rule 19.9F substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\), rules 1\(b\), 5\(e\)](#)

III GROUP LITIGATION

Definition

[^{F557}**19.21**]. A Group Litigation Order (“GLO”) means an order made under rule [^{F558}19.22] to provide for the case management of claims which give rise to common or related issues of fact or law (the “GLO issues”).

Textual Amendments

- F557** Rule 19.10 renumbered as rule 19.21 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 12\(22\)](#)
- F558** Word in rule 19.21 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 12\(22\)](#)

Group Litigation Order

[^{F559}**19.22**].—(1) The court may make a GLO where there are or are likely to be a number of claims giving rise to the GLO issues. [^{F560}The multiple parties may be claimants or defendants.]

(^{F561}Practice Direction 19B] provides the procedure for applying for a GLO^{F562} where the multiple parties are claimants])

(2) A GLO must—

- (a) contain directions about the establishment of a register (the “group register”) on which the claims managed under the GLO will be entered;
- (b) specify the GLO issues which will identify the claims to be managed as a group under the GLO; ^{F563} ...
- (c) specify the court (the “management court”) which will manage the claims on the group register^{F564}; and]

^{F565}(d) be made in the King’s Bench Division with the consent of the President of the King’s Bench Division; in the Chancery Division with the consent of the Chancellor of the High Court; or in the County Court with the consent of the Head of Civil Justice. Such consent will be sought by the court to which the application for the GLO is made.]

(3) A GLO may—

- (a) in relation to claims which raise one or more of the GLO issues—
 - (i) direct their transfer to the management court;
 - (ii) order their stay ^(et) until further order; and
 - (iii) direct their entry on the group register;
- (b) direct that from a specified date claims which raise one or more of the GLO issues should be started in the management court and entered on the group register; and
- (c) give directions for publicising the GLO.

Textual Amendments

F559 Rule 19.11 renumbered as rule 19.22 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(23)**

F560 Words in rule 19.22(1) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(23)(a)**

F561 Words in [rule 19.11](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **13(c)**

F562 Words in rule 19.22 inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(23)(b)**

F563 Word in rule 19.22(2)(b) omitted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(23)(c)(i)**

F564 Word in rule 19.22(2)(c) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(23)(c)(ii)**

F565 Rule 19.22(2)(d) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(23)(c)(iii)**

Effect of the GLO

^{F566}**19.23**.—(1) Where a judgment or order is given or made in a claim on the group register in relation to one or more GLO issues—

- (a) that judgment or order is binding on the parties to all other claims that are on the group register at the time the judgment is given or the order is made unless the court orders otherwise; and

- (b) the court may give directions as to the extent to which that judgment or order is binding on the parties to any claim which is subsequently entered on the group register.
- (2) Unless paragraph (3) applies, any party who is adversely affected by a judgment or order which is binding on [^{F567}them] may seek permission to appeal the order.
- (3) A party to a claim which was entered on the group register after a judgment or order which is binding on [^{F568}them] was given or made may not—
- (a) apply for the judgment or order to be set aside^(g1), varied or stayed^(g1); or
 - (b) appeal the judgment or order,
- but may apply to the court for an order that the judgment or order is not binding on him.
- (4) Unless the court orders otherwise, disclosure of any document relating to the GLO issues by a party to a claim on the group register is disclosure of that document to all parties to claims—
- (a) on the group register; and
 - (b) which are subsequently entered on the group register.

Textual Amendments

- F566** Rule 19.12 renumbered as rule 19.23 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(24)**
- F567** Word in rule 19.23(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(24)(a)**
- F568** Word in rule 19.23(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(24)(b)**

Case management

- [^{F569}19.24]. Directions given by the management court may include directions—
- (a) varying the GLO issues;
 - (b) providing for one or more claims on the group register to proceed as test claims;
 - (c) appointing the solicitor of one or more parties to be the lead solicitor for the claimants or defendants;
 - (d) specifying the details to be included in a statement of case in order to show that the criteria for entry of the claim on the group register have been met;
 - (e) specifying a date after which no claim may be added to the group register unless the court gives permission; and
 - (f) for the entry of any particular claim which meets one or more of the GLO issues on the group register.

F570 ...

Textual Amendments

- F569** Rule 19.13 renumbered as rule 19.24 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(25)**
- F570** Words in rule 19.24 omitted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(25)**

Removal from the register

[^{F571}19.25].—(1) A party to a claim entered on the group register may apply to the management court for the claim to be removed from the register.

(2) If the management court orders the claim to be removed from the register it may give directions about the future management of the claim.

Textual Amendments

F571 Rule 19.14 renumbered as rule 19.25 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(26)**

Test claims

[^{F572}19.26].—(1) Where a direction has been given for a claim on the group register to proceed as a test claim and that claim is settled, the management court may order that another claim on the group register be substituted as the test claim.

(2) Where an order is made under paragraph (1), any order made in the test claim before the date of substitution is binding [^{F573}in] the substituted claim unless the court orders otherwise.]]

Textual Amendments

F572 Rule 19.15 renumbered as rule 19.26 (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(27)**

F573 Word in rule 19.26(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **12(27)**

[^{F574}PART 20

COUNTERCLAIMS AND OTHER ADDITIONAL CLAIMS

Textual Amendments

F574 Pt. 20 substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rule 1, **Sch. 1**

Contents of this Part

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Case management where a defence to an additional claim is filed	Rule 20.13

Purpose of this Part

20.1. The purpose of this Part is to enable counterclaims and other additional claims to be managed in the most convenient and effective manner.

Scope and interpretation

20.2.—(1) This Part applies to—

- (a) a counterclaim by a defendant against the claimant or against the claimant and some other person;
- (b) an additional claim by a defendant against any person (whether or not already a party) for contribution or indemnity or some other remedy; and
- (c) where an additional claim has been made against a person who is not already a party, any additional claim made by that person against any other person (whether or not already a party).

(2) In these Rules—

- (a) “additional claim” means any claim other than the claim by the claimant against the defendant; and
- (b) unless the context requires otherwise, references to a claimant or defendant include a party bringing or defending an additional claim.

Application of these Rules to additional claims

20.3.—(1) An additional claim shall be treated as if it were a claim for the purposes of these Rules, except as provided by this Part.

(2) The following rules do not apply to additional claims—

- (a) rules 7.5 and 7.6 (time within which a claim form may be served);
- (b) rule 16.3(5) (statement of value where claim to be issued in the High Court); and
- (c) Part 26 (case management - preliminary stage).

(3) Part 12 (default judgment) applies to a counterclaim but not to other additional claims.

[^{F575}(4) Part 14 (admissions) applies to a counterclaim, but only rules 14.2(1), (4) and (5) and 14.4(1) apply to other additional claims.]

(Rule 12.3(2) sets out how to obtain judgment in default of defence for a counterclaim against the claimant, and rule 20.11 makes special provision for default judgment for some additional claims).

Textual Amendments

F575 Rule 20.3(4) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **11**

Defendant’s counterclaim against the claimant

20.4.—(1) A defendant may make a counterclaim against a claimant by filing particulars of the counterclaim.

(2) A defendant may make a counterclaim against a claimant—

- (a) without the court’s permission if [^{F576}the defendant files the counterclaim with the] defence; or
- (b) at any other time with the court’s permission.

(Part 15 makes provision for a defence to a claim and applies to a defence to a counterclaim by virtue of rule 20.3).

(3) Part 10 (acknowledgment of service) does not apply to a claimant who wishes to defend a counterclaim.

Textual Amendments

F576 Words in rule 20.4(2)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(2)**

Counterclaim against a person other than the claimant

20.5.—(1) [^{F577}Subject to rule 20.7, a defendant] who wishes to counterclaim against a person other than the claimant must apply to the court for an order that that person be added as an additional party.

(2) An application for an order under paragraph (1) may be made without notice unless the court directs otherwise.

(3) Where the court makes an order under paragraph (1), it will give directions as to the management of the case.

Textual Amendments

F577 Words in rule 20.5(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(3)**

Defendant’s additional claim for contribution or indemnity from another party

20.6.—(1) A defendant who has filed an acknowledgment of service or a defence may make an additional claim for contribution or indemnity against a person who is already a party to the

proceedings by [^{F578} filing and serving on that party a notice containing a statement of the nature and grounds of the additional claim].

- (2) A defendant may file and serve a notice under this rule—
- (a) without the court’s permission, if [^{F579}the defendant] files and serves it—
- (i) with [^{F580}the] defence; or
- (ii) if [^{F581}the] additional claim for contribution or indemnity is against a party added to the claim later, within 28 days after that party files [^{F582}their] defence; or
- (b) at any other time with the court’s permission.

Textual Amendments

- F578** Words in rule 20.6(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [13\(4\)\(a\)](#)
- F579** Words in rule 20.6(2)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [13\(4\)\(b\)\(i\)](#)
- F580** Word in rule 20.6(2)(a)(i) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [13\(4\)\(b\)\(ii\)](#)
- F581** Word in rule 20.6(2)(a)(ii) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [13\(4\)\(b\)\(ii\)](#)
- F582** Word in rule 20.6(2)(a)(ii) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [13\(4\)\(b\)\(iii\)](#)

Procedure for making any other additional claim

- 20.7.**—(1) This rule applies to any additional claim except—
- (a) a counterclaim only against an existing party; and
- (b) a claim for contribution or indemnity made in accordance with rule 20.6.
- (2) An additional claim is made when the court issues the appropriate claim form.
- (Rule 7.2(2) provides that a claim form is issued on the date entered on the form by the court)
- (3) A defendant may make an additional claim—
- (a) without the court’s permission if the additional claim is issued before or at the same time as [^{F583}they file their] defence;
- (b) at any other time with the court’s permission.
- (Rule 15.4 sets out the period for filing a defence).
- (4) Particulars of an additional claim must be contained in or served with the additional claim.
- (5) An application for permission to make an additional claim may be made without notice, unless the court directs otherwise.

Textual Amendments

- F583** Words in [rule 20.7\(3\)\(a\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [13\(5\)](#)

Service of claim form

20.8.—(1) Where an additional claim may be made without the court’s permission, any claim form must—

- (a) in the case of a counterclaim against an additional party only, be served on every other party when a copy of the defence is served;
- (b) in the case of any other additional claim, be served on the person against whom it is made within 14 days after the date on which the additional claim is issued by the court.

(2) Paragraph (1) does not apply to a claim for contribution or indemnity made in accordance with rule 20.6.

(3) Where the court gives permission to make an additional claim it will at the same time give directions as to its service.

Matters relevant to question of whether an additional claim should be separate from the claim

20.9.—(1) This rule applies where the court is considering whether to—

- (a) permit an additional claim to be made;
- (b) dismiss an additional claim; or
- (c) require an additional claim to be dealt with separately from the claim by the claimant against the defendant.

(Rule 3.1(2)(e) and (j) deal respectively with the court’s power to order that part of proceedings be dealt with as separate proceedings and to decide the order in which issues are to be tried).

(2) The matters [^{F584}which the court may consider] include—

- (a) the connection between the additional claim and the claim made by the claimant against the defendant;
- (b) whether the additional claimant is seeking substantially the same remedy which some other party is claiming from [^{F585}them]; and
- (c) whether the additional claimant wants the court to decide any question connected with the subject matter of the proceedings—
 - (i) not only between existing parties but also between existing parties and a person not already a party; or
 - (ii) against an existing party not only in a capacity in which [^{F586}they are] already a party but also in some further capacity.

Textual Amendments

F584 Words in rule 20.9(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(6)(a)**

F585 Word in rule 20.9(2)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(6)(b)**

F586 Words in rule 20.9(2)(c)(ii) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(6)(c)**

[^{F587}Effect of service of an additional claim

20.10. A person on whom an additional claim is served becomes a party to the proceedings if they are not a party already.]

Textual Amendments

F587 Rule 20.10 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(7)**

Special provisions relating to default judgment on an additional claim other than a counterclaim or a contribution or indemnity notice

- 20.11.**—(1) This rule applies if—
- (a) the additional claim is not—
 - (i) a counterclaim; or
 - (ii) a claim by a defendant for contribution or indemnity against another defendant under rule 20.6; and
 - (b) the party against whom an additional claim is made fails to file an acknowledgment of service or defence in respect of the additional claim.
- (2) The party against whom the additional claim is made—
- (a) is deemed to admit the additional claim, and is bound by any judgment or decision in the proceedings [^{F588}as] far as it is relevant to any matter arising in the additional claim;
 - (b) subject to paragraph (3), if default judgment under Part 12 is given against the additional claimant, the additional claimant may obtain judgment in respect of the additional claim by filing a request in the relevant practice form.
- (3) An additional claimant may not enter judgment under paragraph (2)(b) without the court's permission if—
- (a) [^{F589}they have] not satisfied the default judgment which has been given against [^{F590}them]; or
 - (b) [^{F591}they] wishes to obtain judgment for any remedy other than a contribution or indemnity.
- (4) An application for the court's permission under paragraph (3) may be made without notice unless the court directs otherwise.
- (5) The court may at any time set aside or vary a judgment entered under paragraph (2)(b).

Textual Amendments

F588 Word in rule 20.11(2)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(8)(a)**

F589 Words in rule 20.11(3)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(8)(b)(i)(aa)**

F590 Word in rule 20.11(3)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(8)(b)(i)(bb)**

F591 Word in rule 20.11(3)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **13(8)(b)(ii)**

Procedural steps on service of an additional claim form on a non-party

20.12.—(1) Where an additional claim form is served on a person who is not already a party it must be accompanied by—

- (a) a form for defending the claim;

- (b) a form for admitting the claim;
 - (c) a form for acknowledging service; and
 - (d) a copy of—
 - (i) every statement of case which has already been served in the proceedings; and
 - (ii) such other documents as the court may direct.
- (2) A copy of the additional claim form must be served on every existing party.

Case management where a defence to an additional claim is filed

20.13.—(1) Where a defence is filed to an additional claim the court must consider the future conduct of the proceedings and give appropriate directions.

(2) In giving directions under paragraph (1) the court must ensure that, so far as practicable, the original claim and all additional claims are managed together.

[^{F592}(Part 66 contains provisions about counterclaims and other [^{F593}additional] claims in relation to proceedings by or against the Crown.)]]

Textual Amendments

F592 Words in rule 20.13 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), 14

F593 Word in rule 20.13 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 13(9)

[^{F594}PART 21

CHILDREN AND PROTECTED PARTIES

Textual Amendments

F594 Pt. 21 substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rule 1, Sch. 2

Modifications etc. (not altering text)

C43 Pt. 21 applied (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009 \(S.I. 2009/2477\)](#), rules 2, 97

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Scope of this Part

21.1.—(1) This Part—

- (a) contains special provisions which apply in proceedings involving children and protected parties;
- (b) sets out how a person becomes a litigation friend; and

[^{F596}(c) does not apply to—

- (i) proceedings under Part 75;
- (ii) enforcement of specified debts by taking control of goods; or
- (iii) applications in relation to enforcement of specified debts by taking control of goods, where one of the parties to the proceedings is a child.]

(2) In this Part—

- (a) 'the 2005 Act' means the Mental Capacity Act 2005;
- (b) 'child' means a person under 18;
- (c) 'lacks capacity' means lacks capacity within the meaning of the 2005 Act;
- (d) 'protected party' means a party, or an intended party, who lacks capacity to conduct the proceedings;
- (e) 'protected beneficiary' means a protected party who lacks capacity to manage and control any money recovered by [^{F597}them] or on [^{F598}their] behalf or for [^{F598}their] benefit in the proceedings[^{F599};

[^{F600}(f) "specified debts" has the same meaning as in rule 75.1(2)(e); and

(g) “taking control of goods” means using the procedure to take control of goods contained in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.]

(^{F601}Rules 6.13 and 6.25 contain] provisions about the service of documents on children and protected parties.)

(Rule [^{F602}46.4] deals with costs where money is payable by or to a child or protected party.)

Textual Amendments

- F596** Rule 21.1(1)(c) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **12(a)** (with rule 41)
- F597** Word in rule 21.1(2)(e) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(2)(a)**
- F598** Word in rule 21.1(2)(e) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(2)(b)**
- F599** Rule 21.1(2)(e): semicolon substituted for full stop (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **12(b)(i)** (with rule 41)
- F600** Rule 21.1(2)(f)(g) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **12(b)(ii)** (with rule 41)
- F601** Words in rule 21.1 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **15(a)**
- F602** Word in rule 21.1 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **9(a)**

Requirement for a litigation friend in proceedings by or against children and protected parties

21.2.—(1) A protected party must have a litigation friend to conduct proceedings on [^{F603}their] behalf.

[^{F604}(2) Unless the court makes an order under paragraph (3), a litigation friend must conduct proceedings on a child’s behalf.]

(3) The court may make an order permitting a child to conduct proceedings without a litigation friend.

(4) An application for an order under paragraph (3)—

- (a) may be made by the child;
- (b) if the child already has a litigation friend, must be made on notice to the litigation friend; and
- (c) if the child has no litigation friend, may be made without notice.

(5) Where—

- (a) the court has made an order under paragraph (3); and

[^{F605}(b) it later appears to the court desirable for a litigation friend to conduct the proceedings on the child’s behalf,]

the court may appoint a person to be the child’s litigation friend.

[^{F606}(6) Where one of the parties is a child or protected party, that party shall be referred to in the title to the proceedings as “[name] (a [child] [protected party]) by [name] as litigation friend”.

(7) Where one of the parties is a child conducting the proceedings on their own behalf, the child shall be referred to in the title as “[name] (a child)”.]

Textual Amendments

- F603** Word in rule 21.2(1) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), 14(3)(a)
- F604** Rule 21.2(2) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), 14(3)(b)
- F605** Rule 21.2(5)(b) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), 14(3)(c)
- F606** Rule 21.2(6)(7) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), 14(3)(d)

Stage of proceedings at which a litigation friend becomes necessary

- 21.3.**—(1) This rule does not apply where the court has made an order under rule 21.2(3).
- (2) A person may not, without the [^{F607}the court’s permission] —
- (a) make an application against a child or protected party before proceedings have started; or
 - (b) take any step in proceedings except—
 - (i) issuing and serving a claim form; or
 - (ii) applying for the appointment of a litigation friend under rule 21.6,

until the child or protected party has a litigation friend.

(3) If during proceedings a party lacks capacity to continue to conduct proceedings, no party may take any further step in the proceedings without the [^{F608}the court’s permission] until the protected party has a litigation friend.

(4) Any step taken before a child or protected party has a litigation friend has no effect unless the court orders otherwise.

Textual Amendments

- F607** Words in rule 21.3(2) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), 14(4)
- F608** Words in rule 21.3(3) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), 14(4)

Who may be a litigation friend without a court order

- 21.4.**—(1) This rule does not apply if the court has appointed a person to be a litigation friend.
- (2) A deputy appointed by the Court of Protection under the 2005 Act with power to conduct proceedings on the protected party’s behalf is entitled to be the [^{F609}protected party’s litigation friend] in any proceedings to which [^{F610}the deputy’s] power extends.
- (3) If nobody has been appointed by the court or, in the case of a protected party, ^{F611}... appointed as a deputy as set out in paragraph (2), a person may act as a litigation friend if [^{F612}they] —
- (a) can fairly and competently conduct proceedings on behalf of the child or protected party;
 - (b) [^{F613}have] no interest adverse to that of the child or protected party; and
 - ^{F614}(c) where the child or protected party is a claimant, undertake to pay any costs that the claimant is ordered to pay, subject to any right to be repaid from the assets of the child or protected party.]

Textual Amendments

- F609** Words in rule 21.4(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(5)(a)(i)**
- F610** Words in rule 21.4(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(5)(a)(ii)**
- F611** Words in rule 21.4(3) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(5)(b)(i)**
- F612** Word in rule 21.4(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(5)(b)(ii)**
- F613** Word in rule 21.4(3)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(5)(b)(iii)**
- F614** Rule 21.4(3)(c) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(5)(b)(iv)**

How a person becomes a litigation friend without a court order

21.5.—(1) If the court has not appointed a litigation friend, a person who wishes to act as a litigation friend must follow the procedure set out in this rule.

(2) A deputy appointed by the Court of Protection under the 2005 Act with power to conduct proceedings on the protected party's behalf must file an official copy^(GL) of the order of the Court of Protection which confers [^{F615}their] power to act either—

- (a) where the [^{F616}protected party is to be] a claimant, [^{F617}when] the claim is made; or
- (b) where the [^{F618}protected party is to be] a defendant, at the time when [^{F619}the deputy] first takes a step in the proceedings [^{F620}on the defendant's behalf].

(3) Any other person must file a certificate of suitability stating that [^{F621}they satisfy] the conditions specified in rule 21.4(3) either—

- (a) where the person is to act as a litigation friend for a claimant, at the time when the claim is made; or
- (b) where the person is to act as a litigation friend for a defendant, at the time when [^{F622}they first take] a step in the proceedings [^{F623}on the defendant's behalf].

[^{F624}(4)] The certificate of suitability must be verified by a statement of truth and must state in accordance with the prescribed form that the person—

- (a) agrees to act;
- (b) knows or believes the person concerned is a child or lacks capacity to conduct the proceedings (stating in the latter case the grounds for that knowledge or belief); and
- (c) meets the requirements of rule 21.4(3).]

[^{F625}(5)] The litigation friend must—

- (a) serve the certificate of suitability on every person on whom, in accordance with rule [^{F626}6.13] (service on a parent, guardian etc.), the claim form should be served; and
- (b) file a certificate of service when [^{F627}filing] the certificate of suitability.

[^{F628}(6)] Where the grounds for believing that a protected party lacks capacity to conduct the litigation are based on expert opinion, a copy of such opinion must be served, either with the certificate of suitability or separately.]

([^{F629}Rules 6.17 and 6.29 set] out the details to be contained in a certificate of service.)

Textual Amendments

- F615** Word in rule 21.5(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(a\)\(i\)](#)
- F616** Words in rule 21.5(2)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(a\)\(ii\)\(aa\)](#)
- F617** Word in rule 21.5(2)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(a\)\(ii\)\(bb\)](#)
- F618** Words in rule 21.5(2)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(a\)\(iii\)\(aa\)](#)
- F619** Words in rule 21.5(2)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(a\)\(iii\)\(bb\)](#)
- F620** Words in rule 21.5(2)(b) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\)](#), [12](#)
- F621** Words in rule 21.5(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(b\)\(i\)](#)
- F622** Words in rule 21.5(3)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(b\)\(ii\)\(aa\)](#)
- F623** Words in rule 21.5(3)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(b\)\(ii\)\(bb\)](#)
- F624** Rule 21.5(4) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(c\)](#)
- F625** Rule 21.5(4) renumbered as rule 21.5(5) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(d\)](#)
- F626** Word in rule 21.5(4)(a) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), [rules 1\(2\)](#), [15\(b\)\(i\)](#)
- F627** Word in rule 21.5(4)(b) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), [rules 1\(2\)](#), [15\(b\)\(ii\)](#)
- F628** Rule 21.5(6) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [14\(6\)\(e\)](#)
- F629** Word in rule 21.5 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), [rules 1\(2\)](#), [15\(c\)](#)

How a person becomes a litigation friend by court order

- 21.6.—**(1) The court may make an order appointing a litigation friend.
- (2) An application for an order appointing a litigation friend may be made [^{F630}under Part 23] by—
- (a) a person who wishes to be the litigation friend; or
 - (b) a party.
- (3) Where—
- (a) a person makes a claim against a child or protected party;
 - (b) the child or protected party has no litigation friend;
 - (c) the court has not made an order under rule 21.2(3) (order that a child can conduct proceedings without a litigation friend); and
 - (d) either—
 - (i) someone who is not entitled to be a litigation friend files a defence; or
 - (ii) the claimant wishes to take some step in the proceedings,

the claimant must apply to the court for an order appointing a litigation friend for the child or protected party.

(4) An application for an order appointing a litigation friend must be supported by evidence [F631 of all the matters set out in rule 21.4(3)].

(5) The court may not appoint a litigation friend under this rule unless it is satisfied [F632 of those matters].

[F633(6) Where the proposed litigation friend is the Official Solicitor, the court's order must make provision for payment of any charges, expenses or disbursements.]

Textual Amendments

- F630** Words in rule 21.6(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(7)(a)**
- F631** Words in rule 21.6(4) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(7)(b)**
- F632** Words in rule 21.6(5) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(7)(c)**
- F633** Rule 21.6(6) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(7)(d)**

Court's power to change a litigation friend and to prevent person acting as a litigation friend

21.7.—(1) The court may—

- (a) direct that a person may not act as a litigation friend;
- (b) terminate a litigation friend's appointment; or
- (c) appoint a new litigation friend [F634 instead of] an existing one.

(2) An application for an order under paragraph (1) must be supported by evidence.

(3) The court may not appoint a litigation friend under this rule unless it is satisfied that the person to be appointed satisfies the conditions in rule 21.4(3).

Textual Amendments

- F634** Words in rule 21.7(1)(c) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(8)**

Appointment of a litigation friend by court order – supplementary

21.8.—(1) An application for an order under rule 21.6 or 21.7 must be served on every person on whom, in accordance with rule [F635 6.13] (service on parent, guardian etc.), the claim form must be served.

[F636(2) In the case of a protected party, an application under rule 21.6 must also be served on the protected party, unless the court directs otherwise.]

(3) An application for an order under rule 21.7 must also be served on—

- (a) the person who is the litigation friend, or [F637 appearing to act as such], when the application is made; and

[F638(b) the proposed litigation friend, if they are not the applicant.]

(4) On an application for an order under rule 21.6 or 21.7, the court may appoint the person proposed or any other person who satisfies the conditions ^{F639} ... in rule 21.4(3).

Textual Amendments

- F635** Word in rule 21.8(1) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **15(d)**
- F636** Rule 21.8(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(9)(a)**
- F637** Words in rule 21.8(3)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(9)(b)(i)**
- F638** Rule 21.8(3)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(9)(b)(ii)**
- F639** Word in rule 21.8(4) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(9)(c)**

Procedure where appointment of a litigation friend ceases

21.9.—(1) When a child who is not a protected party reaches the age of 18, the litigation friend's appointment ceases.

(2) Where a protected party regains or acquires capacity to conduct the proceedings, the litigation friend's appointment continues until it is ended by court order.

(3) An application for an order under paragraph (2) may be made by—

- (a) the ^{F640} ... protected party;
- (b) the litigation friend; or
- (c) a party.

(4) The [^{F641}party whose litigation friend's appointment] has ceased must serve notice on the other parties—

- (a) stating that the appointment of his litigation friend to act has ceased;
- (b) giving [^{F642}the party's] address for service; and
- (c) stating whether or not [^{F643}they intend] to carry on the proceedings.

[^{F644}(5) Where that party was a child, the notice must state that they have reached the age of 18 and be signed by that party personally.]

[^{F645}(6) If [^{F646}that] party does not serve the notice required by paragraph (4) within 28 days after the day on which the appointment ^{F647} ... ceases the court may, on application, [^{F648}stay or] strike out^(GL) any claim brought by or defence raised by [^{F646}that] party.

[^{F649}(7) The liability of a litigation friend for costs continues [^{F650}until the party concerned serves the notice required under paragraph (4) or the former litigation friend serves notice on the parties that their appointment has ceased].

Textual Amendments

- F640** Word in rule 21.9(3)(a) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(10)(a)**
- F641** Words in rule 21.9(4) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(10)(b)(i)**

- F642** Words in rule 21.9(4)(b) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(b)(ii)**
- F643** Words in rule 21.9(4)(c) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(b)(iii)**
- F644** Rule 21.9(5) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(c)**
- F645** Rule 21.9(5) renumbered as rule 21.9(6) (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(d)(i)**
- F646** Word in rule 21.9(6) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(d)(i)**
- F647** Words in rule 21.9(6) omitted (6.4.2023) by virtue of The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(d)(ii)**
- F648** Words in rule 21.9(6) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(d)(iii)**
- F649** Rule 21.9(6) renumbered as rule 21.9(7) (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(e)**
- F650** Words in rule 21.9(7) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(10)(e)**

Compromise etc. by or on behalf of a child or protected party

21.10.—(1) Where a claim is made—

- (a) by or on behalf of a child or protected party; or
- (b) against a child or protected party,

no settlement, compromise or payment (including any voluntary interim payment) and no acceptance of money paid into court shall be valid, so far as it relates to the claim by, on behalf of or against the child or protected party, without the approval of the court.

(2) Where—

- (a) before proceedings in which a claim is made by or on behalf of, or against, a child or protected party (whether alone or with any other person) are begun, an agreement is reached for [^{F651}a settlement or compromise or a payment (including any voluntary interim payment) which relates to the claim]; and
- (b) the sole purpose of proceedings is to obtain the approval of the court to a settlement or [^{F652}compromise or a payment (including any voluntary interim payment) which relates to the claim],

the claim must—

- (i) be made using the procedure set out in Part 8 (alternative procedure for claims); and
- (ii) include a request to the court for approval of the settlement or compromise [^{F653}or payment (including any voluntary interim payment)].

[^{F654}(3) The documents supporting any application or request for approval must include—

- (a) a draft consent order setting out the proposed settlement terms;
- (b) details of whether or to what extent liability is admitted;
- (c) the age and occupation (if any) of the child or protected party;
- (d) confirmation that the litigation friend approves the settlement;
- (e) a copy of any relevant medical, financial or other expert evidence or advice;

- (f) in a personal injury claim arising from an accident, details of the accident and of claimed loss and damage;
- (g) any documents relevant to considerations of liability; and
- (h) a legal opinion on the merits of the settlement, except in very clear cases, together with any relevant instructions unless they are sufficiently set out in the opinion.
- (4) If the claim includes damages for future financial loss, the court must be satisfied that the parties have considered whether the damages should wholly or partly comprise periodical payments.
- (5) If the settlement includes periodical payments, the draft consent order must satisfy the requirements of rules 41.8 and 41.9 as appropriate.
- (6) In proceedings to which [^{F655}Section IV] of Part 45 applies, the court will not make an order for detailed assessment of the costs payable to the child or protected party but will assess the costs in the manner set out in that Section.
- (7) Where settlement of a claim by or on behalf of a dependent child includes agreement on a sum to be apportioned to the dependent child, the parties must provide to the court in addition details of—
- (a) the claimed loss of future earnings in respect of the deceased;
 - (b) the nature and extent of the dependency.]
- (Rule [^{F656}46.4] contains provisions about costs where money is payable to a child or protected party.)

Textual Amendments

- F651** Words in rule 21.10(2)(a) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\), rules 1\(1\), 4\(1\)\(a\)](#)
- F652** Words in rule 21.10(2)(b) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\), rules 1\(1\), 4\(1\)\(b\)\(i\)](#)
- F653** Words in rule 21.10(2)(b)(ii) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\), rules 1\(1\), 4\(1\)\(b\)\(ii\)](#)
- F654** Rule 21.10(3)-(7) substituted for rule 21.10(3) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\), rules 1\(1\), 14\(11\)](#)
- F655** Words in rule 21.10(6) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\), rules 1\(1\), 7\(1\) \(with rule 2\)](#)
- F656** Word in rule 21.10 substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\), rules 2, 7\(a\)\(ii\) \(with rule 22\)](#)

Control of money recovered by or on behalf of a child or protected party

- 21.11.**—(1) Where in any proceedings—
- (a) money is recovered by or on behalf of or for the benefit of a child or protected party; or
 - (b) money paid into court is accepted by or on behalf of a child or protected party,
- the money will be dealt with in accordance with directions given by the court under this rule and not otherwise.
- (2) Directions given under this rule may provide that the money shall be wholly or partly paid into court and invested or otherwise dealt with.
- (3) Where money is recovered by or on behalf of a protected party or money paid into court is accepted by or on behalf of a protected party, before giving directions [^{F657}under] this rule, the court will first consider whether the protected party is a protected beneficiary.

[^{F658}(4) Where a child lacks capacity to manage and control any money recovered by or on behalf of the child, and is likely to remain so on reaching full age, the fund will be administered as a protected beneficiary's fund.

(5) Where a child or protected beneficiary is in receipt of publicly funded legal services the fund shall be subject to a first charge under section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (statutory charge) and an order for the investment of money on the child's or protected beneficiary's behalf must contain a direction to that effect.

(6) The representative or litigation friend of the child or protected beneficiary must apply to the court for directions for management of the fund or payment into court (using Form CFO 320 or CFO 320PB to be completed by the judge), stating the nature and terms of any proposed investment vehicle, with appropriate supporting evidence.

(7) The judge hearing the application may adjourn it and give directions for further information to be provided and, unless the judge directs otherwise, the money recovered will be paid into the court special account pending determination of the application for investment.

(8) Where money is recovered for the benefit of a child who is not a protected beneficiary—

- (a) if the court considers it appropriate, it may order that the money be paid directly to the litigation friend to be placed in a bank, building society or similar account for the child's use;
- (b) if the money remains invested in court, it must be paid out to the child when the child reaches the age of 18;
- (c) any investments held in court other than money must either be sold and the proceeds paid to the child, or transferred to the child, when the child reaches the age of 18.

(9) Where money is recovered for the benefit of a protected beneficiary—

- (a) if the amount is £100,000 or more, subject to (b) below, the court shall direct the litigation friend to apply to the Court of Protection for the appointment of a deputy, after which the fund shall be dealt with as directed by the Court of Protection;
- (b) the procedure in sub-paragraph (a) will not apply where a person with authority to administer the protected beneficiary's financial affairs has been appointed as attorney under a registered enduring power of attorney, or as donee of a registered lasting power of attorney, or as the deputy appointed by the Court of Protection;
- (c) any payment out of money must be in accordance with any decision or order of the Court of Protection;
- (d) if an application to the Court of Protection is required, that application must be made;
- (e) if the Court of Protection so decides, on its own initiative or at the request of the judge hearing the application for investment, an amount exceeding £100,000 may be retained in court and invested in the same way as the fund of a child.

(10) A request for payment of money from a fund held for the benefit of a child or protected party, or to vary an investment strategy, may be made in writing with appropriate supporting evidence (but without making a formal application) to a Master or District Judge and may be determined without a hearing unless the court directs otherwise.]

Textual Amendments

F657 Word in rule 21.11(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(12)(a)**

F658 Rules 21.11(4)-(10) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(12)(b)**

[^{F659}Costs and expenses] incurred by a litigation friend

21.12.—(1) [^{F660}In] proceedings to which rule 21.11 applies, a litigation friend who incurs [^{F661}costs or] expenses on behalf of a child or protected party in any proceedings is entitled on application to recover the amount paid or payable out of any money recovered or paid into court to the extent that it—

- (a) has been reasonably incurred; and
- (b) is reasonable in amount.

[^{F662}(2)] Costs recoverable [^{F663}in respect of a child] under this rule are limited to—

- (a) costs ^{F664}... which have been assessed by way of detailed assessment [^{F665}under] rule 46.4(2); ^{F666} ...
- (b) costs incurred ^{F667}... by way of success fee under a conditional fee agreement or sum payable under a damages based agreement in a claim for damages for personal injury where the damages agreed or ordered to be paid do not exceed £25,000, where such costs have been [^{F668}summarily assessed under] rule 46.4(5) [^{F669}; or]

[^{F670}(c)] costs incurred where a detailed assessment of costs has been dispensed with under rule 46.4(3) in the circumstances set out in Practice Direction 46.]

[^{F671}(3)] Expenses may include all or part of—

- (a) [^{F672}a premium in respect of a costs insurance policy (as defined by section 58C(5) of the Courts and Legal Services Act 1990)]; or
- (b) interest on a loan taken out to pay [^{F673}a premium in respect of a costs insurance policy] or other recoverable disbursement.

[^{F671}(4)] No application may be made under [^{F674}this] rule for [^{F675}costs or] expenses that —

- (a) are of a type that may be recoverable on an assessment of costs payable by or out of money belonging to a child or protected party; but
- (b) are disallowed in whole or in part on such an assessment.

[^{F676}(Costs and expenses which are also “costs” as defined in rule 44.1(1) are subject to rule 46.4(2) and (3).)]

[^{F671}(5)] In deciding whether the [^{F677}costs or] expenses were reasonably incurred and reasonable in amount, the court will have regard to all the circumstances of the case including the factors set out in rule [^{F678}44.4(3)] [^{F679}and rule 46.9].

[^{F671}(6)] When the court is considering the factors to be taken into account in assessing the reasonableness of the [^{F680}costs or] expenses, it will have regard to the facts and circumstances as they reasonably appeared to the litigation friend or to the child’s or protected party’s legal representative [^{F681}or deputy] when the [^{F682}cost or] expense was incurred.

[^{F671}(7)] [^{F683}Subject to [^{F684}paragraph (8)], where] the claim is settled or compromised, or judgment is given, on terms that an amount not exceeding £5,000 is paid to the child or protected party, the total amount the litigation friend may recover under paragraph (1) must not exceed 25% of the sum so agreed or awarded, unless the court directs otherwise. Such total amount must not exceed 50% of the sum so agreed or awarded.

[^{F671}(8)] The amount which the litigation friend may recover under paragraph (1) in respect of costs must not (in proceedings at first instance) exceed 25% of the amount of the sum agreed or awarded in respect of—

- (a) general damages for pain, suffering and loss of amenity; and

(b) damages for [^{F685}past financial loss],
net of any sums recoverable by the Compensation Recovery Unit of the Department for Work and Pensions.

[^{F671}(9)] [^{F686}Except in a case to which [^{F687}Section IV, Section VI, Section VII or Section VIII] of Part 45 applies, and [^{F688}where] a claim under rule [^{F689}45.9 or 45.10] has not been made], no application may be made under this rule for a payment out of the money recovered by the child or protected party until the costs payable to the child or protected party have been assessed or agreed.

[^{F690}(10)] A litigation friend must support a claim for payment from a fund of costs or expenses by filing a witness statement setting out, so far as applicable—

- (a) the nature and amount of the costs or expenses and the reason they were incurred;
- (b) a copy of any conditional fee or damages based agreement;
- (c) a copy of any risk assessment by reference to which any success fee was determined;
- (d) the reasons why the particular funding model was selected;
- (e) the advice given to the litigation friend on funding arrangements;
- (f) a copy bill or informal breakdown of the solicitor and own client base costs incurred;
- (g) details of any costs agreed, recovered or fixed costs recoverable by the child; and
- (h) an explanation of the amount agreed or awarded for—
 - (i) general damages for pain, suffering and loss of amenity; and
 - (ii) damages for past financial loss, net of any sums recoverable by the Compensation Recovery Unit or the Department for Work and Pensions.]

Textual Amendments

- F659** Words in rule 21.12 heading substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(13)(a)**
- F660** Word in rule 21.12(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(13)(b)**
- F661** Words in rule 21.12(1) inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **5(a)(ii)**
- F662** Rule 21.12(2): rule 21.12(1A) renumbered as rule 21.12(2) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(13)(c)**
- F663** Words in rule 21.12(1A) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **4(a)(i)**
- F664** Words in rule 21.12(1A)(a) omitted (6.4.2019) by virtue of [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **4(a)(ii)**
- F665** Word in rule 21.12(2)(a) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(13)(c)(i)**
- F666** Word in rule 21.12(1A)(a) omitted (1.10.2021) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **4(2)(a)**
- F667** Words in rule 21.12(1A)(b) omitted (6.4.2019) by virtue of [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **4(a)(iii)**
- F668** Words in rule 21.12(2)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(13)(c)(ii)**
- F669** Word in rule 21.12(1A)(a) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **4(2)(b)**
- F670** Rule 21.12(1A)(c) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **4(2)(c)**

- F671** Rule 21.12(2)-(8) renumbered as rule 21.12(3)-(9) (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(13)(d)**
- F672** Words in rule 21.12(2)(a) substituted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **7(b)(i)(aa)** (with rule 22)
- F673** Words in rule 21.12(2)(b) substituted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **7(b)(i)(bb)** (with rule 22)
- F674** Word in rule 21.12(3) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(c)(i)**
- F675** Words in rule 21.12(3) inserted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(c)(ii)**
- F676** Words in rule 21.12 substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(c)(iii)**
- F677** Words in rule 21.12(4) inserted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(d)(i)**
- F678** Word in rule 21.12(4) substituted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **7(c)** (with rule 22)
- F679** Words in rule 21.12(4) inserted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(d)(ii)**
- F680** Words in rule 21.12(5) inserted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(e)(i)**
- F681** Words in rule 21.12(6) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(13)(e)**
- F682** Words in rule 21.12(5) inserted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(e)(ii)**
- F683** Words in rule 21.12(6) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), **5(f)**
- F684** Words in rule 21.12(7) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(13)(f)**
- F685** Words in rule 21.12(8)(b) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(13)(g)**
- F686** Words in rule 21.12(8) substituted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **4(b)**
- F687** Words in rule 21.12(9) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **7(2)(a)** (with rule 2)
- F688** Word in rule 21.12(9) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(13)(h)**
- F689** Words in rule 21.12(9) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **7(2)(b)** (with rule 2)
- F690** Rule 21.12(10) inserted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **14(13)(i)**

Appointment of a guardian of a child's estate

21.13.—(1) The court may appoint the Official Solicitor to be a guardian of a child's estate where—

- (a) money is paid into court on behalf of the child in accordance with directions given under rule 21.11 (control of money received by a child or protected party);
- (b) the Criminal Injuries Compensation Authority notifies the court that it has made or intends to make an award to the child;
- (c) a court or tribunal outside England and Wales notifies the court that it has ordered or intends to order that money be paid to the child;

- (d) the child is absolutely entitled to the proceeds of a pension fund; or
 - (e) in any other case, such an appointment seems desirable to the court.
- (2) The court may not appoint the Official Solicitor under this rule unless—
- (a) the persons with parental responsibility (within the meaning of section 3 of the Children Act 1989) agree; or
 - (b) the court considers that their agreement can be dispensed with.
- (3) The Official Solicitor’s appointment may continue only until the child reaches 18.

[^{F691}(Paragraph 8 of Practice Direction 40A deals with approval of the accounts of a guardian of assets of a child.)]]

Textual Amendments

F691 Words in rule 21.13 inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **14(14)**

PART 22

STATEMENTS OF TRUTH

Contents of this Part

Documents to be verified by a statement of truth	Rule 22.1
Failure to verify a statement of case	Rule 22.2
Failure to verify a witness statement	Rule 22.3
Power of the court to require a document to be verified	Rule 22.4

Documents to be verified by a statement of truth

22.1.—[^{F692}(1) The following documents must be verified by a statement of truth—

- (a) a statement of case;
- (b) a witness statement;
- (c) an acknowledgement of service in a claim using the Part 8 procedure;
- (d) a certificate of service;
- (e) a contempt application under Part 81; and
- (f) any other document where a rule or practice direction requires.]

(2) Where a statement of case is amended, the amendments must be verified by a statement of truth unless the court orders otherwise.

^{F693} ...

(3) If an applicant wishes to rely on matters set out in [^{F694}their] application notice as evidence, [^{F695}it] must be verified by a statement of truth.

^{F696}(4) A statement of truth is a statement that the maker believes the facts stated in the document to which the statement refers are true.

(5) If a party has a litigation friend, the statement of truth in a statement of case or an application notice is a statement that the litigation friend believes the facts stated in it are true.]

(6) The statement of truth must be signed by—

(a) in the case of a statement of case, a ^{F697}notice of objections to an account being taken by the court] or an application—

(i) the party or litigation friend; or

(ii) the legal representative on behalf of the party or litigation friend; and

(b) in the case of a witness statement, the maker of the statement.

(7) A statement of truth which is not contained in the document which it verifies, must clearly identify that document.

(8) A statement of truth in a statement of case may be made by—

(a) a person who is not a party; or

(b) by two parties jointly,

where this is permitted by a relevant practice direction.

^{F698}(9) Where a document containing a statement of truth is to be signed by a person who is unable to read or sign the document other than by reason of language alone—

(a) it must contain a certificate made by an authorised person (who is able to administer oaths and take affidavits but need not be independent of the parties or their representatives); and

(b) the authorised person must certify that—

(i) the document has been read to the person approving it;

(ii) that person appeared to understand it and approved its content as accurate;

(iii) the declaration of truth has been read to that person;

(iv) that person appeared to understand the declaration and the consequences of making a false declaration; and

(v) that person signed or made their mark in the presence of the authorised person.]

Textual Amendments

F692 Rule 22.1(1) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(a)**

F693 Words in rule 22.1 omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(b)**

F694 Word in rule 22.1(3) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(c)(i)**

F695 Word in rule 22.1(3) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(c)(ii)**

F696 Rule 22.1(4)(5) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(d)**

F697 Words in rule 22.1(6)(a) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(e)**

F698 Rule 22.1(9) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(1)(f)**

Commencement Information

I62 Rule 22.1 in force at 26.4.1999, see [Signature](#)

Failure to verify a statement of case

- 22.2.**—(1) If a party fails to verify [^{F699}their] statement of case by a statement of truth—
- (a) the statement of case shall remain effective unless struck out; but
 - (b) the party may not rely on the statement of case as evidence of any of the matters set out in it.
- (2) The court may strike out^(GL) a statement of case which is not verified by a statement of truth.
- (3) Any party may apply for an order under paragraph (2).

Textual Amendments

F699 Word in rule 22.2(1) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(2)**

Commencement Information

I63 [Rule 22.2](#) in force at 26.4.1999, see [Signature](#)

Failure to verify a witness statement

22.3 If the maker of a witness statement fails to verify [^{F700}it] by a statement of truth the court may direct that it shall not be admissible as evidence.

Textual Amendments

F700 Word in rule 22.3 substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(3)**

Commencement Information

I64 [Rule 22.3](#) in force at 26.4.1999, see [Signature](#)

Power of the court to require a document to be verified

22.4.—(1) The court may order a person who has failed to verify a document in accordance with rule 22.1 to [^{F701}do so].

- (2) Any party may apply for an order under paragraph (1).

[^{F702}(Rule 32.14 states that verifying a statement of case containing a false statement without an honest belief in its truth may result in proceedings for contempt of court.)]

Textual Amendments

F701 Words in rule 22.4(1) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(4)(a)**

F702 Words in rule 22.4 inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **13(4)(b)**

Commencement Information

165 Rule 22.4 in force at 26.4.1999, see [Signature](#)

PART 23

GENERAL RULES ABOUT APPLICATIONS FOR COURT ORDERS

Contents of this Part

[^{F703} Definitions]	Rule 23.1
Where to make an application	Rule 23.2
Application notice to be filed	Rule 23.3
Notice of an application	Rule 23.4
Time when an application is made	Rule 23.5
What an application notice must include	Rule 23.6
Service of a copy of an application notice	Rule 23.7
Applications which may be [^{F704} decided] without a hearing	Rule 23.8
Service of [^{F705} order and] application where application made without notice	Rule 23.9
Application to set aside or vary order made without notice	Rule 23.10
Power of the court to proceed in the absence of a party	Rule 23.11
[^{F706} Applications that are totally without merit]	Rule 23.12

[^{F707}Definitions]

23.1 In this Part—

“application notice” means a document in which the applicant states [^{F708}their] intention to seek a court order; ^{F709}...

[^{F710}“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]

“respondent” means—

- (a) the person against whom the order is sought; and
- (b) such other person as the court may direct.

Textual Amendments

F707 Word in rule 23.1 heading substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(2)(a)**

- F708** Word in rule 23.1 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(2)(b)(i)**
- F709** Word in rule 23.1 omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(2)(b)(ii)**
- F710** Words in rule 23.1 inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(2)(c)**

Commencement Information

- I66** Rule 23.1 in force at 26.4.1999, see [Signature](#)

Where to make an application

23.2.—(1) The general rule is that an application must be made to the court [^{F711}or County Court hearing centre] where the claim was started.

[^{F712}(2) If a claim has been transferred to another court, or transferred or sent to another County Court hearing centre since it was started, an application must be made to the court or the County Court hearing centre to which the claim has been transferred or sent, unless there is good reason to make the application to a different court.]

(3) If the parties have been notified of a fixed date for the trial, an application must be made to the court where the trial is to take place.

(4) [^{F713}Subject to [^{F714}paragraph (5)], if] an application is made before a claim has been started, it must be made to the court where [^{F715}the claim is most likely to be] started unless there is good reason to make the application to a different court.

[^{F716}[^{F717}(5)] An application made in the County Court before a claim has been started may be made at any County Court hearing centre, unless any enactment, rule or practice direction [^{F718}states] otherwise.]

[^{F719}(6)] If an application is made after proceedings to enforce judgment have begun, it must be made to [^{F720}the court or County Court hearing centre] which is dealing with the enforcement of the judgment unless any [^{F721}enactment,] rule or practice direction [^{F722}states] otherwise.

Textual Amendments

- F711** Words in rule 23.2(1) inserted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **13(a)**; S.I. 2014/954, art. 2(a)
- F712** Rule 23.2(2) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **13(b)**; S.I. 2014/954, art. 2(a)
- F713** Words in rule 23.2(4) substituted (19.3.2012) by The Civil Procedure (Amendment No.4) Rules 2011 (S.I. 2011/3103), rules 1, **8(a)(i)**
- F714** Words in rule 23.2(4) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(3)(a)(i)**
- F715** Words in rule 23.2(4) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(3)(a)(ii)**
- F716** Rule 23.2(4A) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **13(c)**; S.I. 2014/954, art. 2(a)
- F717** Rule 23.2(4A) renumbered as rule 23.2(5) (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(3)(b)**
- F718** Word in rule 23.2(5) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **14(3)(b)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F719** Rrule 23.2(5) renumbered as rule 23.2(6) (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(3)(c)**
- F720** Words in rule 23.2(5) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **13(d)(i)**; S.I. 2014/954, art. 2(a)
- F721** Word in rule 23.2(5) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **13(d)(ii)**; S.I. 2014/954, art. 2(a)
- F722** Word in rule 23.2(6) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(3)(c)**

Commencement Information

- I67** Rule 23.2 in force at 26.4.1999, see [Signature](#)

[^{F723} 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.]

Textual Amendments

- F723** Rule 23.3 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(4)**

[^{F724} 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.]

Textual Amendments

- F724** Rule 23.4 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(4)**

Time when an application is made

- 23.5** Where an application must be made within a specified time, it is [^{F725}made in time] if the application notice is received by the court within that time.

Textual Amendments

- F725** Words in rule 23.5 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(5)**

Commencement Information

- I68** [Rule 23.5](#) in force at 26.4.1999, see [Signature](#)

What an application notice must include

- 23.6** An application notice must state—

- (a) what order the applicant is seeking; and
- (b) briefly, why the applicant is seeking the order.

(Part 22 requires an application notice to be verified by a statement of truth if the applicant wishes to rely on matters set out in [^{F726}the] application notice as evidence)

Textual Amendments

F726 Word in rule 23.6 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(6)**

Commencement Information

I69 [Rule 23.6](#) in force at 26.4.1999, see [Signature](#)

Service of a copy of an application notice

- 23.7.**—[^{F727}(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.]
- (2) If a copy of the application notice is to be served by the court, the applicant must, when [^{F728}they file] the application notice, file a copy of any [^{F729}supporting written evidence].
- (3) When a copy of an application notice is served it must be accompanied by—
- (a) a copy of any [^{F730}supporting written evidence]; and
 - (b) a copy of any draft order which the applicant has attached to [^{F731}the] application.
- (4) If—
- (a) an application notice is served; but
 - (b) the period of notice is shorter than the period required by these Rules or a practice direction,
- the court may direct that, in the circumstances of the case, sufficient notice has been given and [^{F732}may] hear the application.
- (5) This rule does not require written evidence—
- (a) to be filed if it has already been filed; or
 - (b) to be served on a party on whom it has already been served.

^{F733}

Textual Amendments

F727 Rule 23.7(1) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(7)(a)**

F728 Words in rule 23.7(2) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(7)(b)(i)**

F729 Words in rule 23.7(2) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(7)(b)(ii)**

F730 Words in rule 23.7(3)(a) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(7)(c)(i)**

- F731** Word in rule 23.7(3)(b) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\), rules 1\(1\), 14\(7\)\(c\)\(ii\)](#)
- F732** Word in rule 23.7(4) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\), rules 1\(1\), 14\(7\)\(d\)](#)
- F733** Words in rule 23.7(5) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\), rules 1\(1\), 14\(7\)\(e\)](#)

Commencement Information

- I70** [Rule 23.7](#) in force at 26.4.1999, see [Signature](#)

[^{F734}Applications which may be dealt with without a hearing

- 23.8.**—(1) The court may deal with an application without a hearing if—
- the parties agree the terms of the order sought;
 - the parties agree to dispense with a hearing; or
 - 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 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;
 - 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
 - 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.]

Textual Amendments

- F734** Rule 23.8 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\), rules 1\(1\), 14\(8\)](#)

Service of [^{F735}order and] application where application made without notice

- 23.9.**—(1) This rule applies where the court has disposed of an application which it permitted to be made without service of a copy of the application notice.
- (2) Where the court makes an order, whether granting or dismissing the application, a copy of the application notice and any [^{F736}supporting evidence] must, unless the court orders otherwise, be served with the order on any party or other person—
- against whom the order was made; and
 - against whom the order was sought.
- (3) The order must contain a statement of the right to make an application to set aside^(GL) or vary the order under rule 23.10.

Textual Amendments

F735 Words in rule 23.9 heading inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(9)(a)**

F736 Words in rule 23.9(2) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(9)(b)**

Commencement Information

I71 [Rule 23.9](#) in force at 26.4.1999, see [Signature](#)

Application to set aside or vary order made without notice

23.10.—^{F737}(1) A person who was not served with a copy of the application notice before an order was made under rule 23.9 may apply to have the order set aside ^(g1) or varied.]

(2) An application under this rule must ^{F738}, unless the court directs otherwise,] be made within 7 days after the date on which the order was served on the person making the application.

Textual Amendments

F737 Rule 23.10(1) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **11**

F738 Words in rule 23.10(2) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(10)**

Commencement Information

I72 [Rule 23.10](#) in force at 26.4.1999, see [Signature](#)

Power of the court to proceed in the absence of a party

23.11.—(1) Where the applicant or any respondent fails to attend the hearing of an application, the court may proceed in ^{F739}their] absence.

(2) Where—

- (a) the applicant or any respondent fails to attend the hearing of an application; and
- (b) the court makes an order at the hearing,

the court may, on application or of its own initiative, re-list the application.

(Part 40 deals with service of orders)

Textual Amendments

F739 Word in rule 23.11(1) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(11)**

Commencement Information

I73 [Rule 23.11](#) in force at 26.4.1999, see [Signature](#)

[^{F740}[^{F741}Applications that are totally without merit]

23.12. If the court dismisses an application [^{F742}(including an application for permission to appeal or for permission to apply for judicial review)] and it considers that the application is totally without merit—

- (a) the court’s order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.]

Textual Amendments

F740 Rule 23.12 inserted (1.10.2004) by [The Civil Procedure \(Amendment No.2\) Rules 2004 \(S.I. 2004/2072\)](#), rules 1(b), **9**

F741 Rule 23.12 heading substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **14(12)**

F742 Words in rule 23.12 inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **26**

[^{F743}PART 24

SUMMARY JUDGMENT

Textual Amendments

F743 [Pt. 24](#) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rule 1(1), **Sch. 2**

Contents of this Part

<i>Title</i>	<i>Rule number</i>
Scope of this Part	Rule 24.1
Types of proceedings in which summary judgment is available	Rule 24.2
Grounds for summary judgment	Rule 24.3
Timing of application and hearing	Rule 24.4
Application notice and evidence	Rule 24.5
Disposal of applications	Rule 24.6

Scope of this Part

24.1. This Part—

- (a) sets out a procedure by which the court may decide a claim or issue without a trial;
- (b) is subject to other Parts making special provision for particular types of case.

Types of proceedings in which summary judgment is available

24.2. The court may give summary judgment—

- (a) against a claimant in any type of proceedings;
- (b) against a defendant in any type of proceedings except proceedings for possession of residential premises against a mortgagor or tenant or contract-holder, or against a former tenant or former contract-holder holding over with protected occupancy.

Grounds for summary judgment

24.3. The court may give summary judgment against a claimant or defendant on the whole of a claim or on an issue if—

- (a) it considers that the party has no real prospect of succeeding on the claim, defence or issue; and
- (b) there is no other compelling reason why the case or issue should be disposed of at a trial.

Timing of applications and hearing

24.4.—(1) A claimant may not apply for summary judgment until the defendant against whom the application is made has filed an acknowledgment of service or a defence, unless—

- (a) the court gives permission; or
- (b) a rule or practice direction states otherwise.

(2) In civil proceedings against the Crown, as defined in rule 66.1(2), a claimant may not apply for summary judgment until after expiry of the period for filing a defence specified in rule 15.4.

(3) In a claim—

- (a) for specific performance or rescission of an agreement (whether in writing or not) for the sale, purchase, exchange, mortgage or charge of any property, or for the grant or assignment of a lease or tenancy of any property, with or without an alternative claim for damages; or
- (b) for the forfeiture or return of any deposit made under such an agreement,

the claimant may apply for summary judgment at any time after the claim form has been served, unless a rule or practice direction states otherwise.

(4) If a party applies for summary judgment before a defendant has filed a defence, the defendant by or against whom the application is made need not file a defence before the hearing.

(5) Where a summary judgment hearing is fixed, the respondent (or the parties where the hearing is fixed of the court's own initiative) must be given at least 14 days' notice of—

- (a) the date fixed for the hearing; and
- (b) the issues which it is proposed that the court will decide at the hearing.

(6) A rule or practice direction may provide for a different period of notice to be given.

Application notice and evidence

24.5.—(1) The application notice must—

- (a) state that the application is for summary judgment;
- (b) identify concisely any point of law or document relied upon;
- (c) set out or attach any written evidence on which the applicant relies;

- (d) state that the applicant believes the respondent has no real prospect of succeeding on the claim, defence or issue to be determined;
 - (e) state that the applicant knows of no reason why the disposal of the claim, defence or issue should await trial; and
 - (f) draw the respondent's attention to their right to rely on evidence opposing the application.
- (2) In claims falling within rule 24.4(3), the application notice must also have attached to it the text of the order sought by the claimant and must be served on the respondent not less than 4 days before the hearing of the application.
- (3) If a party wishes to rely on written evidence at the hearing, other than in a claim under rule 24.4(3), they must file and serve copies of such evidence on every other party at least—
- (a) 7 days before the hearing in the case of a respondent's evidence, or evidence of any party where the hearing is fixed by the court of its own initiative;
 - (b) 3 days before the hearing in the case of an applicant's evidence in reply, or reply evidence of any party where the hearing is fixed by the court of its own initiative.
- (4) This rule does not require written evidence—
- (a) to be filed if it has already been filed; or
 - (b) to be served on a party on whom it has already been served.

Disposal of applications

- 24.6.** When the court determines a summary judgment application it may—
- (a) give directions as to the filing and service of a defence;
 - (b) give further directions about the management of the case;
 - (c) make its order subject to conditions in accordance with rule 3.1(3).]

PART 25

[^{F744}INTERIM REMEDIES AND SECURITY FOR COSTS]

Textual Amendments

F744 Pt. 25 heading substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **13(1)**

Modifications etc. (not altering text)

C44 Pt. 25 restricted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), s. 234

[^{F745}Contents of this Part

I INTERIM REMEDIES

Orders for interim remedies	Rule 25.1
Time when an order for an interim may be made	Rule 25.2
How to apply for an interim remedy	Rule 25.3

Application for an interim remedy where there is no related claim	Rule 25.4
Inspection of property before commencement or against a non-party	Rule 25.5
Interim payments—general procedure	Rule 25.6
Interim payments—conditions to be satisfied and matters to be taken into account	Rule 25.7
Powers of the court where it has made an order for interim payment	Rule 25.8
Restriction on disclosure of an interim payment	Rule 25.9
Interim injunction to cease if claim stayed	Rule 25.10
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II SECURITY FOR COSTS	Rule 25.12
Security for costs	
Conditions to be satisfied	Rule 25.13
Security for costs other than from the claimant	Rule 25.14
Security for costs of appeal]	Rule 25.15

[^{F746}I INTERIM REMEDIES]

Textual Amendments

F746 Pt. 25 Section 1 heading inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), 13(2), **Sch. 3 Pt. 1**

Orders for interim remedies

- 25.1.**—(1) The court may grant the following interim remedies—
- (a) an interim injunction^(GL);
 - (b) an interim declaration;
 - (c) an order—
 - (i) for the detention, custody or preservation of relevant property;
 - (ii) for the inspection of relevant property;
 - (iii) for the taking of a sample of relevant property;
 - (iv) for the carrying out of an experiment on or with relevant property;
 - (v) for the sale of relevant property which is of a perishable nature or which for any other good reason it is desirable to sell quickly; and
 - (vi) for the payment of income from relevant property until a claim is decided;

- (d) an order authorising a person to enter any land or building in the possession of a party to the proceedings for the purposes of carrying out an order under sub-paragraph (c);
- (e) an order under section 4 of the Torts (Interference with Goods) Act 1977⁽¹⁹⁾ to deliver up goods;
- (f) an order (referred to as a “freezing injunction^(GL)”)—
 - (i) restraining a party from removing from the jurisdiction assets located there; or
 - (ii) restraining a party from dealing with any assets whether located within the jurisdiction or not;
- (g) an order directing a party to provide information about the location of relevant property or assets or to provide information about relevant property or assets which are or may be the subject of an application for a freezing injunction^(GL);
- (h) an order (referred to as a “search order”) under section 7 of the Civil Procedure Act 1997⁽²⁰⁾ (order requiring a party to admit another party to premises for the purpose of preserving evidence etc.);
- (i) an order under section 33 of the Supreme Court Act 1981⁽²¹⁾ or section 52 of the County Courts Act 1984⁽²²⁾ (order for disclosure of documents or inspection of property before a claim has been made);
- (j) an order under section 34 of the Supreme Court Act 1981⁽²³⁾ or section 53 of the County Courts Act 1984⁽²⁴⁾ (order in certain proceedings for disclosure of documents or inspection of property against a non-party);
- (k) an order (referred to as an order for interim payment) under rule 25.6 for payment by a defendant on account of any damages, debt or other sum (except costs) which the court may hold the defendant liable to pay;
- (l) an order for a specified fund to be paid into court or otherwise secured, where there is a dispute over a party’s right to the fund;
- (m) an order permitting a party seeking to recover personal property to pay money into court pending the outcome of the proceedings and directing that, if he does so, the property shall be given up to him; ^{F747} ...
- (n) an order directing a party to prepare and file accounts relating to the dispute [^{F748};
- (o) an order directing any account to be taken or inquiry to be made by the court][^{F749}; and
- (p) an order under Article 9 of Council Directive (EC) 2004/48 on the enforcement of intellectual property rights (order in intellectual property proceedings making the continuation of an alleged infringement subject to the lodging of guarantees).]

(Rule 34.2 provides for the court to issue a witness summons requiring a witness to produce documents to the court at the hearing or on such date as the court may direct)

(2) In paragraph (1)(c) and (g), “relevant property” means property (including land) which is the subject of a claim or as to which any question may arise on a claim.

⁽¹⁹⁾ 1977 c. 32; section 4 was amended by the Supreme Court Act 1981 (c. 54), section 152(1), Schedule 5; by the County Courts Act 1984 (c. 28), section 148(1), Schedule 2, Part V, paragraph 64 and by S.I. 1980/397 (N13).

⁽²⁰⁾ 1997 c. 12.

⁽²¹⁾ 1981 c. 54. Section 33 was amended by S.I. 1998/ 2940.

⁽²²⁾ 1984 c. 28. Section 52 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 43 and by S.I. 1998/2940.

⁽²³⁾ 1981 c. 54. Section 34 was amended by S.I. 1998/ 2940.

⁽²⁴⁾ 1984 c. 28. Section 53 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 44 and by S.I. 1998/2940.

(3) The fact that a particular kind of interim remedy is not listed in paragraph (1) does not affect any power that the court may have to grant that remedy.

(4) The court may grant an interim remedy whether or not there has been a claim for a final remedy of that kind.

Textual Amendments

F747 Word in [rule 25.1\(1\)\(m\)](#) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), [rules 1\(b\)](#), [7\(a\)](#)

F748 [Rule 25.1\(1\)\(o\)](#) inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), [rules 1\(b\)](#), [7\(b\)](#)

F749 [Rule 25.1\(p\)](#) and word inserted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), [rules 1](#), [7\(a\)\(ii\)](#)

Commencement Information

I74 [Rule 25.1](#) in force at 26.4.1999, see [Signature](#)

Time when an order for an interim remedy may be made

25.2.—(1) An order for an interim remedy may be made at any time, including—

- (a) before proceedings are started; and
- (b) after judgment has been given.

(Rule 7.2 provides that proceedings are started when the court issues a claim form)

(2) However—

- (a) paragraph (1) is subject to any rule, practice direction or other enactment which provides otherwise;
- (b) the court may grant an interim remedy before a claim has been made only if—
 - (i) the matter is urgent; or
 - (ii) it is otherwise desirable to do so in the interests of justice; and
- (c) unless the court otherwise orders, a defendant may not apply for any of the orders listed in [rule 25.1\(1\)](#) before he has filed either an acknowledgement of service or a defence.

(Part 10 provides for filing an acknowledgment of service and Part 15 for filing a defence)

[^{F750}(3) Where it grants an interim remedy before a claim has been commenced, the court should give directions requiring a claim to be commenced.]

(4) In particular, the court need not direct that a claim be commenced where the application is made under section 33 of the Supreme Court Act 1981 or section 52 of the County Courts Act 1984 (order for disclosure, inspection etc. before commencement of a claim).

Textual Amendments

F750 [Rule 25.2\(3\)](#) substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), [rules 1](#), [7\(b\)](#)

Commencement Information

I75 [Rule 25.2](#) in force at 26.4.1999, see [Signature](#)

How to apply for an interim remedy

25.3.—(1) The court may grant an interim remedy on an application made without notice if it appears to the court that there are good reasons for not giving notice.

(2) An application for an interim remedy must be supported by evidence, unless the court orders otherwise.

(3) If the applicant makes an application without giving notice, the evidence in support of the application must state the reasons why notice has not been given.

(Part 3 lists general powers of the court)

(Part 23 contains general rules about making an application)

Commencement Information

I76 [Rule 25.3](#) in force at 26.4.1999, see [Signature](#)

Application for an interim remedy where there is no related claim

25.4.—(1) This rule applies where a party wishes to apply for an interim remedy but—

- (a) the remedy is sought in relation to proceedings which are taking place, or will take place, outside the jurisdiction; or
- (b) the application is made under section 33 of the Supreme Court Act 1981 or section 52 of the County Courts Act 1984 (order for disclosure, inspection etc. before commencement) before a claim has been commenced.

(2) An application under this rule must be made in accordance with the general rules about applications contained in Part 23.

(The following provisions are also relevant—

- Rule 25.5 (inspection of property before commencement or against a non-party)
- Rule 31.16 (orders for disclosure of documents before proceedings start)
- Rule 31.17 (orders for disclosure of documents against a person not a party))

Commencement Information

I77 [Rule 25.4](#) in force at 26.4.1999, see [Signature](#)

Inspection of property before commencement or against a non-party

25.5.—(1) This rule applies where a person makes an application under—

- (a) section 33(1) of the Supreme Court Act 1981 or section 52(1) of the County Courts Act 1984 (inspection etc. of property before commencement);
- (b) section 34(3) of the Supreme Court Act 1981 or section 53(3) of the County Courts Act 1984 (inspection etc. of property against a non-party).

(2) The evidence in support of such an application must show, if practicable by reference to any statement of case prepared in relation to the proceedings or anticipated proceedings, that the property—

- (a) is or may become the subject matter of such proceedings; or
- (b) is relevant to the issues that will arise in relation to such proceedings.

- (3) A copy of the application notice and a copy of the evidence in support must be served on—
- (a) the person against whom the order is sought; and
 - (b) in relation to an application under section 34(3) of the Supreme Court Act 1981 or section 53(3) of the County Courts Act 1984, every party to the proceedings other than the applicant.

Commencement Information

I78 [Rule 25.5](#) in force at 26.4.1999, see [Signature](#)

Interim payments—general procedure

25.6.—(1) The claimant may not apply for an order for an interim payment before the end of the period for filing an acknowledgement of service applicable to the defendant against whom the application is made.

(Rule 10.3 sets out the period for filing an acknowledgement of service)

(Rule 25.1(1)(k) defines an interim payment)

25.6.—(2) The claimant may make more than one application for an order for an interim payment.

(3) A copy of an application notice for an order for an interim payment must—

- (a) be served at least 14 days before the hearing of the application; and
- (b) be supported by evidence.

(4) If the respondent to an application for an order for an interim payment wishes to rely on written evidence at the hearing, he must—

- (a) file the written evidence; and
- (b) serve copies on every other party to the application,

at least 7 days before the hearing of the application.

(5) If the applicant wishes to rely on written evidence in reply, he must—

- (a) file the written evidence; and
 - (b) serve a copy on the respondent,
- at least 3 days before the hearing of the application.

(6) This rule does not require written evidence—

- (a) to be filed if it has already been filed; or
- (b) to be served on a party on whom it has already been served.

(7) The court may order an interim payment in one sum or in instalments.

(Part 23 contains general rules about applications)

Commencement Information

I79 [Rule 25.6](#) in force at 26.4.1999, see [Signature](#)

Interim payments—conditions to be satisfied and matters to be taken into account

25.7.—^{F751}(1) The court may only make an order for an interim payment where any of the following conditions are satisfied—

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) the defendant against whom the order is sought has admitted liability to pay damages or some other sum of money to the claimant;
- (b) the claimant has obtained judgment against that defendant for damages to be assessed or for a sum of money (other than costs) to be assessed;
- (c) it is satisfied that, if the claim went to trial, the claimant would obtain judgment for a substantial amount of money (other than costs) against the defendant from whom he is seeking an order for an interim payment whether or not that defendant is the only defendant or one of a number of defendants to the claim;
- (d) the following conditions are satisfied—
 - (i) the claimant is seeking an order for possession of land (whether or not any other order is also sought); and
 - (ii) the court is satisfied that, if the case went to trial, the defendant would be held liable (even if the claim for possession fails) to pay the claimant a sum of money for the defendant’s occupation and use of the land while the claim for possession was pending; or
- (e) in a claim in which there are two or more defendants and the order is sought against any one or more of those defendants, the following conditions are satisfied—
 - (i) the court is satisfied that, if the claim went to trial, the claimant would obtain judgment for a substantial amount of money (other than costs) against at least one of the defendants (but the court cannot determine which); and
 - (ii) all the defendants are either—
 - (a) a defendant that is insured in respect of the claim;
 - (b) a defendant whose liability will be met by an insurer under section 151 of the Road Traffic Act 1988 or an insurer acting under the Motor Insurers Bureau Agreement, or the Motor Insurers Bureau where it is acting itself; or
 - (c) a defendant that is a public body.]

F752(2)

F753(3)

(4) The court must not order an interim payment of more than a reasonable proportion of the likely amount of the final judgment.

(5) The court must take into account—

- (a) contributory negligence; and
- (b) any relevant set-off or counterclaim.

Textual Amendments

F751 Rule 25.7(1) substituted (1.4.2005) by [The Civil Procedure \(Amendment No. 4\) Rules 2004 \(S.I. 2004/3419\)](#), rules 1, **5(a)**

F752 Rule 25.7(2) omitted (1.4.2005) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2004 \(S.I. 2004/3419\)](#), rules 1, **5(b)**

F753 Rule 25.7(3) omitted (1.4.2005) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2004 \(S.I. 2004/3419\)](#), rules 1, **5(b)**

Commencement Information

I80 Rule 25.7 in force at 26.4.1999, see [Signature](#)

Powers of court where it has made an order for interim payment

25.8.—(1) Where a defendant has been ordered to make an interim payment, or has in fact made an interim payment (whether voluntarily or under an order), the court may make an order to adjust the interim payment.

(2) The court may in particular—

- (a) order all or part of the interim payment to be repaid;
- (b) vary or discharge the order for the interim payment;
- (c) order a defendant to reimburse, either wholly or partly, another defendant who has made an interim payment.

(3) The court may make an order under paragraph (2)(c) only if—

- (a) the defendant to be reimbursed made the interim payment in relation to a claim in respect of which he has made a claim against the other defendant for a contribution^(GL), indemnity^(GL) or other remedy; and
- (b) where the claim or part to which the interim payment relates has not been discontinued or disposed of, the circumstances are such that the court could make an order for interim payment under rule 25.7.

(4) The court may make an order under this rule without an application by any party if it makes the order when it disposes of the claim or any part of it.

(5) Where—

- (a) a defendant has made an interim payment; and
- (b) the amount of the payment is more than his total liability under the final judgment or order,

the court may award him interest on the overpaid amount from the date when he made the interim payment.

Commencement Information

181 Rule 25.8 in force at 26.4.1999, see [Signature](#)

Restriction on disclosure of an interim payment

25.9 The fact that a defendant has made an interim payment, whether voluntarily or by court order, shall not be disclosed to the trial judge until all questions of liability and the amount of money to be awarded have been decided unless the defendant agrees.

Commencement Information

182 Rule 25.9 in force at 26.4.1999, see [Signature](#)

Interim injunction to cease if claim is stayed

25.10 If—

- (a) the court has granted an interim injunction^(GL) [F754 other than a freezing injunction]; and
- (b) the claim is stayed^(GL) other than by agreement between the parties, the interim injunction^(GL) shall be set aside^(GL) unless the court orders that it should continue to have effect even though the claim is stayed.

Textual Amendments

F754 Words in [rule 25.10\(a\)](#) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), [rules 1\(c\)](#), [17](#)

Commencement Information

I83 [Rule 25.10](#) in force at 26.4.1999, see [Signature](#)

[^{F755}Interim injunction to cease after 14 days if claim [^{F756}or counterclaim] struck out [^{F757}for non-payment of fees]

25.11.—(1) If—

- (a) the court has granted an interim injunction^(GL) [^{F758}in a claim to a claimant]; and
- (b) the claim is struck out under [rule 3.7](#) [^{F759}(sanctions for non-payment of certain fees by the claimant) or under [rule 3.7A1](#) (sanctions for non-payment of the trial fee by the claimant)],

the interim injunction shall cease to have effect 14 days after the date that the claim is struck out unless paragraph (2) applies.

[^{F760}(1A) If—

- (a) the court has granted an interim injunction in a counterclaim to a defendant who has brought the counterclaim; and
- (b) the counterclaim is struck out under [rule 3.7A](#) (sanctions for non-payment of certain fees by the defendant) or [rule 3.7AA](#) (sanctions for non-payment of the trial fee by the defendant),

the interim injunction shall cease to have effect 14 days after the date on which the counterclaim is struck out, unless paragraph (2) applies.]

(2) If the claimant applies to reinstate the claim before the interim injunction ceases to have effect under paragraph (1), [^{F761}or the defendant applies to reinstate the counterclaim before the interim injunction ceases to have effect under paragraph (1A),] the injunction shall continue until the hearing of the application unless the court orders otherwise.]

Textual Amendments

F755 [Rule 25.11](#) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), [rules 1](#), [8\(b\)](#)

F756 Words in [rule 25.11](#) heading inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021](#) (S.I. 2021/855), [rules 1\(1\)](#), [6\(a\)\(i\)](#)

F757 Words in [rule 25.11](#) heading inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021](#) (S.I. 2021/855), [rules 1\(1\)](#), [6\(a\)\(ii\)](#)

F758 Words in [rule 25.11\(1\)\(a\)](#) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021](#) (S.I. 2021/855), [rules 1\(1\)](#), [6\(b\)](#)

F759 Words in [rule 25.11\(1\)\(b\)](#) substituted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017](#) (S.I. 2017/95), [rules 2\(b\)](#), [6](#) (with [rule 13\(1\)\(2\)](#))

F760 [Rule 25.11\(1A\)](#) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021](#) (S.I. 2021/855), [rules 1\(1\)](#), [6\(c\)](#)

F761 Words in [rule 25.11\(2\)](#) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021](#) (S.I. 2021/855), [rules 1\(1\)](#), [6\(d\)](#)

[^{F762}II SECURITY FOR COSTS

Textual Amendments

F762 Pt. 25 Section 2 inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 3 Pt. 2](#)

Security for costs

25.12.—(1) A defendant to any claim may apply under this Section of this Part for security for his costs of the proceedings.

(Part 3 provides for the court to order payment of sums into court in other circumstances. Rule 20.3 provides for this Section of this Part to apply to [^{F763}counterclaims or other additional claims])

- (2) An application for security for costs must be supported by written evidence.
- (3) Where the court makes an order for security for costs, it will—
 - (a) determine the amount of security; and
 - (b) direct—
 - (i) the manner in which; and
 - (ii) the time within which the security must be given.

Textual Amendments

F763 Words in [rule 25.12](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 17](#)

Modifications etc. (not altering text)

C45 [Rules 25.12-25.15](#) applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007 \(S.I. 2007/1744\)](#), [rules 1, 25\(7\)](#)

Conditions to be satisfied

- 25.13.**—(1) The court may make an order for security for costs under rule 25.12 if—
 - (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and
 - (b)
 - (i) one or more of the conditions in paragraph (2) applies, or
 - (ii) an enactment permits the court to require security for costs.
- (2) The conditions are—
 - [^{F764}(a) the claimant is—
 - (i) resident out of the jurisdiction; but
 - (ii) not resident in [^{F765}... [^{F766} a State bound by the 2005 Hague Convention]^{F767} ..., as defined in section 1(3) of the Civil Jurisdiction and Judgments Act 1982;]
 - ^{F768}(b)

- (c) the claimant is a company or other body (whether incorporated inside or outside Great Britain) and there is reason to believe that it will be unable to pay the defendant's costs if ordered to do so;
- (d) the claimant has changed his address since the claim was commenced with a view to evading the consequences of the litigation;
- (e) the claimant failed to give his address in the claim form, or gave an incorrect address in that form;
- (f) the claimant is acting as a nominal claimant, other than as a representative claimant under Part 19, and there is reason to believe that he will be unable to pay the defendant's costs if ordered to do so;
- (g) the claimant has taken steps in relation to his assets that would make it difficult to enforce an order for costs against him.

(Rule 3.4 allows the court to strike out a statement of case and Part 24 for it to give summary judgment)

Textual Amendments

- F764** Rule 25.13(2)(a) substituted (1.4.2003) by [The Civil Procedure \(Amendment No. 2\) Rules 2002](#) (S.I. 2002/3219), rules 1, **3(a)**
- F765** Words in rule 25.13(2)(a)(ii) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **8(2)(a)** (with reg. 20) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(d); 2020 c. 1, Sch. 5 para. 1(1))
- F766** Words in rule 25.13(2)(a)(ii) inserted (1.10.2015) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) Regulations 2015](#) (S.I. 2015/1644), reg. 1(1), **Sch. para. 5**
- F767** Words in rule 25.13(2)(a)(ii) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **8(2)(b)** (with reg. 20) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(d); 2020 c. 1, Sch. 5 para. 1(1))
- F768** Rule 25.13(2)(b) omitted (1.4.2003) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2002](#) (S.I. 2002/3219), rules 1, **3(b)**

Modifications etc. (not altering text)

- C45** Rules 25.12-25.15 applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007](#) (S.I. 2007/1744), rules 1, **25(7)**

Security for costs other than from the claimant

25.14.—(1) The defendant may seek an order against someone other than the claimant, and the court may make an order for security for costs against that person if—

- (a) it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order; and
 - (b) one or more of the conditions in paragraph (2) applies.
- (2) The conditions are that the person—
- (a) has assigned the right to the claim to the claimant with a view to avoiding the possibility of a costs order being made against him; or
 - (b) has contributed or agreed to contribute to the claimant's costs in return for a share of any money or property which the claimant may recover in the proceedings; and

is a person against whom a costs order may be made.

(Rule [F769 46.2] makes provision for costs orders against non-parties)

Textual Amendments

F769 Word in rule 25.14 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **10**

Modifications etc. (not altering text)

C45 [Rules 25.12-25.15](#) applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007 \(S.I. 2007/1744\)](#), rules 1, **25(7)**

Security for costs of an appeal

25.15.—(1) The court may order security for costs of an appeal against—

- (a) an appellant;
- (b) a respondent who also appeals,

on the same grounds as it may order security for costs against a claimant under this Part.

(2) The court may also make an order under paragraph (1) where the appellant, or the respondent who also appeals, is a limited company and there is reason to believe it will be unable to pay the costs of the other parties to the appeal should its appeal be unsuccessful.]

Modifications etc. (not altering text)

C45 [Rules 25.12-25.15](#) applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007 \(S.I. 2007/1744\)](#), rules 1, **25(7)**

[F770] **PART 26**

CASE MANAGEMENT – PRELIMINARY STAGE

Textual Amendments

F770 Pt. 26 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rule 1(1), **Sch. 1** (with rule 2)

Contents of this Part

<i>Title</i>	<i>Number</i>
Scope of this Part	Rule 26.1
Automatic transfer in the High Court	Rule 26.2
Transfer of money claims within the County Court	Rule 26.3
Directions questionnaire	Rule 26.4
Stay to allow for settlement of the case	Rule 26.5

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

<i>Title</i>	<i>Number</i>
Referral to the Mediation Service	Rule 26.6
Allocation and assignment	Rule 26.7
Proceedings under Practice Direction 27B	Rule 26.8
Scope of each track	Rule 26.9
Road traffic accident related personal injury claims	Rule 26.10
Children and protected parties	Rule 26.11
Allocation - general	Rule 26.12
Matters relevant to allocation to a track	Rule 26.13
Assignment within the fast track and intermediate track	Rule 26.14
Assignment within the fast track	Rule 26.15
Assignment within the intermediate track	Rule 26.16
Notice of allocation and assignment	Rule 26.17
Reallocation and reassignment	Rule 26.18
Trial with a jury	Rule 26.19

Scope of this Part

26.1.—(1) This Part provides for—

- (a) the automatic transfer of some defended cases in the High Court;
- (b) the circumstances in which defended cases may be sent from one County Court hearing centre or court office to another; and
- (c) the allocation of defended cases to case management tracks and, where applicable, their assignment to a complexity band.

(2) There are four tracks—

- (a) the small claims track;
- (b) the fast track;
- (c) the intermediate track; and
- (d) the multi-track.

(Rule 26.9 sets out the normal scope of each track. Part 27 makes provision for the small claims track. Part 28 makes provision for the fast track and the intermediate track. Part 29 makes provision for the multi-track.)

Automatic transfer in the High Court

26.2.—(1) This rule applies to proceedings in the High Court where—

- (a) the claim is for a specified amount of money;
- (b) the claim was commenced in a court which is not the defendant's home court;
- (c) the claim has not been transferred to another defendant's home court; and
- (d) the defendant is an individual.

(2) This rule does not apply where the claim was commenced in a specialist list.

(3) Where this rule applies, the court shall transfer the proceedings to the defendant's home court when a defence is filed, unless paragraph (4) applies.

(Rule 2.3 defines 'defendant's home court'.)

(4) Where the claimant notifies the court under rule 15.10 ^{F771}... that they wish the proceedings to continue, the court shall transfer the proceedings to the defendant's home court when it receives that notification from the claimant.

(Rule 15.10 deals with a claimant's notice where the defence is that money claimed has been paid)

^{F772} ...

(5) Where—

- (a) the claim is against two or more defendants with different home courts; and
- (b) the defendant whose defence is filed first is an individual,

proceedings are to be transferred under this rule to the home court of that defendant.

(6) The time when a claim is automatically transferred under this rule may be varied by a practice direction in respect of claims issued by the Production Centre.

(Rule 7.10 makes provision for the Production Centre.)

Textual Amendments

F771 Words in rule 26.2(4) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(1)(a)**

F772 Words in rule 26.2 omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(1)(b)**

Transfer of money claims within the County Court

26.3.—(1) This rule applies where the claim is for an amount of money in the County Court, specified or unspecified.

(2) If at any time a court officer considers that the claim should be referred to a judge for directions, the court officer may send the proceedings to the defendant's home court or the preferred hearing centre or other County Court hearing centre as may be appropriate.

(3) Subject to paragraphs (5) and (6), if the defendant is an individual and the claim is for a specified sum of money, at the relevant time the claim must be sent to the defendant's home court (save that where there are two or more defendants, one or more of whom are individuals, the claim must be sent to the home court of the defendant who first files their defence).

(4) Subject to paragraphs (5) and (6), in any other claim to which this rule applies, the court must, at the relevant time, send the claim to the preferred hearing centre.

(5) Subject to paragraph (6), if, on their directions questionnaire—

- (a) a defendant under paragraph (3) has specified a hearing centre other than the defendant's home court; or
- (b) a claimant under paragraph (4) has specified a hearing centre other than the preferred hearing centre,

the claim must be sent to that other hearing centre.

(6) At the relevant time, the claim must be sent to the County Court at Central London if—

- (a) the claim is started at the [^{F773}Civil National Business Centre];
- (b) a court officer provisionally decides, pursuant to rule 26.4, that the track which appears to be most suitable for the claim is the multi-track; and
- (c) either—
 - (i) in respect of a defendant under paragraphs (3) and (5)(a), the home court (or the home court of the defendant who first files their defence) or the hearing centre specified on the directions questionnaire; or
 - (ii) in respect of a claimant under paragraphs (4) and (5)(b), the preferred hearing centre or the hearing centre specified on the directions questionnaire,
 is one of the hearing centres listed in Practice Direction 26 at paragraph 19.
- (7) The relevant time for the purposes of this rule is when—
 - (a) all parties have filed their directions questionnaires;
 - (b) any stay ordered by the court or period to attempt settlement through mediation has expired; or
 - (c) if the claim falls within Practice Direction 49D—
 - (i) the defence is filed; or
 - (ii) enforcement of a default judgment other than by a warrant of control is requested, whichever occurs first.

Textual Amendments

F773 Words in rule 26.3(6)(a) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(3)**

Directions questionnaire

- 26.4.**—(1) Subject to rule 26.8, if a defendant files a defence—
- (a) a court officer shall—
 - (i) provisionally decide the track which appears to be most suitable for the claim; and
 - (ii) serve on each party a notice of proposed allocation; and
 - (b) the notice of proposed allocation shall—
 - (i) specify any matter to be complied with by the date specified in the notice;
 - (ii) require the parties to file a completed directions questionnaire and serve copies on all other parties;
 - (iii) state the address of the court or the court office to which the directions questionnaire must be returned;
 - (iv) inform the parties how to obtain the directions questionnaire; and
 - (v) if a case appears suitable for allocation to the fast track, intermediate track or multi-track, require the parties to file proposed directions by the date specified in the notice.
- (2) The court shall serve on any unrepresented party the appropriate directions questionnaire.
- (3) Where there are two or more defendants and at least one of them files a defence, the court shall serve the notice under paragraph (1)—
- (a) when all the defendants have filed a defence; or
 - (b) when the period for the filing of the last defence has expired,

whichever is the sooner.

(Rule 15.4 specifies the period for filing a defence.)

(4) If proceedings are automatically transferred under rule 26.2 or rule 26.3 the court in which the proceedings have been commenced—

- (a) shall serve the notice of proposed allocation before the proceedings are transferred; and
- (b) shall not transfer the proceedings until all parties have complied with the notice or the time for doing so has expired.

(5) If rule 15.10^{F774}... applies, the court shall not serve a notice under rule [^{F775}26.4(1)] until the claimant has filed a notice requiring the proceedings to continue.

(6) If a notice is served under paragraph (1)—

- (a) each party must file, and serve on all other parties, the documents required by the notice by no later than the date specified in it; and
- (b) the date specified must be—
 - (i) if the notice relates to the small claims track, at least 14 days; or
 - (ii) if the notice relates to the fast track, intermediate track, or multi-track, at least 28 days,

after the date when it is deemed to be served on the party in question.

(7) The date for complying with a notice served under paragraph (1) may not be varied by agreement between the parties.

(8) The time when the court serves a directions questionnaire under this rule may be varied by a practice direction in respect of claims issued by the Production Centre.

(9) If a claim is a claim to which rule 26.3 applies and a party does not comply with the notice served under paragraph (1) by the date specified—

- (a) the court shall serve a further notice on that party, requiring them to comply within 7 days; and
- (b) if that party fails to comply with the notice served under sub-paragraph (a), the party's statement of case shall be struck out without further order of the court.

(10) If a claim is a claim to which rule 26.2 applies and a party does not comply with the notice served under^{F776}... paragraph (1) by the date specified, the court may make such order as it considers appropriate, including—

- (a) an order for directions;
- (b) an order striking out the claim;
- (c) an order striking out the defence and entering judgment; or
- (d) listing the case for a case management conference.

(11) Where a case has been struck out under paragraph (9)(b) or an order has been made under paragraph (10), a party who was in default shall, unless the court thinks it unjust to do so, be ordered to pay the costs that the default caused to any other party.

(Rule 7.10 makes provision for the Production Centre.)

(Rules 6.14 and 6.26 specify when a document is deemed to be served.)

Textual Amendments

F774 Words in rule 26.4(5) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(4)(a)(i)**

F775 Word in rule 26.4(5) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **16(4)(a)(ii)**

F776 Word in rule 26.4(10) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **16(4)(b)**

Stay to allow for settlement of the case

26.5.—(1) A party may, when filing the completed directions questionnaire, make a written request for the proceedings to be stayed while the parties try to settle the case by alternative dispute resolution or other means.

(2) If all parties request a stay the proceedings shall be stayed for one month and the court shall notify the parties accordingly.

(3) If the court otherwise considers that such a stay would be appropriate, the court may direct that the proceedings, either in whole or in part, be stayed for one month, or for such other period as it considers appropriate.

(4) The court may extend the stay until such date or for such specified period as it considers appropriate.

(5) Where the court stays the proceedings under this rule, the claimant must tell the court if a settlement is reached.

(6) If the claimant does not tell the court by the end of the period of the stay that a settlement has been reached, the court shall give such directions as to the management of the case as it considers appropriate.

Referral to the Mediation Service

26.6.—(1) This rule applies to claims started in the County Court which would normally be allocated to the small claims track pursuant to rule 26.9.

(2) This rule does not apply to—

- (a) road traffic accident, personal injury or housing disrepair claims; or
- (b) any claim in which any party to the proceedings does not agree to referral to the Mediation Service.

(3) In this rule, ‘the Mediation Service’ means the Small Claims Mediation Service operated by His Majesty’s Courts and Tribunals Service.

(4) Where all parties indicate on their directions questionnaire that they agree to mediation, the claim shall be referred to the Mediation Service.

(5) If a claim to which this rule applies is settled, the proceedings shall automatically be stayed with permission to apply for—

- (a) judgment for the unpaid balance of the outstanding sum of the settlement agreement; or
- (b) the claim to be restored for hearing of the full amount claimed,

unless the parties have agreed that the claim is to be discontinued or dismissed.

Allocation and assignment

26.7.—(1) Subject to rule 26.8, the court shall allocate the claim to a track and, where applicable, assign it to a complexity band—

- (a) [^{F777}after] all parties have filed their directions questionnaires; or
- (b) when giving directions pursuant to rule 26.4(10),

unless it has stayed the proceedings under rule 26.5.

(2) If the court has stayed the proceedings under rule 26.5, it shall allocate the claim to a track and, where applicable, assign it to a complexity band at the end of the period of the stay.

(3) If—

- (a) a claim is referred to the Mediation Service pursuant to rule 26.6; and
- (b) the court has not been notified in writing that a settlement has been agreed,

the claim shall be allocated to a track and, where applicable, assigned to a complexity band in accordance with this rule no later than four weeks from the date on which the last directions questionnaire is filed.

(4) Before deciding the track to which to allocate or the complexity band to which to assign proceedings, or deciding whether to give directions for an allocation hearing or an assignment hearing to be fixed, the court may order a party to provide further information about his case.

(5) The court may hold an allocation hearing or an assignment hearing if it thinks it is necessary.

(6) If a party fails to file a directions questionnaire, the court may give any direction it considers appropriate.

(7) When, in a claim to which Section VI or Section VII of Part 45 applies, the court decides the track to which a claim should be allocated or the complexity band to which it should be assigned—

- (a) it shall also consider whether it is in the interests of justice to order that rule 45.5(4) should apply to that claim; and
- (b) when considering whether it is in the interests of justice to make such an order, it shall have regard to whether the claim of each claimant arises from the same or substantially the same facts and gives rise to the same or substantially the same issues.

Textual Amendments

F777 Word in [rule 26.7\(1\)\(a\)](#) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **6(1)**

Proceedings under Practice Direction 27B

26.8.—(1) This rule applies where—

- (a) the parties have followed the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents; and
- (b) proceedings have been started under Practice Direction 27B.

(2) Subject to paragraph (3), where this rule applies, the claim shall be treated as allocated to the small claims track when it is issued and rules 26.4, 26.5 and 26.7 shall not apply.

(3) Where in any claim started or continued under Practice Direction 27B—

- (a) the appropriate court form states that—
 - (i) the amount claimed is more than £10,000; or
 - (ii) the claim for personal injury damages is more than £5,000; or
- (b) rule 26.10 applies,

a court officer must refer the claim to a judge for allocation to a track and to give directions.

Scope of each track

26.9.—(1) The small claims track is the normal track for—

- (a) any claim for personal injuries where—
 - (i) the value of the claim is not more than £10,000; and
 - (ii) the value of any claim for damages for personal injuries is not more than—
 - (aa) £5,000 in a claim for personal injuries arising from a road traffic accident, except as provided in sub-paragraph (bb);
 - (bb) £1,000 in a claim for personal injuries arising from a road traffic accident, in any of the circumstances specified in rule 26.10; or
 - (cc) £1,500 in any other claim for personal injuries.
- (b) any claim which includes a claim by a tenant of residential premises against a landlord where—
 - (i) the tenant is seeking an order requiring the landlord to carry out repairs or other work to the premises (whether or not the tenant is also seeking some other remedy);
 - (ii) the cost of the repairs or other work to the premises is estimated to be not more than £1,000; and
 - (iii) the value of any other claim for damages is not more than £1,000; and
- (c) in relation to claims under the Renting Homes (Wales) Act 2016, any claim which includes a claim by a contract-holder of a dwelling against a landlord where—
 - (i) the contract holder is seeking an order requiring the landlord to carry out repairs or other work to the dwelling (whether or not the contract-holder is also seeking some other remedy);
 - (ii) the cost of repairs or other work to the dwelling is estimated to be not more than £1,000; and
 - (iii) the value of any other claim for damages is not more than £1,000.

(Rule 2.3 defines ‘claim for personal injuries’ as proceedings in which there is a claim for damages in respect of personal injuries to the claimant or any other person or in respect of a person’s death.)

(2) For the purposes of paragraph (1) ‘damages for personal injuries’ means damages claimed as compensation for pain, suffering and loss of amenity and does not include any other damages which are claimed.

(3) ‘Road traffic accident’ means an accident resulting in a bodily injury to any person caused by, or arising out of, the use of a motor vehicle on a road or other public place in England and Wales unless the injury was caused wholly or in part by a breach by the defendant of one or more of the relevant statutory provisions as defined by section 53 of the Health and Safety at Work etc. Act 1974.

(4) Subject to paragraph (1), the small claims track is the normal track for any claim which has a value of not more than £10,000.

(Rule 26.12(2) and (3) provides that the court must not allocate to the small claims track certain claims in respect of harassment or unlawful eviction.)

- (5) Subject to paragraphs (6) and (10), the fast track is the normal track for any claim—
 - (a) for which the small claims track is not the normal track; and
 - (b) [^{F778}which—]
 - (i) is a claim for monetary relief, the value of which is not more than £25,000; or
 - (ii) is or includes a claim for non-monetary relief and—
 - (aa) if the claim includes a claim for monetary relief, the value of the claim for monetary relief is not more than £25,000;

- (bb) the claim meets the criteria in paragraph (6)(a) and (b); and
- (cc) the court is satisfied that it is in the interests of justice for it to be allocated to the fast track.

(6) The fast track is the normal track for the claims referred to in paragraph (5) only if the court considers that—

- (a) the trial is likely to last for no longer than one day; and
- (b) oral expert evidence at trial is likely to be limited to—
 - (i) one expert per party in relation to any expert field; and
 - (ii) expert evidence in two expert fields.

(7) Subject to paragraphs (8), (9) and (10), the intermediate track is the normal track where—

- (a) the claim is suitable for neither the small claims track nor the fast track;
- (b) the claim includes a claim for monetary relief, the value of which is not more than £100,000;
- (c) the court considers that—
 - (i) if the case is managed proportionately, the trial will not last longer than three days;
 - (ii) oral expert evidence at trial is likely to be limited to two experts per party;
 - (iii) the claim may be justly and proportionately managed under the procedure set out in Section IV of Part 28; and
 - (iv) there are no additional factors, which would make the claim inappropriate for the intermediate track; and
- (d) the claim is brought by one claimant against either one or two defendants, or is brought by two claimants against one defendant.

(8) Where the relief sought includes a claim for non-monetary relief, the claim shall not be allocated to the intermediate track unless the court also considers it to be in the interests of justice to do so.

(9) Subject to paragraph (10), the court may allocate a claim to the intermediate track where it considers it to be in the interests of justice to do so.

(10) A claim must be allocated to the multi-track where that claim is—

- (a) a mesothelioma claim or asbestos lung disease claim;
- (b) one which includes a claim for clinical negligence, unless—
 - (i) the claim is one which would normally be allocated to the intermediate track [^{F779}];
 - ^{F780}(ii) there has been an admission of liability in full, which means that the defendant accepts that the claimant has suffered loss, including the injury set out in the letter of claim under the Pre-Action Protocol for the Resolution of Clinical Disputes, caused by the defendant's breach of duty of care; and
 - (iii) the admission in paragraph (ii) is made in the defendant's letter of response provided in accordance with the Pre-Action Protocol for the Resolution of Clinical Disputes, provided that the defendant has not raised a defence to the claim under the Limitation Act 1980;]
- (c) a claim for damages in relation to harm, abuse or neglect of or by children or vulnerable adults;
- (d) a claim is one the court could order to be tried by jury if satisfied that there is in issue a matter set out in section 66(3) of the County Courts Act 1984 or section 69(1) of the Senior Courts Act 1981; ^{F781} ...

- (e) a claim against the police which includes a claim for—
 - (i) an intentional or reckless tort; or
 - (ii) relief or a remedy in relation to a breach of the Human Rights Act 1998 [^{F782}; or]
- [^{F783}(f) a claim against a public authority for trespass to the person, unless, having regard to the matters mentioned in rule 26.13(1), the court considers that it would not be in the interests of justice to do so.]
- (11) Paragraph (10)(e) does not apply to—
 - (a) a road accident claim arising from negligent police driving;
 - (b) an employer’s liability claim;
 - (c) any other claim for an accidental fall on police premises.
- (12) The multi-track is the normal track for any claim for which the small claims track or the fast track or the intermediate track is not the normal track.

Textual Amendments

- F778** Word in rule 26.9(5)(b) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(5)**
- F779** Rule 26.9(10)(b)(i): semicolon substituted for word (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **6(2)(a)(i)**
- F780** Rule 26.9(10)(b)(ii)(iii) substituted for rule 26.9(10)(b)(ii) (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **6(2)(a)(ii)**
- F781** Word in rule 26.9(10)(d) omitted (6.4.2024) by virtue of [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **6(2)(b)**
- F782** Word in rule 26.9(10)(e)(ii) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **6(2)(c)**
- F783** Rule 26.9(10)(f) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **6(2)(d)**

Road traffic accident related personal injury claims

- 26.10.** The circumstances referred to in rule 26.9(1)(a)(ii)(bb) are—
- (a) the accident occurred before 31st May 2021;
 - (b) unless rule 26.11 applies, on the date that proceedings are started, the claimant is—
 - (i) a child; or
 - (ii) a protected party;
 - (c) when the accident occurred, the claimant was—
 - (i) using a motor cycle;
 - (ii) a pillion passenger on, or a passenger in a sidecar attached to, a motor cycle;
 - (iii) using a wheelchair, a powered wheelchair or a mobility scooter;
 - (iv) using a bicycle or other pedal cycle;
 - (v) riding a horse; or
 - (vi) a pedestrian;
 - (d) unless rule 26.11 applies, on the date that proceedings are started—
 - (i) the claimant is an undischarged bankrupt; or
 - (ii) the claimant or defendant acts as a personal representative of a deceased person; or

- (e) unless rule 26.11 applies, on the date of the accident, the defendant's vehicle was registered outside the United Kingdom.

Children and protected parties

26.11.—(1) The fast track is the normal track where a claim—

- (a) is for personal injuries arising from a road traffic accident which occurs on or after 31st May 2021;
- (b) is made by—
 - (i) a child or a protected party; or
 - (ii) a person who, on the date the claim was first presented via the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents, was a child; and
- (c) consists of, or includes, a claim for a whiplash injury.

(2) Where this rule applies, the claim must not be allocated to the small claims track.

(3) 'Whiplash injury' has the meaning ascribed to it by paragraph 1.2(38) of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.

Allocation - general

26.12.—(1) In considering whether to allocate a claim to the normal track for that claim under rules 26.9, 26.10 or 26.11, the court shall have regard to the matters mentioned in rule 26.13(1).

(2) The court must not allocate a claim to the small claims track, if it includes a claim by a tenant of residential premises against his landlord for a remedy in respect of harassment or unlawful eviction.

(3) In claims under the Renting Homes (Wales) Act 2016, the court must not allocate a claim to the small claims track if it includes a claim by a contract-holder of a dwelling against their landlord for a remedy in respect of harassment or unlawful eviction.

Matters relevant to allocation to a track

26.13.—(1) When deciding the track for a claim, the matters to which the court shall have regard include—

- (a) the financial value, if any, of the claim;
- (b) the nature of the remedy sought;
- (c) the likely complexity of the facts, law or evidence;
- (d) the number of parties or likely parties;
- (e) the value of any counterclaim or additional claim and the complexity of any matters relating to it;
- (f) the amount of oral evidence which may be required;
- (g) the importance of the claim to persons who are not parties to the proceedings;
- (h) the views expressed by the parties; and
- (i) the circumstances of the parties.

(2) It is for the court to assess the financial value of a claim and in doing so it shall disregard—

- (a) any amount not in dispute;
- (b) any claim for interest;
- (c) costs;
- (d) any contributory negligence; and

(e) where the claim is, or includes a claim for non-monetary relief, any amount prescribed by rule 45.45(1)(a)(ii) and rule 45.50(2)(b)(ii).

(3) Where—

(a) two or more claimants have started a claim against the same defendant using the same claim form; and

(b) each claimant has a claim against the defendant separate from the other claimants,

the court shall consider the claim of each claimant separately when it assesses financial value under paragraph (1).

Assignment within the fast track and the intermediate track

26.14.—(1) When a claim is allocated to the fast track or the intermediate track, the court must also assign the claim to a complexity band, unless it is one to which Section VIII of Part 45 applies.

(2) In both Table 1 and Table 2, below, the complexity bands numbered 1 to 4 provide an ascending scale of allowable costs commensurate with the complexity of the claim.

(3) The complexity band to which a claim is assigned shall determine the costs that are to be allowed under Table 12 or Table 14 in Practice Direction 45.

(4) Subject to paragraph (5), the parties may agree the complexity band to which a claim is assigned.

(5) The court may direct that a claim be assigned to a different complexity band than that agreed by the parties, but shall have regard to the factors set out in rule 26.13(1).

(6) A party must state on their directions questionnaire—

(a) the agreed complexity band; or

(b) where the parties disagree, the complexity band considered appropriate by that party, together with any relevant information in support.

Assignment within the fast track

26.15. Unless the claim is one for noise induced hearing loss (in respect of which Sections I and IV of Part 28 and Section VIII of Part 45 make provision), the complexity band to which a claim will normally be assigned in the fast track is set out in Table 1.

Table 1

<i>Complexity band 1</i>	<i>Complexity band 2</i>	<i>Complexity band 3</i>	<i>Complexity band 4</i>
(a) road traffic accident related, non-personal injury claims; and	(a) road traffic accident related, personal injury claims which are or should have been started under the RTA Protocol; and	(a) road traffic accident related, personal injury claims to which the RTA Protocol does not apply;	(a) employer's liability disease claims (other than a claim for noise induced hearing loss);
(b) defended debt claims	(b) personal injury claims to which the Pre-action Protocol for Resolution of Package Travel Claims apply	(b) employer's liability (accident) and public liability personal injury claims;	(b) complex possession and housing disrepair claims;
		(c) possession claims;	(c) property and building disputes;

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

<i>Complexity band 1</i>	<i>Complexity band 2</i>	<i>Complexity band 3</i>	<i>Complexity band 4</i>
		(d) housing disrepair claims; and	(d) professional negligence claims; and
		(e) other money claims	(e) any claim which would normally be allocated to the fast track, but is nonetheless complex

Assignment within the intermediate track

26.16. The complexity band to which a claim will normally be assigned in the intermediate track is set out in Table 2.

Table 2

<i>Complexity band 1</i>	<i>Complexity band 2</i>	<i>Complexity band 3</i>	<i>Complexity band 4</i>
Any claim where— (a) only one issue is in dispute; and (b) the trial is not expected to last longer than one day, including— (i) personal injury claims where liability or quantum is in dispute; (ii) [^{F784} road traffic accident related, non-personal injury claims]; and (iii) defended debt claims	Any less complex claim where more than one issue is in dispute, including personal injury accident claims where liability and quantum are in dispute	Any more complex claim where more than one issue is in dispute, but which is unsuitable for assignment to complexity band 2, including noise induced hearing loss and other employer’s liability disease claims	Any claim which would normally be allocated to the intermediate track, but which is unsuitable for assignment to complexity bands 1 to 3, including any personal injury claim where there are serious issues of fact or law

Textual Amendments

F784 Words in rule 26.16 Table 2 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(6)**

[^{F785}Notice of allocation and assignment]

26.17. When it has allocated a claim to a track, the court shall serve notice of allocation and, where applicable, assignment on every party.

Textual Amendments

F785 Rule 26.17 heading inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **16(7)**

Reallocation and reassignment

26.18.—(1) Subject to paragraphs (2) and (3), the court may on application or on its own initiative subsequently—

- (a) reallocate a claim to a different track; or
- (b) reassign a claim to a different complexity band.

(2) Where—

- (a) a claim is allocated to the intermediate track; and
- (b) directions in respect of that claim have been given,

the court may only reallocate the claim where it decides that there are exceptional reasons to justify doing so.

(3) The court may only reassign a claim to a different complexity band, where—

- (a) there has been a change in circumstances since a direction was made assigning the claim to a particular complexity band; and
- (b) the court decides the change in circumstances justifies reassignment.

Trial with a jury

26.19.—(1) An application for a claim, other than a claim for libel and slander, to be tried with a jury must be made within 28 days of service of the defence.

(2) A claim for libel or slander must be tried by Judge alone, unless at the first case management conference a party applies for trial with a jury and the court makes an order to that effect.]

PART 27

THE SMALL CLAIMS TRACK

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Scope of this Part

27.1.—(1) This Part—

- (a) sets out the special procedure for dealing with claims which have been allocated to the small claims track under Part 26; and
- (b) limits the amount of costs that can be recovered in respect of a claim which has been allocated to the small claims track.

(Rule 27.14 deals with costs on the small claims track)

- (2) A claim being dealt with under this Part is called a small claim.

(Rule [F786]26.9] provides for the scope of the small claims track. A claim for a remedy for harassment or unlawful eviction relating, in either case, to residential premises [F787]or to a dwelling where the claim is under the Renting Homes (Wales) Act 2016] shall not be allocated to the small claims track whatever the financial value of the claim.

Otherwise, the small claims track will be the normal track for—

- any claim which has a financial value of not more than [F788]£10,000] subject to the special provisions about claims for personal injuries and housing disrepair claims;
- any claim for personal injuries which has a financial value of not more than [F788]£10,000] where the claim for damages for personal injuries is not more than [F789]the relevant value specified in rule [F786]26.9] (1)(a)(ii)(aa), (bb) or (cc), being £5,000, £1,000 or £1,500, respectively]; and
- any claim which includes a claim by a tenant of residential premises against his landlord for repairs or other work to the premises where the estimated cost of the repairs or other work is not more than £1,000 and the financial value of any claim for damages in respect of those repairs or other work is not more than £1,000) [F790];
- any claim which includes a claim under the Renting Home (Wales) Act 2016 by a contract-holder of a dwelling against their landlord for repairs or other work to the dwelling where the estimated cost of the repairs or other work is not more than £1,000 and the financial value of any other claim for damages is not more than £1,000).]

Textual Amendments

F786 Word in rule 27.1(2) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **9(1)** (with rule 2)

F787 Words in rule 27.1 inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **19(a)**

- F788** Sum in rule 27.1 substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), rules 2, **9(a)** (with rule 22)
- F789** Words in rule 27.1(2) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022](#) (S.I. 2022/101), rules 1(1), **10** (with rule 2)
- F790** Words in rule 27.1 substituted for full stop (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **19(b)**

Commencement Information

- I84** [Rule 27.1](#) in force at 26.4.1999, see [Signature](#)

Extent to which other Parts apply

- 27.2.**—(1) The following Parts of these Rules do not apply to small claims—
- Part 25 (interim remedies) except as it relates to interim injunctions^(GL);
 - Part 31 (disclosure and inspection);
 - Part 32 (evidence) except rule 32.1 (power of court to control evidence);
 - Part 33 (miscellaneous rules about evidence);
 - Part 35 (experts and assessors) except rules 35.1 (duty to restrict expert evidence), 35.3 (experts—overriding duty to the court) [^{F791}, 35.7 (court’s power to direct that evidence is to be given by single joint expert)] and 35.8 (instructions to a single joint expert);
 - [^{F792}Subject to paragraph (3),] Part 18 (further information);
 - Part 36 (offers to settle ^{F793}...); and
 - Part 39 (hearings) except rule 39.2 (general rule—hearing to be in public) [^{F794}, rule 39.8 (communications with the court) and rule 39.9 (recording and transcription of proceedings)].

(2) The other Parts of these Rules apply to small claims except to the extent that a rule [^{F795} or a practice direction under this Part] limits such application.

[^{F796}(2A) A rule or practice direction may, in relation to a specified type of small claim—

- require or permit the use of the procedure set out in this Part; and
- disapply or modify any of the rules set out in this Part.]

[^{F797}(3) The court of its own initiative may order a party to provide further information if it considers it appropriate to do so.]

Textual Amendments

- F791** Words in rule 27.2(1)(e) inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000](#) (S.I. 2000/221), rules 1(b), **15**
- F792** Words in rule 27.2(1)(f) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **29(a)**
- F793** Words in rule 27.2(1)(g) omitted (6.4.2007) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2006](#) (S.I. 2006/3435), rules 1, **6(a)**
- F794** Words in rule 27.2(1)(h) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021](#) (S.I. 2021/855), rules 1(1), **7**
- F795** Words in rule 27.2(2) inserted (31.5.2021) by [The Civil Procedure \(Amendment No. 2\) Rules 2021](#) (S.I. 2021/196), rules 1(1), **6(a)**
- F796** [Rule 27.2\(2A\)](#) inserted (31.5.2021) by [The Civil Procedure \(Amendment No. 2\) Rules 2021](#) (S.I. 2021/196), rules 1(1), **6(b)** (as amended by S.I. 2021/553, rules 2(2), **4(b)**)

F797 Rule 27.2(3) inserted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **29(b)**

Commencement Information

I85 Rule 27.2 in force at 26.4.1999, see [Signature](#)

Court's power to grant a final remedy

27.3 The court may grant any final remedy in relation to a small claim which it could grant if the proceedings were on the fast track [^{F798}, the intermediate track] or the multi-track.

Textual Amendments

F798 Words in rule 27.3 inserted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **9(2)** (with rule 2)

Commencement Information

I86 Rule 27.3 in force at 26.4.1999, see [Signature](#)

Preparation for the hearing

27.4.—(1) After allocation the court will—

- (a) give standard directions and fix a date for the final hearing;
- (b) give special directions and fix a date for the final hearing;
- (c) give special directions and direct that the court will consider what further directions are to be given no later than 28 days after the date the special directions were given;
- (d) fix a date for a preliminary hearing under rule 27.6; or
- (e) give notice that it proposes to deal with the claim without a hearing under rule 27.10 and invite the parties to notify the court by a specified date if they agree the proposal.

(2) The court will—

- (a) give the parties at least 21 days' notice of the date fixed for the final hearing, unless the parties agree to accept less notice; and
- (b) inform them of the amount of time allowed for the final hearing.

(3) In this rule

- (a) “standard directions” means—
 - (i) a direction that each party shall, at least 14 days before the date fixed for the final hearing, file and serve on every other party copies of all documents (including any expert's report) on which he intends to rely at the hearing; and
 - (ii) any other standard directions set out in [^{F799}Practice Direction 27A]; and
- (b) “special directions” means directions given in addition to or instead of the standard directions.

Textual Amendments

F799 Words in rule 27.4(3)(a)(ii) substituted (31.5.2021) by The Civil Procedure (Amendment No. 3) Rules 2021 (S.I. 2021/553), rules 2(1), **3(2)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Commencement Information

I87 [Rule 27.4](#) in force at 26.4.1999, see [Signature](#)

Experts

27.5 No expert may give evidence, whether written or oral, at a hearing without the permission of the court.

F800

Textual Amendments

F800 Words in [rule 27.5](#) omitted (1.10.2012) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **4(a)**

Commencement Information

I88 [Rule 27.5](#) in force at 26.4.1999, see [Signature](#)

Preliminary hearing

27.6.—(1) The court may hold a preliminary hearing for the consideration of the claim, but only—

- (a) where—
 - (i) it considers that special directions, as defined in rule 27.4, are needed to ensure a fair hearing; and
 - (ii) it appears necessary for a party to attend at court to ensure that he understands what he must do to comply with the special directions; or
- (b) to enable it to dispose of the claim on the basis that one or other of the parties has no real prospect of success at a final hearing; or
- (c) to enable it to strike out^(GL) a statement of case or part of a statement of case on the basis that the statement of case, or the part to be struck out, discloses no reasonable grounds for bringing or defending the claim.

(2) When considering whether or not to hold a preliminary hearing, the court must have regard to the desirability of limiting the expense to the parties of attending court.

(3) Where the court decides to hold a preliminary hearing, it will give the parties at least 14 days' notice of the date of the hearing.

(4) The court may treat the preliminary hearing as the final hearing of the claim if all the parties agree.

- (5) At or after the preliminary hearing the court will—
 - (a) fix the date of the final hearing (if it has not been fixed already) and give the parties at least 21 days' notice of the date fixed unless the parties agree to accept less notice;
 - (b) inform them of the amount of time allowed for the final hearing; and
 - (c) give any appropriate directions.

Commencement Information

I89 [Rule 27.6](#) in force at 26.4.1999, see [Signature](#)

Power of court to add to, vary or revoke directions

27.7 The court may add to, vary or revoke directions.

Commencement Information

I90 [Rule 27.7](#) in force at 26.4.1999, see [Signature](#)

Conduct of the hearing

27.8.—(1) The court may adopt any method of proceeding at a hearing that it considers to be fair.

- (2) Hearings will be informal.
- (3) The strict rules of evidence do not apply.
- (4) The court need not take evidence on oath.
- (5) The court may limit cross-examination^(GL).
- (6) The court must give reasons for its decision.

Commencement Information

I91 [Rule 27.8](#) in force at 26.4.1999, see [Signature](#)

Non-attendance of parties at a final hearing

27.9.—^{F801}(1) If a party who does not attend a final hearing—

- (a) has given written notice to the court and the other party at least 7 days before the hearing date that he will not attend;
- (b) has served on the other party at least 7 days before the hearing date any other documents which he has filed with the court; and
- (c) has, in his written notice, requested the court to decide the claim in his absence and has confirmed his compliance with paragraphs (a) and (b) above,

the court will take into account that party's statement of case and any other documents he has filed and served when it decides the claim.]

- (2) If a claimant does not—
 - (a) attend the hearing; and
 - (b) give the notice referred to in paragraph (1)

the court may strike out^(GL) the claim.

- (3) If—
 - (a) a defendant does not
 - (i) attend the hearing; or
 - (ii) give the notice referred to in paragraph (1); and
 - (b) the claimant either—
 - (i) does attend the hearing; or
 - (ii) gives the notice referred to in paragraph (1),

the court may decide the claim on the basis of the evidence of the claimant alone.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(4) If neither party attends or gives the notice referred to in paragraph (1), the court may strike out^(GL) the claim and any defence and counterclaim.

.....

Textual Amendments
F801 Rule 27.9(1) substituted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **30**

.....

Commencement Information
I92 Rule 27.9 in force at 26.4.1999, see [Signature](#)

Disposal without a hearing

27.10 The court may, if all parties agree, deal with the claim without a hearing.

.....

Commencement Information
I93 Rule 27.10 in force at 26.4.1999, see [Signature](#)

Setting judgment aside and re-hearing

27.11.—(1) A party—

- (a) who was neither present nor represented at the hearing of the claim; and
- (b) who has not given written notice to the court under rule 27.9(1),

may apply for an order that a judgment under this Part shall be set aside^(GL) and the claim re-heard.

(2) A party who applies for an order setting aside a judgment under this rule must make the application not more than 14 days after the day on which notice of the judgment was served on him.

(3) The court may grant an application under paragraph (2) only if the applicant—

- (a) had a good reason for not attending or being represented at the hearing or giving written notice to the court under rule 27.9(1); and
- (b) has a reasonable prospect of success at the hearing.

(4) If a judgment is set aside^(GL)—

- (a) the court must fix a new hearing for the claim; and
- (b) the hearing may take place immediately after the hearing of the application to set the judgment aside and may be dealt with by the judge who set aside^(GL) the judgment.

(5) A party may not apply to set aside^(GL) a judgment under this rule if the court dealt with the claim without a hearing under rule 27.10.

.....

Commencement Information
I94 Rule 27.11 in force at 26.4.1999, see [Signature](#)

Right of appeal under Part 27

^{F802}**27.12**

Textual Amendments

F802 Rule 27.12 revoked (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **11** (with rule 29)

Procedure for making an appeal

^{F803}**27.13**

Textual Amendments

F803 Rule 27.13 revoked (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **11** (with rule 29)

Costs on the small claims track

27.14.—(1) This rule applies to any case which has been allocated to the small claims track ^{F804}....
(^{F805}Rule 46.13 makes] provision in relation to orders for costs made before a claim has been allocated to the small claims track)

^{F806}(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) ^{F807}the fixed costs attributable to issuing the claim, calculated in accordance with Table 2 in Practice Direction 45; ^{F808} ...]
- (b) in proceedings which included a claim for an injunction or an order for specific performance a sum not exceeding the amount specified in [^{F809}Practice Direction 27A] 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 [^{F810}Practice Direction 27A] 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 [^{F811}Practice Direction 27A] for an expert's fees; ^{F812} ...
- (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 [^{F813}, ^{F814} ...]
- ^{F815}(h) [^{F816}the applicable Stage 1 and, where relevant, the Stage 2 fixed costs in Table 10 and Table 11 in Practice Direction 45] where—
 - (i) the claim was within the scope of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”) [^{F817}or the Pre-action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’)];
 - (ii) the claimant reasonably believed that the claim was valued at more than the small claims track limit in accordance with paragraph 4.1(4) of the [^{F818}relevant Protocol]; and

- (iii) the defendant admitted liability under the process set out in the [F819 relevant Protocol]; but
- (iv) the defendant did not pay those Stage 1 and, where relevant, Stage 2 fixed costs [F820; and]]

[F821(i) in an appeal, the cost of any approved transcript reasonably incurred.]]

[F822[F823(3)] A party’s rejection of an offer in settlement will not of itself constitute unreasonable behaviour under paragraph [F824(2)(g)] but the court may take it into consideration when it is applying the unreasonableness test.

F825 ...]

F826(3)

(4) The limits on costs imposed by this rule also apply to any fee or reward for acting on behalf of a party to the proceedings charged by a person exercising a right of audience by virtue of an order under section 11 of the Courts and Legal Services Act 1990(25) (a lay representative).

F827(5)

F827(6)

(Rule 26.7(3) allows the parties to consent to a claim being allocated to a track where the financial value of the claim exceeds the limit for that track)

Textual Amendments

- F804** Words in rule 27.14(1) omitted (1.4.2013) by virtue of [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2, 9\(c\)\(i\)](#) (with [rule 22](#))
- F805** Words in rule 27.14 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 9\(3\)\(a\)](#) (with [rule 2](#))
- F806** Rule 27.14(2) substituted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), [rules 1, 5\(a\)](#)
- F807** Rule 27.14(2)(a) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 9\(3\)\(b\)\(i\)](#) (with [rule 2](#))
- F808** Word in rule 27.14(2)(a) omitted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\), 17](#)
- F809** Words in rule 27.14(2)(b) substituted (31.5.2021) by [The Civil Procedure \(Amendment No. 3\) Rules 2021 \(S.I. 2021/553\)](#), [rules 2\(1\), 3\(3\)](#)
- F810** Words in rule 27.14(2)(e) substituted (31.5.2021) by [The Civil Procedure \(Amendment No. 3\) Rules 2021 \(S.I. 2021/553\)](#), [rules 2\(1\), 3\(3\)](#)
- F811** Words in rule 27.14(2)(f) substituted (31.5.2021) by [The Civil Procedure \(Amendment No. 3\) Rules 2021 \(S.I. 2021/553\)](#), [rules 2\(1\), 3\(3\)](#)
- F812** Word in rule 27.14(2)(f) omitted (30.4.2010) by virtue of [The Civil Procedure \(Amendment\) Rules 2010 \(S.I. 2010/621\)](#), [rules 1\(2\), 5\(a\)](#)
- F813** Word in rule 27.14(2)(g) substituted (30.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010 \(S.I. 2010/621\)](#), [rules 1\(2\), 5\(b\)](#)
- F814** Word in rule 27.14(2)(g) omitted (1.10.2012) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), [rules 1, 4\(b\)\(i\)](#)
- F815** Rule 27.14(2)(h) inserted (30.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010 \(S.I. 2010/621\)](#), [rules 1\(2\), 5\(c\)](#)
- F816** Words in rule 27.14(2)(h) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 9\(3\)\(b\)\(ii\)](#) (with [rule 2](#))

- F817** Words in rule 27.14(2)(h)(i) inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **5(2)(b)**
- F818** Words in rule 27.14(2)(h)(ii) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **5(2)(c)**
- F819** Words in rule 27.14(2)(h)(iii) substituted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **5(2)(d)**
- F820** Word in rule 27.14(2)(h)(iv) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **4(b)(ii)**
- F821** Rule 27.14(2)(i) inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **4(b)(iii)**
- F822** Rule 27.14(2A) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **31(a)**
- F823** Rule 27.14(2A) renumbered as rule 27.14(3) (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **5(c)**
- F824** Word in rule 27.14(3) substituted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **5(d)**
- F825** Words in rule 27.14 omitted (6.4.2007) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2006 \(S.I. 2006/3435\)](#), rules 1, **6(b)**
- F826** Rule 27.14(3) omitted (2.10.2006) by virtue of [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **5(b)**
- F827** Rule 27.14(5)(6) omitted (1.4.2013) by virtue of [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **9(c)(ii)** (with rule 22)

Commencement Information

- I95** Rule 27.14 in force at 26.4.1999, see [Signature](#)

Claim re-allocated from the small claims track to another track

^{F828}**27.15.**—(1) Where a claim is allocated to the small claims track and subsequently re-allocated to another track, the costs which may be allowed are those applicable to the track to which the claim is reallocated, as if the claim been allocated to that track at the outset.

(2) Where a claim is reallocated to the small claims track from the multi-track, rule 27.14 shall apply to the period before, as well as after, reallocation, except where a court order or a rule or practice direction provides otherwise.]

Textual Amendments

- F828** Rule 27.15 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **9(4)** (with rule 2)

^{F829}PART 28

THE FAST TRACK AND THE INTERMEDIATE TRACK

Textual Amendments

- F829** Pt. 28 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rule 1(1), **Sch. 2** (with rule 2)

Contents of this Part

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II PROVISIONS APPLYING ONLY TO CASES ALLOCATED TO THE FAST TRACK	
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III PROVISIONS APPLYING ONLY TO NOISE INDUCED HEARING LOSS CASES ALLOCATED TO THE FAST TRACK	
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IV PROVISIONS APPLYING ONLY TO CASES ALLOCATED TO THE INTERMEDIATE TRACK	
Case management conference	Rule 28.12
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Directions	Rule 28.14
Costs	Rule 28.15

SECTION I

General Provisions Applying to Both Fast Track and Intermediate Track

Scope of this Part

28.1. This section contains general provisions about the management of cases allocated to the fast and intermediate tracks. Section II contains further provisions about the management of cases allocated to the fast track, other than for cases of noise induced hearing loss. Section III contains provisions about the management of noise induced hearing loss cases allocated to the fast track. Section IV contains further provisions about the management of cases allocated to the intermediate track.

(Part 27 sets out the procedure for claims allocated to the small claims track.)

(Part 29 sets out the procedure for claims allocated to the multi-track.)

General provisions

28.2.—(1) [^{F830}The] court shall give directions for the management of the case and set a timetable for the steps to be taken between the giving of the directions and the trial.

[^{F831}(2) When it allocates a case to the fast track, the court shall give directions unless it considers that it is necessary to fix a case management conference.

(3) When it allocates a case to the intermediate track, the court may give directions or fix a case management conference under rule 28.12.]

[^{F832}(4)] When it gives directions, the court shall—

- (a) make an order in relation to disclosure; and
- (b) either—
 - (i) fix the trial date; or
 - (ii) fix a period, not exceeding 3 weeks, within which the trial is to take place.

Textual Amendments

F830 Word in rule 28.2(1) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 7(1)(a)

F831 Rule 28.2(2)(3) substituted for rule 28.2(4)(5) (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 7(1)(c)

F832 Rule 28.2(2) renumbered as rule 28.2(4) (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 7(1)(b)

Variation of case management timetable

28.3.—(1) A party must apply to the court if they wish to vary any date which the court has fixed for—

- (a) any case management conference;
- (b) any pre-trial review;
- (c) filing the pre-trial check list;
- (d) the trial; or
- (e) the trial period.

(2) Any date set by the court or these Rules for doing any act may not be varied by the parties if the variation would make it necessary to vary any of the dates mentioned in paragraph (1).

(Rule 2.11 allows the parties to vary a date by written agreement except where the rules provide otherwise or the court orders otherwise.)

Pre-trial check list (listing questionnaire)

28.4.—(1) The court shall send the parties a pre-trial check list (listing questionnaire) for completion and return by the date specified in the notice of allocation unless it considers that the claim can proceed to trial without the need for a pre-trial check list.

(2) The date specified for filing a pre-trial check list shall not be more than 8 weeks before the trial date or the beginning of the trial period.

(3) If no party files the completed pre-trial check list by the date specified, the court shall order that unless a completed pre-trial check list is filed within 7 days from service of that order, the claim, defence and any counterclaim shall be struck out without further order of the court.

(4) If—

- (a) a party files a completed pre-trial check list but another party does not;
- (b) a party has failed to give all the information requested by the pre-trial check list; or
- (c) the court considers that a hearing is necessary to enable it to decide what directions to give in order to complete preparation of the case for trial,

the court may give such directions as it thinks appropriate.

Fixing or confirming the trial date and giving directions

28.5.—(1) As soon as practicable after the date specified for filing a completed pre-trial check list the court shall—

- (a) fix the date for the trial, unless it has already done so;
- (b) give any directions for the trial, including a trial timetable, which it considers appropriate; and
- (c) specify any further steps that need to be taken before trial.

(2) The court shall give the parties at least 3 weeks' notice of the date of the trial unless, in exceptional circumstances, the court directs that shorter notice be given.

Conduct of trial

28.6. Unless the trial judge otherwise directs, the trial shall be conducted in accordance with any order previously made.

SECTION II

Provisions Applying Only to Cases Allocated to the Fast Track

Directions

28.7.—(1) The matters to be dealt with by directions under rule 28.2(1) include—

- (a) disclosure of documents;
- (b) service of witness statements; and
- (c) expert evidence.

(Rules 28.2(3) and (4) deal with orders for disclosure.)

(Rule 26.9(6) deals with limitations in relation to expert evidence and the likely length of trial in fast track cases.)

(2) Directions to be given under rule 28.2(1) shall be in the form set out at <http://www.justice.gov.uk/courts/procedure-rules/civil>, unless the court orders otherwise.

Costs

28.8. The court's power to award costs is limited in accordance with Section VI and Section IX of Part 45.

SECTION III

Provisions Applying Only to Noise Induced Hearing Loss Cases Allocated to the Fast Track

Directions

28.9. Directions to be given under rule 28.2(1) shall be in the form set out at <http://www.justice.gov.uk/courts/procedure-rules/civil>, unless the court orders otherwise.

Limitation

28.10.—(1) The court may order a preliminary trial on limitation if satisfied that it is necessary in the interests of justice to do so.

(2) If any party seeks a direction for a preliminary trial on limitation, this must be identified in that party's directions questionnaire.

(3) Where a preliminary trial on limitation is ordered in respect of one or more, but not all, defendants, the claims against all the other defendants shall be stayed until determination of the preliminary issue.

Costs

28.11. The court's power to award costs is limited in accordance with Section VIII and Section IX of Part 45.

SECTION IV

Provisions Applying Only to Cases Allocated to the Intermediate Track

Case management conference

28.12. The court [^{F833}may] fix a case management conference and may fix a pre-trial review.

Textual Amendments

F833 Word in rule 28.12 substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 7(2)

Agreement of directions

28.13. The parties must endeavour to agree appropriate directions for the management of the proceedings and submit agreed directions, or their respective proposals to the court at least seven days before any case management conference. Where the court approves agreed directions, or issues its own directions, the parties shall be so notified by the court and the case management conference will be vacated accordingly.

Directions

28.14.—(1) The matters to be dealt with by directions under rule 28.2(1) include—

- (a) disclosure of documents;
- (b) service of witness statements;
- (c) expert evidence;

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (d) whether to fix a pre-trial review; and
 - (e) listing the case for trial.
- (2) The following provisions apply in respect of directions in the intermediate track—
- (a) oral expert evidence is limited to one witness per party, save where the oral evidence of a second expert for any party is reasonably required and is proportionate; and
 - (b) the trial time estimate must not exceed 3 days.
- (3) The following provisions apply in respect of directions in the intermediate track, unless the court orders otherwise—
- (a) rules 28.2(3) and (4) apply in respect of disclosure;
 - (b) the total length of all the permitted witness statements and witness summaries of a party shall not exceed 30 pages; and
 - ^{F834}(c) any expert report shall not exceed 20 pages—
 - (i) including the expert’s description of the issues on which they are instructed to give their opinion, the conclusions they have reached and the reasons for those conclusions; but
 - (ii) excluding the expert’s curriculum vitae, any supporting materials to which the reasons for their conclusions refer and any necessary photographs, plans and academic articles attached to the report.]

Textual Amendments

F834 Rule 28.14(3)(c) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 7(3)

Costs

28.15. The court’s power to award costs is limited in accordance with Section VII and Section IX of Part 45.]

PART 29

THE MULTI-TRACK

Modifications etc. (not altering text)

- C46** Pt. 29 excluded (7.10.2001) by [The Railway Administration Order Rules 2001 \(S.I. 2001/3352\)](#), rules 1.1, **6.33(2)**
- C47** Pt. 29 excluded (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011 \(S.I. 2011/1301\)](#), rules 2, **225(3)** (with rule 5)
- C48** Pt. 29 excluded (18.7.2023) by [The Relevant Licensee Nuclear Company Administration \(England and Wales\) Rules 2023 \(S.I. 2023/712\)](#), rules 1(2)(a), **130(2)** (with rule 2)

Contents of this Part

Scope of this Part	Rule 29.1
Case management	Rule 29.2

Case management conference and pre-trial review	Rule 29.3
Steps taken by the parties	Rule 29.4
Variation of case management timetable	Rule 29.5
Listing questionnaire	Rule 29.6
Pre-trial review	Rule 29.7
Setting a trial timetable and fixing or confirming the trial date or week	Rule 29.8
Conduct of the trial	Rule 29.9

Scope of this Part

29.1 This Part contains general provisions about management of cases allocated to the multi-track and applies only to cases allocated to that track.

(Part 27 sets out the procedure for claims allocated to the small claims track)

(Part 28 sets out the procedure for claims allocated to the fast track [^{F835}or intermediate track])

[^{F836}(2) When drafting case management directions both the parties and the court should take as their starting point any relevant model directions and standard directions which can be found online at www.justice.gov.uk/courts/procedure-rules/civil and adapt them as appropriate to the circumstances of the particular case.]

Textual Amendments

F835 Words in rule 29.1 inserted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), 11 (with rule 2)

F836 Rule 29.1(2) inserted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, rule 10(a) (with rule 22)

Commencement Information

I96 Rule 29.1 in force at 26.4.1999, see [Signature](#)

Case management

29.2.—(1) When it allocates a case to the multi-track, the court will—

(a) give directions for the management of the case and set a timetable for the steps to be taken between the giving of directions and the trial; or [^{F837}may]

(b) fix—

(i) a case management conference; or

(ii) a pre-trial review,

or both, and give such other directions relating to the management of the case as it sees fit.

(2) The court will fix the trial date or the period in which the trial is to take place as soon as practicable.

(3) When the court fixes the trial date or the trial period under paragraph (2), it will—

(a) give notice to the parties of the date or period; and

- (b) specify the date by which the parties must file a [^{F838}pre-trial check list].

Textual Amendments

F837 Word in rule 29.2(1)(a) inserted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **10(b)** (with rule 22)

F838 Words in rule 29.2(3)(b) substituted (2.12.2002) by The Civil Procedure (Amendment) Rules 2002 (S.I. 2002/2058), rules 1(b), **8**

Commencement Information

I97 Rule 29.2 in force at 26.4.1999, see [Signature](#)

Case management conference and pre-trial review

29.3.—(1) The court may fix—

- (a) a case management conference; or
- (b) a pre-trial review,

at any time after the claim has been allocated.

(2) If a party has a legal representative, a representative—

- (a) familiar with the case; and
- (b) with sufficient authority to deal with any issues that are likely to arise, must attend case management conferences and pre-trial reviews.

(Rule 3.1(2)(c) provides that the court may require a party to attend the court)

Commencement Information

I98 Rule 29.3 in force at 26.4.1999, see [Signature](#)

Steps taken by the parties

[^{F839}**29.4** The parties must endeavour to agree appropriate directions for the management of the proceedings and submit agreed directions, or their respective proposals to the court at least seven days before any case management conference. Where the court approves agreed directions, or issues its own directions, the parties will be so notified by the court and the case management conference will be vacated.]

Textual Amendments

F839 Rule 29.4 substituted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **10(c)** (with rule 22)

Commencement Information

I99 Rule 29.4 in force at 26.4.1999, see [Signature](#)

Variation of case management timetable

29.5.—(1) A party must apply to the court if he wishes to vary the date which the court has fixed for—

- (a) a case management conference;
- (b) a pre-trial review;
- (c) the return of a [^{F840}pre-trial check list] under rule 29.6;
- (d) the trial; or
- (e) the trial period.

(2) Any date set by the court or these Rules for doing any act may not be varied by the parties if the variation would make it necessary to vary any of the dates mentioned in paragraph (1).

(Rule 2.11 allows the parties to vary a date by written agreement except where the rules provide otherwise or the court orders otherwise)

Textual Amendments

F840 Words in rule 29.5(1)(c) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **8**

Commencement Information

I100 [Rule 29.5](#) in force at 26.4.1999, see [Signature](#)

[^{F841}Pre-trial check list (listing questionnaire)]

29.6.—(1) The court will send the parties a pre-trial check list (listing questionnaire) for completion and return by the date specified in directions given under rule 29.2(3) unless it considers that the claim can proceed to trial without the need for a pre-trial check list.

(2) Each party must file the completed pre-trial check list by the date specified by the court.

[^{F842}(3) If no party files the completed pre-trial checklist by the date specified, the court will order that unless a completed pre-trial checklist is filed within 7 days from service of that order, the claim, defence and any counterclaim will be struck out without further order of the court.]

[^{F843}(4) If—

- (a) a party files a completed pre-trial checklist but another party does not;
- (b) a party has failed to give all the information requested by the pre-trial checklist; or
- (c) the court considers that a hearing is necessary to enable it to decide what directions to give in order to complete preparation of the case for trial,

the court may give such directions as it thinks appropriate.]]

Textual Amendments

F841 [Rule 29.6](#) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **10**

F842 [Rule 29.6\(3\)](#) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **33(a)**

F843 [Rule 29.6\(4\)](#) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **33(b)**

Pre-trial review

29.7 If, on receipt of the parties' [^{F844}pre-trial check lists], the court decides—

- (a) to hold a pre-trial review; or
- (b) to cancel a pre-trial review which has already been fixed,

it will serve notice of its decision at least 7 days before the date fixed for the hearing or, as the case may be, the cancelled hearing.

Textual Amendments

F844 Words in [rule 29.7](#) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), [rules 1\(b\)](#), [11](#)

Commencement Information

I101 [Rule 29.7](#) in force at 26.4.1999, see [Signature](#)

Setting a trial timetable and ^{F845}... confirming the trial date or week

29.8 As soon as practicable after—

- (a) each party has filed a completed [^{F846}pre-trial check list];
- (b) the court has held a listing hearing under [rule 29.6\(3\)](#); or
- (c) the court has held a pre-trial review under [rule 29.7](#),

the court will—

- (i) set a timetable for the trial unless a timetable has already been fixed, or the court considers that it would be inappropriate to do so;
- [^{F847}(ii) confirm the date for trial or the week within which the trial is to begin; and]
- (iii) notify the parties of the trial timetable (where one is fixed under this rule) and the date or trial period.

Textual Amendments

F845 Words in [rule 29.8](#) heading omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), [rules 2](#), [12](#)

F846 Words in [rule 29.8\(a\)](#) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), [rules 1\(b\)](#), [8](#)

F847 [Rule 29.8\(c\)\(ii\)](#) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), [rules 2](#), [10\(d\)](#) (with [rule 22](#))

Commencement Information

I102 [Rule 29.8](#) in force at 26.4.1999, see [Signature](#)

Conduct of trial

29.9 Unless the trial judge otherwise directs, the trial will be conducted in accordance with any order previously made.

Commencement Information

I103 [Rule 29.9](#) in force at 26.4.1999, see [Signature](#)

PART 30

TRANSFER

Contents of this Part

Scope of this Part	Rule 30.1
Transfer [^{F848} within the County Court and] the High Court	Rule 30.2
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Power to specify place where hearings are to be held	Rule 30.6
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Scope of this Part

30.1.—[^{F849}(1)] This Part deals with the transfer of proceedings [^{F850}within the County Court], between the High Court and [^{F851}the County Court] and within the High Court.

^{F852} ...

[^{F853}(2) [^{F854}Practice Direction 30 makes] provision about the transfer of proceedings between the court and a tribunal.]

Textual Amendments

- F849** Rule 30.1 renumbered as rule 30.1(1) (6.10.2003) by [The Civil Procedure \(Amendment No. 4\) Rules 2003 \(S.I. 2003/2113\)](#), rules 1(c), **5(a)**
- F850** Words in rule 30.1(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(b)**; S.I. 2014/954, art. 2(a)
- F851** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iii)**; S.I. 2014/954, art. 2(a)
- F852** Words in rule 30.1 omitted (19.3.2012) by virtue of [The Civil Procedure \(Amendment No.4\) Rules 2011 \(S.I. 2011/3103\)](#), rules 1, **10**
- F853** Rule 30.1(2) inserted (6.10.2003) by [The Civil Procedure \(Amendment No. 4\) Rules 2003 \(S.I. 2003/2113\)](#), rules 1(c), **5(b)**
- F854** Words in rule 30.1(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **15(a)**

Commencement Information

- I104** Rule 30.1 in force at 26.4.1999, see [Signature](#)

Transfer [^{F855}within the County Court and] the High Court

30.2.—(1) [^{F856}In the County Court, a court may order that proceedings], or any part of them (such as a counterclaim or an application made in the proceedings), [^{F857}may be] transferred to another [^{F858}County Court hearing centre] if it is satisfied that—

- (a) an order should be made having regard to the criteria in rule 30.3; or
- (b) proceedings for
 - (i) the detailed assessment of costs; or
 - (ii) the enforcement of a judgment or order,
 could be more conveniently or fairly taken [^{F859}elsewhere].

^{F860}(2)

(3) An application for an order under paragraph (1) ^{F861}... must be made to the [^{F862}County Court hearing centre] where the claim is proceeding.

(4) The High Court may, having regard to the criteria in rule 30.3, order proceedings in the Royal Courts of Justice or a district registry, or any part of such proceedings (such as a counterclaim or an application made in the proceedings), to be transferred—

- (a) from the Royal Courts of Justice to a district registry; or
- (b) from a district registry to the Royal Courts of Justice or to another district registry.

(5) A district registry may order proceedings before it for the detailed assessment of costs to be transferred to another district registry if it is satisfied that the proceedings could be more conveniently or fairly taken in that other district registry.

(6) An application for an order under paragraph (4) or (5) must, if the claim is proceeding in a district registry, be made to that registry.

(7) Where some enactment, other than these Rules, requires proceedings to be started [^{F863}by sending, or making, the claim or application to a particular County Court hearing centre, paragraph (1) does not give the court power to order proceedings to be transferred elsewhere.]

(8) Probate proceedings may only be transferred under paragraph (4) to the Chancery Division at the Royal Courts of Justice or to one of the Chancery district registries.

Textual Amendments

F855 Words in rule 30.2 heading substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(i)**; S.I. 2014/954, art. 2(a)

F856 Words in rule 30.2(1) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(ii)(aa)**; S.I. 2014/954, art. 2(a)

F857 Words in rule 30.2(1) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(ii)(bb)**; S.I. 2014/954, art. 2(a)

F858 Words in rule 30.2(1) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(ii)(cc)**; S.I. 2014/954, art. 2(a)

F859 Word in rule 30.2(1) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(ii)(dd)**; S.I. 2014/954, art. 2(a)

F860 Rule 30.2(2) omitted (22.4.2014) by virtue of The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(iii)**; S.I. 2014/954, art. 2(a)

F861 Words in rule 30.2(3) omitted (22.4.2014) by virtue of The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(iv)(aa)**; S.I. 2014/954, art. 2(a)

F862 Words in rule 30.2(3) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **15(c)(iv)(bb)**; S.I. 2014/954, art. 2(a)

F863 Words in rule 30.2(7) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(c)(v)**; S.I. 2014/954, art. 2(a)

Commencement Information

I105 [Rule 30.2](#) in force at 26.4.1999, see [Signature](#)

Criteria for a transfer order

30.3.—(1) Paragraph (2) sets out the matters to which the court must have regard when considering whether to make an order under—

- (a) s.40(2), 41(1) or 42(2) of the County Courts Act 1984(**26**) (transfer between the High Court and [^{F53}the County Court]);
 - (b) rule 30.2(1) (transfer [^{F864}within the County Court]); or
 - (c) rule 30.2(4) (transfer between the Royal Courts of Justice and the district registries).
- (2) The matters to which the court must have regard include—
- (a) the financial value of the claim and the amount in dispute, if different;
 - (b) whether it would be more convenient or fair for hearings (including the trial) to be held in some other court;
 - (c) the availability of a judge specialising in the type of claim in question [^{F865}and in particular the availability of a specialist judge sitting in an appropriate regional specialist court];
 - (d) whether the facts, legal issues, remedies or procedures involved are simple or complex;
 - (e) the importance of the outcome of the claim to the public in general;
 - [^{F866}(f) the facilities available to the court at which the claim is being dealt with, particularly in relation to—
 - (i) any disabilities of a party or potential witness;
 - (ii) any special measures needed for potential witnesses; or
 - (iii) security;]
 - [^{F867}(g) whether the making of a declaration of incompatibility under section 4 of the Human Rights Act 1998 has arisen or may arise];
 - [^{F868}(h) in the case of civil proceedings by or against the Crown, as defined in rule 66.1(2), the location of the relevant government department or officers of the Crown and, where appropriate, any relevant public interest that the matter should be tried in London.]

[^{F869}(3) Where in proceedings [^{F870}in the County Court] the court considers that there is a real possibility that a party would in the course of the proceedings be required to disclose material the disclosure of which would be damaging to the interests of national security, the court must transfer the proceedings to the High Court.]

Textual Amendments

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

F864 Words in rule 30.3(1)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(d)(i)**; S.I. 2014/954, art. 2(a)

(26) [1984 c. 28](#). Section 40 was substituted by section 2(1) of the Courts and Legal Services Act 1990 ([c. 41](#)). Section 41 was amended by the Matrimonial and Family Proceedings Act 1984 ([c. 42](#)), Schedule 1, paragraph 31 and by section 2(2) of the Courts and Legal Services Act 1990. Section 42 was substituted by section 2(3) of the Courts and Legal Services Act 1990.

- F865** Words in rule 30.3(2)(c) inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **6**
- F866** Rule 30.3(2)(f) substituted (31.1.2011) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(3), **3**; S.I. 2010/2988, **art. 2**
- F867** Rule 30.3(2)(g) inserted (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **13(b)**
- F868** Rule 30.3(2)(h) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **34**
- F869** Rule 30.3(3) inserted (27.6.2013) by [The Civil Procedure \(Amendment No. 5\) Rules 2013 \(S.I. 2013/1571\)](#), rules 1, **5**
- F870** Words in rule 30.3(3) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(d)(ii)**; S.I. 2014/954, art. 2(a)

Commencement Information

- I106** [Rule 30.3](#) in force at 26.4.1999, see [Signature](#)

Procedure

30.4.—(1) Where the court orders proceedings to be transferred, [^{F871}it will give notice of that] transfer to all the parties.

(2) An order made before the transfer of the proceedings shall not be affected by the order to transfer.

[^{F872}(3) Where—

- (a) proceedings for the enforcement of a judgment or order for possession of land are transferred by the County Court to the High Court; and
- (b) the land which is the subject of the possession order is located within the area of a District Registry,

then, unless the court orders otherwise on or following transfer, the transfer shall be to that District Registry and all applications made in the High Court in relation to such transferred proceedings (including for any stay or suspension of any writ) shall be made in that District Registry.]

Textual Amendments

- F871** Words in [rule 30.4](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(e)**; S.I. 2014/954, art. 2(a)
- F872** [Rule 30.4\(3\)](#) inserted (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **6** (as amended by S.I. 2020/889, **rule 3(a)**)

Commencement Information

- I107** [Rule 30.4](#) in force at 26.4.1999, see [Signature](#)

Transfer between Divisions and to and from a specialist list

30.5.—(1) The High Court may order proceedings in any Division of the High Court to be transferred to another Division.

[^{F873}(2) A judge dealing with claims in a specialist list may order proceedings to be transferred to or from that list.]

(3) An application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list.

[^{F874}(4) An order for transfer of proceedings between the Chancery Division and a [^{F875}King's] Bench Division specialist list may only be made with the consent of the Chancellor of the High Court.]

Textual Amendments

- F873** Rule 30.5(2) substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **8**
- F874** Rule 30.5(4) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **4**
- F875** Word in rule 30.5(4) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **20(1)**

Commencement Information

- I108** Rule 30.5 in force at 26.4.1999, see [Signature](#)

Power to specify place where hearings are to be held

30.6 The court may specify the place (for instance, a particular [^{F876}County Court hearing centre]) where the trial or some other hearing in any proceedings is to be held and may do so without ordering the proceedings to be transferred.

[^{F877}(Practice Direction 54D ^{F878}... contains provisions about where hearings may be held in proceedings in the Administrative Court.)]

Textual Amendments

- F876** Words in rule 30.6 substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(f)**; [S.I. 2014/954](#), art. 2(a)
- F877** Words in rule 30.6 inserted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008 \(S.I. 2008/3327\)](#), rules 1, **8**
- F878** Words in rule 30.6 omitted (6.4.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **15(b)**

Commencement Information

- I109** Rule 30.6 in force at 26.4.1999, see [Signature](#)

Transfer of control of money in court

30.7 The court may order that control of any money held by it under rule 21.11 (control of money recovered by or on behalf of a child or [^{F879}protected party]) be transferred to another court [^{F880}or County Court hearing centre] if that court [^{F881}or hearing centre] would be more convenient.

Textual Amendments

- F879** Words in rule 30.7 substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **9**
- F880** Words in rule 30.7 inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(g)(i)**; [S.I. 2014/954](#), art. 2(a)
- F881** Words in rule 30.7 inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **15(g)(ii)**; [S.I. 2014/954](#), art. 2(a)

Commencement Information

I110 Rule 30.7 in force at 26.4.1999, see [Signature](#)

^{F882}Transfer of competition law claims

30.8.—(1) This rule applies if, in any proceedings in the [^{F883}King’s] Bench Division [^{F884}(other than proceedings in the Commercial or Admiralty Courts)], a district registry of the High Court or [^{F53}the County Court], a party’s statement of case raises an issue relating to the application [^{F885}of Chapter I or II of Part I of the Competition Act 1998].

(2) Rules 30.2 and 30.3 do not apply.

(3) The court must transfer the proceedings to the Chancery Division of the High Court at the Royal Courts of Justice.

[^{F886}(4) If any such proceedings which have been commenced in the [^{F887}King’s] Bench Division or a [^{F888}Circuit Commercial Court] fall within the scope of rule 58.1(2), any party to those proceedings may apply for the transfer of the proceedings to the Commercial Court, in accordance with rule 58.4(2) and rule 30.5(3). If the application is refused, the proceedings must be transferred to the Chancery Division of the High Court at the Royal Courts of Justice.]]

Textual Amendments

- F53** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)
- F882** Rule 30.8 substituted (1.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004](#) (S.I. 2004/1306), rules 1(a), **5**
- F883** Word in rule 30.8(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **20(2)**
- F884** Words in rule 30.8(1) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **35(a)**
- F885** Words in rule 30.8(1) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **9(2)** (with reg. 21); 2020 c. 1, Sch. 5 para. 1(1)
- F886** Rule 30.8(4) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **35(b)**
- F887** Word in rule 30.8(4) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **20(2)**
- F888** Words in rule 30.8(4) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/889), rules 1(1), **4**

PART 31

DISCLOSURE AND INSPECTION OF DOCUMENTS

Modifications etc. (not altering text)

- C49** Pt. 31 applied (with modifications) (5.4.2010) by [The Criminal Procedure Rules 2010](#) (S.I. 2010/60), Preamble, **rule 61.9** (with rule 2)
- C50** Pt. 31 applied (with modifications) (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011](#) (S.I. 2011/1301), rules 2, **230**, 251 (with rule 5)

- C51** Pt. 31 excluded (30.6.2011) by The Investment Bank Special Administration (England and Wales) Rules 2011 (S.I. 2011/1301), rules 2, **55(12)** (with rule 5)
- C52** Pt. 31 excluded (30.6.2011) by The Investment Bank Special Administration (England and Wales) Rules 2011 (S.I. 2011/1301), rules 2, **60(11)** (with rule 5)
- C53** Pt. 31 modified (3.10.2011) by The Criminal Procedure Rules 2011 (S.I. 2011/1709), Preamble, **rule 61.9**
- C54** Pt. 31 modified (1.10.2012) by The Criminal Procedure Rules 2012 (S.I. 2012/1726), **rule 61.9(3)**
- C55** Pt. 31 excluded (7.6.2013) by The Energy Supply Company Administration Rules 2013 (S.I. 2013/1046), rules 1, **17(10)** (with rules 3, 208)
- C56** Pt. 31 excluded (7.6.2013) by The Energy Supply Company Administration Rules 2013 (S.I. 2013/1046), rules 1, **21(10)** (with rules 3, 208)
- C57** Pt. 31 modified (7.10.2013) by The Criminal Procedure Rules 2013 (S.I. 2013/1554), **rule 61.9(3)** (with rule 2.1)
- C58** Pt. 31 excluded (31.1.2014) by The Postal Administration Rules 2013 (S.I. 2013/3208), rules 1, **21(10)** (with rules 3, 210)
- C59** Pt. 31 excluded (31.1.2014) by The Postal Administration Rules 2013 (S.I. 2013/3208), rules 1, **17(10)** (with rules 3, 210)
- C60** Pt. 31 modified (6.10.2014) by The Criminal Procedure Rules 2014 (S.I. 2014/1610), **rule 61.9(3)** (with rule 2.1)
- C61** Pt. 31 modified (5.10.2015) by The Criminal Procedure Rules 2015 (S.I. 2015/1490), **rule 33.40(3)**
- C62** Pt. 31 excluded (5.7.2018) by The Housing Administration (England and Wales) Rules 2018 (S.I. 2018/719), rules 1.1, **3.34(1)** (with rule 1.2)
- C63** Pt. 31 excluded (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rules 1, **3.34(1)** (with rule 1.2)
- C64** Pt. 31 excluded (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **18(11), 24(11)** (with rule 4(1))
- C65** Pt. 31 modified (5.10.2020) by The Criminal Procedure Rules 2020 (S.I. 2020/759), **rule 33.40(3)**
- C66** Pt. 31 excluded (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **27(10)**
- C67** Pt. 31 applied (with modifications) (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **187**, 192, 213
- C68** Pt. 31 excluded (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **22(11)**
- C69** Pt. 31 excluded (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **18(12), 24(11)** (with rule 2)

Contents of this Part

Scope of this Part	Rule 31.1
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Scope of this Part

- 31.1.**—(1) This Part sets out rules about the disclosure and inspection of documents.
(2) This Part applies to all claims except a claim on the small claims track.

Commencement Information

I111 [Rule 31.1](#) in force at 26.4.1999, see [Signature](#)

Meaning of disclosure

- 31.2** A party discloses a document by stating that the document exists or has existed.

Commencement Information

I112 [Rule 31.2](#) in force at 26.4.1999, see [Signature](#)

Right of inspection of a disclosed document

31.3.—(1) A party to whom a document has been disclosed has a right to inspect that document except where—

- (a) the document is no longer in the control of the party who disclosed it;
- (b) the party disclosing the document has a right or a duty to withhold inspection of it; [^{F890}or]
- (c) paragraph (2) applies ; ^{F891} ...
- ^{F892}(d)

(Rule 31.8 sets out when a document is in the control of a party)

(Rule 31.19 sets out the procedure for claiming a right or duty to withhold inspection)

^{F893} ...

31.3.—(2) Where a party considers that it would be disproportionate to the issues in the case to permit inspection of documents within a category or class of document disclosed under rule 31.6(b) —

- (a) he is not required to permit inspection of documents within that category or class; but
- (b) he must state in his disclosure statement that inspection of those documents will not be permitted on the grounds that to do so would be disproportionate.

(Rule 31.6 provides for standard disclosure)

(Rule 31.10 makes provision for a disclosure statement)

(Rule 31.12 provides for a party to apply for an order for specific inspection of documents)

Textual Amendments

F890 Word in rule 31.3(1)(b) inserted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(2)(a)(i)** (with reg. 22) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

F891 Word in rule 31.3(1)(c) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(2)(a)(ii)** (with reg. 22) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

F892 Rule 31.3(1)(d) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(2)(a)(iii)** (with reg. 22) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

F893 Words in rule 31.3(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(2)(b)** (with reg. 22) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

Commencement Information

I113 [Rule 31.3](#) in force at 26.4.1999, see [Signature](#)

Meaning of document

31.4 In this Part—

“document” means anything in which information of any description is recorded; and
“copy”, in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.

Commencement Information

I114 Rule 31.4 in force at 26.4.1999, see [Signature](#)

Disclosure^{F894} ...

31.5.—^{F895}(1)

(2) Unless the court otherwise orders, paragraphs (3) to (8) apply to all [^{F896}intermediate and] multi-track claims, other than those which include a claim for personal injuries.

(3) Not less than 14 days before the first case management conference [^{F897}, if any,] each party must file and serve a report verified by a statement of truth, which—

- (a) describes briefly what documents exist or may exist that are or may be relevant to the matters in issue in the case;
- (b) describes where and with whom those documents are or may be located;
- (c) in the case of electronic documents, describes how those documents are stored;
- (d) estimates the broad range of costs that could be involved in giving standard disclosure in the case, including the costs of searching for and disclosing any electronically stored documents; and
- (e) states which of the directions under paragraphs (7) or (8) are to be sought.

(4) In cases where the Electronic Documents Questionnaire has been exchanged, the Questionnaire should be filed with the report required by paragraph (3).

(5) Not less than seven days before the first case management conference, and on any other occasion as the court may direct, the parties must, at a meeting or by telephone, discuss and seek to agree a proposal in relation to disclosure that meets the overriding objective.

(6) If—

- (a) the parties agree proposals for the scope of disclosure; and
- (b) the court considers that the proposals are appropriate in all the circumstances,

the court may approve them without a hearing and give directions in the terms proposed.

(7) At the first or any subsequent case management conference, the court will decide, having regard to the overriding objective and the need to limit disclosure to that which is necessary to deal with the case justly, which of the following orders to make in relation to disclosure—

- (a) an order dispensing with disclosure;
- (b) an order that a party disclose the documents on which it relies, and at the same time request any specific disclosure it requires from any other party;
- (c) an order that directs, where practicable, the disclosure to be given by each party on an issue by issue basis;
- (d) an order that each party disclose any documents which it is reasonable to suppose may contain information which enables that party to advance its own case or to damage that of any other party, or which leads to an enquiry which has either of those consequences;
- (e) an order that a party give standard disclosure;
- (f) any other order in relation to disclosure that the court considers appropriate.

(8) The court may at any point give directions as to how disclosure is to be given, and in particular—

- (a) what searches are to be undertaken, of where, for what, in respect of which time periods and by whom and the extent of any search for electronically stored documents;
- (b) whether lists of documents are required;
- (c) how and when the disclosure statement is to be given;
- (d) in what format documents are to be disclosed (and whether any identification is required);
- (e) what is required in relation to documents that once existed but no longer exist; and
- (f) whether disclosure shall take place in stages.

(9) To the extent that the documents to be disclosed are electronic, the provisions of Practice Direction 31B – Disclosure of Electronic Documents will apply in addition to paragraphs (3) to (8).

(The court may make an order requiring standard disclosure under rule 28.3 which deals with directions in relation to cases on the fast track and under rule 29.2 which deals with case management in relation to cases on the multi-track)

Textual Amendments

- F894** Words in rule 31.5 heading omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **13**
- F895** [Rule 31.5\(1\)](#) omitted (6.4.2024) by virtue of [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **8(a)**
- F896** Words in [rule 31.5\(2\)](#) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **8(b)**
- F897** Words in [rule 31.5\(3\)](#) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **8(c)**

Commencement Information

- I115** [Rule 31.5](#) in force at 26.4.1999, see [Signature](#)

Standard disclosure—what documents are to be disclosed

31.6 Standard disclosure requires a party to disclose only—

- (a) the documents on which he relies; and
- (b) the documents which—
 - (i) adversely affect his own case;
 - (ii) adversely affect another party’s case; or
 - (iii) support another party’s case; and
- (c) the documents which he is required to disclose by a relevant practice direction.

Commencement Information

- I116** [Rule 31.6](#) in force at 26.4.1999, see [Signature](#)

Duty of search

31.7.—(1) When giving standard disclosure, a party is required to make a reasonable search for documents falling within rule 31.6(b) or (c).

(2) The factors relevant in deciding the reasonableness of a search include the following—

- (a) the number of documents involved;
- (b) the nature and complexity of the proceedings;
- (c) the ease and expense of retrieval of any particular document; and
- (d) the significance of any document which is likely to be located during the search.

(3) Where a party has not searched for a category or class of document on the grounds that to do so would be unreasonable, he must state this in his disclosure statement and identify the category or class of document.

(Rule 31.10 makes provision for a disclosure statement)

Commencement Information

I117 [Rule 31.7](#) in force at 26.4.1999, see [Signature](#)

Duty of disclosure limited to documents which are or have been in party's control

31.8.—(1) A party's duty to disclose documents is limited to documents which are or have been in his control.

- (2) For this purpose a party has or has had a document in his control if—
 - (a) it is or was in his physical possession;
 - (b) he has or has had a right to possession of it; or
 - (c) he has or has had a right to inspect or take copies of it.

Commencement Information

I118 [Rule 31.8](#) in force at 26.4.1999, see [Signature](#)

Disclosure of copies

- 31.9.**—(1) A party need not disclose more than one copy of a document.
- (2) A copy of a document that contains a modification, obliteration or other marking or feature—
 - (a) on which a party intends to rely; or
 - (b) which adversely affects his own case or another party's case or supports another party's case;

shall be treated as a separate document.

(Rule 31.4 sets out the meaning of a copy of a document)

Commencement Information

I119 [Rule 31.9](#) in force at 26.4.1999, see [Signature](#)

Procedure for standard disclosure

- 31.10.**—(1) The procedure for standard disclosure is as follows.
- (2) Each party must make and serve on every other party, a list of documents in the relevant practice form.

(3) The list must identify the documents in a convenient order and manner and as concisely as possible.

(4) The list must indicate—

- (a) those documents in respect of which the party claims a right or duty to withhold inspection; and
- (b) (i) those documents which are no longer in the party's control; and
(ii) what has happened to those documents.

(Rule 31.19 (3) and (4) require a statement in the list of documents relating to any documents inspection of which a person claims he has a right or duty to withhold)

(5) The list must include a disclosure statement.

(6) A disclosure statement is a statement made by the party disclosing the documents—

- (a) setting out the extent of the search that has been made to locate documents which he is required to disclose;
- (b) certifying that he understands the duty to disclose documents; and
- (c) certifying that to the best of his knowledge he has carried out that duty.

(7) Where the party making the disclosure statement is a company, firm, association or other organisation, the statement must also—

- (a) identify the person making the statement; and
- (b) explain why he is considered an appropriate person to make the statement.

(8) The parties may agree in writing—

- (a) to disclose documents without making a list; and
- (b) to disclose documents without the disclosing party making a disclosure statement.

(9) A disclosure statement may be made by a person who is not a party where this is permitted by a relevant practice direction.

Commencement Information

I120 [Rule 31.10](#) in force at 26.4.1999, see [Signature](#)

Duty of disclosure continues during proceedings

31.11.—(1) Any duty of disclosure continues until the proceedings are concluded.

(2) If documents to which that duty extends come to a party's notice at any time during the proceedings, he must immediately notify every other party.

Commencement Information

I121 [Rule 31.11](#) in force at 26.4.1999, see [Signature](#)

Specific disclosure or inspection

31.12.—(1) The court may make an order for specific disclosure or specific inspection.

(2) An order for specific disclosure is an order that a party must do one or more of the following things—

- (a) disclose documents or classes of documents specified in the order;

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (b) carry out a search to the extent stated in the order;
- (c) disclose any documents located as a result of that search.

(3) An order for specific inspection is an order that a party permit inspection of a document referred to in rule 31.3(2).

(Rule 31.3(2) allows a party to state in his disclosure statement that he will not permit inspection of a document on the grounds that it would be disproportionate to do so)

F898

Textual Amendments
F898 Words in rule 31.12 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(3)** (with reg. 22) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

Commencement Information
I122 [Rule 31.12](#) in force at 26.4.1999, see [Signature](#)

Disclosure in stages

31.13 The parties may agree in writing, or the court may direct, that disclosure or inspection or both shall take place in stages.

Commencement Information
I123 [Rule 31.13](#) in force at 26.4.1999, see [Signature](#)

Documents referred to in statements of case etc.

31.14.—[^{F899}(1)] A party may inspect a document mentioned in—

- (a) a statement of case;
- (b) a witness statement;
- (c) a witness summary; [^{F900}or]
- (d) an affidavit^(GL)[^{F901}.]

^{F902}(e)

(Rule 35.10(4) makes provision in relation to instructions referred to in an expert’s report)

[^{F903}(2) Subject to rule 35.10(4), a party may apply for an order for inspection of any document mentioned in an expert’s report which has not already been disclosed in the proceedings.]

Textual Amendments
F899 Rule 31.14 renumbered as rule 31.14(1) (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **20(a)**
F900 Word in rule 31.14(1)(c) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **20(b)**
F901 Full stop in rule 31.14(1)(d) substituted for word (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **20(c)**

F902 Rule 31.14(1)(e) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **20(d)**

F903 Rule 31.14(2) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **20(e)**

Commencement Information

I124 [Rule 31.14](#) in force at 26.4.1999, see [Signature](#)

Inspection and copying of documents

31.15 Where a party has a right to inspect a document—

- (a) that party must give the party who disclosed the document written notice of his wish to inspect it;
- (b) the party who disclosed the document must permit inspection not more than 7 days after the date on which he received the notice; and
- (c) that party may request a copy of the document and, if he also undertakes to pay reasonable copying costs, the party who disclosed the document must supply him with a copy not more than 7 days after the date on which he received the request.

(Rule 31.3 and 31.14 deal with the right of a party to inspect a document)

Commencement Information

I125 [Rule 31.15](#) in force at 26.4.1999, see [Signature](#)

Disclosure before proceedings start

31.16.—(1) This rule applies where an application is made to the court under any Act for disclosure before proceedings have started⁽²⁷⁾.

- (2) The application must be supported by evidence.
- (3) The court may make an order under this rule only where—
 - (a) the respondent is likely to be a party to subsequent proceedings;
 - (b) the applicant is also likely to be a party to those proceedings;
 - (c) if proceedings had started, the respondent’s duty by way of standard disclosure, set out in rule 31.6, would extend to the documents or classes of documents of which the applicant seeks disclosure; and
 - (d) disclosure before proceedings have started is desirable in order to—
 - (i) dispose fairly of the anticipated proceedings;
 - (ii) assist the dispute to be resolved without proceedings; or
 - (iii) save costs.
- (4) An order under this rule must—
 - (a) specify the documents or the classes of documents which the respondent must disclose; and
 - (b) require him, when making disclosure, to specify any of those documents—

⁽²⁷⁾ An application for disclosure before proceedings have started is permitted under section 33 of the Supreme Court Act 1981(c. 54) or section 52 of the County Courts Act 1984 (c. 28).

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (i) which are no longer in his control; or
 - (ii) in respect of which he claims a right or duty to withhold inspection.
- (5) Such an order may—
- (a) require the respondent to indicate what has happened to any documents which are no longer in his control; and
 - (b) specify the time and place for disclosure and inspection.

F904

Textual Amendments
F904 Words in rule 31.16 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(4)** (with reg. 22) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

Commencement Information
I126 [Rule 31.16](#) in force at 26.4.1999, see [Signature](#)

Orders for disclosure against a person not a party

- 31.17.**—(1) This rule applies where an application is made to the court under any Act for disclosure by a person who is not a party to the proceedings**(28)**.
- (2) The application must be supported by evidence.
 - (3) The court may make an order under this rule only where—
 - (a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and
 - (b) disclosure is necessary in order to dispose fairly of the claim or to save costs.
 - (4) An order under this rule must—
 - (a) specify the documents or the classes of documents which the respondent must disclose; and
 - (b) require the respondent, when making disclosure, to specify any of those documents—
 - (i) which are no longer in his control; or
 - (ii) in respect of which he claims a right or duty to withhold inspection.
 - (5) Such an order may—
 - (a) require the respondent to indicate what has happened to any documents which are no longer in his control; and
 - (b) specify the time and place for disclosure and inspection.

F905

(28) An application for disclosure against a person who is not a party to proceedings is permitted under section 34 of the Supreme Court Act 1981(c. 54) or section 53 of the County Courts Act 1984 (c. 28).

Textual Amendments

F905 Words in rule 31.17 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **10(5)** (with [reg. 22](#)) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(e); 2020 c. 1, Sch. 5 para. 1(1))

Commencement Information

I127 [Rule 31.17](#) in force at 26.4.1999, see [Signature](#)

Rules not to limit other powers of the court to order disclosure

31.18 Rules 31.16 and 31.17 do not limit any other power which the court may have to order—

- (a) disclosure before proceedings have started; and
- (b) disclosure against a person who is not a party to proceedings.

Commencement Information

I128 [Rule 31.18](#) in force at 26.4.1999, see [Signature](#)

Claim to withhold inspection or disclosure of a document

31.19.—(1) A person may apply, without notice, for an order permitting him to withhold disclosure of a document on the ground that disclosure would damage the public interest.

(2) Unless the court orders otherwise, an order of the court under paragraph (1)—

- (a) must not be served on any other person; and
- (b) must not be open to inspection by any person.

(3) A person who wishes to claim that he has a right or a duty to withhold inspection of a document, or part of a document, must state in writing—

- (a) that he has such a right or duty; and
- (b) the grounds on which he claims that right or duty.

(4) The statement referred to in paragraph (3) must be made—

- (a) in the list in which the document is disclosed; or
- (b) if there is no list, to the person wishing to inspect the document.

(5) A party may apply to the court to decide whether a claim made under paragraph (3) should be upheld.

(6) For the purpose of deciding an application under paragraph (1) (application to withhold disclosure) or paragraph (3) (claim to withhold inspection) the court may—

- (a) require the person seeking to withhold disclosure or inspection of a document to produce that document to the court; and
- (b) invite any person, whether or not a party, to make representations.

(7) An application under paragraph (1) or paragraph (5) must be supported by evidence.

(8) This Part does not affect any rule of law which permits or requires a document to be withheld from disclosure or inspection on the ground that its disclosure or inspection would damage the public interest.

Commencement Information

I129 [Rule 31.19](#) in force at 26.4.1999, see [Signature](#)

Restriction on use of a privileged document inspection of which has been inadvertently allowed

31.20 Where a party inadvertently allows a privileged^(GL) document to be inspected, the party who has inspected the document may use it or its contents only with the permission of the court.

Commencement Information

I130 [Rule 31.20](#) in force at 26.4.1999, see [Signature](#)

Consequence of failure to disclose documents or permit inspection

31.21 A party may not rely on any document which he fails to disclose or in respect of which he fails to permit inspection unless the court gives permission.

Commencement Information

I131 [Rule 31.21](#) in force at 26.4.1999, see [Signature](#)

Subsequent use of disclosed documents [F⁹⁰⁶ and completed Electronic Documents Questionnaires]

31.22.—(1) A party to whom a document has been disclosed may use the document only for the purpose of the proceedings in which it is disclosed, except where—

- (a) the document has been read to or by the court, or referred to, at a hearing which has been held in public;
- (b) the court gives permission; or
- (c) the party who disclosed the document and the person to whom the document belongs agree.

(2) The court may make an order restricting or prohibiting the use of a document which has been disclosed, even where the document has been read to or by the court, or referred to, at a hearing which has been held in public.

(3) An application for such an order may be made—

- (a) by a party; or
- (b) by any person to whom the document belongs.

[F⁹⁰⁷(4) For the purpose of this rule, an Electronic Documents Questionnaire which has been completed and served by another party pursuant to Practice Direction 31B is to be treated as if it is a document which has been disclosed.]

Textual Amendments

F906 Words in rule 31.22 heading inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), [rules 1\(2\)](#), [4\(b\)](#)

F907 Rule 31.22(4) inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **4(c)**

Commencement Information

I132 [Rule 31.22](#) in force at 26.4.1999, see [Signature](#)

[^{F908}False, disclosure statements

31.23.—(1) Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false disclosure statement, without an honest belief in its truth.

[^{F909}(Part 81 deals with proceedings in relation to contempt of court.)]

^{F910}(2)]

Textual Amendments

- F908** Rule 31.23 inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **16**
- F909** Words in rule 31.23 substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **7**
- F910** Rule 31.23(2) omitted (1.10.2012) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **5(b)** (with rule 20)

PART 32
EVIDENCE

Modifications etc. (not altering text)

- C70** Pt. 32 applied (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009 \(S.I. 2009/2477\)](#), rules 2, **75**
- C71** Pt. 32 applied (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011 \(S.I. 2011/1301\)](#), rules 2, **225(4)** (with rule 5)
- C72** Pt. 32 applied (31.1.2014) by [The Postal Administration Rules 2013 \(S.I. 2013/3208\)](#), rules 1, **130(3)** (with rules 3, 210)
- C73** Pt. 32 applied (6.4.2017) by [The Insolvency \(England and Wales\) Rules 2016 \(S.I. 2016/1024\)](#), rules 1, **12.1(3)** (with rule 3(3), Sch. 2)
- C74** Pt. 32 applied (5.7.2018) by [The Housing Administration \(England and Wales\) Rules 2018 \(S.I. 2018/719\)](#), rules 1.1, **4.1(3)** (with rule 1.2)
- C75** Pt. 32 applied (31.1.2019) by [The Education Administration Rules 2018 \(S.I. 2018/1135\)](#), rules 1, **4.1(3)** (with rule 1.2)
- C76** Pt. 32 applied (12.11.2021) by [The Payment and Electronic Money Institution Insolvency \(England and Wales\) Rules 2021 \(S.I. 2021/1178\)](#), rules 2, **187(4)**
- C77** Pt. 32 applied (18.7.2023) by [The Relevant Licensee Nuclear Company Administration \(England and Wales\) Rules 2023 \(S.I. 2023/712\)](#), rules 1(2)(a), **130(3)** (with rule 2)

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Power of court to control evidence

32.1.—(1) The court may control the evidence by giving directions as to—

- (a) the issues on which it requires evidence;
- (b) the nature of the evidence which it requires to decide those issues; and
- (c) the way in which the evidence is to be placed before the court.

(2) The court may use its power under this rule to exclude evidence that would otherwise be admissible.

(3) The court may limit cross-examination^(GL).

Commencement Information

I133 [Rule 32.1](#) in force at 26.4.1999, see [Signature](#)

Evidence of witnesses—general rule

32.2.—(1) The general rule is that any fact which needs to be proved by the evidence of witnesses is to be proved—

- (a) at trial, by their oral evidence given in public; and
 - (b) at any other hearing, by their evidence in writing.
- (2) This is subject—
- (a) to any provision to the contrary contained in these Rules or elsewhere; or
 - (b) to any order of the court.
- [^{F911}(3) The court may give directions—
- (a) identifying or limiting the issues to which factual evidence may be directed;
 - (b) identifying the witnesses who may be called or whose evidence may be read; or
 - (c) limiting the length or format of witness statements.]

Textual Amendments

F911 Rule 32.2(3) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 12 (with rule 22)

Commencement Information

I134 Rule 32.2 in force at 26.4.1999, see [Signature](#)

Evidence by video link or other means

32.3 The court may allow a witness to give evidence through a video link or by other means.

Commencement Information

I135 Rule 32.3 in force at 26.4.1999, see [Signature](#)

Requirement to serve witness statements for use at trial

32.4.—(1) A witness statement is a written statement signed by a person which contains the evidence which that person would be allowed to give orally.

(2) The court will order a party to serve on the other parties any witness statement of the oral evidence which the party serving the statement intends to rely on in relation to any issues of fact to be decided at the trial.

- (3) The court may give directions as to—
- (a) the order in which witness statements are to be served; and
 - (b) whether or not the witness statements are to be filed.

Commencement Information

I136 Rule 32.4 in force at 26.4.1999, see [Signature](#)

Use at trial of witness statements which have been served

- 32.5.—(1)** If—
- (a) a party has served a witness statement; and
 - (b) he wishes to rely at trial on the evidence of the witness who made the statement,

he must call the witness to give oral evidence unless the court orders otherwise or he puts the statement in as hearsay evidence.

(Part 33 contains provisions about hearsay evidence)

(2) Where a witness is called to give oral evidence under paragraph (1), his witness statement shall stand as his evidence in chief^(GL) unless the court orders otherwise.

(3) A witness giving oral evidence at trial may with the permission of the court—

- (a) amplify his witness statement; and
- (b) give evidence in relation to new matters which have arisen since the witness statement was served on the other parties.

(4) The court will give permission under paragraph (3) only if it considers that there is good reason not to confine the evidence of the witness to the contents of his witness statement.

(5) If a party who has served a witness statement does not—

- (a) call the witness to give evidence at trial; or
- (b) put the witness statement in as hearsay evidence,

any other party may put the witness statement in as hearsay evidence.

Commencement Information
I137 [Rule 32.5](#) in force at 26.4.1999, see [Signature](#)

Evidence in proceedings other than at trial

32.6.—(1) Subject to paragraph (2), the general rule is that evidence at hearings other than the trial is to be by witness statement unless the court, a practice direction or any other enactment requires otherwise.

(2) At hearings other than the trial, a party may^{F912}... rely on the matters set out in—

- (a) his statement of case; or
- (b) his application notice,

if the statement of case or application notice is verified by a statement of truth.

Textual Amendments
F912 Words in [rule 32.6\(2\)](#) omitted (2.5.2000) by virtue of [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rules 1\(b\), 17](#)

Commencement Information
I138 [Rule 32.6](#) in force at 26.4.1999, see [Signature](#)

Order for cross-examination

32.7.—(1) Where, at a hearing other than the trial, evidence is given in writing, any party may apply to the court for permission to cross-examine the person giving the evidence.

(2) If the court gives permission under paragraph (1) but the person in question does not attend as required by the order, his evidence may not be used unless the court gives permission.

^{F913}

Textual Amendments

F913 Words in [rule 32.7](#) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **11(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I139 [Rule 32.7](#) in force at 26.4.1999, see [Signature](#)

Form of witness statement

32.8 A witness statement must comply with the requirements set out in [^{F914}Practice Direction 32].

(Part 22 requires a witness statement to be verified by a statement of truth)

Textual Amendments

F914 Words in [rule 32.8](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **16**

Commencement Information

I140 [Rule 32.8](#) in force at 26.4.1999, see [Signature](#)

Witness summaries

32.9.—(1) A party who—

- (a) is required to serve a witness statement for use at trial; but
- (b) is unable to obtain one,

may apply, without notice, for permission to serve a witness summary instead.

(2) A witness summary is a summary of—

- (a) the evidence, if known, which would otherwise be included in a witness statement; or
- (b) if the evidence is not known, the matters about which the party serving the witness summary proposes to question the witness.

(3) Unless the court orders otherwise, a witness summary must include the name and address of the intended witness.

(4) Unless the court orders otherwise, a witness summary must be served within the period in which a witness statement would have had to be served.

(5) Where a party serves a witness summary, so far as practicable rules 32.4 (requirement to serve witness statements for use at trial), 32.5(3) (amplifying witness statements), and 32.8 (form of witness statement) shall apply to the summary.

Commencement Information

I141 [Rule 32.9](#) in force at 26.4.1999, see [Signature](#)

Consequence of failure to serve witness statement or summary

32.10 If a witness statement or a witness summary for use at trial is not served in respect of an intended witness within the time specified by the court, then the witness may not be called to give oral evidence unless the court gives permission.

Commencement Information

I142 [Rule 32.10](#) in force at 26.4.1999, see [Signature](#)

Cross-examination on a witness statement

32.11 Where a witness is called to give evidence at trial, he may be cross-examined on his witness statement whether or not the statement or any part of it was referred to during the witness's evidence in chief^(GL).

Commencement Information

I143 [Rule 32.11](#) in force at 26.4.1999, see [Signature](#)

Use of witness statements for other purposes

32.12.—(1) Except as provided by this rule, a witness statement may be used only for the purpose of the proceedings in which it is served.

(2) Paragraph (1) does not apply if and to the extent that—

- (a) the witness gives consent in writing to some other use of it;
- (b) the court gives permission for some other use; or
- (c) the witness statement has been put in evidence at a hearing held in public.

[^{F915}(3) This rule applies to affidavits in the same way as it applies to witness statements.]

Textual Amendments

F915 [Rule 32.12\(3\)](#) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **8(1)**

Commencement Information

I144 [Rule 32.12](#) in force at 26.4.1999, see [Signature](#)

Availability of witness statements for inspection

32.13.—(1) A witness statement which stands as evidence in chief^(GL) is open to inspection [^{F916}during the course of the trial unless the court otherwise directs].

(2) Any person may ask for a direction that a witness statement is not open to inspection.

(3) The court will not make a direction under paragraph (2) unless it is satisfied that a witness statement should not be open to inspection because of—

- (a) the interests of justice;
- (b) the public interest;

- (c) the nature of any expert medical evidence in the statement;
 - (d) the nature of any confidential information (including information relating to personal financial matters) in the statement; or
 - (e) the need to protect the interests of any child or [^{F917}protected party].
- (4) The court may exclude from inspection words or passages in the statement.

Textual Amendments

F916 Words in rule 32.13(1) substituted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(a), **12**

F917 Words in rule 32.13(3)(e) substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **10**

Commencement Information

I145 [Rule 32.13](#) in force at 26.4.1999, see [Signature](#)

[^{F918}False statements

32.14 Proceedings for contempt of court may be brought against a person who makes or causes to be made a false statement in a document, prepared in anticipation of or during proceedings and verified by a statement of truth, without an honest belief in its truth.

(Part 22 makes provision for statements of truth.)

(Part 81 contains provisions in relation to proceedings for contempt of court.)]

Textual Amendments

F918 [Rule 32.14](#) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **8**

Affidavit evidence

32.15.—(1) Evidence must be given by affidavit^(GL) instead of or in addition to a witness statement if this is required by the court, a provision contained in any other rule, a practice direction or any other enactment.

(2) Nothing in these Rules prevents a witness giving evidence by affidavit^(GL) at a hearing other than the trial if he chooses to do so in a case where paragraph (1) does not apply, but the party putting forward the affidavit^(GL) may not recover the additional cost of making it from any other party unless the court orders otherwise.

[^{F919}(Rule 32.12 makes provision about the use of affidavits for purposes other than the proceedings in which they are served.)]

Textual Amendments

F919 Words in rule 32.15 inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **8(2)**

Commencement Information

I146 [Rule 32.15](#) in force at 26.4.1999, see [Signature](#)

Form of affidavits

32.16 An affidavit^(GL) must comply with the requirements set out in [^{F920}Practice Direction 32].

Textual Amendments

F920 Words in [rule 32.16](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [16](#)

Commencement Information

I147 [Rule 32.16](#) in force at 26.4.1999, see [Signature](#)

Affidavit made outside the jurisdiction

32.17 A person may make an affidavit^(GL) outside the jurisdiction in accordance with—

- (a) this Part; or
- (b) the law of the place where he makes the affidavit^(GL).

Commencement Information

I148 [Rule 32.17](#) in force at 26.4.1999, see [Signature](#)

Notice to admit facts

32.18.—(1) A party may serve notice on another party requiring him to admit the facts, or the part of the case of the serving party, specified in the notice.

(2) A notice to admit facts must be served no later than 21 days before the trial.

(3) Where the other party makes any admission in response to the notice, the admission may be used against him only—

- (a) in the proceedings in which the notice to admit is served; and
- (b) by the party who served the notice.

(4) The court may allow a party to amend or withdraw any admission made by him on such terms as it thinks just.

Commencement Information

I149 [Rule 32.18](#) in force at 26.4.1999, see [Signature](#)

Notice to admit or produce documents

32.19.—(1) A party shall be deemed to admit the authenticity of a document disclosed to him under Part 31 (disclosure and inspection of documents) unless he serves notice that he wishes the document to be proved at trial.

- (2) A notice to prove a document must be served—
- (a) by the latest date for serving witness statements; or
 - (b) within 7 days of disclosure of the document,
- whichever is later.

Commencement Information

I150 [Rule 32.19](#) in force at 26.4.1999, see [Signature](#)

[^{F921}**Notarial acts and instruments**

32.20 A notarial act or instrument may be received in evidence without further proof as duly authenticated in accordance with the requirements of law unless the contrary is proved.]

Textual Amendments

F921 [Rule 32.20](#) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), [36](#)

PART 33

MISCELLANEOUS RULES ABOUT EVIDENCE

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Introductory

33.1 In this Part—

- (a) “hearsay” means a statement, made otherwise than by a person while giving oral evidence in proceedings, which is tendered as evidence of the matters stated; and
- (b) references to hearsay include hearsay of whatever degree.

Commencement Information

I151 [Rule 33.1](#) in force at 26.4.1999, see [Signature](#)

Notice of intention to rely on hearsay evidence

33.2.—(1) Where a party intends to rely on hearsay evidence at trial and either—

- (a) that evidence is to be given by a witness giving oral evidence; or
- (b) that evidence is contained in a witness statement of a person who is not being called to give oral evidence;

that party complies with section 2(1)(a) of the Civil Evidence Act 1995⁽²⁹⁾ by serving a witness statement on the other parties in accordance with the court's order.

(2) Where paragraph (1)(b) applies, the party intending to rely on the hearsay evidence must, when he serves the witness statement—

- (a) inform the other parties that the witness is not being called to give oral evidence; and
- (b) give the reason why the witness will not be called.

(3) In all other cases where a party intends to rely on hearsay evidence at trial, that party complies with section 2(1)(a) of the Civil Evidence Act 1995 by serving a notice on the other parties which—

- (a) identifies the hearsay evidence;
- (b) states that the party serving the notice proposes to rely on the hearsay evidence at trial; and
- (c) gives the reason why the witness will not be called.

(4) The party proposing to rely on the hearsay evidence must—

- (a) serve the notice no later than the latest date for serving witness statements; and
- (b) if the hearsay evidence is to be in a document, supply a copy to any party who requests him to do so.

Commencement Information

I152 [Rule 33.2](#) in force at 26.4.1999, see [Signature](#)

Circumstances in which notice of intention to rely on hearsay evidence is not required

33.3 Section 2(1) of the Civil Evidence Act 1995 (duty to give notice of intention to rely on hearsay evidence) does not apply—

- (a) to evidence at hearings other than trials;
- [^{F922}(aa) to an affidavit or witness statement which is to be used at trial but which does not contain hearsay evidence;]
- (b) to a statement which a party to a probate action wishes to put in evidence and which is alleged to have been made by the person whose estate is the subject of the proceedings; or
- (c) where the requirement is excluded by a practice direction.

⁽²⁹⁾ 1995 c. 38. Section 2 provides that a party proposing to bring hearsay evidence must notify any other party of that fact and, on request, give particulars of or relating to the evidence.

Textual Amendments

F922 Rule 33.3(aa) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, 10

Commencement Information

I153 Rule 33.3 in force at 26.4.1999, see [Signature](#)

Power to call witness for cross-examination on hearsay evidence

33.4.—(1) Where a party—

(a) proposes to rely on hearsay evidence; and

(b) does not propose to call the person who made the original statement to give oral evidence, the court may, on the application of any other party, permit that party to call the maker of the statement to be cross-examined on the contents of the statement.

(2) An application for permission to cross-examine under this rule must be made not more than 14 days after the day on which a notice of intention to rely on the hearsay evidence was served on the applicant.

Commencement Information

I154 Rule 33.4 in force at 26.4.1999, see [Signature](#)

Credibility

33.5.—(1) Where a party—

(a) proposes to rely on hearsay evidence; but

(b) does not propose to call the person who made the original statement to give oral evidence; and

(c) another party wishes to call evidence to attack the credibility of the person who made the statement,

the party who so wishes must give notice of his intention to the party who proposes to give the hearsay statement in evidence.

(2) A party must give notice under paragraph (1) not more than 14 days after the day on which a hearsay notice relating to the hearsay evidence was served on him.

Commencement Information

I155 Rule 33.5 in force at 26.4.1999, see [Signature](#)

Use of plans, photographs and models as evidence

33.6.—(1) This rule applies to evidence (such as a plan, photograph or model) which is not—

(a) contained in a witness statement, affidavit^(GL) or expert's report;

(b) to be given orally at trial; or

(c) evidence of which prior notice must be given under rule 33.2.

(2) This rule includes documents which may be received in evidence without further proof under section 9 of the Civil Evidence Act 1995⁽³⁰⁾.

(3) Unless the court orders otherwise the evidence shall not be receivable at a trial unless the party intending to put it in evidence has given notice to the other parties in accordance with this rule.

(4) Where the party intends to use the evidence as evidence of any fact then, except where paragraph (6) applies, he must give notice not later than the latest date for serving witness statements.

(5) He must give notice at least 21 days before the hearing at which he proposes to put in the evidence, if—

- (a) there are not to be witness statements; or
- (b) he intends to put in the evidence solely in order to disprove an allegation made in a witness statement.

(6) Where the evidence forms part of expert evidence, he must give notice when the expert's report is served on the other party.

(7) Where the evidence is being produced to the court for any reason other than as part of factual or expert evidence, he must give notice at least 21 days before the hearing at which he proposes to put in the evidence.

(8) Where a party has given notice that he intends to put in the evidence, he must give every other party an opportunity to inspect it and to agree to its admission without further proof.

Commencement Information

I156 Rule 33.6 in force at 26.4.1999, see [Signature](#)

Evidence of finding on question of foreign law

33.7.—(1) This rule sets out the procedure which must be followed by a party who intends to put in evidence a finding on a question of foreign law by virtue of section 4(2) of the Civil Evidence Act 1972⁽³¹⁾.

(2) He must give any other party notice of his intention.

(3) He must give the notice—

- (a) if there are to be witness statements, not later than the latest date for serving them; or
- (b) otherwise, not less than 21 days before the hearing at which he proposes to put the finding in evidence.

(4) The notice must—

- (a) specify the question on which the finding was made; and
- (b) enclose a copy of a document where it is reported or recorded.

Commencement Information

I157 Rule 33.7 in force at 26.4.1999, see [Signature](#)

⁽³⁰⁾ Section 9 of the Civil Evidence Act 1995 provides that documents that form part of the records of a business or public authority, as defined in that section, may be received in evidence without further proof.

⁽³¹⁾ 1972 c. 30.

Evidence of consent of trustee to act

33.8 A document purporting to contain the written consent of a person to act as trustee and to bear his signature verified by some other person is evidence of such consent.

Commencement Information

I158 [Rule 33.8](#) in force at 26.4.1999, see [Signature](#)

[^{F923}Human Rights

33.9.—(1) This rule applies where a claim is—

- (a) for a remedy under section 7 of the Human Rights Act 1998 in respect of a judicial act which is alleged to have infringed the claimant’s Article 5 Convention rights; and
- (b) based on a finding by a court or tribunal that the claimant’s Convention rights have been infringed.

(2) The court hearing the claim—

- (a) may proceed on the basis of the finding of that other court or tribunal that there has been an infringement but it is not required to do so, and
- (b) may reach its own conclusion in the light of that finding and of the evidence heard by that other court or tribunal.]

Textual Amendments

F923 [Rule 33.9](#) inserted (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), [rules 1, 15](#)

PART 34

[^{F924}WITNESSES, DEPOSITIONS AND EVIDENCE FOR FOREIGN COURTS]

Textual Amendments

F924 [Pt. 34](#) heading substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), [rules 1\(b\), 12\(a\)](#)

Contents of this Part

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Witness summons in aid of inferior court or of tribunal	Rule 34.4
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Who is to serve a witness summons	Rule 34.6

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Right of witness to travelling expenses and compensation for loss of time	Rule 34.7
[^{F925} Fines imposed under section 55 of the County Courts Act 1984	Rule 34.7A]
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[^{F926}II—EVIDENCE FOR FOREIGN COURTS

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[^{F928} I WITNESSES AND DEPOSITIONS]

Textual Amendments

F928 Pt. 34 Section 1 heading inserted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **12(c)**

[^{F929} Scope of this Section

- 34.1.**—(1) This Section of this Part provides—
- (a) for the circumstances in which a person may be required to attend court to give evidence or produce a document; and
 - (b) for a party to obtain evidence before a hearing to be used at the hearing.
- (2) In this Section, reference to a hearing includes a reference to the trial.]

Textual Amendments

F929 Rule 34.1 substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **12(c)**

Witness summonses

- 34.2.**—(1) A witness summons is a document issued by the court requiring a witness to—
- (a) attend court to give evidence; or
 - (b) produce documents to the court.
- (2) A witness summons must be in the relevant practice form.
- (3) There must be a separate witness summons for each witness.
- (4) A witness summons may require a witness to produce documents to the court either—
- (a) on the date fixed for a hearing; or
 - (b) on such date as the court may direct.
- (5) The only documents that a summons under this rule can require a person to produce before a hearing are documents which that person could be required to produce at the hearing.

Commencement Information

I159 [Rule 34.2](#) in force at 26.4.1999, see [Signature](#)

Issue of a witness summons

- 34.3.**—(1) A witness summons is issued on the date entered on the summons by the court.
- (2) A party must obtain permission from the court where he wishes to—
- (a) have a summons issued less than 7 days before the date of the trial;
 - (b) have a summons issued for a witness to attend court to give evidence or to produce documents on any date except the date fixed for the trial; or

- (c) have a summons issued for a witness to attend court to give evidence or to produce documents at any hearing except the trial.
- (3) A witness summons must be issued by—
 - (a) the court where the case is proceeding; or
 - (b) the court where the hearing in question will be held.
- (4) The court may set aside^(GL) or vary a witness summons issued under this rule.

Commencement Information

I160 [Rule 34.3](#) in force at 26.4.1999, see [Signature](#)

Witness summons in aid of inferior court or of tribunal

- 34.4.**—(1) The court may issue a witness summons in aid of an inferior court or of a tribunal.
- (2) The court which issued the witness summons under this rule may set it aside.
- (3) In this rule, “inferior court or tribunal” means any court or tribunal that does not have power to issue a witness summons in relation to proceedings before it.

Commencement Information

I161 [Rule 34.4](#) in force at 26.4.1999, see [Signature](#)

Time for serving a witness summons

- 34.5.**—(1) The general rule is that a witness summons is binding if it is served at least 7 days before the date on which the witness is required to attend before the court or tribunal.
- (2) The court may direct that a witness summons shall be binding although it will be served less than 7 days before the date on which the witness is required to attend before the court or tribunal.
- (3) A witness summons which is—
- (a) served in accordance with this rule; and
 - (b) requires the witness to attend court to give evidence,
- is binding until the conclusion of the hearing at which the attendance of the witness is required.

Commencement Information

I162 [Rule 34.5](#) in force at 26.4.1999, see [Signature](#)

Who is to serve a witness summons

- 34.6.**—(1) A witness summons is to be served by the court unless the party on whose behalf it is issued indicates in writing, when he asks the court to issue the summons, that he wishes to serve it himself.
- (2) Where the court is to serve the witness summons, the party on whose behalf it is issued must deposit, in the court office, the money to be paid or offered to the witness under rule 34.7.

Commencement Information

I163 Rule 34.6 in force at 26.4.1999, see [Signature](#)

Right of witness to travelling expenses and compensation for loss of time

34.7 At the time of service of a witness summons the witness must be offered or paid—

- (a) a sum reasonably sufficient to cover his expenses in travelling to and from the court; and
- (b) such sum by way of compensation for loss of time as may be specified in [^{F930}Practice Direction 34A].

Textual Amendments

F930 Words in rule 34.7(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 17

Commencement Information

I164 Rule 34.7 in force at 26.4.1999, see [Signature](#)

[^{F931}Fines imposed under section 55 of the County Courts Act 1984

34.7A. If a person has failed to comply with an order under section 55 of the County Courts Act 1984 but can demonstrate any reason why they should not be (or should not have been) fined for failure to comply with the order, the court may direct that that person give evidence by witness statement, affidavit or otherwise.

(Part 70 contains general rules about fines imposed under the County Courts Act 1984.)]

Textual Amendments

F931 Rule 34.7A inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), 9(2)

Evidence by deposition

34.8.—(1) A party may apply for an order for a person to be examined before the hearing takes place.

(2) A person from whom evidence is to be obtained following an order under this rule is referred to as a “deponent” and the evidence is referred to as a “deposition”.

(3) An order under this rule shall be for a deponent to be examined on oath before—

- (a) a judge;
- (b) an examiner of the court; or
- (c) such other person as the court appoints.

(Rule 34.15 makes provision for the appointment of examiners of the court)

(4) The order may require the production of any document which the court considers is necessary for the purposes of the examination.

(5) The order must state the date, time and place of the examination.

- (6) At the time of service of the order the deponent must be offered or paid—
- (a) a sum reasonably sufficient to cover his expenses in travelling to and from the place of examination; and
 - (b) such sum by way of compensation for loss of time as may be specified in [^{F932}Practice Direction 34A].

(7) Where the court makes an order for a deposition to be taken, it may also order the party who obtained the order to serve a witness statement or witness summary in relation to the evidence to be given by the person to be examined.

(Part 32 contains the general rules about witness statements and witness summaries)

Textual Amendments

F932 Words in [rule 34.8\(6\)\(b\)](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [17](#)

Commencement Information

I165 [Rule 34.8](#) in force at 26.4.1999, see [Signature](#)

Conduct of examination

34.9.—(1) Subject to any directions contained in the order for examination, the examination must be conducted in the same way as if the witness were giving evidence at a trial.

(2) If all the parties are present, the examiner may conduct the examination of a person not named in the order for examination if all the parties and the person to be examined consent.

(3) The examiner may conduct the examination in private if he considers it appropriate to do so.

(4) The examiner must ensure that the evidence given by the witness is recorded in full.

(5) The examiner must send a copy of the deposition—

- (a) to the person who obtained the order for the examination of the witness; and
- (b) to the court where the case is proceeding.

(6) The party who obtained the order must send each of the other parties a copy of the deposition which he receives from the examiner.

Commencement Information

I166 [Rule 34.9](#) in force at 26.4.1999, see [Signature](#)

Enforcing attendance of witness

34.10.—(1) If a person served with an order to attend before an examiner—

- (a) fails to attend; or
- (b) refuses to be sworn for the purpose of the examination or to answer any lawful question or produce any document at the examination,

a certificate of his failure or refusal, signed by the examiner, must be filed by the party requiring the deposition.

(2) On the certificate being filed, the party requiring the deposition may apply to the court for an order requiring that person to attend or to be sworn or to answer any question or produce any document, as the case may be.

(3) An application for an order under this rule may be made without notice.

(4) The court may order the person against whom an order is made under this rule to pay any costs resulting from his failure or refusal.

Commencement Information

I167 [Rule 34.10](#) in force at 26.4.1999, see [Signature](#)

Use of deposition at a hearing

34.11.—(1) A deposition ordered under rule 34.8 may be given in evidence at a hearing unless the court orders otherwise.

(2) A party intending to put in evidence a deposition at a hearing must serve notice of his intention to do so on every other party.

(3) He must serve the notice at least 21 days before the day fixed for the hearing.

(4) The court may require a deponent to attend the hearing and give evidence orally.

(5) Where a deposition is given in evidence at trial, it shall be treated as if it were a witness statement for the purposes of rule 32.13 (availability of witness statements for inspection).

Commencement Information

I168 [Rule 34.11](#) in force at 26.4.1999, see [Signature](#)

Restrictions on subsequent use of deposition taken for the purpose of any hearing except the trial

34.12.—(1) Where the court orders a party to be examined about his or any other assets for the purpose of any hearing except the trial, the deposition may be used only for the purpose of the proceedings in which the order was made.

(2) However, it may be used for some other purpose—

(a) by the party who was examined;

(b) if the party who was examined agrees; or

(c) if the court gives permission.

Commencement Information

I169 [Rule 34.12](#) in force at 26.4.1999, see [Signature](#)

Where a person to be examined is out of the jurisdiction—letter of request

34.13.—^{F933}(1) This rule applies where a party wishes to take a deposition from a person who is—

(a) out of the jurisdiction; ^{F934} ...

^{F935}(b)

(1A) The High Court may order the issue of a letter of request to the judicial authorities of the country in which the proposed deponent is.]

(2) A letter of request is a request to a judicial authority to take the evidence of that person, or arrange for it to be taken.

(3) The High Court may make an order under this rule in relation to [^{F18}County Court] proceedings [^{F936}and tribunal proceedings].

(4) If the government of [^{F937}a] country ^{F938}... allows a person appointed by the High Court to examine a person in that country, the High Court may make an order appointing a special examiner for that purpose.

(5) A person may be examined under this rule on oath or affirmation or in accordance with any procedure permitted in the country in which the examination is to take place.

(6) If the High Court makes an order for the issue of a letter of request, the party who sought the order must file [^{F939}with the Foreign Process Section of the Central Office of the High Court in the Royal Courts of Justice]—

(a) the following documents and, except where paragraph (7) applies, a translation of them—

(i) a draft letter of request;

(ii) a statement of the issues relevant to the proceedings;

(iii) a list of questions or the subject matter of questions to be put to the person to be examined; and

(b) an undertaking to be responsible for the Secretary of State's expenses.

(7) There is no need to file a translation if—

(a) English is one of the official languages of the country where the examination is to take place; or

(b) a practice direction has specified that country as a country where no translation is necessary.

Textual Amendments

F18 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)

F933 Rule 34.13(1)(1A) substituted for rule 34.13(1) (1.1.2004) by [The Civil Procedure \(Amendment No. 4\) Rules 2003](#) (S.I. 2003/2113), rules 1(a), 7

F934 Word in rule 34.13(1)(a) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **12(3)(a)** (with reg. 23) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(f); 2020 c. 1, Sch. 5 para. 1(1))

F935 Rule 34.13(1)(b) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **12(3)(b)** (with reg. 23) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(f); 2020 c. 1, Sch. 5 para. 1(1))

F936 Words in rule 34.13(3) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023](#) (S.I. 2023/788), rules 1(1), **18(a)**

F937 Word in rule 34.13(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), rules 1, **11(a)(i)**

F938 Words in rule 34.13(4) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), rules 1, **11(a)(ii)**

F939 Words in rule 34.13(6) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023](#) (S.I. 2023/788), rules 1(1), **18(b)**

Commencement Information

I170 Rule 34.13 in force at 26.4.1999, see [Signature](#)

[^{F940}Letter of request – Proceeds of Crime Act 2002

34.13A.—(1) This rule applies where a party to existing or contemplated proceedings in—

- (a) the High Court; or
- (b) a magistrates' court,

under Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc. of unlawful conduct) wishes to take a deposition from a person who is out of the jurisdiction.

(2) The High Court may, on the application of such a party, order the issue of a letter of request to the judicial authorities of the country in which the proposed deponent is.

(3) Paragraphs (4) to (7) of rule 34.13 shall apply irrespective of where the proposed deponent is^{F941}]

Textual Amendments

F940 Rule 34.13A inserted (1.2.2004) by [The Civil Procedure \(Amendment No. 5\) Rules 2003](#) (S.I. 2003/3361), rules 1(a), **6**

F941 Words in rule 34.13A(3) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **12(4)** (with reg. 23) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(f); 2020 c. 1, Sch. 5 para. 1(1))

Fees and expenses of examiner [^{F942}of the court]

34.14.—[^{F943}(1) An examiner of the court may charge a fee for the examination.]

(2) He need not send the deposition to the court unless the fee is paid.

(3) The examiner's fees and expenses must be paid by the party who obtained the order for examination.

(4) If the fees and expenses due to an examiner are not paid within a reasonable time, he may report that fact to the court.

(5) The court may order the party who obtained the order for examination to deposit in the court office a specified sum in respect of the examiner's fees and, where it does so, the examiner will not be asked to act until the sum has been deposited.

(6) An order under this rule does not affect any decision as to the party who is ultimately to bear the costs of the examination.

Textual Amendments

F942 Words in rule 34.14 heading inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), rules 1, **11(b)(i)**

F943 Rule 34.14(1) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), rules 1, **11(b)(ii)**

Commencement Information

I171 Rule 34.14 in force at 26.4.1999, see [Signature](#)

Examiners of the court

34.15.—(1) The Lord Chancellor shall appoint persons to be examiners of the court.

(2) The persons appointed shall be barristers or solicitor-advocates who have been practising for a period of not less than three years.

(3) The Lord Chancellor may revoke an appointment at any time.

Commencement Information

I172 Rule 34.15 in force at 26.4.1999, see [Signature](#)

^[F944] II—EVIDENCE FOR FOREIGN COURTS

Textual Amendments

F944 Pt. 34 Section 2 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 2 Pt. 2](#)

^[F945] Scope and interpretation

34.16.—(1) This Section applies to an application for an order under the 1975 Act for evidence to be obtained^{F946}....

(2) In this Section—

(a) “the 1975 Act” means the Evidence (Proceedings in Other Jurisdictions) Act 1975 ^[F947]; and]

(b) ^[F948]“the Hague Evidence Convention” means the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters]]

Textual Amendments

F945 Rule 34.16 substituted (1.1.2004) by [The Civil Procedure \(Amendment No. 4\) Rules 2003 \(S.I. 2003/2113\)](#), rules 1(a), [8](#)

F946 Words in rule 34.16(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), [12\(5\)\(a\)](#) (with reg. 23) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(f); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

F947 Words in rule 34.16(2)(a) inserted (31.12.2020 immediately after the amendments made by [S.I. 2019/521](#), [reg. 12](#)) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(2), [9\(3\)\(a\)](#)

F948 Words in rule 34.16(2) inserted (31.12.2020 immediately after the amendments made by [S.I. 2019/521](#), [reg. 12](#)) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(2), [9\(3\)\(b\)](#)

^[F949] Application for order

34.17.—(1) An application for an order under the 1975 Act for evidence to be obtained must be made to the High Court and may be made without notice.

(2) The application may be made either—

(a) by an application notice under Part 23, which must be—

- (i) supported by written evidence; and
 - (ii) accompanied by the request as a result of which the application is made, and where appropriate, a translation of the request into English; or
- (b) where—
- (i) the requesting state is a party to the Hague Evidence Convention, by a Letter of Request using the Model Form published by the Permanent Bureau of the Hague Conference on Private International Law (which is annexed to Practice Direction 34A); or
 - (ii) the requesting state is not a party to the Hague Evidence Convention, by a Letter of Request submitted via the Foreign and Commonwealth Office.]

Textual Amendments

F949 Rule 34.17 substituted (31.12.2020 immediately after the amendments made by S.I. 2019/521, reg. 12) by The Civil Procedure (Amendment No. 3) Rules 2020 (S.I. 2020/747), rules 1(2), 9(4)

Examination

- 34.18.**—(1) The court may order an examination to be taken before—
- (a) any fit and proper person nominated by the person applying for the order;
 - (b) an examiner of the court; or
 - (c) any other person whom the court considers suitable.
- (2) Unless the court orders otherwise—
- (a) the examination will be taken as provided by rule 34.9; and
 - (b) rule 34.10 applies.
- (3) The court may make an order under rule 34.14 for payment of the fees and expenses of the examination.

Dealing with deposition

- 34.19.**—(1) The examiner must send the deposition of the witness to the Senior Master unless the court orders otherwise.
- (2) The Senior Master will—
- (a) give a certificate sealed with the seal of the [^{F950}Senior Courts] for use out of the jurisdiction identifying the following documents—
 - (i) the request;
 - (ii) the order of the court for examination; and
 - (iii) the deposition of the witness; and
 - (b) send the certificate and the documents referred to in paragraph (a) to—
 - (i) the Secretary of State; or
 - (ii) where the request was sent to the Senior Master by another person in accordance with a Civil Procedure Convention, to that other person,
- for transmission to the court or tribunal requesting the examination.

Textual Amendments

F950 Words in rule 34.19(2)(a) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), 4

Claim to privilege

34.20.—(1) This rule applies where—

- (a) a witness claims to be exempt from giving evidence on the ground specified in section 3(1) (b) of the 1975 Act; and
- (b) that claim is not supported or conceded as referred to in section 3(2) of that Act.

(2) The examiner may require the witness to give the evidence which he claims to be exempt from giving.

(3) Where the examiner does not require the witness to give that evidence, the court may order the witness to do so.

(4) An application for an order under paragraph (3) may be made by the person who obtained the order under section 2 of the 1975 Act.

(5) Where such evidence is taken—

- (a) it must be contained in a document separate from the remainder of the deposition;
- (b) the examiner will send to the Senior Master—
 - (i) the deposition; and
 - (ii) a signed statement setting out the claim to be exempt and the ground on which it was made.

(6) On receipt of the statement referred to in paragraph (5)(b)(ii), the Senior Master will—

- (a) retain the document containing the part of the witness's evidence to which the claim to be exempt relates; and
- (b) send the statement and a request to determine that claim to the foreign court or tribunal together with the documents referred to in rule 34.17.

(7) The Senior Master will—

- (a) if the claim to be exempt is rejected by the foreign court or tribunal, send the document referred to in paragraph (5)(a) to that court or tribunal;
- (b) if the claim is upheld, send the document to the witness; and
- (c) in either case, notify the witness and person who obtained the order under section 2 of the foreign court or tribunal's decision.

Order under 1975 Act as applied by Patents Act 1977

34.21 Where an order is made for the examination of witnesses under section 1 of the 1975 Act as applied by section 92 of the Patents Act 1977 the court may permit an officer of the European Patent Office to—

- (a) attend the examination and examine the witnesses; or
- (b) request the court or the examiner before whom the examination takes place to put specified questions to them.]

^{F951} **III TAKING OF EVIDENCE—MEMBER STATES OF THE EUROPEAN UNION**

Textual Amendments

F951 Pt. 34 Section 3 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **12(6)** (with reg. 23) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(f); 2020 c. 1, Sch. 5 para. 1(1))

Interpretation

^{F951} **34.22**

Where a person to be examined is in another Regulation State

^{F951} **34.23**

Evidence for courts of other Regulation States

^{F951} **34.24**

PART 35

EXPERTS AND ASSESSORS

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Duty to restrict expert evidence

35.1 Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings.

Commencement Information

1173 [Rule 35.1](#) in force at 26.4.1999, see [Signature](#)

^{F953} Interpretation and definitions

35.2.—(1) A reference to an ‘expert’ in this Part is a reference to a person who has been instructed to give or prepare expert evidence for the purpose of proceedings.

(2) ‘Single joint expert’ means an expert instructed to prepare a report for the court on behalf of two or more of the parties (including the claimant) to the proceedings.]

Textual Amendments

F953 [Rule 35.2](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(b)**

Experts—overriding duty to the court

35.3.—(1) [^{F954}It is the duty of experts to help the court on matters within their expertise].

(2) This duty overrides any obligation to the person from whom [^{F955}experts have received instructions or by whom they are paid.]

Textual Amendments

F954 Words in [rule 35.3\(1\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(c)**

F955 Words in [rule 35.3\(2\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(d)**

Commencement Information

1174 [Rule 35.3](#) in force at 26.4.1999, see [Signature](#)

Court's power to restrict expert evidence

35.4.—(1) No party may call an expert or put in evidence an expert's report without the court's permission.

[^{F956}(2) When parties apply for permission they must [^{F957}provide an estimate of the costs of the proposed expert evidence and] identify—

- (a) the field in which expert evidence is required [^{F958}and the issues which the expert evidence will address]; and

(b) where practicable, the name of the proposed expert.]

(3) If permission is granted ^{F959}... it shall be in relation only to the expert named or the field identified under paragraph (2). [^{F960}The order granting permission may specify the issues which the expert evidence should address.]

[^{F961}(3A) Where a claim has been allocated to the small claims track or the fast track, if permission is given for expert evidence, it will normally be given for evidence from only one expert on a particular issue.

(Paragraph 7 of [^{F962}Practice Direction] 35 sets out some of the circumstances the court will consider when deciding whether expert evidence should be given by a single joint expert.)]

[^{F963}(3B) In a soft tissue injury claim, permission—

- (a) may normally only be given for one expert medical report;
- (b) may not be given initially unless the medical report is a fixed cost medical report. Where the claimant seeks permission to obtain a further medical report, if the report is from a medical expert in any of the following disciplines—
 - (i) Consultant Orthopaedic Surgeon;
 - (ii) Consultant in Accident and Emergency Medicine;
 - (iii) General Practitioner registered with the General Medical Council; or
 - (iv) Physiotherapist registered with the Health and Care Professions Council,the report must be a fixed cost medical report.

[^{F964}(3C) In a claim for a whiplash injury, whether or not it is part of a claim for other injuries—

- (a) permission—
 - (i) may normally only be given for one expert medical report in respect of the claim for the whiplash injury; and
 - (ii) may not be given initially unless the medical report is a fixed cost medical report; and
- (b) where the claimant seeks permission to obtain a further medical report in respect of the claim for the whiplash injury only, the report must be a fixed cost medical report if the report is from a medical expert in any of the following disciplines—
 - (i) Consultant Orthopaedic Surgeon;
 - (ii) Consultant in Accident and Emergency Medicine;
 - (iii) General Practitioner registered with the General Medical Council; or
 - (iv) Physiotherapist registered with the Health and Care Professions Council.

(3D) Where, in respect of a claim for a whiplash injury, the claimant lives outside England and Wales, but chooses to be examined in England or Wales, paragraph (3C) applies.

(3E) Where the claimant obtains a medical report in respect of a more serious injury suffered on the same occasion as the whiplash injury, the claimant may be given permission to use that report instead of a fixed cost medical report under paragraph (3C) provided that—

- (a) the report is from a doctor who is listed on the General Medical Council's Specialist Register; and
- (b) the report provides evidence of the whiplash injury.

(3F) Unless paragraph (3D) applies, where, in respect of a claim for a whiplash injury—

- (a) the claimant lives outside England and Wales;
- (b) permission is given for a medical report,

the medical report (or, if there is more than one report, the first report) must be obtained from a person who is recognised by the country in which they practise as—

- (i) being a medical expert; and
 - (ii) having the required medical qualifications for the purposes of diagnosis and prognosis of a whiplash injury.
- (3G) In this rule—
- (a) in respect of a soft tissue injury claim, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the meanings ascribed to them by paragraph 1.1(10A) and (16A), respectively, of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents; and
 - (b) in respect of a claim for a whiplash injury, ‘fixed cost medical report’ and ‘whiplash injury’ have the meanings ascribed to them by paragraph 1.2(17) and (38), respectively, of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.]]

[^{F965}(4) The court may limit the amount of a party’s expert’s fees and expenses that may be recovered from any other party.]

Textual Amendments

- F956** Rule 35.4(2) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(e)**
- F957** Words in rule 35.4(2) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **13(a)** (with rule 22)
- F958** Words in rule 35.4(2)(a) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **13(b)** (with rule 22)
- F959** Words in rule 35.4(3) omitted (1.10.2009) by virtue of [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(f)**
- F960** Words in rule 35.4(3) inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **13(c)** (with rule 22)
- F961** Rule 35.4(3A) and words inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(g)**
- F962** Words in rule 35.4 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **18(a)**
- F963** Rule 35.4(3B)(3C) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **5** (with rule 14)
- F964** Rules 35.4(3C)-(3G) substituted for rule 35.4(3C) (31.5.2021) by [The Civil Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/196\)](#), rules 1(1), **7(a)**
- F965** Rule 35.4(4) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(h)**

Commencement Information

- I175** Rule 35.4 in force at 26.4.1999, see [Signature](#)

General requirement for expert evidence to be given in a written report

35.5.—(1) Expert evidence is to be given in a written report unless the court directs otherwise.

(2) If a claim is on the [^{F966}small claims track or the] fast track, the court will not direct an expert to attend a hearing unless it is necessary to do so in the interests of justice.

Textual Amendments

F966 Words in rule 35.5(2) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(i)**

Commencement Information

I176 [Rule 35.5](#) in force at 26.4.1999, see [Signature](#)

Written questions to experts

35.6.—^{F967}(1) A party may put written questions about an expert’s report (which must be proportionate) to—

- (a) an expert instructed by another party; or
 - (b) a single joint expert appointed under rule 35.7.]
- (2) Written questions under paragraph (1)—
- (a) may be put once only;
 - (b) must be put within 28 days of service of the expert’s report; and
 - (c) must be for the purpose only of clarification of the report,

unless in any case,

- (i) the court gives permission; or
- (ii) the other party agrees.

(3) An expert’s answers to questions put in accordance with paragraph (1) shall be treated as part of the expert’s report.

(4) Where—

- (a) a party has put a written question to an expert instructed by another party ^{F968}...; and
- (b) the expert does not answer that question,

the court may make one or both of the following orders in relation to the party who instructed the expert—

- (i) that the party may not rely on the evidence of that expert; or
- (ii) that the party may not recover the fees and expenses of that expert from any other party.

Textual Amendments

F967 [Rule 35.6\(1\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(j)(i)**

F968 Words in [rule 35.6\(4\)\(a\)](#) omitted (1.10.2009) by virtue of [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(j)(ii)**

Commencement Information

I177 [Rule 35.6](#) in force at 26.4.1999, see [Signature](#)

^{F969}Court’s power to direct that evidence is to be given by a single joint expert

35.7.—(1) Where two or more parties wish to submit expert evidence on a particular issue, the court may direct that the evidence on that issue is to be given by a single joint expert.

(2) Where the parties who wish to submit the evidence (“the relevant parties”) cannot agree who should be the single joint expert, the court may—

- (a) select the expert from a list prepared or identified by the relevant parties; or
- (b) direct that the expert be selected in such other manner as the court may direct.]

Textual Amendments

F969 Rule 35.7 substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(k)**

Instructions to a single joint expert

35.8.—(1) Where the court gives a direction under rule 35.7 for a single joint expert to be used, [^{F970}any relevant] party may give instructions to the expert.

[^{F971}(2) When a party gives instructions to the expert that party must, at the same time, send a copy to the other relevant parties.]

(3) The court may give directions about—

- (a) the payment of the expert’s fees and expenses; and
- (b) any inspection, examination or experiments which the expert wishes to carry out.

(4) The court may, before an expert is instructed—

- (a) limit the amount that can be paid by way of fees and expenses to the expert; and
- (b) direct that [^{F972}some or all of the relevant] parties pay that amount into court.

(5) Unless the court otherwise directs, the [^{F973}relevant] parties are jointly and severally liable^(GL) for the payment of the expert’s fees and expenses.

Textual Amendments

F970 Words in [rule 35.8\(1\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(l)**

F971 [Rule 35.8\(2\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(m)**

F972 Words in [rule 35.8\(4\)\(b\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(n)**

F973 Word in [rule 35.8\(5\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(o)**

Commencement Information

I178 [Rule 35.8](#) in force at 26.4.1999, see [Signature](#)

Power of court to direct a party to provide information

35.9 Where a party has access to information which is not reasonably [^{F974}available to another party], the court may direct the party who has access to the information to—

- (a) prepare and file a document recording the information; and
- (b) serve a copy of that document on the other party.

Textual Amendments

F974 Words in [rule 35.9](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), [rules 1\(2\)](#), [5\(p\)](#)

Commencement Information

I179 [Rule 35.9](#) in force at 26.4.1999, see [Signature](#)

Contents of report

35.10.—(1) An expert's report must comply with the requirements set out in [^{F975}[^{F976}Practice Direction] 35].

[^{F977}(2) At the end of an expert's report there must be a statement that the expert understands and has complied with their duty to the court.]

(3) The expert's report must state the substance of all material instructions, whether written or oral, on the basis of which the report was written.

(4) The instructions referred to in paragraph (3) shall not be privileged^(GL) against disclosure but the court will not, in relation to those instructions—

(a) order disclosure of any specific document; or

(b) permit any questioning in court, other than by the party who instructed the expert,

unless it is satisfied that there are reasonable grounds to consider the statement of instructions given under paragraph (3) to be inaccurate or incomplete.

Textual Amendments

F975 Words in [rule 35.10\(1\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), [rules 1\(2\)](#), [5\(q\)\(i\)](#)

F976 Words in [rule 35.10\(1\)](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [18\(b\)](#)

F977 [Rule 35.10\(2\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), [rules 1\(2\)](#), [5\(q\)\(ii\)](#)

Commencement Information

I180 [Rule 35.10](#) in force at 26.4.1999, see [Signature](#)

Use by one party of expert's report disclosed by another

35.11 Where a party has disclosed an expert's report, any party may use that expert's report as evidence at the trial.

Commencement Information

I181 [Rule 35.11](#) in force at 26.4.1999, see [Signature](#)

Discussions between experts

35.12.—(1) The court may, at any stage, direct a discussion between experts for the purpose of requiring the experts to—

- [^{F978}(a) identify and discuss the expert issues in the proceedings; and
 - (b) where possible, reach an agreed opinion on those issues.]
- (2) The court may specify the issues which the experts must discuss.
- [^{F979}(3) The court may direct that following a discussion between the experts they must prepare a statement for the court setting out those issues on which—
 - (a) they agree; and
 - (b) they disagree, with a summary of their reasons for disagreeing.]
- (4) The content of the discussion between the experts shall not be referred to at the trial unless the parties agree.
- (5) Where experts reach agreement on an issue during their discussions, the agreement shall not bind the parties unless the parties expressly agree to be bound by the agreement.

Textual Amendments

F978 Rule 35.12(1)(a)(b) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **21**

F979 Rule 35.12(3) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **5(r)**

Commencement Information

I182 Rule 35.12 in force at 26.4.1999, see [Signature](#)

Consequence of failure to disclose expert’s report

35.13 A party who fails to disclose an expert’s report may not use the report at the trial or call the expert to give evidence orally unless the court gives permission.

Commencement Information

I183 Rule 35.13 in force at 26.4.1999, see [Signature](#)

Expert’s right to ask court for directions

35.14.—[^{F980}(1) Experts may file written requests for directions for the purpose of assisting them in carrying out their functions.]

[^{F981}(2) Experts must, unless the court orders otherwise, provide copies of the proposed requests for directions under paragraph (1)—

- (a) to the party instructing them, at least 7 days before they file the requests; and
- (b) to all other parties, at least 4 days before they file them.]

(3) The court, when it gives directions, may also direct that a party be served with [^{F982}a copy of the directions.]

- ^{F983}(a)
- ^{F983}(b)

Textual Amendments

- F980** Rule 35.14(1) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **5(s)(i)**
- F981** Rule 35.14(2) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **5(s)(ii)**
- F982** Words in rule 35.14(3) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **22(b)(i)**
- F983** Rule 35.14(3)(a)(b) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rules 1(c), **22(b)(ii)**

Commencement Information

- I184** Rule 35.14 in force at 26.4.1999, see [Signature](#)

[^{F984} Assessors

35.15.—(1) This rule applies where the court appoints one or more persons under section 70 of the Senior Courts Act 1981 or section 63 of the County Courts Act 1984 as an assessor.

(2) An assessor will assist the court in dealing with a matter in which the assessor has skill and experience.

(3) An assessor will take such part in the proceedings as the court may direct and in particular the court may direct an assessor to—

- (a) prepare a report for the court on any matter at issue in the proceedings; and
- (b) attend the whole or any part of the trial to advise the court on any such matter.

(4) If an assessor prepares a report for the court before the trial has begun—

- (a) the court will send a copy to each of the parties; and
- (b) the parties may use it at trial.

(5) The remuneration to be paid to an assessor is to be determined by the court and will form part of the costs of the proceedings.

(6) The court may order any party to deposit in the court office a specified sum in respect of an assessor's fees and, where it does so, the assessor will not be asked to act until the sum has been deposited.

(7) Paragraphs (5) and (6) do not apply where the remuneration of the assessor is to be paid out of money provided by Parliament.]

Textual Amendments

- F984** Rule 35.15 substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **5(t)**

[^{F985}PART 36 OFFERS TO SETTLE

Textual Amendments

F985 Pt. 36 substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rule 2(c), [Sch. 1](#) (with rule 18)

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Scope of this Part

36.1.—(1) This Part contains a self-contained procedural code about offers to settle made pursuant to the procedure set out in this Part (“Part 36 offers”).

(2) Section I of this Part contains general rules about Part 36 offers.

[^{F988}(3) Section II of this Part contains rules about Part 36 offers where a claim is one to which Section VI (fixed costs in the fast track), Section VII (fixed costs in the intermediate track) or Section VIII (claims for noise-induced hearing loss) of Part 45 applies.]

[^{F989}(4)] [^{F990}Section III] of this Part contains rules about offers to settle where the parties have followed the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (“the RTA Protocol”) or the Pre-Action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims (“the EL/PL Protocol”) and have started proceedings under Part 8 in accordance with Practice Direction [^{F991}49F].

Textual Amendments

- F988** Rule 36.1(3) inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(2)(a)** (with rule 2)
- F989** Words in rule 36.1(4) renumbered as rule 36.1(4) (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(2)(b)(i)** (with rule 2)
- F990** Words in rule 36.1(4) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(2)(b)(ii)** (with rule 2)
- F991** Word in rule 36.1(3) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **15(1)**

SECTION I

Part 36 Offers to Settle

GENERAL

Scope of this Section

36.2.—(1) [^{F992}This Section—

- (a) applies to an offer to settle to which Section II of this Part applies, unless otherwise stated; but
- (b) does not apply to an offer to settle to which Section III applies.]

(2) Nothing in this Section prevents a party making an offer to settle in whatever way that party chooses, but if the offer is not made in accordance with rule 36.5, it will not have the consequences specified in this Section.

(Rule 44.2 requires the court to consider an offer to settle that does not have the costs consequences set out in this Section in deciding what order to make about costs.)

- (3) A Part 36 offer may be made in respect of the whole, or part of, or any issue that arises in—
 - (a) a claim, counterclaim or other additional claim; or
 - (b) an appeal or cross-appeal from a decision made at a trial.

(Rules 20.2 and 20.3 provide that counterclaims and other additional claims are treated as claims and that references to a claimant or a defendant include a party bringing or defending an additional claim.)

Textual Amendments

- F992** Rule 36.2(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(3)** (with rule 2)

Definitions

36.3. In this Section—

- (a) the party who makes an offer is the “offeror”;
- (b) the party to whom an offer is made is the “offeree”;
- (c) a “trial” means any trial in a case whether it is a trial of all issues or a trial of liability, quantum or some other issue in the case;

- (d) a trial is “in progress” from the time when it starts until the time when judgment is given or handed down;
- (e) a case is “decided” when all issues in the case have been determined, whether at one or more trials;
- (f) “trial judge” includes the judge (if any) allocated in advance to conduct a trial; and
- (g) “the relevant period” means—
 - (i) in the case of an offer made not less than 21 days before a trial, the period specified under rule 36.5(1)(c) or such longer period as the parties agree;
 - (ii) otherwise, the period up to the end of such trial.

Application of Part 36 to appeals

36.4.—(1) Except where a Part 36 offer is made in appeal proceedings, it shall have the consequences set out in this Section only in relation to the costs of the proceedings in respect of which it is made, and not in relation to the costs of any appeal from a decision in those proceedings.

(2) Where a Part 36 offer is made in appeal proceedings, references in this Section to a term in the first column below shall be treated, unless the context requires otherwise, as references to the corresponding term in the second column—

<i>Term</i>	<i>Corresponding term</i>
Claim	Appeal
Counterclaim	Cross-appeal
Case	Appeal proceedings
Claimant	Appellant
Defendant	Respondent
Trial	Appeal hearing
Trial judge	Appeal judge

MAKING OFFERS

Form and content of a Part 36 offer

36.5.—(1) A Part 36 offer must—

- (a) be in writing;
- (b) make clear that it is made pursuant to Part 36;
- (c) specify a period of not less than 21 days within which the defendant will be liable for the claimant’s costs in accordance with rule 36.13 or [F993]36.23] if the offer is accepted;
- (d) state whether it relates to the whole of the claim or to part of it or to an issue that arises in it and if so to which part or issue; and
- (e) state whether it takes into account any counterclaim.

(Rule 36.7 makes provision for when a Part 36 offer is made.)

(2) Paragraph (1)(c) does not apply if the offer is made less than 21 days before the start of a trial.

(3) In appropriate cases, a Part 36 offer must contain such further information as is required by rule 36.18 (personal injury claims for future pecuniary loss), rule 36.19 (offer to settle a claim for provisional damages), and rule [F994]36.20] (deduction of benefits).

(4) A Part 36 offer which offers to pay or offers to accept a sum of money will be treated as inclusive of all interest until—

- (a) the date on which the period specified under rule 36.5(1)(c) expires; or
- (b) if rule 36.5(2) applies, a date 21 days after the date the offer was made.

[^{F995}(5) A Part 36 offer to accept a sum of money may make provision for accrual of interest on such sum after the date specified in paragraph (4). If such an offer does not make any such provision, it shall be treated as inclusive of all interest up to the date of acceptance if it is later accepted.]

Textual Amendments

F993 Word in rule 36.5(1)(c) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(4)(a)** (with rule 2)

F994 Word in rule 36.5(3) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(4)(b)** (with rule 2)

F995 Rule 36.5(5) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **9**

Part 36 offers – defendant’s offer

36.6.—(1) Subject to rules 36.18(3) and 36.19(1), a Part 36 offer by a defendant to pay a sum of money in settlement of a claim must be an offer to pay a single sum of money.

(2) A defendant’s offer that includes an offer to pay all or part of the sum at a date later than 14 days following the date of acceptance will not be treated as a Part 36 offer unless the offeree accepts the offer.

Time when a Part 36 offer is made

36.7.—(1) A Part 36 offer may be made at any time, including before the commencement of proceedings.

(2) A Part 36 offer is made when it is served on the offeree.

(Part 6 provides detailed rules about service of documents.)

CLARIFYING, WITHDRAWING AND CHANGING THE TERMS OF OFFERS

Clarification of a Part 36 offer

36.8.—(1) The offeree may, within 7 days of a Part 36 offer being made, request the offeror to clarify the offer.

(2) If the offeror does not give the clarification requested under paragraph (1) within 7 days of receiving the request, the offeree may, unless the trial has started, apply for an order that the offeror do so.

(Part 23 contains provisions about making an application to the court.)

(3) If the court makes an order under paragraph (2), it must specify the date when the Part 36 offer is to be treated as having been made.

Withdrawing or changing the terms of a Part 36 offer generally

36.9.—(1) A Part 36 offer can only be withdrawn, or its terms changed, if the offeree has not previously served notice of acceptance.

(2) The offeror withdraws the offer or changes its terms by serving written notice of the withdrawal or change of terms on the offeree.

(Rule 36.17(7) deals with the costs consequences following judgment of an offer which is withdrawn.)

(3) Subject to rule 36.10, such notice of withdrawal or change of terms takes effect when it is served on the offeree.

(Rule 36.10 makes provision about when permission is required to withdraw or change the terms of an offer before the expiry of the relevant period.)

(4) Subject to paragraph (1), after expiry of the relevant period—

- (a) the offeror may withdraw the offer or change its terms without the permission of the court; or
- (b) the offer may be automatically withdrawn in accordance with its terms.

(5) Where the offeror changes the terms of a Part 36 offer to make it more advantageous to the offeree—

- (a) such improved offer shall be treated, not as the withdrawal of the original offer; but as the making of a new Part 36 offer on the improved terms; and
- (b) subject to rule 36.5(2), the period specified under rule 36.5(1)(c) shall be 21 days or such longer period (if any) identified in the written notice referred to in paragraph (2).

Withdrawing or changing the terms of a Part 36 offer before the expiry of the relevant period

36.10.—(1) Subject to rule 36.9(1), this rule applies where the offeror serves notice before expiry of the relevant period of withdrawal of the offer or change of its terms to be less advantageous to the offeree.

(2) Where this rule applies—

- (a) if the offeree has not served notice of acceptance of the original offer by the expiry of the relevant period, the offeror's notice has effect on the expiry of that period; and
- (b) if the offeree serves notice of acceptance of the original offer before the expiry of the relevant period, that acceptance has effect unless the offeror applies to the court for permission to withdraw the offer or to change its terms—
 - (i) within 7 days of the offeree's notice of acceptance; or
 - (ii) if earlier, before the first day of trial.

(3) On an application under paragraph (2)(b), the court may give permission for the original offer to be withdrawn or its terms changed if satisfied that there has been a change of circumstances since the making of the original offer and that it is in the interests of justice to give permission.

ACCEPTING OFFERS

Acceptance of a Part 36 offer

36.11.—(1) A Part 36 offer is accepted by serving written notice of acceptance on the offeror.

(2) Subject to paragraphs (3) and (4) and to rule 36.12, a Part 36 offer may be accepted at any time (whether or not the offeree has subsequently made a different offer), unless it has already been withdrawn.

(Rule 21.10 deals with compromise, etc. by or on behalf of a child or protected party.)

(Rules 36.9 and 36.10 deal with withdrawal of Part 36 offers.)

(3) The court's permission is required to accept a Part 36 offer where—

- (a) rule 36.15(4) applies;
- (b) rule [F996]36.20] (3)(b) applies, the relevant period has expired and further deductible amounts have been paid to the claimant since the date of the offer;
- (c) an apportionment is required under rule 41.3A; or
- (d) a trial is in progress.

(Rule 36.15 deals with offers by some but not all of multiple defendants.)

(Rule [F997]36.20] defines “deductible amounts”.)

(Rule 41.3A requires an apportionment in proceedings under the Fatal Accidents Act 1976 and Law Reform (Miscellaneous Provisions) Act 1934.)

(4) Where the court gives permission under paragraph (3), unless all the parties have agreed costs, the court must make an order dealing with costs, and may order that the costs consequences set out in rule 36.13 apply.

Textual Amendments

F996 Word in rule 36.11(3)(b) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(5\)\(a\)](#) (with [rule 2](#))

F997 Word in rule 36.11 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(5\)\(b\)](#) (with [rule 2](#))

Acceptance of a Part 36 offer in a split-trial case

36.12.—(1) This rule applies in any case where there has been a trial but the case has not been decided within the meaning of rule 36.3.

(2) Any Part 36 offer which relates only to parts of the claim or issues that have already been decided can no longer be accepted.

(3) Subject to paragraph (2) and unless the parties agree, any other Part 36 offer cannot be accepted earlier than 7 clear days after judgment is given or handed down in such trial.

Costs consequences of acceptance of a Part 36 offer

36.13.—(1) Subject to paragraphs (2) and (4) and to rule [F998]36.23], where a Part 36 offer is accepted within the relevant period the claimant will be entitled to the costs of the proceedings (including their recoverable pre-action costs) up to the date on which notice of acceptance was served on the offeror.

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...

(2) Where—

- (a) a defendant’s Part 36 offer relates to part only of the claim; and
- (b) at the time of serving notice of acceptance within the relevant period the claimant abandons the balance of the claim,

the claimant will only be entitled to the costs of such part of the claim unless the court orders otherwise.

(3) Except where the recoverable costs are fixed by these Rules, costs under paragraphs (1) and (2) are to be assessed on the standard basis if the amount of costs is not agreed.

(Rule 44.3(2) explains the standard basis for the assessment of costs.)

(Rule 44.9 contains provisions about when a costs order is deemed to have been made and applying for an order under section 194(3) of the Legal Services Act 2007.)

(Part 45 provides for fixed costs in certain classes of case.)

(4) Where—

- (a) a Part 36 offer which was made less than 21 days before the start of a trial is accepted; or
- (b) a Part 36 offer which relates to the whole of the claim is accepted after expiry of the relevant period; or
- (c) subject to paragraph (2), a Part 36 offer which does not relate to the whole of the claim is accepted at any time,

the liability for costs must be determined by the court unless the parties have agreed the costs.

(5) Where paragraph (4)(b) applies but the parties cannot agree the liability for costs, the court must, unless it considers it unjust to do so, order that—

- (a) the claimant be awarded costs up to the date on which the relevant period expired; and
- (b) the offeree do pay the offeror's costs for the period from the date of expiry of the relevant period to the date of acceptance.

(6) In considering whether it would be unjust to make the orders specified in paragraph (5), the court must take into account all the circumstances of the case including the matters listed in rule 36.17(5).

(7) The claimant's costs include any costs incurred in dealing with the defendant's counterclaim if the Part 36 offer states that it takes it into account.

Textual Amendments

F998 Word in rule 36.13 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **19(2)**

F999 Words in rule 36.13 omitted (1.10.2023) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(6)** (with rule 2)

Other effects of acceptance of a Part 36 offer

36.14.—(1) If a Part 36 offer is accepted, the claim will be stayed.

(2) In the case of acceptance of a Part 36 offer which relates to the whole claim, the stay will be upon the terms of the offer.

(3) If a Part 36 offer which relates to part only of the claim is accepted, the claim will be stayed as to that part upon the terms of the offer.

(4) If the approval of the court is required before a settlement can be binding, any stay which would otherwise arise on the acceptance of a Part 36 offer will take effect only when that approval has been given.

(5) Any stay arising under this rule will not affect the power of the court—

- (a) to enforce the terms of a Part 36 offer; or
- (b) to deal with any question of costs (including interest on costs) relating to the proceedings.

(6) Unless the parties agree otherwise in writing, where a Part 36 offer that is or includes an offer to pay or accept a single sum of money is accepted, that sum must be paid to the claimant within 14 days of the date of—

- (a) acceptance; or

- (b) the order when the court makes an order under rule 41.2 (order for an award of provisional damages) or rule 41.8 (order for an award of periodical payments), unless the court orders otherwise.
- (7) If such sum is not paid within 14 days of acceptance of the offer, or such other period as has been agreed, the claimant may enter judgment for the unpaid sum.
- (8) Where—
 - (a) a Part 36 offer (or part of a Part 36 offer) which is not an offer to which paragraph (6) applies is accepted; and
 - (b) a party alleges that the other party has not honoured the terms of the offer,
 that party may apply to enforce the terms of the offer without the need for a new claim.

Acceptance of a Part 36 offer made by one or more, but not all, defendants

- 36.15.**—(1) This rule applies where the claimant wishes to accept a Part 36 offer made by one or more, but not all, of a number of defendants.
- (2) If the defendants are sued jointly or in the alternative, the claimant may accept the offer if—
 - (a) the claimant discontinues the claim against those defendants who have not made the offer; and
 - (b) those defendants give written consent to the acceptance of the offer.
 - (3) If the claimant alleges that the defendants have a several liability^(GL) to the claimant, the claimant may—
 - (a) accept the offer; and
 - (b) continue with the claims against the other defendants if entitled to do so.
 - (4) In all other cases the claimant must apply to the court for permission to accept the Part 36 offer.
- UNACCEPTED OFFERS

Restriction on disclosure of a Part 36 offer

- 36.16.**—(1) A Part 36 offer will be treated as “without prejudice except as to costs”.
- (2) The fact that a Part 36 offer has been made and the terms of such offer must not be communicated to the trial judge until the case has been decided.
 - (3) Paragraph (2) does not apply—
 - (a) where the defence of tender before claim has been raised;
 - (b) where the proceedings have been stayed under rule 36.14 following acceptance of a Part 36 offer;
 - (c) where the offeror and the offeree agree in writing that it should not apply; or
 - (d) where, although the case has not been decided—
 - (i) any part of, or issue in, the case has been decided; and
 - (ii) the Part 36 offer relates only to parts or issues that have been decided.
 - (4) In a case to which paragraph (3)(d)(i) applies, the trial judge—
 - (a) may be told whether or not there are Part 36 offers other than those referred to in paragraph (3)(d)(ii); but
 - (b) must not be told the terms of any such other offers unless any of paragraphs (3)(a) to (c) applies.

Costs consequences following judgment

36.17.—(1) Subject to rule [F100036.24], this rule applies where upon judgment being entered—

- (a) a claimant fails to obtain a judgment more advantageous than a defendant’s Part 36 offer; or
- (b) judgment against the defendant is at least as advantageous to the claimant as the proposals contained in a claimant’s Part 36 offer.

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...

(2) For the purposes of paragraph (1), in relation to any money claim or money element of a claim, “more advantageous” means better in money terms by any amount, however small, and “at least as advantageous” shall be construed accordingly.

(3) Subject to paragraphs (7) and (8), where paragraph (1)(a) applies, the court must, unless it considers it unjust to do so, order that the defendant is entitled to—

- (a) costs (including any recoverable pre-action costs) from the date on which the relevant period expired; and
- (b) interest on those costs.

(4) Subject to paragraph (7), where paragraph (1)(b) applies, the court must, unless it considers it unjust to do so, order that the claimant is entitled to—

- (a) interest on the whole or part of any sum of money (excluding interest) awarded, at a rate not exceeding 10% above base rate for some or all of the period starting with the date on which the relevant period expired;
- (b) costs (including any recoverable pre-action costs) on the indemnity basis from the date on which the relevant period expired;
- (c) interest on those costs at a rate not exceeding 10% above base rate; and
- (d) provided that the case has been decided and there has not been a previous order under this sub-paragraph, an additional amount, which shall not exceed £75,000, calculated by applying the prescribed percentage set out below to an amount which is—
 - (i) the sum awarded to the claimant by the court; or
 - (ii) where there is no monetary award, the sum awarded to the claimant by the court in respect of costs—

<i>Amount awarded by the court</i>	<i>Prescribed percentage</i>
Up to £500,000	10% of the amount awarded
Above £500,000	10% of the first £500,000 and (subject to the limit of £75,000) 5% of any amount above that figure.

(5) In considering whether it would be unjust to make the orders referred to in paragraphs (3) and (4), the court must take into account all the circumstances of the case including—

- (a) the terms of any Part 36 offer;
- (b) the stage in the proceedings when any Part 36 offer was made, including in particular how long before the trial started the offer was made;
- (c) the information available to the parties at the time when the Part 36 offer was made;
- (d) the conduct of the parties with regard to the giving of or refusal to give information for the purposes of enabling the offer to be made or evaluated; and
- (e) whether the offer was a genuine attempt to settle the proceedings.

(6) Where the court awards interest under this rule and also awards interest on the same sum and for the same period under any other power, the total rate of interest must not exceed 10% above base rate.

(7) Paragraphs (3) and (4) do not apply to a Part 36 offer—

- (a) which has been withdrawn;
- (b) which has been changed so that its terms are less advantageous to the offeree where the offeree has beaten the less advantageous offer;
- (c) made less than 21 days before trial, unless the court has abridged the relevant period.

(8) Paragraph (3) does not apply to a soft tissue injury claim to which rule [F100236.24] applies.

(Rule 44.2 requires the court to consider an offer to settle that does not have the costs consequences set out in this Section in deciding what order to make about costs.)

Textual Amendments

F1000 Word in rule 36.17(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(7)(a)** (with rule 2)

F1001 Words in rule 36.17 omitted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(7)(b)** (with rule 2)

F1002 Word in rule 36.17(8) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **19(3)**

PERSONAL INJURY CLAIMS

Personal injury claims for future pecuniary loss

36.18.—(1) This rule applies to a claim for damages for personal injury which is or includes a claim for future pecuniary loss.

(2) An offer to settle such a claim will not have the consequences set out in this Section unless it is made by way of a Part 36 offer under this rule.

(3) A Part 36 offer to which this rule applies may contain an offer to pay, or an offer to accept—

- (a) the whole or part of the damages for future pecuniary loss in the form of—
 - (i) a lump sum;
 - (ii) periodical payments; or
 - (iii) both a lump sum and periodical payments;
- (b) the whole or part of any other damages in the form of a lump sum.

(4) A Part 36 offer to which this rule applies—

- (a) must state the amount of any offer to pay or to accept the whole or part of any damages in the form of a lump sum;
- (b) may state—
 - (i) what part of the lump sum, if any, relates to damages for future pecuniary loss; and
 - (ii) what part relates to other damages to be paid or accepted in the form of a lump sum;
- (c) must state what part of the offer relates to damages for future pecuniary loss to be paid or accepted in the form of periodical payments and must specify—
 - (i) the amount and duration of the periodical payments;
 - (ii) the amount of any payments for substantial capital purchases and when they are to be made; and

- (iii) that each amount is to vary by reference to the retail prices index (or to some other named index, or that it is not to vary by reference to any index); and
 - (d) must state either that any damages which take the form of periodical payments will be funded in a way which ensures that the continuity of payments is reasonably secure in accordance with section 2(4) of the Damages Act 1996 or how such damages are to be paid and how the continuity of their payment is to be secured.
- (5) Rule 36.6 applies to the extent that a Part 36 offer by a defendant under this rule includes an offer to pay all or part of any damages in the form of a lump sum.
- (6) Where the offeror makes a Part 36 offer to which this rule applies and which offers to pay or to accept damages in the form of both a lump sum and periodical payments, the offeree may only give notice of acceptance of the offer as a whole.
- (7) If the offeree accepts a Part 36 offer which includes payment of any part of the damages in the form of periodical payments, the claimant must, within 7 days of the date of acceptance, apply to the court for an order for an award of damages in the form of periodical payments under rule 41.8. (Practice Direction 41B contains information about periodical payments under the Damages Act 1996.)

Offer to settle a claim for provisional damages

- 36.19.**—(1) An offeror may make a Part 36 offer in respect of a claim which includes a claim for provisional damages.
- (2) Where the offeror does so, the Part 36 offer must specify whether or not the offeror is proposing that the settlement shall include an award of provisional damages.
- (3) Where the offeror is offering to agree to the making of an award of provisional damages, the Part 36 offer must also state—
- (a) that the sum offered is in satisfaction of the claim for damages on the assumption that the injured person will not develop the disease or suffer the type of deterioration specified in the offer;
 - (b) that the offer is subject to the condition that the claimant must make any claim for further damages within a limited period; and
 - (c) what that period is.
- (4) Rule 36.6 applies to the extent that a Part 36 offer by a defendant includes an offer to agree to the making of an award of provisional damages.
- (5) If the offeree accepts the Part 36 offer, the claimant must, within 7 days of the date of acceptance, apply to the court for an award of provisional damages under rule 41.2.

Deduction of benefits and lump sum payments

- [^{F1003}**36.20**].—(1) In this rule and rule 36.11—
- (a) “the 1997 Act” means the Social Security (Recovery of Benefits) Act 1997;
 - (b) “the 2008 Regulations” means the Social Security (Recovery of Benefits)(Lump Sum Payments) Regulations 2008;
 - (c) “recoverable amount” means—
 - (i) “recoverable benefits” as defined in section 1(4)(c) of the 1997 Act; and
 - (ii) “recoverable lump sum payments” as defined in regulation 1 of the 2008 Regulations;
 - (d) “deductible amount” means—

- (i) any benefits by the amount of which damages are to be reduced in accordance with section 8 of, and Schedule 2 to the 1997 Act (“deductible benefits”); and
 - (ii) any lump sum payment by the amount of which damages are to be reduced in accordance with regulation 12 of the 2008 Regulations (“deductible lump sum payments”); and
- (e) “certificate”—
- (i) in relation to recoverable benefits, is construed in accordance with the provisions of the 1997 Act; and
 - (ii) in relation to recoverable lump sum payments, has the meaning given in section 29 of the 1997 Act, as applied by regulation 2 of, and modified by Schedule 1 to, the 2008 Regulations.
- (2) This rule applies where a payment to a claimant following acceptance of a Part 36 offer would be a compensation payment as defined in section 1(4)(b) or 1A(5)(b) of the 1997 Act.
- (3) A defendant who makes a Part 36 offer must, where relevant, state either—
- (a) that the offer is made without regard to any liability for recoverable amounts; or
 - (b) that it is intended to include any deductible amounts.
- (4) Where paragraph (3)(b) applies, paragraphs (5) to (9) will apply to the Part 36 offer.
- (5) Before making the Part 36 offer, the offeror must apply for a certificate.
- (6) Subject to paragraph (7), the Part 36 offer must state—
- (a) the gross amount of compensation;
 - (b) the name and amount of any deductible amounts by which the gross amount is reduced; and
 - (c) the net amount of compensation.
- (7) If at the time the offeror makes the Part 36 offer, the offeror has applied for, but has not received, a certificate, the offeror must clarify the offer by stating the matters referred to in paragraph (6)(b) and (c) not more than 7 days after receipt of the certificate.
- (8) For the purposes of rule 36.17(1)(a), a claimant fails to recover more than any sum offered (including a lump sum offered under rule 36.6) if the claimant fails upon judgment being entered to recover a sum, once deductible amounts identified in the judgment have been deducted, greater than the net amount stated under paragraph (6)(c).
- (Section 15(2) of the 1997 Act provides that the court must specify the compensation payment attributable to each head of damage. Schedule 1 to the 2008 Regulations modifies section 15 of the 1997 Act in relation to lump sum payments and provides that the court must specify the compensation payment attributable to each or any dependant who has received a lump sum payment.)
- (9) Where—
- (a) further deductible amounts have accrued since the Part 36 offer was made; and
 - (b) the court gives permission to accept the Part 36 offer,
- the court may direct that the amount of the offer payable to the offeree shall be reduced by a sum equivalent to the deductible amounts paid to the claimant since the date of the offer.
- (Rule 36.11(3)(b) states that permission is required to accept an offer where the relevant period has expired and further deductible amounts have been paid to the claimant.)

Textual Amendments

F1003Rule 36.20 omitted and rule 36.22 renumbered as rule 36.20 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(8)(9)(a)** (with rule 2)

MISCELLANEOUS

Cases in which the offeror’s costs have been limited to court fees

[^{F1004}36.21].—(1) This rule applies in any case where the offeror is treated as having filed a costs budget limited to applicable court fees, or is otherwise limited in their recovery of costs to such fees. (Rule 3.14 provides that a litigant may be treated as having filed a budget limited to court fees for failure to file a budget.)

- (2) “Costs” in rules 36.13(5)(b), 36.17(3)(a) and 36.17(4)(b) shall mean—
- (a) in respect of those costs subject to any such limitation, 50% of the costs assessed without reference to the limitation; together with
 - (b) any other recoverable costs.

Textual Amendments

F1004Rule 36.21 omitted and rule 36.23 renumbered as rule 36.21 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(8)(9)(b)** (with rule 2)

[^{F1005}SECTION II

Claims to Which Sections VI, VII, or VIII of Part 45 Apply

Textual Amendments

F1005Pt. 36 Section 2 inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(10)** (with rule 2)

Scope of this Section and definitions

36.22.—(1) This Section applies where a claim is one to which Section VI, Section VII or Section VIII of Part 45 applies.

- (2) In this Section—
- (a) “fixed cost medical report” and “soft tissue injury claim” have the meaning ascribed by paragraph 1.1(10A) and (16A) respectively of the RTA Protocol;
 - (b) for the purposes of rules 36.23 and 36.24, a defendant’s Protocol offer is either—
 - (i) defined in accordance with rules 36.26 and 36.27; or
 - (ii) if the claim leaves the Protocol before the Court Proceedings Pack Form is sent to the defendant—
 - (aa) the last offer made by the defendant before the claim leaves the Protocol; and
 - (bb) deemed to be made on the first business day after the claim leaves the Protocol; and

- (c) reference to—
 - (i) the “Court Proceedings Pack Form” is a reference to the form used in the Protocol; and
 - (ii) “business day” is a reference to a business day as defined in rule 6.2.

Costs consequences of acceptance of a Part 36 offer

36.23.—(1) Where a Part 36 offer is accepted within the relevant period, the claimant is entitled to—

- (a) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 for the stage applicable at the date on which notice of acceptance was served on the offeror; and
- (b) any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII of Part 45 incurred in any period for which costs are payable to them.

(2) Where—

- (a) a defendant’s Part 36 offer relates to part only of the claim; and
- (b) at the time of serving notice of acceptance within the relevant period the claimant abandons the balance of the claim,

the claimant is entitled to the fixed costs in paragraph (1).

(3) Subject to paragraphs (4) and (5), where a defendant’s Part 36 offer is accepted after the relevant period—

- (a) the claimant is entitled to—
 - (i) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 for the stage applicable at the date on which the relevant period expired; and
 - (ii) any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII incurred in any period for which costs are payable to them; and
- (b) the claimant is liable for the defendant’s costs in accordance with paragraph (8).

(4) Where a claim no longer continues under the RTA or EL/PL Protocol, then, subject to paragraph (5), where the claimant accepts the defendant’s Protocol offer after the date on which the claim leaves the Protocol—

- (a) the claimant is entitled to the applicable Stage 1 and Stage 2 fixed costs in Table 10 or Table 11 in Practice Direction 45; and
- (b) the claimant is liable for the defendant’s costs in accordance with paragraph (8).

(5) In a soft tissue injury claim, if the defendant makes a Part 36 offer before the defendant receives a fixed cost medical report, paragraphs (3) and (4) shall only have effect if the claimant accepts the offer more than 21 days after the defendant received the report.

(6) Fixed costs shall be calculated by reference to the amount of the offer which is accepted.

(7) Where the parties do not agree the liability for costs, the court must make an order as to costs.

(8) Subject to paragraph (9) where the court makes an order for costs in favour of the defendant, the defendant is entitled to—

- (a) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 for the stage applicable at the date of acceptance; and
- (b) any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII incurred in any period for which costs are payable to them,

less the fixed costs to which the claimant is entitled under paragraph (3)(a)(i) or (4).

(9) Where—

- (a) an order for costs is made pursuant to paragraph (3); and
 - (b) the stage applicable at the date on which the relevant period expires and the stage applicable at the date of acceptance are the same,
- the defendant is entitled to the fixed costs applicable to that stage.
- (10) The parties are entitled to disbursements allowed in accordance with Section IX of Part 45 incurred in any period for which costs are payable to them.

Costs consequences following judgment

- 36.24.**—(1) Rule 36.17 applies with the following modifications.
- (2) Subject to paragraphs (3), (4) and (5), where an order for costs is made pursuant to rule 36.17(3)—
- (a) the claimant is entitled to—
 - (i) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 for the stage applicable at the date on which the relevant period expired; and
 - (ii) any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII incurred in any period for which costs are payable to them; and
 - (b) the claimant is liable for the defendant’s costs in accordance with paragraph (9).
- (3) Where rule 36.17(1)(b) applies, the claimant is entitled to—
- (a) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 for the stage applicable at the date of judgment; and
 - (b) any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII incurred in any period for which costs are payable to them.
- (4) Where the court makes an order pursuant to rule 36.17(4), instead of costs awarded on the indemnity basis under rule 36.17(4)(b), the claimant is entitled to additional costs in accordance with paragraph (5).
- (5) The additional costs are an amount equivalent to 35% of the difference between the fixed costs for—
- (a) the stage applicable when the relevant period expires; and
 - (b) the stage applicable at the date of judgment,
- to which the claimant is entitled under paragraph (3)(a) and (b).
- (6) Where a claim no longer continues under the RTA or EL/PL Protocol, then, subject to paragraph (7), where the claimant fails to obtain a judgment more advantageous than the defendant’s Protocol offer—
- (a) the claimant is entitled to the applicable Stage 1 and Stage 2 fixed costs in Table 10 or Table 11 in Practice Direction 45; and
 - (b) the claimant is liable for the defendant’s costs in accordance with paragraph (9); and
 - (c) in this rule, the amount of the judgment is less than the Protocol offer where the judgment is less than the offer once deductible amounts identified in the judgment are deducted.
- (“Deductible amount” is defined in rule 36.20(1)(d).)
- (7) In a soft tissue injury claim, if the defendant makes a Part 36 offer or Protocol offer before the defendant receives a fixed cost medical report, paragraphs (2) and (6) shall only have effect in respect of costs incurred by either party more than 21 days after the defendant received the report.
- (8) Fixed costs must be calculated by reference to the amount which is awarded.

(9) Where the court makes an order for costs in favour of the defendant, the defendant is entitled to—

- (a) the fixed costs in Table 12, Table 14 or Table 15 in Practice Direction 45 applicable at the date of judgment; and
- (b) any applicable additional fixed costs allowed under Section I, Section VI, Section VII or Section VIII incurred in any period for which costs are payable to them,

less the fixed costs to which the claimant is entitled under paragraph (2)(a) or (6).

(10) The parties are entitled to disbursements allowed in accordance with Section IX of Part 45 incurred in any period for which costs are payable to them.]

[^{F1006}SECTION III]

RTA Protocol and EL/PL Protocol Offers to Settle

Textual Amendments

F1006 Pt. 36 Section 2 renumbered as Pt. 36 Section 3 (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\)](#), [12\(11\)](#) (with [rule 2](#))

Scope of this Section

[^{F1007}36.25].—(1) Where this Section applies, Section I [^{F1008}and Section II do not] apply.

(2) This Section applies to an offer to settle where the parties have followed the RTA Protocol or the EL/PL Protocol and started proceedings under Part 8 in accordance with Practice Direction [^{F1009}49F] (“the Stage 3 Procedure”).

(3) A reference to the Court Proceedings Pack Form is a reference to the form used in the relevant Protocol.

(4) Nothing in this Section prevents a party making an offer to settle in whatever way that party chooses, but if the offer is not made in accordance with this Section, it will not have any costs consequences.

Textual Amendments

F1007 Rule 36.24 renumbered as rule 36.25 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\)](#), [12\(12\)\(a\)](#) (with [rule 2](#))

F1008 Words in rule 36.25(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\)](#), [12\(12\)\(b\)](#) (with [rule 2](#))

F1009 Word in rule 36.24(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), [rules 1\(1\)](#), [15\(2\)](#)

Form and content of a Protocol offer

[^{F1010}36.26].—(1) An offer to settle which is made in accordance with this rule is called a Protocol offer.

(2) A Protocol offer must—

- (a) be set out in the Court Proceedings Pack (Part B) Form; and
- (b) contain the final total amount of the offers from both parties.

Textual Amendments

F1010 Rule 36.25 renumbered as rule 36.26 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(13)(a)** (with rule 2)

Time when a Protocol offer is made

[^{F1011}36.27].—(1) The Protocol offer is deemed to be made on the first business day after the Court Proceedings Pack (Part A and Part B) Form is sent to the defendant.

(2) In this Section “business day” has the same meaning as in rule 6.2.

Textual Amendments

F1011 Rule 36.26 renumbered as rule 36.27 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(13)(b)** (with rule 2)

General provisions

[^{F1012}36.28]. A Protocol offer—

- (a) is treated as exclusive of all interest; and
- (b) has the consequences set out in this Section only in relation to the fixed costs of the Stage 3 Procedure as provided for in rule [^{F1013}45.29], and not in relation to the costs of any appeal from the final decision of those proceedings.

Textual Amendments

F1012 Rule 36.27 renumbered as rule 36.28 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(13)(c)** (with rule 2)

F1013 Word in rule 36.28(b) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(14)** (with rule 2)

Restrictions on the disclosure of a Protocol offer

[^{F1014}36.29].—(1) The amount of the Protocol offer must not be communicated to the court until the claim is determined.

(2) Any other offer to settle must not be communicated to the court at all.

Textual Amendments

F1014 Rule 36.28 renumbered as rule 36.29 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **12(15)(a)** (with rule 2)

Costs consequences following judgment

[^{F1015}36.30].—(1) This rule applies where, on any determination by the court, the claimant obtains judgment against the defendant for an amount of damages that is—

- (a) less than or equal to the amount of the defendant’s Protocol offer;

- (b) more than the defendant's Protocol offer but less than the claimant's Protocol offer; or
 - (c) equal to or more than the claimant's Protocol offer.
- (2) Where paragraph (1)(a) applies, the court must order the claimant to pay—
- (a) the fixed costs in rule ^{F1016}45.37]; and
 - (b) interest on those fixed costs from the first business day after the deemed date of the Protocol offer under rule ^{F1017}36.27].
- (3) Where paragraph (1)(b) applies, the court must order the defendant to pay the fixed costs in rule ^{F1018}45.30].
- (4) Where paragraph (1)(c) applies, the court must order the defendant to pay—
- (a) interest on the whole of the damages awarded at a rate not exceeding 10% above base rate for some or all of the period starting with the date specified in rule ^{F1019}36.27];
 - (b) the fixed costs in rule ^{F1020}45.30];
 - (c) interest on those fixed costs at a rate not exceeding 10% above base rate; and
 - (d) an additional amount calculated in accordance with rule 36.17(4)(d).

Textual Amendments

- F1015**Rule 36.29 renumbered as rule 36.30 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(15\)\(b\)](#) (with [rule 2](#))
- F1016**Word in rule 36.30(2)(a) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(16\)\(a\)\(i\)](#) (with [rule 2](#))
- F1017**Word in rule 36.30(2)(b) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(16\)\(a\)\(ii\)](#) (with [rule 2](#))
- F1018**Word in rule 36.30(3) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(16\)\(b\)](#) (with [rule 2](#))
- F1019**Word in rule 36.30(4)(a) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\), 19\(4\)](#)
- F1020**Word in rule 36.30(4)(b) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(16\)\(c\)\(ii\)](#) (with [rule 2](#))

Deduction of benefits

^{F1021}**36.31**. For the purposes of rule ^{F1022}36.30](1)(a) the amount of the judgment is less than the Protocol offer where the judgment is less than that offer once deductible amounts identified in the judgment are deducted.

(“Deductible amount” is defined in rule ^{F1023}36.20](1)(d).)]

Textual Amendments

- F1021**Rule 36.30 renumbered as rule 36.31 by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(17\)\(a\)](#) (with [rule 2](#))
- F1022**Word in rule 36.31 substituted by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(17\)\(b\)](#) (with [rule 2](#))
- F1023**Word in rule 36.31 substituted by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\), 12\(17\)\(c\)](#) (with [rule 2](#))

[^{F1024}PART 37

MISCELLANEOUS PROVISIONS ABOUT PAYMENTS INTO COURT

Textual Amendments

F1024 Pt. 37 substituted (6.4.2007) by [The Civil Procedure \(Amendment No.3\) Rules 2006 \(S.I. 2006/3435\)](#), rule 1, [Sch. 2](#)

Modifications etc. (not altering text)

- C78** Pt. 37 applied (1.11.2009) by [The Water Industry \(Special Administration\) Rules 2009 \(S.I. 2009/2477\)](#), rules 2, [107](#)
- C79** Pt. 37 applied (30.6.2011) by [The Investment Bank Special Administration \(England and Wales\) Rules 2011 \(S.I. 2011/1301\)](#), rules 2, [229](#) (with rule 5)
- C80** Pt. 37 applied (7.6.2013) by [The Energy Supply Company Administration Rules 2013 \(S.I. 2013/1046\)](#), rules 1, [130](#) (with rules 3, 208)
- C81** Pt. 37 applied (31.1.2014) by [The Postal Administration Rules 2013 \(S.I. 2013/3208\)](#), rules 1, [134](#) (with rules 3, 210)
- C82** Pt. 37 applied (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), rules 1, [139](#) (with rule 4(1))
- C83** Pt. 37 applied (with modifications) (12.11.2021) by [The Payment and Electronic Money Institution Insolvency \(England and Wales\) Rules 2021 \(S.I. 2021/1178\)](#), rules 2, [187](#), [191](#)
- C84** Pt. 37 applied (18.7.2023) by [The Relevant Licensee Nuclear Company Administration \(England and Wales\) Rules 2023 \(S.I. 2023/712\)](#), rules 1(2)(a), [135](#) (with rule 2)

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Money paid into court under a court order

- 37.1** A party who makes a payment into court under a court order must—
- serve notice of the payment on every other party; and
 - in relation to each such notice, file a certificate of service.

Money paid into court where defendant wishes to rely on a defence of tender before claim

37.2.—(1) Where a defendant wishes to rely on a defence of tender before claim (GL) he must make a payment into court of the amount he says was tendered.

(2) If the defendant does not make a payment in accordance with paragraph (1), the defence of tender before claim will not be available to him until he does so.

Payment out of money paid into court

37.3 Money paid into court under a court order or in support of a defence of tender before claim (GL) may not be paid out without the court’s permission except where—

- (a) a Part 36 offer is accepted without needing the permission of the court; and
- (b) the defendant agrees that a sum paid into court by him should be used to satisfy the offer (in whole or in part).

(Rule [F1025]36.11) sets out when the court’s permission is required to accept a Part 36 offer)

Textual Amendments

F1025Word in rule 37.3 substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **8** (with rule 18)

Payment into court under enactments

37.4 A practice direction may set out special provisions with regard to payments into court under various enactments.]

PART 38

DISCONTINUANCE

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Scope of this Part

38.1.—(1) The rules in this Part set out the procedure by which a claimant may discontinue all or part of a claim. [F1026]A “claim” includes a cause of action or part of one.]

- (2) A claimant who—
 - (a) claims more than one remedy; and
 - (b) subsequently abandons [F1027]their] claim to one or more of the remedies but continues with [F1027]their] claim for the other remedies,

is not treated as discontinuing all or part of a claim for the purposes of this Part.

(The procedure for amending a statement of case, set out in Part 17, applies where a claimant abandons a claim for a particular remedy but wishes to continue with his claim for other remedies)

Textual Amendments

F1026 Words in rule 38.1(1) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(1)(a)**

F1027 Word in rule 38.1(2)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(1)(b)**

Commencement Information

I185 [Rule 38.1](#) in force at 26.4.1999, see [Signature](#)

Right to discontinue claim

38.2.—(1) [^{F1028}At any time, a claimant] may discontinue all or part of a claim [^{F1029}against one or more defendants].

(2) However—

- (a) a claimant must obtain the permission of the court if [^{F1030}they wish to] discontinue all or part of a claim in relation to which—
 - (i) the court has granted an interim injunction^(GL); or
 - (ii) any party has given an undertaking to the court;
- (b) where the claimant has received an interim payment in relation to a claim (whether voluntarily or pursuant to an order under Part 25), he may discontinue that claim only if—
 - (i) the defendant who made the interim payment consents in writing; or
 - (ii) the court gives permission;
- (c) where there is more than one claimant, a claimant may not discontinue unless—
 - (i) every other claimant consents in writing; or
 - (ii) the court gives permission.

^{F1031}(3)

Textual Amendments

F1028 Words in rule 38.2(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(2)(a)**

F1029 Words in rule 38.2(1) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **20(1)(a)**

F1030 Words in rule 38.2(2)(a) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **20(1)(b)**

F1031 Rule 38.2(3) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(2)(c)**

Commencement Information

I186 [Rule 38.2](#) in force at 26.4.1999, see [Signature](#)

Procedure for discontinuing

38.3.—(1) To discontinue a claim or part of a claim, a claimant must—

- (a) file a notice of discontinuance; and
- (b) serve a copy of it on every other party to the proceedings.

(2) The claimant must state in the notice of discontinuance [^{F1032}that they have] served notice of discontinuance on every other party to the proceedings.

(3) Where the claimant needs the consent of some other party, a copy of the necessary consent must be attached to the notice of discontinuance.

(4) Where there is more than one defendant, the notice of discontinuance must specify against which defendants the claim is discontinued.

[^{F1033}(5) A notice of discontinuance must be in Form N279 unless the court permits otherwise.]

Textual Amendments

F1032 Words in rule 38.3(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(3)(a)**

F1033 Rule 38.3(5) substituted for words in rule 38.3 (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **20(2)**

Commencement Information

I187 [Rule 38.3](#) in force at 26.4.1999, see [Signature](#)

Right to apply to have notice of discontinuance set aside

38.4.—(1) Where the claimant discontinues under rule 38.2(1) the defendant may apply to have the notice of discontinuance set aside^(GL).

(2) The defendant may not make an application under this rule more than 28 days after the date when the notice of discontinuance was served on [^{F1034}them].

Textual Amendments

F1034 Word in [rule 38.4\(2\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(4)**

Commencement Information

I188 [Rule 38.4](#) in force at 26.4.1999, see [Signature](#)

When discontinuance takes effect where permission of the court is not needed

38.5.—(1) Discontinuance against any defendant takes effect on the date when notice of discontinuance is served on [^{F1035}them] under rule 38.3(1).

(2) Subject to rule 38.4, the [^{F1036}claim is] brought to an end as against [^{F1037}that defendant] on that date.

(3) However, this does not affect proceedings to deal with any question of costs.

Textual Amendments

- F1035** Word in rule 38.5(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(5)(a)**
- F1036** Words in rule 38.5(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(5)(b)(i)**
- F1037** Words in rule 38.5(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(5)(b)(ii)**

Commencement Information

- I189** [Rule 38.5](#) in force at 26.4.1999, see [Signature](#)

Liability for costs

38.6.—(1) Unless the court orders otherwise, a claimant who discontinues is liable for the costs which a defendant against whom [^{F1038}the claimant] discontinues incurred on or before the date on which notice of discontinuance was served on [^{F1039}the defendant].

(2) If proceedings are only partly discontinued—

- (a) the claimant is liable under paragraph (1) for costs relating only to the [^{F1040}discontinued] part of the proceedings ^{F1041}...; and
- (b) unless the court orders otherwise, the costs which the claimant is liable to pay must not be assessed until the conclusion of the rest of the proceedings.

(3) This rule does not apply to claims allocated to the small claims track.

(Rule [^{F1042}44.9] provides for the basis of assessment where [^{F1043}the] right to costs arises on discontinuance [^{F1044}and contains provisions about when a costs order is deemed to have been made and applying for an order under section 194(3) of the Legal Services Act 2007])

Textual Amendments

- F1038** Words in rule 38.6(1) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **18(a)(i)**
- F1039** Words in rule 38.6(1) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **18(a)(ii)**
- F1040** Word in rule 38.6(2)(a) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(6)(a)**
- F1041** Words in rule 38.6(2)(a) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(6)(b)**
- F1042** Word in rule 38.6 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **15(a)**
- F1043** Word in rule 38.6 inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **18(b)(i)**
- F1044** Words in rule 38.6 inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **18(b)(ii)**

Commencement Information

- I190** [Rule 38.6](#) in force at 26.4.1999, see [Signature](#)

^{F1045}Discontinuance and subsequent proceedings

38.7.—(1) A claimant who discontinues a claim needs the permission of the court to make another claim against the same defendant if—

- (a) they discontinued the claim after the defendant filed a defence or, in a Part 8 claim, filed an acknowledgment of service or written evidence; and
- (b) the other claim arises out of facts which are the same or substantially the same as those relating to the discontinued claim.

(2) If the claimant considers that permission is needed, the application for permission shall be included in the claim form and claim will proceed only if permission is granted.

(3) The defendant shall inform the court in writing as soon as practicable whether the defendant asserts that permission is needed and, if so, whether the defendant consents to permission being granted.

(4) If the parties agree that permission should be granted, the court shall issue an order granting permission on the papers or make such other order as it thinks fit.

(5) If the parties disagree about whether permission should be granted, the court shall determine the issue either at a hearing or, in its discretion, on the papers after receiving written representations.

(6) The defendant is not required to file an acknowledgment of service unless and until permission is granted.]

Textual Amendments

F1045Rule 38.7 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **21(7)**

Stay of remainder of partly discontinued proceedings where costs not paid

38.8.—(1) This rule applies where—

- (a) proceedings are partly discontinued;
- ^{F1046}(b) a claimant is liable to—
 - (i) pay costs under rule 38.6; or
 - (ii) make a payment pursuant to an order under section 194(3) of the Legal Services Act 2007; and]
- (c) the claimant fails to pay those costs ^{F1047}or make the payment] within ^{F1048}14] days of—
 - (i) the date on which the parties agreed the sum payable by the claimant; or
 - (ii) the date on which the court ordered the costs to be paid ^{F1049}or the payment to be made].

(2) Where this rule applies, the court may stay^(GL) the remainder of the proceedings until the claimant pays the whole of the costs which ^{F1050}the claimant] is liable to pay under rule 38.6 ^{F1051}or makes the payment pursuant to an order under section 194(3) of the Legal Services Act 2007]

^{F1052}(Rules ^{F1053}44.9 and 46.7] contain provisions about applying for an order under section 194(3) of the Legal Services Act 2007.)]

Textual Amendments

- F1046** Rule 38.8(1)(b) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **19(a)**
- F1047** Words in rule 38.8(1)(c) inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **19(b)(i)**
- F1048** Word in rule 38.8(1)(c) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000](#) (S.I. 2000/1317), rules 1, **10** (with rule 39)
- F1049** Words in rule 38.8(1)(c)(ii) inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **19(b)(ii)**
- F1050** Words in rule 38.8(2) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **19(c)(i)**
- F1051** Words in rule 38.8(2) inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **19(c)(ii)**
- F1052** Words in rule 38.8 inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **19(d)**
- F1053** Words in rule 38.8 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **15(b)**

Commencement Information

- I191** [Rule 38.8](#) in force at 26.4.1999, see [Signature](#)

PART 39

MISCELLANEOUS PROVISIONS RELATING TO HEARINGS

Contents of this Part

Interpretation	Rule 39.1
General rule—hearing to be in public	Rule 39.2
Failure to attend the trial	Rule 39.3
Timetable for trial	Rule 39.4
Trial bundles	Rule 39.5
Representation at trial of companies or other corporations	Rule 39.6
Impounded documents	Rule 39.7
[^{F1054} Communications with the court	Rule 39.8
Recording and transcription of proceedings	Rule 39.9
Discontinuance and settlement	Rule 39.10]

Interpretation

[^{F1055}**39.1.**—(1) In this Part—

- [^{F1056}(a) “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 the right to be, heard in person, by telephone, by video or by any other means which permits simultaneous communication; and]
- (b) “judge” has the same meaning as in rule 2.3(1).
- (2) This Part is subject to rule 62.10 (hearings in arbitration claims).]

Textual Amendments

F1055 Rule 39.1 substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), 7

F1056 Rule 39.1(1)(a) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **21(1)**

General rule—hearing to be in public

39.2.—[^{F1057}(1) The general rule is that a hearing is to be in public. A hearing may not be held in private, irrespective of the parties’ consent, unless and to the extent that the court decides that it must be held in private, applying the provisions of paragraph (3).

(2) In deciding whether to hold a hearing in private, the court must consider any duty to protect or have regard to a right to freedom of expression which may be affected.

(2A) The court shall take reasonable steps to ensure that all hearings are of an open and public character, save when a hearing is held in private.]

(3) A hearing, or any part of it, [^{F1058} must be held in private if, and only to the extent that, the court is satisfied of one or more of the matters set out in sub-paragraphs (a) to (g) and that it is necessary to sit in private to secure the proper administration of justice]—

- (a) publicity would defeat the object of the hearing;
- (b) it involves matters relating to national security;
- (c) it involves confidential information (including information relating to personal financial matters) and publicity would damage that confidentiality;
- (d) a private hearing is necessary to protect the interests of any child or [^{F1059}protected party];
- (e) it is a hearing of an application made without notice and it would be unjust to any respondent for there to be a public hearing;
- (f) it involves uncontentious matters arising in the administration of trusts or in the administration of a deceased person’s estate; or

[^{F1060}(g) the court for any other reason considers this to be necessary to secure the proper administration of justice.]

[^{F1061}(4) The court must order that the identity of any [^{F1062}person] shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administration of justice and in order to protect the interests of [^{F1063}any person].

(5) Unless and to the extent that the court otherwise directs, where the court acts under paragraph (3) or (4), a copy of the court’s order shall be published on the website of the Judiciary of England and Wales (which may be found at www.judiciary.uk). Any person who is not a party to the proceedings may apply to attend the hearing and make submissions, or apply to set aside or vary the order.]

Textual Amendments

- F1057** Rule 39.2(1)-(2A) substituted for rule 39.2(1)(2) (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **8(a)**
- F1058** Words in rule 39.2(3) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **8(b)(i)**
- F1059** Words in rule 39.2(3)(d) substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **12**
- F1060** Rule 39.2(3)(g) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **8(b)(ii)**
- F1061** Rule 39.2(4)(5) substituted for rule 39.2(4) (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **8(c)**
- F1062** Word in rule 39.2(4) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **11**
- F1063** Words in rule 39.2(4) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **21(2)**

Commencement Information

- I192** Rule 39.2 in force at 26.4.1999, see [Signature](#)

Failure to attend the trial

- 39.3.**—(1) The court may proceed with a trial in the absence of a party but—
- (a) if no party attends the trial, it may strike out^(GL) the whole of the proceedings;
 - (b) if the claimant does not attend, it may strike out his claim and any defence to counterclaim; and
 - (c) if a defendant does not attend, it may strike out his defence or counterclaim (or both).
- (2) Where the court strikes out proceedings, or any part of them, under this rule, it may subsequently restore the proceedings, or that part.
- (3) Where a party does not attend and the court gives judgment or makes an order against him, the party who failed to attend may apply for the judgment or order to be set aside^(GL).
- (4) An application under paragraph (2) or paragraph (3) ^{F1064}... must be supported by evidence.
- (5) Where an application is made under paragraph (2) or (3) by a party who failed to attend the trial, the court may grant the application only if the applicant—
- (a) acted promptly when he found out that the court had exercised its power to strike out^(GL) or to enter judgment or make an order against him;
 - (b) had a good reason for not attending the trial; and
 - (c) has a reasonable prospect of success at the trial.

Textual Amendments

- F1064** Words in [rule 39.3\(4\)](#) omitted (2.10.2000) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **18**

Commencement Information

- I193** [Rule 39.3](#) in force at 26.4.1999, see [Signature](#)

Timetable for trial

39.4 When the court sets a timetable for a trial in accordance with rule [F106528.5] (fixing or confirming the trial date and giving directions^{F1066} ...) or rule 29.8 (setting a trial timetable and^{F1067} ...confirming the trial date or week—multi-track) it will do so in consultation with the parties.

Textual Amendments

F1065 Word in rule 39.4 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **13(a)** (with rule 2)

F1066 Words in rule 39.4 omitted (1.10.2023) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **13(b)** (with rule 2)

F1067 Words in rule 39.4 omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **16**

Commencement Information

I194 [Rule 39.4](#) in force at 26.4.1999, see [Signature](#)

Trial bundles

39.5.—(1) Unless the court orders otherwise, the claimant must file a trial bundle containing documents required by—

- (a) a relevant practice direction; and
- (b) any court order.

(2) The claimant must file the trial bundle not more than 7 days and not less than 3 days before the start of the trial.

Commencement Information

I195 [Rule 39.5](#) in force at 26.4.1999, see [Signature](#)

Representation at trial of companies or other corporations

39.6 A company or other corporation may be represented at trial by an employee if—

- (a) the employee has been authorised by the company or corporation to appear at trial on its behalf; and
- (b) the court gives permission.

Commencement Information

I196 [Rule 39.6](#) in force at 26.4.1999, see [Signature](#)

Impounded documents

39.7.—(1) Documents impounded by order of the court must not be released from the custody of the court except in compliance—

- (a) with a court order; or
- (b) with a written request made by a Law Officer or the Director of Public Prosecutions.

(2) A document released from the custody of the court under paragraph(1)(b) must be released into the custody of the person who requested it.

(3) Documents impounded by order of the court, while in the custody of the court, may not be inspected except by a person authorised to do so by a court order.

Commencement Information

1197 [Rule 39.7](#) in force at 26.4.1999, see [Signature](#)

[^{F1068}Communications with the court

39.8.—(1) Any communication between a party to proceedings and the court must be disclosed to, and if in writing (whether in paper or electronic format), copied to, the other party or parties or their representatives.

(2) Paragraph (1) applies to any communication in which any representation is made to the court on a matter of substance or procedure but does not apply to communications that are purely routine, uncontentious and administrative.

(3) A party is not required under paragraph (1) to disclose or copy a communication if there is a compelling reason for not doing so, and provided that any reason is clearly stated in the communication.

(4) A written communication required under paragraph (1) to be copied to the other party or parties or their representatives, must state on its face that it is being copied to that person or those persons, stating their identity and capacity.

(5) Unless the court directs otherwise, a written communication which does not comply with paragraph (4) will be returned to the sender without being considered by the court, with a brief explanation of why it is being returned.

(6) In addition to returning a communication under paragraph (5), where a party fails to comply with paragraph (1) the court may, subject to hearing the parties, impose sanctions or exercise its other case management powers under Part 3.

(7) Paragraph (1) does not apply to communications authorised by a rule or practice direction to be sent to the court without at the same time being provided to the other party or parties or their representatives.

Textual Amendments

F1068[Rules 39.8-39.10](#) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\), 9](#)

Recording and transcription of proceedings

39.9.—(1) At any hearing, whether in the High Court or the County Court, the proceedings will be tape recorded or digitally recorded unless the judge directs otherwise.

(2) No party or member of the public may use unofficial recording equipment in any court or judge’s room without the permission of the court. (To do so without permission constitutes a contempt of court under section 9 of the Contempt of Court Act 1981.)

(3) Any party or person may require a transcript or transcripts of the recording of any hearing to be supplied to them, upon payment of the charges authorised by any scheme in force for the making of the recording or the transcript.

(Paragraph 6(2) of Practice Direction 52C (Appeals to the Court of Appeal) deals with the provision of transcripts for use in the Court of Appeal at public expense.)

(4) Where the person requiring the transcript or transcripts is not a party to the proceedings and the hearing or any part of it was held in private under rule 39(2), paragraph (3) of this rule does not apply unless the court so orders.

(5) At any hearing, whether in public or in private, the judge may give appropriate directions to assist a party, in particular one who is or has been or may become unrepresented, for the compilation and sharing of any note or other informal record of the proceedings made by another party or by the court.

Textual Amendments

F1068 Rules 39.8-39.10 inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **9**

Discontinuance and settlement

39.10.—(1) Where a claim is discontinued or settled after a date for the trial or trial window (the period during which it is expected that the trial will take place) has been fixed, the parties must ensure that the listing officer for the trial court is notified immediately.

(2) If an order is drawn up giving effect to the discontinuance or settlement, a copy of the order should be filed with the listing officer.]

Textual Amendments

F1068 Rules 39.8-39.10 inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **9**

PART 40

[^{F1069}JUDGMENTS, ORDERS, SALE OF LAND ETC]

Textual Amendments

F1069 Pt. 40 heading substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **18(1)**

[^{F1070}Contents of this Part

I JUDGMENTS AND ORDERS	Rule 40.1
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[^{F1075}I JUDGMENTS AND ORDERS]

Textual Amendments

F1075Pt. 40 Section 1 heading inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), 18(2), **Sch. 4 Pt. 1**

[^{F1076}Scope of this section

40.1 This Section sets out rules about judgments and orders which apply except where any other of these Rules [^{F1077}or a practice direction] makes a different provision in relation to the judgment or order in question.]

Textual Amendments
F1076Rule 40.1 substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **18(3)**
F1077Words in rule 40.1 inserted (1.4.2005) by [The Civil Procedure \(Amendment No. 4\) Rules 2004 \(S.I. 2004/3419\)](#), rules 1, **6**

Standard requirements

40.2.—(1) Every judgment or order must state the name and judicial title of the person who made it, unless it is—

- (a) default judgment entered under rule 12.4(1) (entry of default judgment where judgment is entered by a court officer) or a default costs certificate obtained under rule 47.11;
- (b) judgment [^{F1078}on admission] entered under [^{F1079}Part 14 where judgment is entered by a court officer];
- (c) a consent order under rule 40.6(2) (consent orders made by court officers) [^{F1080};
- (d) an order made by a court officer under rule 70.5 (orders to enforce awards as if payable under a court order); or
- (e) an order made by a court officer under rule 71.2 (orders to obtain information from judgment debtors).]

(2) Every judgment or order must—

- (a) bear the date on which it is given or made; and
- (b) be sealed^(GL) by the court.

[^{F1081}(3) Paragraph (4) applies where a party applies for permission to appeal against a judgment or order at the hearing at which the judgment or order was made [^{F1082}or any adjournment of that hearing].

(4) Where this paragraph applies, the judgment or order shall state—

- ^{F1083}(a)
- (b) whether an appeal lies from the judgment or order and, if so, to which appeal court [^{F1084}, with an indication of the division of the High Court where the High Court is the appeal court];
- (c) whether the court gives permission to appeal; and
- (d) if not, the appropriate appeal court [^{F1085}, including the appropriate division where relevant,] to which any further application for permission may be made.]

^{F1086}

Textual Amendments
F1078Words in rule 40.2(1)(b) inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **22(1)(a)**

- F1079** Words in rule 40.2(1)(b) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\), rules 1\(1\), 22\(1\)\(b\)](#)
- F1080** Rule 40.2(1)(d)(e) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\), rules 1\(c\), 4\(b\) \(with rule 24\)](#)
- F1081** Rule 40.2(3)(4) inserted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\), rules 1, 9](#)
- F1082** Words in rule 40.2(3) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\), rules 1\(1\), 8](#)
- F1083** Rule 40.2(4)(a) omitted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\), rules 2, 7\(a\)](#)
- F1084** Words in rule 40.2(4)(b) inserted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\), rules 2, 7\(b\)](#)
- F1085** Words in rule 40.2(4)(d) inserted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\), rules 2, 7\(c\)](#)
- F1086** Words in rule 40.2 omitted (1.10.2012) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\), rules 1, 7](#)

Commencement Information

- I198** Rule 40.2 in force at 26.4.1999, see [Signature](#)

Drawing up and filing of judgments and orders

40.3.—(1) [^{F1087}Except as is provided at paragraph (4) below or by any Practice Direction, every] judgment or order will be drawn up by the court unless—

- (a) the court orders a party to draw it up;
 - (b) a party, with the permission of the court, agrees to draw it up;
 - (c) the court dispenses with the need to draw it up; or
 - (d) it is a consent order under rule 40.6.
- (2) The court may direct that—
- (a) a judgment or an order drawn up by a party must be checked by the court before it is sealed^(GL); or
 - (b) before a judgment or an order is drawn up by the court, the parties must file an agreed statement of its terms.
- (3) Where a judgment or an order is to be drawn up by a party—
- (a) he must file it no later than 7 days after the date on which the court ordered or permitted him to draw it up so that it can be sealed^(GL) by the court; and
 - (b) if he fails to file it within that period, any other party may draw it up and file it.

[^{F1088}(4) Except for orders made by the court of its own initiative and unless the court otherwise orders, every judgment or order made in claims proceeding in the [^{F1089}King's] Bench Division at the Royal Courts of Justice, other than in the Administrative Court, will be drawn up by the parties, and rule 40.3 is modified accordingly.]

Textual Amendments

- F1087** Words in [rule 40.3\(1\)](#) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\), rules 1\(c\), 37\(a\)](#)
- F1088** [Rule 40.3\(4\)](#) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\), rules 1\(c\), 37\(b\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F1089 Word in rule 40.3(4) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **22(1)**

Commencement Information

I199 Rule 40.3 in force at 26.4.1999, see [Signature](#)

Service of judgments and orders

40.4.—(1) Where a judgment or an order has been drawn up by a party and is to be served by the court—

- (a) the party who drew it up must file a copy to be retained at court and sufficient copies for service on him and on the other parties; and
- (b) once it has been sealed^(GL), the court must serve a copy of it on each party to the proceedings.

(2) Unless the court directs otherwise, any order made otherwise than at trial must be served on—

- (a) the applicant and the respondent; and
- (b) any other person on whom the court orders it to be served.

[^{F1090}(Rule 6.21 sets out who is to serve a document other than the claim form.)]

F1091

Textual Amendments

F1090 Words in rule 40.4 substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **20**

F1091 Words in rule 40.4 omitted (2.12.2002) by virtue of The Civil Procedure (Amendment) Rules 2002 (S.I. 2002/2058), rules 1(b), **13**

Commencement Information

I200 Rule 40.4 in force at 26.4.1999, see [Signature](#)

Power to require judgment or order to be served on a party as well as his solicitor

40.5 Where the party on whom a judgment or order is to be served is acting by a solicitor, the court may order the judgment or order to be served on the party as well as on his solicitor.

Commencement Information

I201 Rule 40.5 in force at 26.4.1999, see [Signature](#)

Consent judgments and orders

40.6.—(1) This rule applies where all the parties agree the terms in which a judgment should be given or an order should be made.

- (2) A court officer may enter and seal^(GL) an agreed judgment or order if—
 - (a) the judgment or order is listed in paragraph (3);
 - (b) none of the parties is a litigant in person; and

- (c) the approval of the court is not required by these Rules, a practice direction or any enactment before an agreed order can be made.
- (3) The judgments and orders referred to in paragraph (2) are—
- (a) a judgment or order for—
- (i) the payment of an amount of money (including a judgment or order for damages or the value of goods to be decided by the court); or
 - (ii) the delivery up of goods with or without the option of paying the value of the goods or the agreed value.
- (b) an order for—
- (i) the dismissal of any proceedings, wholly or in part;
 - (ii) the stay^(GL) of proceedings on agreed terms, disposing of the proceedings, whether those terms are recorded in a schedule to the order or elsewhere;
 - (iii) the stay^(GL) of enforcement of a judgment, either unconditionally or on condition that the money due under the judgment is paid by instalments specified in the order;
 - (iv) the setting aside under Part 13 of a default judgment which has not been satisfied;
 - (v) the payment out of money which has been paid into court;
 - (vi) the discharge from liability of any party;
 - (vii) the payment, assessment or waiver of costs, or such other provision for costs as may be agreed.
- (4) Rule 40.3 (drawing up and filing of judgments and orders) applies to judgments and orders entered and sealed^(GL) by a court officer under paragraph (2) as it applies to other judgments and orders.
- (5) Where paragraph (2) does not apply, any party may apply for a judgment or order in the terms agreed.
- (6) The court may deal with an application under paragraph (5) without a hearing.
- (7) Where this rule applies—
- (a) the order which is agreed by the parties must be drawn up in the terms agreed;
 - (b) it must be expressed as being “By Consent”;
 - (c) it must be signed by the legal representative acting for each of the parties to whom the order relates or, where paragraph (5) applies, by the party if he is a litigant in person.

Commencement Information

I202 [Rule 40.6](#) in force at 26.4.1999, see [Signature](#)

When judgment or order takes effect

40.7.—(1) A judgment or order takes effect from the day when it is given or made, or such later date as the court may specify.

(2) This rule applies to all judgments and orders except those to which rule 40.10 (judgment against a State) applies.

Commencement Information

I203 [Rule 40.7](#) in force at 26.4.1999, see [Signature](#)

Time from which interest begins to run

40.8.—(1) Where interest is payable on a judgment pursuant to section 17 of the Judgments Act 1838(**32**) or section 74 of the County Courts Act 1984(**33**), the interest shall begin to run from the date that judgment is given unless—

- (a) a rule in another Part or a practice direction makes different provision; or
- (b) the court orders otherwise.

(2) The court may order that interest shall begin to run from a date before the date that judgment is given.

Commencement Information

I204 [Rule 40.8](#) in force at 26.4.1999, see [Signature](#)

[^{F1092}Stay of execution and other relief

40.8A. Without prejudice to rule 83.7(1), a party against whom a judgment has been given or an order made may apply to the court for—

- (a) a stay of execution of the judgment or order; or
- (b) other relief,

on the ground of matters which have occurred since the date of the judgment or order, and the court may by order grant such relief, and on such terms, as it thinks just.]

Textual Amendments

F1092[Rule 40.8A](#) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), [rules 2\(3\)](#), [16\(b\)](#) (with [rule 41](#))

Who may apply to set aside or vary a judgment or order

40.9 A person who is not a party but who is directly affected by a judgment or order may apply to have the judgment or order set aside or varied.

Commencement Information

I205 [Rule 40.9](#) in force at 26.4.1999, see [Signature](#)

[^{F1093}County Court judgments and orders - variation of payment

40.9A.—(1) In this rule—

(32) 1838 c. 110. Section 17 was amended by [S.I. 1998/ 2940](#).

(33) 1984 c. 28. Section 74 was amended by section 2 of the Private International Law (Miscellaneous Provisions) Act 1995 (c. 42).

- (a) “creditor” means the person entitled to the benefit of a judgment or order;
 - (b) “debtor” means the person liable to make the payment under the judgment or order; and
 - (c) “debtor’s home court” means the court, or County Court hearing centre, serving the address of the debtor.
- (2) Where a judgment or order has been given or made in the County Court for the payment of money, the creditor or, as the case may be, the debtor may apply in accordance with this rule for a variation in the date or rate of payment.
- (3) The creditor may apply in writing, without notice being served on any other party, for an order that the money—
- (a) if payable in one sum, be paid—
 - (i) at a later date than that by which it is due; or
 - (ii) by instalments; or
 - (b) if already payable by instalments, be paid by the same or smaller instalments,
- and the court officer may make an order accordingly, subject to paragraph (4).
- (4) If no payment has been made under the judgment or order for 6 years before the date of the application, the court officer must refer the application to the District Judge.
- (5) The creditor may apply to the District Judge in writing and on notice for an order that the money—
- (a) if payable in one sum, be paid at an earlier date than that by which it is due; or
 - (b) if payable by instalments, be paid in one sum or by larger instalments.
- (6) Any application under paragraph (5) must state the proposed terms and the grounds on which it is made.
- (7) Where an application is made under paragraph (5)—
- (a) the proceedings will be automatically transferred to the debtor’s home court if the judgment or order was not given or made in that court; and
 - (b) the court officer will fix a day for the hearing of the application before the District Judge and give to the creditor and the debtor not less than 8 days’ notice of the day so fixed.
- (8) The debtor may apply for an order that the money—
- (a) if payable in one sum, be paid at a later date than that by which it is due or by instalments; or
 - (b) if already payable by instalments, be paid by smaller instalments.
- (9) Any application under paragraph (8) must—
- (a) be in the appropriate form;
 - (b) state the proposed terms;
 - (c) state the grounds on which it is made; and
 - (d) include a signed statement of the debtor’s means.
- (10) Where an application is made under paragraph (8), the court officer will—
- (a) send the creditor a copy of the debtor’s application and statement of means; and
 - (b) require the creditor to notify the court in writing, within 14 days of service of notification, giving reasons for any objection the creditor may have to the granting of the application.
- (11) If the creditor does not notify the court of any objection within the time stated, the court officer will make an order in the terms applied for.
- (12) Upon receipt of a notice from the creditor under paragraph (10), the court officer may determine the date and rate of payment and make an order accordingly.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(13) Any party affected by an order made under paragraph (12) may, within 14 days of service of the order and giving reasons, apply on notice for the order to be re-considered and, where such an application is made—

- (a) the proceedings will be automatically transferred to the debtor’s home court if the judgment or order was not given or made in that court; and
- (b) the court officer shall fix a day for the hearing of the application before the District Judge and give to the creditor and the debtor not less than 8 days’ notice of the day so fixed.

(14) On hearing an application under paragraph (13), the District Judge may confirm the order or set it aside and make such new order as the District Judge thinks fit and the order so made will be entered in the records of the court.

(15) Any order made under any of the foregoing paragraphs may be varied from time to time by a subsequent order made under any of those paragraphs.]

Textual Amendments

F1093 Rule 40.9A inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **16(c)** (with rule 41)

Judgment against a State in default of acknowledgment of service

40.10.—(1) Where the claimant obtains default judgment under Part 12 on a claim against a State where the defendant has failed to file an acknowledgment of service, the judgment does not take effect until 2 months after service on the State of—

- (a) a copy of the judgment; and
- (b) a copy of the evidence in support of the application for permission to enter default judgment (unless the evidence has already been served on the State in accordance with an order made under Part 12).

(2) In this rule, “State” has the meaning given by section 14 of the State Immunity Act 1978**(34)**.

Commencement Information

I206 [Rule 40.10](#) in force at 26.4.1999, see [Signature](#)

Time for complying with a judgment or order

40.11 A party must comply with a judgment or order for the payment of an amount of money (including costs) within 14 days of the date of the judgment or order, unless—

- (a) the judgment or order specifies a different date for compliance (including specifying payment by instalments);
- (b) any of these Rules specifies a different date for compliance; or
- (c) the court has stayed the proceedings or judgment.

F1094

(34) 1978 c. 33.

Textual Amendments

F1094 Words in rule 40.11 omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **22(2)**

Commencement Information

I207 Rule 40.11 in force at 26.4.1999, see [Signature](#)

Correction of errors in judgments and orders

40.12.—(1) The court may at any time correct an accidental slip or omission in a judgment or order.

(2) A party may apply for a correction without notice.

Commencement Information

I208 [Rule 40.12](#) in force at 26.4.1999, see [Signature](#)

Cases where court gives judgment both on claim and counterclaim

40.13.—(1) This rule applies where the court gives judgment for specified amounts both for the claimant on his claim and against the claimant on a counterclaim.

(2) If there is a balance in favour of one of the parties, it may order the party whose judgment is for the lesser amount to pay the balance.

(3) In a case to which this rule applies, the court may make a separate order as to costs against each party.

Commencement Information

I209 [Rule 40.13](#) in force at 26.4.1999, see [Signature](#)

[^{F1095}County Court set-off of cross-judgments

40.13A.—(1) This rule applies to applications under section 72 of the County Courts Act 1984 for permission to set off any sums, including costs, payable under several judgments or orders each of which was obtained in the County Court.

(2) Where the judgments or orders have been obtained in the same County Court hearing centre, the application—

(a) may be made to that hearing centre on the day when the last judgment or order is obtained, if both parties are present; and

(b) in any other case must be made on notice.

(3) Where the judgments or orders have been obtained in different County Court hearing centres, the application may be made to any of them on notice.

(4) The District Judge located at the hearing centre to which the application is made will—

(a) forthwith stay execution on any judgment or order to which the application relates; and

(b) notify any hearing centre that made the relevant judgments or orders of the stay.

(5) Where execution has been stayed under paragraph (4), any money paid into court under the judgment or order will be retained until the application has been disposed of and the court has directed how any money paid into court is to be dealt with.

(6) Paragraphs (7) and (8) apply where an order is made by the High Court giving permission to set off sums payable under several judgments and orders obtained respectively in the High Court and the County Court.

(7) The High Court will send to the County Court a copy of the order giving permission, and the County Court will deal with any money paid into court in accordance with that order.

(8) The court officer of the County Court will enter satisfaction in the County Court records for any sums ordered to be set off, and execution or other process for the enforcement of any judgment or order not wholly satisfied will issue only for the balance remaining payable.]

Textual Amendments

F1095 Rule 40.13A inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **16(d)** (with rule 41)

Judgment in favour of certain part owners relating to the detention of goods

40.14.—(1) In this rule “part owner” means one of two or more persons who have an interest in the same goods.

(2) Where—

- (a) a part owner makes a claim relating to the detention of the goods; and
- (b) the claim is not based on a right to possession,

any judgment or order given or made in respect of the claim is to be for the payment of damages only, unless the claimant had the written authority of every other part owner of the goods to make the claim on his behalf as well as for himself.

(3) This rule applies notwithstanding anything in subsection (3) of section 3 of the Torts (Interference with Goods) Act 1977(**35**), but does not affect the remedies and jurisdiction mentioned in subsection (8) of that section.

Commencement Information

I210 [Rule 40.14](#) in force at 26.4.1999, see [Signature](#)

[^{F1096}County Court certificate of judgment

40.14A.—(1) Any person who wishes to have a certificate of any judgment or order given or made in a claim in the County Court (“the applicant”) may make a request in writing to the court.

(2) If the applicant is a party to the claim, the request must state whether the certificate—

- (a) is required for the purpose of taking proceedings on the judgment or order in another court;
- (b) is required for the purpose of enforcing the judgment or order in the High Court; or
- (c) is for the purpose of evidence only.

(3) If the applicant is not a party to the claim, the request must state—

- (a) the purpose for which the certificate is required;

- (b) the capacity in which the person asks for the certificate; and
 - (c) any other facts showing that the certificate may properly be granted.
- (4) Where the certificate is required for the purpose of enforcing the judgment or order in the High Court, the applicant must also either—
- (a) state that—
 - (i) it is intended to enforce the judgment or order by execution against goods; or
 - (ii) the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers; or
 - (b) confirm that an application has been made for an order under section 42 of the County Courts Act 1984 (transfer to High Court by order of the County Court) and attach a copy of the application to the request for a certificate.
- (5) Where the applicant making the request is not a party to the claim, the request will be referred to the District Judge, who may refer it to the judge.
- (6) Without prejudice to paragraph (5), for the purposes of section 12(2) of the County Courts Act 1984 a certificate under this rule may be signed by a court officer.

[^{F1097}(Rule 83.19 provides for what happens where a request for a certificate of judgment is made under this rule for the purpose of enforcing a judgment or order in the High Court, including (under rule 83.19(4)) that where certain proceedings are pending, the request for the certificate will not be dealt with until those proceedings are determined.)]

Textual Amendments

F1096Rules 40.14A, 40.14B inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **16(e)** (with rule 41)

F1097Words in rule 40.14A inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **10**

Order of appeal court

40.14B. Where the Court of Appeal or High Court has heard and determined an appeal from the County Court, the party entitled to the benefit of the order of the appeal court must deposit the order or an office copy of it in the office of the relevant hearing centre of the County Court.]

Textual Amendments

F1096Rules 40.14A, 40.14B inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **16(e)** (with rule 41)

^{F1098}II SALE OF LAND ETC. AND CONVEYANCING COUNSEL

Textual Amendments

F1098Pt. 40 Section 2 inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 4 Pt. 2**

Scope of this Section

40.15.—(1) This Section—

- (a) deals with the court’s power to order the sale, mortgage, partition or exchange of land; and
- (b) contains provisions about conveyancing counsel.

(Section 131 of the Supreme Court Act 1981 provides for the appointment of the conveyancing counsel of the Supreme Court)

(2) In this Section “land” includes any interest in, or right over, land.

Power to order sale etc.

40.16 In any proceedings relating to land, the court may order the land, or part of it, to be—

- (a) sold;
- (b) mortgaged;
- (c) exchanged; or
- (d) partitioned.

Power to order delivery up of possession etc.

40.17 Where the court has made an order under rule 40.16, it may order any party to deliver up to the purchaser or any other person—

(a) possession of the land;

[where the Renting Homes (Wales) Act 2016 applies, possession of the dwelling;]
^{F1099}(aa)

- (b) receipt of rents or profits relating to it; or
- (c) both.

Textual Amendments

F1099Rule 40.17(aa) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **22(2)**

Reference to conveyancing counsel

40.18.—(1) The court may direct conveyancing counsel to investigate and prepare a report on the title of any land or to draft any document.

(2) The court may take the report on title into account when it decides the issue in question.

(Provisions dealing with the fees payable to conveyancing counsel are set out in [^{F1100}paragraph 5.2 of Practice Direction 44.])

Textual Amendments

F1100 Words in [rule 40.18](#) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **17**

Party may object to report

40.19.—(1) Any party to the proceedings may object to the report on title prepared by conveyancing counsel.

(2) Where there is an objection, the issue will be referred to a judge for determination.

(Part 23 contains general rules about making an application)]

^{F1101} III DECLARATORY JUDGMENTS

Textual Amendments

F1101 Pt. 40 Section 3 inserted (26.3.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(a), **13**

40.20 The court may make binding declarations whether or not any other remedy is claimed.]

PART 41

^{F1102} DAMAGES]

Textual Amendments

F1102 Pt. 41 heading substituted (1.4.2005) by [The Civil Procedure \(Amendment No. 3\) Rules 2004 \(S.I. 2004/3129\)](#), rules 1, **10**

^{F1103} Contents of this Part

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[^{F1105}I – PROCEEDINGS TO WHICH SECTION 32A OF THE SUPREME COURT ACT 1981 OR SECTION 51 OF THE COUNTY COURTS ACT 1984 APPLIES]

Textual Amendments

F1105 Pt. 41 Section 1 heading inserted (1.4.2005) by [The Civil Procedure \(Amendment No. 3\) Rules 2004 \(S.I. 2004/3129\)](#), rule 1, **Sch. 1 Pt. 1**

Application and definitions

41.1.—(1) [^{F1106}This Section of this Part] applies to proceedings to which SCA s.32A or CCA s.51 applies.

(2) In this [^{F1107}Section]—

- (a) “SCA s.32A” means section 32A of the Supreme Court Act 1981⁽³⁶⁾;
- (b) “CCA s.51” means section 51 of the County Courts Act 1984⁽³⁷⁾; and
- (c) “award of provisional damages” means an award of damages for personal injuries under which—
 - (i) damages are assessed on the assumption referred to in SCA s.32A or CCA s.51 that the injured person will not develop the disease or suffer the deterioration; and
 - (ii) the injured person is entitled to apply for further damages at a future date if he develops the disease or suffers the deterioration.

Textual Amendments

F1106 Words in rule 41.1(1) substituted (1.4.2005) by [The Civil Procedure \(Amendment No. 3\) Rules 2004 \(S.I. 2004/3129\)](#), rules 1, **11(b)(i)**

F1107 Word in rule 41.1(2) substituted (1.4.2005) by [The Civil Procedure \(Amendment No. 3\) Rules 2004 \(S.I. 2004/3129\)](#), rules 1, **11(b)(ii)**

Commencement Information

I211 Rule 41.1 in force at 26.4.1999, see [Signature](#)

Order for an award of provisional damages

41.2.—(1) The court may make an order for an award of provisional damages if—

- (a) the particulars of claim include a claim for provisional damages; and
- (b) the court is satisfied that SCA s.32A or CCA s.51 applies.

(Rule 16.4(1)(d) sets out what must be included in the particulars of claim where the claimant is claiming provisional damages)

(2) An order for an award of provisional damages—

⁽³⁶⁾ 1981 c. 54. Section 32A was inserted by section 6(1) of the Administration of Justice Act 1982 (c. 53)

⁽³⁷⁾ 1984 c. 28.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) must specify the disease or type of deterioration in respect of which an application may be made at a future date;
 - (b) must specify the period within which such an application may be made; and
 - (c) may be made in respect of more than one disease or type of deterioration and may, in respect of each disease or type of deterioration, specify a different period within which a subsequent application may be made.
- (3) The claimant may make more than one application to extend the period specified under paragraph (2)(b) or (2)(c).

Commencement Information
I212 Rule 41.2 in force at 26.4.1999, see [Signature](#)

Application for further damages

41.3.—(1) The claimant may not make an application for further damages after the end of the period specified under rule 41.2(2), or such period as extended by the court.

(2) Only one application for further damages may be made in respect of each disease or type of deterioration specified in the award of provisional damages.

(3) The claimant must give at least 28 days written notice to the defendant of his intention to apply for further damages.

(4) If the claimant knows—

- (a) that the defendant is insured in respect of the claim; and
- (b) the identity of the defendant’s insurers,

he must also give at least 28 days written notice to the insurers.

(5) Within 21 days after the end of the 28 day notice period referred to in paragraphs (3) and (4), the claimant must apply for directions.

^{F1108}(6)

Textual Amendments
F1108 Rule 41.3(6) omitted (1.4.2005) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2004 \(S.I. 2004/3419\)](#), rules 1, 7

Commencement Information
I213 Rule 41.3 in force at 26.4.1999, see [Signature](#)

[^{F1109}1A APPORTIONMENT IN FATALITY CASES]

Textual Amendments
F1109 Pt. 41 Section 1A heading inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **23(2)**

[^{F1110}Apportionment in fatality cases]

[^{F1111}41.3A.—(1) Where—

- (a) a claim includes claims arising under—
 - (i) the Fatal Accidents Act 1976; and
 - (ii) the Law Reform (Miscellaneous Provisions) Act 1934; and
- (b) a single sum of money is ordered or agreed to be paid in satisfaction of the claims,

the court will apportion the money between the different claims.

(2) Where, in an action in which a claim under the Fatal Accidents Act 1976 is made by or on behalf of more than one person, a single sum of money is ordered or agreed to be paid in satisfaction of the claim, the court will apportion it between the persons entitled to it.

(3) Unless it has already been apportioned by the court, a jury or agreement between the parties, the court will apportion money under paragraphs (1) and (2)—

- (a) when it gives directions under rule 21.11 (control of money received by a child or patient); or
- (b) if rule 21.11 does not apply, on application by one of the parties in accordance with Part 23.]

Textual Amendments

F1110 Rule 41.3A heading inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **23(2)**

F1111 Rule 41.3A inserted (6.4.2007) by [The Civil Procedure \(Amendment No.3\) Rules 2006 \(S.I. 2006/3435\)](#), rules 1, **9**

[^{F1112}II – PERIODICAL PAYMENTS UNDER THE DAMAGES ACT 1996

Textual Amendments

F1112 Pt. 41 Section 2 inserted (1.4.2005) by [The Civil Procedure \(Amendment No. 3\) Rules 2004 \(S.I. 2004/3129\)](#), rule 1, **Sch. 1 Pt. 2**

Scope and interpretation

41.4.—(1) This Section of this Part contains rules about the exercise of the court’s powers under section 2(1) of the 1996 Act to order that all or part of an award of damages in respect of personal injury is to take the form of periodical payments.

(2) In this Section—

- (a) “the 1996 Act” means the Damages Act 1996;
- (b) “damages” means damages for future pecuniary loss; and
- (c) “periodical payments” means periodical payments under section 2(1) of the 1996 Act.

Statement of case

41.5.—(1) In a claim for damages for personal injury, each party in its statement of case may state whether it considers periodical payments or a lump sum is the more appropriate form for all

or part of an award of damages and where such statement is given must provide relevant particulars of the circumstances which are relied on.

(2) Where a statement under paragraph (1) is not given, the court may order a party to make such a statement.

(3) Where the court considers that a statement of case contains insufficient particulars under paragraph (1), the court may order a party to provide such further particulars as it considers appropriate.

Court's indication to parties

41.6. The court shall consider and indicate to the parties as soon as practicable whether periodical payments or a lump sum is likely to be the more appropriate form for all or part of an award of damages.

Factors to be taken into account

41.7. When considering—

- (a) its indication as to whether periodical payments or a lump sum is likely to be the more appropriate form for all or part of an award of damages under rule 41.6; or
- (b) whether to make an order under section 2(1)(a) of the 1996 Act,

the court shall have regard to all the circumstances of the case and in particular the form of award which best meets the claimant's needs, having regard to the factors set out in [F1113Practice Direction 41B].

Textual Amendments

F1113 Words in rule 41.7 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **21**

The award

41.8.—(1) Where the court awards damages in the form of periodical payments, the order must specify—

- (a) the annual amount awarded, how each payment is to be made during the year and at what intervals;
- (b) the amount awarded for future—
 - (i) loss of earnings and other income; and
 - (ii) care and medical costs and other recurring or capital costs;
- (c) that the claimant's annual future pecuniary losses, as assessed by the court, are to be paid for the duration of the claimant's life, or such other period as the court orders; and
- (d) that the amount of the payments shall vary annually by reference to the retail prices index, unless the court orders otherwise under section 2(9) of the 1996 Act.

(2) Where the court orders that any part of the award shall continue after the claimant's death, for the benefit of the claimant's dependants, the order must also specify the relevant amount and duration of the payments and how each payment is to be made during the year and at what intervals.

(3) Where an amount awarded under paragraph (1)(b) is to increase or decrease on a certain date, the order must also specify—

- (a) the date on which the increase or decrease will take effect; and
 - (b) the amount of the increase or decrease at current value.
- (4) Where damages for substantial capital purchases are awarded under paragraph (1)(b)(ii), the order must also specify—
- (a) the amount of the payments at current value;
 - (b) when the payments are to be made; and
 - (c) that the amount of the payments shall be adjusted by reference to the retail prices index, unless the court orders otherwise under section 2(9) of the 1996 Act.

Continuity of payment

41.9.—(1) An order for periodical payments shall specify that the payments must be funded in accordance with section 2(4) of the 1996 Act, unless the court orders an alternative method of funding.

- (2) Before ordering an alternative method of funding, the court must be satisfied that—
 - (a) the continuity of payment under the order is reasonably secure; and
 - (b) the criteria set out in [F1114Practice Direction 41B] are met.
- (3) An order under paragraph (2) must specify the alternative method of funding.

Textual Amendments

F1114 Words in rule 41.9(2)(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 21

Assignment or charge

41.10. Where the court under section 2(6)(a) of the 1996 Act is satisfied that special circumstances make an assignment or charge of periodical payments necessary, it shall, in deciding whether or not to approve the assignment or charge, also have regard to the factors set out in [F1115Practice Direction 41B].]

Textual Amendments

F1115 Words in rule 41.10 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 21

PART 42

CHANGE OF SOLICITOR

Contents of this Part

Solicitor acting for a party	Rule 42.1
Change of solicitor—duty to give notice	Rule 42.2
Order that a solicitor has ceased to act	Rule 42.3

Removal of solicitor who has ceased to act on application of another party Rule 42.4

Solicitor acting for a party

42.1.—^[F1116](1) Where the address for service of a party is the business address of ^[F1117]that party's] solicitor, the solicitor will be considered to be acting for that party until the provisions of this Part have been complied with.

^[F1118](2) For the purposes of this Part, “solicitor” has the meaning set out in rule 6.2(d).]
(Part 6 contains provisions about the address for service)

Textual Amendments

F1116 Rule 42.1 renumbered as rule 42.1(1) (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **17(a)**

F1117 Word in rule 42.1(1) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **17(b)**

F1118 Rule 42.1(2) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **17(c)**

Commencement Information

I214 Rule 42.1 in force at 26.4.1999, see [Signature](#)

Change of solicitor—duty to give notice

- 42.2.**—(1) This rule applies where—
- a party for whom a solicitor ^[F1119]is acting] wants to change his solicitor;
 - a party, after having conducted the claim in person, appoints a solicitor to act on his behalf (except where the solicitor is appointed only to act as an advocate for a hearing); or
 - a party, after having conducted the claim by a solicitor, intends to act in person.
- (2) Where this rule applies, the party or his solicitor (where one is acting) must—
- file notice of the change; and
 - serve notice of the change on every other party and, where paragraph (1)(a) or (c) applies, on the former solicitor.
- (3) ^[F1120]Except in the case of notice filed at court using MyHMCTS, the notice] must state the party's new address for service.
- (4) The notice filed at court must state that notice has been served as required by paragraph (2)(b).
- (5) Subject to paragraph (6), where a party has changed his solicitor or intends to act in person, the former solicitor will be considered to be the party's solicitor unless and until—
- ^[F1121](a) notice is filed and served in accordance with paragraph (2); or]
 - (b) the court makes an order under rule 42.3 and the order is served as required by paragraph (3) of that rule.
- ^[F1122](6) ^[F1123]Where the certificate of a person to whom legal aid is provided is revoked or withdrawn—

- (a) the solicitor who acted for that person will cease to be a solicitor acting in the case as soon as the solicitor's retainer is determined under regulation 24 or 41 of the Civil Legal Aid (Procedure) Regulations 2012; and]
- (b) if that person wishes to continue—
 - (i) where he appoints a solicitor to act on his behalf, paragraph (2) will apply as if he had previously conducted the claim in person; and
 - (ii) where he wants to act in person, he must give an address for service.

[^{F1124}(Rules 6.23 and 6.24 contain provisions about a party's address for service.)]

^{F1125} ...

(7) [^{F1126}“Certificate” in paragraph (6) means a certificate issued under the Civil Legal Aid (Procedure) Regulations 2012.]]

Textual Amendments

F1119 Words in rule 42.2(1)(a) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **16**

F1120 Words in rule 42.2(3) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **12**

F1121 Rule 42.2(5)(a) substituted (1.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(a), **8**

F1122 Rule 42.2(6)(7) substituted for rule 42.2(6) (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **11** (with rule 39)

F1123 Words in rule 42.2(6) substituted (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\)](#), reg. 1, **Sch. para. 13(a)(i)** (with reg. 14(2))

F1124 Words in rule 42.2 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **21**

F1125 Words in rule 42.2 omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No. 7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **18**

F1126 Rule 42.2(7) substituted (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\)](#), reg. 1, **Sch. para. 13(a)(ii)** (with reg. 14(2))

Commencement Information

I215 [Rule 42.2](#) in force at 26.4.1999, see [Signature](#)

Order that a solicitor has ceased to act

42.3.—(1) A solicitor may apply for an order declaring that he has ceased to be the solicitor acting for a party.

- (2) Where an application is made under this rule—
 - (a) notice of the application must be given to the party for whom the solicitor is acting, unless the court directs otherwise; and
 - (b) the application must be supported by evidence.
- (3) Where the court makes an order that a solicitor has ceased to act—
 - (a) a copy of the order must be served on every party to the proceedings; and

- (b) if it is served by a party or the solicitor, the party or the solicitor (as the case may be) must file a certificate of service.

Commencement Information

I216 [Rule 42.3](#) in force at 26.4.1999, see [Signature](#)

Removal of solicitor who has ceased to act on application of another party

42.4.—(1) Where—

- (a) a solicitor who has acted for a party—
 - (i) has died;
 - (ii) has become bankrupt;
 - (iii) has ceased to practice; or
 - (iv) cannot be found; and
- (b) the party has not given notice of a change of solicitor or notice of intention to act in person as required by rule 42.2(2),

any other party may apply for an order declaring that the solicitor has ceased to be the solicitor acting for the other party in the case.

(2) Where an application is made under this rule, notice of the application must be given to the party to whose solicitor the application relates unless the court directs otherwise.

(3) Where the court makes an order made under this rule—

- (a) a copy of the order must be served on every other party to the proceedings; and
- (b) where it is served by a party, that party must file a certificate of service.

Commencement Information

I217 [Rule 42.4](#) in force at 26.4.1999, see [Signature](#)

F1127 PART 43

SCOPE OF COST RULES AND DEFINITIONS

Textual Amendments

F1127 Pt. 43 revoked (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 15 (with [rule 22](#))

[^{F1128}PART 44

General Rules about Costs

Textual Amendments

F1128 Pts. 44-48 substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 16, **Sch.** (with rule 22)

Modifications etc. (not altering text)

- C85** Pt. 44 applied (with modifications) (1.7.2015) by [S.I. 2007/1744](#), **rule 160** (as substituted by [The Court of Protection \(Amendment\) Rules 2015 \(S.I. 2015/548\)](#), rules 1(2)(b), **52**)
- C86** Pt. 44 applied (5.7.2018) by [The Housing Administration \(England and Wales\) Rules 2018 \(S.I. 2018/719\)](#), rules 1.1, **4.29(3)** (with rule 1.2)
- C87** Pt. 44 applied (31.1.2019) by [The Education Administration Rules 2018 \(S.I. 2018/1135\)](#), rules 1, **4.27(3)** (with rule 1.2)
- C88** Pt. 44 applied (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), rules 1, **120(3)** (with rule 4(1))
- C89** Pt. 44 applied (with modifications) (12.11.2021) by [The Payment and Electronic Money Institution Insolvency \(England and Wales\) Rules 2021 \(S.I. 2021/1178\)](#), rules 2, **187**, 223-231 (with rule 5)
- C90** Pt. 44 applied (18.7.2023) by [The Relevant Licensee Nuclear Company Administration \(England and Wales\) Rules 2023 \(S.I. 2023/712\)](#), rules 1(2)(a), **116(3)** (with rule 2)

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SECTION I

General

Interpretation and application

44.1.—(1) In Parts 44 to 47, unless the context otherwise requires—

“authorised court officer” means any officer of—

- (i) [^{F53}the County Court];
- (ii) a district registry;
- (iii) the [^{F1129}the Family Court;]
- (iiia) [^{F1130}the High Court; or]
- (v) the Costs Office,

whom the Lord Chancellor has authorised to assess costs;

“conditional fee agreement” means an agreement enforceable under section 58 of the Courts and Legal Services Act 1990 ;

“costs” includes fees, charges, disbursements, expenses, remuneration, reimbursement allowed to a litigant in person under rule 46.5 and any fee or reward charged by a lay representative for acting on behalf of a party in proceedings allocated to the small claims track;

“costs judge” means a taxing master of the Senior Courts;

“Costs Office” means the Senior Courts Costs Office;

“costs officer” means—

- (i) a costs judge;
- (ii) a [^{F35}District Judge]; or
- (iii) an authorised court officer;

“detailed assessment” means the procedure by which the amount of costs is decided by a costs officer in accordance with Part 47;

“the Director (legal aid)” means the person designated as the Director of Legal Aid Casework pursuant to section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or a person entitled to exercise the functions of the Director;

[^{F1131}‘fixed costs’ means costs, the amounts of which are fixed by these Rules;]

“free of charge” has the same meaning as in section 194(10) of the 2007 Act;

“fund” includes any estate or property held for the benefit of any person or class of person and any fund to which a trustee or personal representative is entitled in that capacity;

“HMRC” means HM Revenue and Customs;

“legal aid” means civil legal services made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“paying party” means a party liable to pay costs;

“the prescribed charity” has the same meaning as in section 194(8) of the 2007 Act;

“pro bono representation” means legal representation provided free of charge;

“receiving party” means a party entitled to be paid costs;

“summary assessment” means the procedure whereby costs are assessed by the judge who has heard the case or application;

“VAT” means Value Added Tax;

“the 2007 Act” means the Legal Services Act 2007 .

(“Legal representative” has the meaning given in rule 2.3).

(2) The costs to which Parts 44 to 47 apply include—

(a) the following costs where those costs may be assessed by the court—

(i) costs of proceedings before an arbitrator or umpire;

(ii) costs of proceedings before a tribunal or other statutory body; and

(iii) costs payable by a client to their legal representative; and

(b) costs which are payable by one party to another party under the terms of a contract, where the court makes an order for an assessment of those costs.

(3) Where advocacy or litigation services are provided to a client under a conditional fee agreement, costs are recoverable under Parts 44 to 47 notwithstanding that the client is liable to pay the legal representative’s fees and expenses only to the extent that sums are recovered in respect of the proceedings, whether by way of costs or otherwise.

Textual Amendments

F35 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

F1129 Words in rule 44.1(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **18(a)**; S.I. 2014/954, art. 2(a)

F1130 Words in rule 44.1(1) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **18(b)**; S.I. 2014/954, art. 2(a)

F1131 Words in rule 44.1(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **14** (with rule 2)

Court’s discretion as to costs

44.2.—(1) The court has discretion as to—

(a) whether costs are payable by one party to another;

(b) the amount of those costs; and

(c) when they are to be paid.

(2) If the court decides to make an order about costs—

- (a) the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party; but
 - (b) the court may make a different order.
- (3) The general rule does not apply to the following proceedings—
- (a) proceedings in the Court of Appeal on an application or appeal made in connection with proceedings in the Family Division; or
 - (b) proceedings in the Court of Appeal from a judgment, direction, decision or order given or made in probate proceedings or family proceedings.
- (4) In deciding what order (if any) to make about costs, the court will have regard to all the circumstances, including—
- (a) the conduct of all the parties;
 - (b) whether a party has succeeded on part of its case, even if that party has not been wholly successful; and
 - (c) any admissible offer to settle made by a party which is drawn to the court’s attention, and which is not an offer to which costs consequences under Part 36 apply.
- (5) The conduct of the parties includes—
- (a) conduct before, as well as during, the proceedings and in particular the extent to which the parties followed the Practice Direction – Pre-Action Conduct or any relevant pre-action protocol;
 - (b) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
 - (c) the manner in which a party has pursued or defended its case or a particular allegation or issue; and
 - (d) whether a claimant who has succeeded in the claim, in whole or in part, exaggerated its claim.
- (6) The orders which the court may make under this rule include an order that a party must pay—
- (a) a proportion of another party’s costs;
 - (b) a stated amount in respect of another party’s costs;
 - (c) costs from or until a certain date only;
 - (d) costs incurred before proceedings have begun;
 - (e) costs relating to particular steps taken in the proceedings;
 - (f) costs relating only to a distinct part of the proceedings; and
 - (g) interest on costs from or until a certain date, including a date before judgment.
- (7) Before the court considers making an order under paragraph (6)(f), it will consider whether it is practicable to make an order under paragraph (6)(a) or (c) instead.
- (8) Where the court orders a party to pay costs subject to detailed assessment, it will order that party to pay a reasonable sum on account of costs, unless there is good reason not to do so.

Basis of assessment

- 44.3.**—(1) Where the court is to assess the amount of costs (whether by summary or detailed assessment) it will assess those costs—
- (a) on the standard basis; or
 - (b) on the indemnity basis,

but the court will not in either case allow costs which have been unreasonably incurred or are unreasonable in amount.

(Rule 44.5 sets out how the court decides the amount of costs payable under a contract.)

- (2) Where the amount of costs is to be assessed on the standard basis, the court will—
- (a) only allow costs which are proportionate to the matters in issue. Costs which are disproportionate in amount may be disallowed or reduced even if they were reasonably or necessarily incurred; and
 - (b) resolve any doubt which it may have as to whether costs were reasonably and proportionately incurred or were reasonable and proportionate in amount in favour of the paying party.

(Factors which the court may take into account are set out in rule 44.4.)

(3) Where the amount of costs is to be assessed on the indemnity basis, the court will resolve any doubt which it may have as to whether costs were reasonably incurred or were reasonable in amount in favour of the receiving party.

- (4) Where—
- (a) the court makes an order about costs without indicating the basis on which the costs are to be assessed; or
 - (b) the court makes an order for costs to be assessed on a basis other than the standard basis or the indemnity basis,

the costs will be assessed on the standard basis.

- (5) Costs incurred are proportionate if they bear a reasonable relationship to—
- (a) the sums in issue in the proceedings;
 - (b) the value of any non-monetary relief in issue in the proceedings;
 - (c) the complexity of the litigation;
 - (d) any additional work generated by the conduct of the paying party; ^{F1132} ...
 - (e) any wider factors involved in the proceedings, such as reputation or public importance [^{F1133}; and]
 - ^{F1134}(f) any additional work undertaken or expense incurred due to the vulnerability of a party or any witness.]

(6) Where the amount of a solicitor's remuneration in respect of non-contentious business is regulated by any general orders made under the Solicitors Act 1974, the amount of the costs to be allowed in respect of any such business which falls to be assessed by the court will be decided in accordance with those general orders rather than this rule and rule 44.4.

^{F1135}(7) Paragraphs (2)(a) and (5) do not apply in relation to—

- (a) cases commenced before 1st April 2013; or
- (b) costs incurred in respect of work done before 1st April 2013,

and in relation to such cases or costs, rule 44.4.(2)(a) as it was in force immediately before 1st April 2013 will apply instead.]

Textual Amendments

F1132 Word in rule 44.3(5)(d) omitted (6.4.2021) by virtue of [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **11(1)(a)**

F1133 Word in rule 44.3(5)(e) inserted (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), **11(1)(b)**

F1134 Rule 44.3(5)(f) inserted (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), **11(1)(c)**

F1135 Rule 44.3(7) substituted (1.4.2013) by The Civil Procedure (Amendment No.2) Rules 2013 (S.I. 2013/515), rules 2, **5**

Factors to be taken into account in deciding the amount of costs

44.4.—(1) The court will have regard to all the circumstances in deciding whether costs were—

- (a) if it is assessing costs on the standard basis—
 - (i) proportionately and reasonably incurred; or
 - (ii) proportionate and reasonable in amount, or
- (b) if it is assessing costs on the indemnity basis—
 - (i) unreasonably incurred; or
 - (ii) unreasonable in amount.

(2) In particular, the court will give effect to any orders which have already been made.

(3) The court will also have regard to—

- (a) the conduct of all the parties, including in particular—
 - (i) conduct before, as well as during, the proceedings; and
 - (ii) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;
- (b) the amount or value of any money or property involved;
- (c) the importance of the matter to all the parties;
- (d) the particular complexity of the matter or the difficulty or novelty of the questions raised;
- (e) the skill, effort, specialised knowledge and responsibility involved;
- (f) the time spent on the case;
- (g) the place where and the circumstances in which work or any part of it was done; and
- (h) the receiving party's last approved or agreed budget.

(Rule 35.4(4) gives the court power to limit the amount that a party may recover with regard to the fees and expenses of an expert.)

Amount of costs where costs are payable under a contract

44.5.—(1) [^{F1136}Subject to paragraphs (2) and (3)], where the court assesses (whether by summary or detailed assessment) costs which are payable by the paying party to the receiving party under the terms of a contract, the costs payable under those terms are, unless the contract expressly provides otherwise, to be presumed to be costs which—

- (a) have been reasonably incurred; and
- (b) are reasonable in amount,

and the court will assess them accordingly.

(2) The presumptions in paragraph (1) are rebuttable. Practice Direction 44 – General rules about costs sets out circumstances where the court may order otherwise.

(3) Paragraph (1) does not apply where the contract is between a solicitor and client.

Textual Amendments

F1136 Words in rule 44.5(1) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, 8

Procedure for assessing costs

44.6.—(1) Where the court orders a party to pay costs to another party (other than fixed costs) it may either—

- (a) make a summary assessment of the costs; or
- (b) order detailed assessment of the costs by a costs officer,

unless any rule, practice direction or other enactment provides otherwise.

(Practice Direction 44 – General rules about costs sets out the factors which will affect the court’s decision under paragraph (1).)

- (2) A party may recover the fixed costs specified in Part 45 in accordance with that Part.

Time for complying with an order for costs

44.7.—(1) A party must comply with an order for the payment of costs within 14 days of—

- (a) the date of the judgment or order if it states the amount of those costs;
- (b) if the amount of those costs (or part of them) is decided later in accordance with Part 47, the date of the certificate which states the amount; or
- (c) in either case, such other date as the court may specify.

(Part 47 sets out the procedure for detailed assessment of costs.)

Legal representative’s duty to notify the party

44.8. Where—

- (a) the court makes a costs order against a legally represented party; and
- (b) the party is not present when the order is made,

the party’s legal representative must notify that party in writing of the costs order no later than 7 days after the legal representative receives notice of the order.

(Paragraph 10.1 of Practice Direction 44 defines “party” for the purposes of this rule.)

Cases where costs orders deemed to have been made

44.9.—(1) Subject to paragraph (2), where a right to costs arises under—

- (a) rule 3.7 ^[F1137]or 3.7A1] (defendant’s right to costs where claim is struck out for non-payment of fees);
- ^[F1138](a1) rule 3.7B (sanctions for dishonouring cheque);]
- (b) rule ^[F1139]36.13] (1) or (2) (claimant’s entitlement to costs where a Part 36 offer is accepted); or
- (c) rule 38.6 (defendant’s right to costs where claimant discontinues),

a costs order will be deemed to have been made on the standard basis.

(2) Paragraph 1(b) does not apply where a Part 36 offer is accepted before the commencement of proceedings.

(3) Where such an order is deemed to be made in favour of a party with *pro bono* representation, that party may apply for an order under section 194(3) of the 2007 Act.

(4) Interest payable under section 17 of the Judgments Act 1838 or section 74 of the County Courts Act 1984 on the costs deemed to have been ordered under paragraph (1) will begin to run from the date on which the event which gave rise to the entitlement to costs occurred.

Textual Amendments

F1137 Words in rule 44.9(1)(a) inserted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), 7 (with rule 13(1)(2))

F1138 Rule 44.9(1)(a1) inserted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, 19

F1139 Word in rule 44.9(1)(b) substituted (6.4.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(c), 9 (with rule 18)

Where the court makes no order for costs

44.10.—(1) Where the court makes an order which does not mention costs—

(a) subject to paragraphs (2) and (3), the general rule is that no party is entitled—

(i) to costs; or

(ii) to seek an order under section 194(3) of the 2007 Act,

in relation to that order; but

(b) this does not affect any entitlement of a party to recover costs out of a fund held by that party as trustee or personal representative, or under any lease, mortgage or other security.

(2) Where the court makes—

(a) an order granting permission to appeal;

(b) an order granting permission to apply for judicial review; or

(c) any other order or direction sought by a party on an application without notice,

and its order does not mention costs, it will be deemed to include an order for applicant's costs in the case.

(3) Any party affected by a deemed order for costs under paragraph (2) may apply at any time to vary the order.

(4) The court hearing an appeal may, unless it dismisses the appeal, make orders about the costs of the proceedings giving rise to the appeal as well as the costs of the appeal.

(5) Subject to any order made by the transferring court, where proceedings are transferred from one court to another, the court to which they are transferred may deal with all the costs, including the costs before the transfer.

Court's powers in relation to misconduct

44.11.—(1) The court may make an order under this rule where—

(a) a party or that party's legal representative, in connection with a summary or detailed assessment, fails to comply with a rule, practice direction or court order; or

(b) it appears to the court that the conduct of a party or that party's legal representative, before or during the proceedings or in the assessment proceedings, was unreasonable or improper.

- (2) Where paragraph (1) applies, the court may—
- (a) disallow all or part of the costs which are being assessed; or
 - (b) order the party at fault or that party’s legal representative to pay costs which that party or legal representative has caused any other party to incur.
- (3) Where—
- (a) the court makes an order under paragraph (2) against a legally represented party; and
 - (b) the party is not present when the order is made,
- the party’s legal representative must notify that party in writing of the order no later than 7 days after the legal representative receives notice of the order.

Set Off

- 44.12.**—(1) Where a party entitled to costs is also liable to pay costs, the court may assess the costs which that party is liable to pay and either—
- (a) set off the amount assessed against the amount the party is entitled to be paid and direct that party to pay any balance; or
 - (b) delay the issue of a certificate for the costs to which the party is entitled until the party has paid the amount which that party is liable to pay.

SECTION II

Qualified One-Way Costs Shifting

Qualified one-way costs shifting: scope and interpretation

- 44.13.**—(1) This Section applies to proceedings which include a claim for damages—
- (a) for personal injuries;
 - (b) under the Fatal Accidents Act 1976; or
 - (c) which arises out of death or personal injury and survives for the benefit of an estate by virtue of section 1(1) of the Law Reform (Miscellaneous Provisions) Act 1934,

but does not apply to applications pursuant to section 33 of the Senior Courts Act 1981 or section 52 of the County Courts Act 1984 (applications for pre-action disclosure), or where rule 44.17 applies.

(2) In this Section, “claimant” means a person bringing a claim to which this Section applies or an estate on behalf of which such a claim is brought, and includes a person making a counterclaim or an additional claim.

Effect of qualified one-way costs shifting

44.14.—(1) Subject to rules 44.15 and 44.16, orders for costs made against a claimant may be enforced without the permission of the court but only to the extent that the aggregate amount in money terms of such orders does not exceed the aggregate amount in money terms of any orders for [F1140, or agreements to pay or settle a claim for, damages, costs] and interest made in favour of the claimant.

[F1141(2) For the purposes of this Section, orders for costs includes orders for costs deemed to have been made (either against the claimant or in favour of the claimant) as set out in rule 44.9.]

[F1142(3)] Orders for costs made against a claimant may only be enforced after the proceedings have been concluded and the costs have been assessed or agreed.

[^{F1143}(4) Where enforcement is permitted against any order for costs made in favour of the claimant, rule 44.12 applies.]

[^{F1144}(5)] An order for costs which is enforced only to the extent permitted by paragraph (1) shall not be treated as an unsatisfied or outstanding judgment for the purposes of any court record.

Textual Amendments

F1140 Words in rule 44.14(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 24\(a\)](#) (with [rule 1\(3\)](#))

F1141 Rule 44.14(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 24\(b\)](#) (with [rule 1\(3\)](#))

F1142 Rule 44.14(2) renumbered as rule 44.14(3) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 24\(c\)](#) (with [rule 1\(3\)](#))

F1143 Rule 44.14(4) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 24\(d\)](#) (with [rule 1\(3\)](#))

F1144 Rule 44.14(3) renumbered as rule 44.14(5) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 24\(e\)](#) (with [rule 1\(3\)](#))

Exceptions to qualified one-way costs shifting where permission not required

44.15. Orders for costs made against the claimant may be enforced to the full extent of such orders without the permission of the court where the proceedings have been struck out on the grounds that—

- (a) the claimant has disclosed no reasonable grounds for bringing the proceedings;
- (b) the proceedings are an abuse of the court’s process; or
- (c) the conduct of—
 - (i) the claimant; or
 - (ii) a person acting on the claimant’s behalf and with the claimant’s knowledge of such conduct,

is likely to obstruct the just disposal of the proceedings.

Exceptions to qualified one-way costs shifting where permission required

44.16.—(1) Orders for costs made against the claimant may be enforced to the full extent of such orders with the permission of the court where the claim is found on the balance of probabilities to be fundamentally dishonest.

(2) Orders for costs made against the claimant may be enforced up to the full extent of such orders with the permission of the court, and to the extent that it considers just, where—

- (a) the proceedings include a claim which is made for the financial benefit of a person other than the claimant or a dependant within the meaning of section 1(3) of the Fatal Accidents Act 1976 (other than a claim in respect of the gratuitous provision of care, earnings paid by an employer or medical expenses); or
- (b) a claim is made for the benefit of the claimant other than a claim to which this Section applies.

(3) Where paragraph (2)(a) applies, the court may, subject to rule 46.2, make an order for costs against a person, other than the claimant, for whose financial benefit the whole or part of the claim was made.

Transitional provision

44.17. This Section does not apply to proceedings where the claimant has entered into a pre-commencement funding arrangement (as defined in rule 48.2).

SECTION III

Damages-Based Agreements

Award of costs where there is a damages-based agreement

44.18.—(1) The fact that a party has entered into a damages-based agreement will not affect the making of any order for costs which otherwise would be made in favour of that party.

(2) Where costs are to be assessed in favour of a party who has entered into a damages-based agreement—

- (a) the party’s recoverable costs will be assessed in accordance with rule 44.3; and
- (b) the party may not recover by way of costs more than the total amount payable by that party under the damages-based agreement for legal services provided under that agreement.]

[^{F1145}PART 45 FIXED COSTS

Textual Amendments

F1145Pt. 45 substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rule 1(1), [Sch. 3](#) (with [rule 2](#))

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

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SECTION I

General Provisions

Scope of this Part

45.1.—(1) This Part sets out the amounts to be allowed for costs in the categories of claim to which it applies.

(2) In the categories of claim to which this Part applies, the court has a discretion as to—

- (a) whether costs are payable by one party to another;
- (b) when they are to be paid; and
- (c) whether to make an order in the form contemplated by rule 44.2(6)(a).

(3) Where—

- (a) a claim is one to which Section IV, Section VI, Section VII or Section VIII of this Part applies; and
- (b) the parties agree or the court orders that a party is entitled to costs,

subject to [F1148 rule 44.5 and to] the application of any rule in those Sections or this Section by which costs are to be allowed, disallowed, increased or reduced, the court may only award costs in an amount that is neither more nor less than the fixed costs allowed by the applicable Section and set out in the relevant table in Practice Direction 45 [F1149], unless the paying party and the receiving party have each expressly agreed that this Part should not apply].

(4) Section VI and Section VII of this Part do not apply to a claim or counterclaim which relates, in whole or in part, to a residential property or dwelling and which, in respect of that property, includes a claim or counterclaim for—

- (a) possession;
- (b) disrepair; or
- (c) unlawful eviction,

save where the claim or counterclaim in respect of the residential property or dwelling arises from a boundary dispute.

(5) Where a claim relates in part to a residential property or dwelling and that part of the claim is concluded or discontinued, paragraph (4) shall continue to apply to the remainder of the claim.

(6) Section VI, Section VII and Section VIII of this Part do not apply where a party is a protected party.

(7) In this Part—

- (a) ‘an order for costs’, includes orders for costs deemed to have been made (either against the claimant or in favour of the claimant) as set out in rule 44.9;
- (b) ‘the relevant Protocol’ means—
 - (i) the Pre-Action Protocol for Personal Injury Claims in Road Traffic Accidents (‘the RTA Protocol’); or
 - (ii) the Pre-action Protocol for Low Value Personal Injury Claims (Employers’ Liability and Public Liability) Claims (‘the EL/PL Protocol’); and
- (c) a reference to a table by number alone is a reference to the corresponding table in Practice Direction 45.

(8) ^{F1150}Subject to paragraph (9), a] reference in any rule to an amount in a table in Practice Direction 45 is a reference to the amount applicable to a claim on the date that proceedings are issued, regardless of any subsequent amendment.

^{F1151}(9) In respect of any amendment made to Table 12, Table 14 or Table 15 which comes into force on 6th April 2024, the amounts in those Tables as so amended are also applicable to any order for costs made after that date in a claim issued before that date.

(10) This Part does not apply to costs incurred in respect of, or in connection with, inquest proceedings.]

Textual Amendments

F1148 Words in rule 45.1(3) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(2)(a)(i)**

F1149 Words in rule 45.1(3) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(2)(a)(ii)**

F1150 Words in rule 45.1(8) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(2)(b)**

F1151 Rule 45.1(9)(10) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(2)(c)**

VAT

45.2. Where appropriate, VAT may be recovered in addition to the amount of fixed costs in Section IV, Section VI, Section VII or Section VIII of this Part and any reference to fixed costs in those Sections is a reference to those costs net of any such VAT.

Additional costs for work in specified areas ('London weighting')

45.3.—(1) Where fixed costs are payable under Section IV, Section VI, Section VII or Section VIII of this Part and the receiving party—

- (a) lives, works or carries on business in any area set out in Section II of Practice Direction 45; and
- (b) instructs a legal representative with conduct of the litigation who practises in any of those areas,

the fixed costs shall include, in addition to the costs allowable in the relevant Section, an amount equal to 12.5% of those fixed costs ('London weighting').

(2) In this rule 'fixed costs' excludes any disbursements.

Litigants in person

45.4.—(1) This rule applies to any claim where—

- (a) costs are payable under Section VI, Section VII or Section VIII of this Part; and
- (b) the party in whose favour the costs order is made is at any stage a litigant in person.

(2) Where this rule applies—

- (a) rule 46.5 shall apply, save that—
 - (i) where a party is a litigant in person throughout the entire claim, the costs allowed under this rule shall not exceed, except in the case of a disbursement, two-thirds of the fixed recoverable costs which would have been allowed under Section VI, Section VII or Section VIII if the litigant in person had been represented by a legal representative;
 - (ii) for any stage in Table 12, Table 14 or Table 15 during which the party is for any period a litigant in person, the costs allowed for that stage shall not exceed two thirds of the costs so specified; and
 - (iii) for any stage in Table 12, Table 14 or Table 15 during which a party is represented by a legal representative for the entire stage, the fixed recoverable costs shall apply as set out in sub-paragraph (b), provided that the total amount of costs to be allowed shall not exceed the costs which would have been allowed if the litigant in person had been represented by a legal representative for the entire claim;
- (b) where sub-paragraph (a)(iii) applies, the fixed recoverable costs shall be as follows—
 - (i) where the stage provides only for a fixed sum, the fixed sum;
 - (ii) in any other stage the difference between the fixed recoverable costs for that stage and the fixed recoverable costs for the last stage before that when the party was a litigant in person.

Entitlement to costs – more than one claimant

45.5.—(1) Unless paragraph (2) or paragraph (4) applies, where—

- (a) fixed costs are payable under Section VI or Section VII of this Part; and
- (b) orders for costs are made in favour of two or more claimants,

each claimant is entitled to the costs of their own claim in accordance with the applicable rules in this Part.

(2) Paragraph (1) does not apply where the claim is for a remedy to which the claimants are jointly entitled, and they are joined to the proceedings to comply with rule 19.3.

- (3) Paragraph (4) applies where fixed costs are payable under Section VI or Section VII and—
- (a) a legal representative with conduct of the litigation acts for more than one claimant in the proceedings;
 - (b) each of those claimants has a separate claim against the defendant;
 - (c) an order for costs is made in favour of two or more of those claimants; and
 - (d) the court has ordered that paragraph (4) shall apply.
- (4) Where this paragraph applies—
- (a) the claimants in whose favour an order for costs is made shall only be entitled to one set of fixed costs;
 - (b) the amount of the fixed costs to which those claimants are entitled is the sum of the allowable costs and the further amounts calculated in accordance with paragraph (5) and, where applicable, paragraph (7); and
 - (c) those claimants are jointly entitled to any costs so ordered.
- (5) A further amount equal to 25% of the allowable costs is to be added for each additional claimant in whose favour the order for costs is made.
- (6) In paragraph (4), ‘the allowable costs’—
- (a) means—
 - (i) the applicable costs payable to the claimant in respect of whom the damages of highest value are agreed or awarded; or
 - (ii) where paragraph (i) would apply to two or more claimants, the applicable costs payable to whichever one of those claimants their legal representative chooses;
 - (b) does not include any additional [^{F1152}costs] under rule 36.24 [^{F1153}or increased costs under rule 45.13(2)]; but
 - (c) may include the relevant trial advocacy fees if applicable; and
 - (d) excludes any disbursements.
- (7) In addition to the allowable costs under paragraph (4), those claimants who meet the criteria are entitled to London weighting.
- (8) Where one or more of the claimants referred to in paragraph (4) is entitled to [^{F1154}either] additional costs under rule 36.24(5) or increased costs under rule 45.13(2), [^{F1155}or to both,] the percentage increases for which those rules provide must be calculated by applying the relevant percentage to such proportion of the amount referred to in paragraph (4)(b) as reflects the proportion which each claimant so entitled bears to the total number of claimants to which paragraph (4) applies.

Textual Amendments

- F1152** Word in rule 45.5(6)(b) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(3)(a)(i)**
- F1153** Words in rule 45.5(6)(b) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(3)(a)(ii)**
- F1154** Word in rule 45.5(8) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(3)(b)(i)**
- F1155** Words in rule 45.5(8) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(3)(b)(ii)**

Defendants' costs

45.6.—(1) Where, in any case to which Section VI, Section VII or Section VIII of this Part applies, the court makes an order for costs in favour of the defendant, the allowable costs are—

- (a) the fixed costs set out in Section VI, Section VII or Section VIII;
- (b) the applicable disbursements set out in Section IX of this Part.

(2) For the purpose of assessing the costs payable to a defendant by reference to the fixed costs in Table 12 and Table 14—

- (a) “value of the claim for damages” and “damages” shall be treated as references to the value of the claim, as defined in paragraph (3); and
- (b) if the claim is discontinued, a reference in Table 12 or Table 14 to the stage at which a case is settled shall be treated as a reference to the stage at which the case is discontinued.

(3) For the purposes of paragraph (2)(a), ‘the value of the claim’ is—

- (a) the amount specified in the claim form, without taking into account any deduction for contributory negligence, but excluding—
 - (i) any amount not in dispute;
 - (ii) interest; or
 - (iii) costs;
- (b) if no amount is specified in the claim form, the maximum amount which the claimant reasonably expected to recover according to the statement of value included in the claim form under rule 16.3;
- (c) if the claim form states that the claimant cannot reasonably say how much is likely to be recovered—
 - (i) £25,000 in a claim to which Section VI applies; or
 - (ii) £100,000 in a claim to which Section VII applies;
- (d) if the claim has no monetary value—
 - (i) the applicable amount in rule 45.45(1)(a)(ii) in a claim to which Section VI applies; or
 - (ii) the applicable amount in rule 45.50(2)(b)(ii) in a claim to which Section VII applies; or
- (e) if a claim includes both a claim for monetary relief and a claim which has no monetary value, the applicable amount in sub-paragraph (d) taken together with the applicable monetary value in sub-paragraph (a), (b) or (c).

Counterclaims

45.7.—(1) Subject to paragraphs (2) and (3), if in any case to which Section VI or Section VII of this Part applies—

- (a) the defendant brings a counterclaim; and
- (b) the court makes an order for costs,

rules 45.5, 45.6, 45.9, 45.10, 45.11, 45.12, 45.13, 45.43, 45.45, 45.46, 45.49 and 49.50 shall apply as if the counterclaim were a claim.

(2) No costs are allowable under this rule where the only remedy sought by the counterclaimant is also a defence to the claim.

(3) Where in a claim to which the RTA Protocol applies, there is a counterclaim which does not include a claim for personal injuries, any order for costs shall be for a sum equivalent to one half of the applicable Type A and Type B costs in Table 10.

Pre-action and interim applications

45.8. Where, in any claim to which Section VI, Section VII or Section VIII of this Part applies, the court makes an order for the costs of a pre-action or interim application, the costs which a party may be allowed are those set out in Table 1, together with any appropriate court fee.

Claims for an amount of costs exceeding fixed recoverable costs

45.9.—(1) The court may consider a claim for an amount of costs (excluding disbursements) which is greater than the fixed recoverable costs referred to in Section VI, Section VII or Section VIII of this Part where there are exceptional circumstances making it appropriate to do so.

- (2) If the criteria in paragraph (1) are met, the court may—
- (a) summarily assess the costs; or
 - (b) make an order for the costs to be subject to detailed assessment.

Claims for an amount of costs exceeding fixed recoverable costs – vulnerability

45.10.—(1) The court may consider a claim for an amount of costs (excluding disbursements) which is greater than the fixed recoverable costs referred to in Section VI, Section VII or Section VIII of this Part where—

- (a) a party or witness for the party is vulnerable;
- (b) that vulnerability has required additional work to be undertaken; and
- (c) by reason of that additional work alone, the claim is for an amount that is at least 20% greater than the amount of fixed recoverable costs.

(Rule 1.6 and Practice Direction 1A make provision for how the court is to give effect to the overriding objective in relation to vulnerable parties or witnesses).

- (2) If the criteria in paragraph (1) are met, the court may—
- (a) summarily assess the costs; or
 - (b) make an order for the costs to be subject to detailed assessment.

Failure to achieve costs greater than fixed recoverable costs

45.11.—(1) This rule applies where—

- (a) costs are assessed in accordance with rule 45.9(2) or 45.10(2); and
 - (b) the court assesses the costs (excluding any VAT) as being an amount which is in a sum less than 20% greater than the amount of the fixed recoverable costs.
- (2) The court shall make an order for the party who made the claim to be paid the lesser of—
- (a) the fixed recoverable costs; and
 - (b) the assessed costs.

Costs of the costs-only proceedings or the detailed assessment

45.12.—(1) If the criteria in rule 45.9(1) or rule 45.10(1) are not met, the court may make an order for the fixed recoverable costs and any permitted disbursements only.

(2) Where—

- (a) the court makes an order for costs in accordance with paragraph (1); or
- (b) rule 45.11 applies,

the court may decide—

- (i) to make no order as to the costs of the [F1156 costs-only] proceedings or detailed assessment; or
- (ii) to make an order for some or all of such costs to be paid by the party making the claim.

Textual Amendments

F1156 Word in rule 45.12(2)(b)(i) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **23(1)**

Unreasonable behaviour

45.13.—(1) Where, in a claim to which Section VI, Section VII or Section VIII of this Part applies, an order for costs is made in favour of a party whom the court considers has behaved unreasonably, the other party may apply for an order that those costs be reduced by an amount equivalent to 50% of the fixed recoverable costs which would otherwise be payable.

(2) Where, in a claim to which Section VI, Section VII or Section VIII of this Part applies, an order for costs is made against a party whom the court considers has behaved unreasonably, the other party may apply for an order that those costs be increased by an amount equivalent to 50% of the fixed recoverable costs which would otherwise be payable.

(3) In this rule—

- (a) unreasonable behaviour is conduct for which there is no reasonable explanation; and
- (b) “fixed recoverable costs which would otherwise be payable” does not include—
 - (i) VAT;
 - (ii) any additional amounts under rules 36.17 or 36.24; or
 - (iii) any disbursements.

Costs consequences on reconsideration of track or complexity band

45.14.—(1) Where—

- (a) the court reallocates a claim to a different track; and
- (b) before or upon reallocation, the claim is one to which Section VI, Section VII or Section VIII of this Part applies,

the costs which may be allowed are those applicable to the track to which the claim is reallocated, as if the claim been allocated to that track at the outset.

(2) Where, in any claim to which Section VI or Section VII of this Part applies, the court reassigns a claim to a different complexity band, the costs which may be allowed are those applicable to the complexity band to which the claim is reassigned, as if the claim been assigned to that band at the outset.

(3) Where in any claim to which this rule applies, the court makes an order for the costs of an application to—

- (a) reallocate the claim to a different track; or
- (b) reconsider the complexity band to which a claim is assigned,

that application shall be treated as an interim application and the costs which a party may be allowed are those set out in Table 1, together with any appropriate court fee.

Costs consequences where rules 36.23 or 36.24 apply

- 45.15.** In a case to which Section VI, Section VII or Section VIII of this Part applies
 - (a) where a Part 36 offer is accepted, rule 36.23 applies instead of the relevant Section; and
 - (b) where upon judgment being entered, the claimant fails to obtain a judgment more advantageous than the defendant’s Part 36 offer, rule 36.24 applies instead of the relevant Section.

[^{F1157}Restoration proceedings

- 45.15A.**—(1) This rule applies to claims to which Section VI, Section VII or Section VIII apply.
- (2) Where—
 - (a) it is necessary for the claimant to make an application in separate proceedings to restore a defendant company to the Companies Register; and
 - (b) the claimant is successful in their claim and obtains an order for costs against that defendant,

the fixed costs may include the amount specified in Table 15A (inclusive of any advocate’s fees incurred) in respect of the restoration proceedings, together with the disbursements allowed under paragraph (2) of that Table.]

Textual Amendments
F1157 Rule 45.15A inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(4)**

SECTION II

Commencement, Entry of Judgment and Enforcement

Scope and application

- 45.16.**—(1) In any case to which this Section applies, unless the court orders otherwise, the only costs allowed in respect of a legal representative’s charges are those specified in this Section.
- (2) This Section applies where—
 - (a) the only claim is a claim for a specified sum of money where the value of the claim exceeds £25 and—
 - (i) judgment in default is obtained under rule 12.4(1);
 - (ii) judgment on admission is obtained under rule [^{F1158}14.2(5)];
 - ^{F1159}(iii)
 - (iv) summary judgment is given under Part 24;
 - (v) the court has made an order to strike out a defence under rule 3.4(2)(a) as disclosing no reasonable grounds for defending the claim; or
 - (vi) rule 45.19 applies;

- (b) the only claim is a claim where the court gave a fixed date for the hearing when it issued the claim and judgment is given for the delivery of goods, and the value of the claim exceeds £25;
- (c) the claim is for the recovery of land, including a possession claim or recovery of a dwelling including a Renting Homes possession claim under Part 55, whether or not the claim includes a claim for a sum of money and the defendant gives up possession, pays the amount claimed, if any, and the fixed commencement costs stated in the claim form;
- (d) the claim is for the recovery of land, including a possession claim or recovery of a dwelling including a Renting Homes possession claim under Part 55, where one of the grounds for possession is arrears of rent, for which the court gave a fixed date for the hearing when it issued the claim and judgment is given for the possession (whether or not the order for possession is suspended on terms) and the defendant—
 - (i) has neither delivered a defence, or counterclaim, nor otherwise denied liability; or
 - (ii) has delivered a defence which is limited to specifying his proposals for the payment of arrears of rent;
- (e) the claim is a possession claim under Section II of Part 55 (accelerated possession claims of land let on an assured shorthold tenancy) or a claim under Section V of Part 55 (Renting Homes Wales – accelerated possession claims of dwellings let on a standard contract) and a possession order is made where the defendant has neither delivered a defence, or counterclaim, nor otherwise denied liability;
- (f) the claim is a demotion claim or prohibited conduct standard contract order claim under Section III of Part 65 or a demotion claim or prohibited conduct standard contract order claim is made in the same claim form in which a claim for possession is made under Part 55 and that demotion claim or prohibited conduct standard contract order claim is successful;
- (g) a judgment creditor has taken steps under Parts 70 to 73 to enforce a judgment or order; or
- (h) costs are ordered under rule 27.14(2)(a).

(Practice Direction 49C sets out the types of case where a court will give a fixed date for a hearing when it issues a claim.)

- (3) No sum in respect of legal representatives' charges shall be allowed where the only claim is for a sum of money or goods not exceeding £25.
- (4) Any appropriate court fee shall be allowed in addition to the costs set out in this Section.
- (5) The claim form may include a claim for fixed commencement costs.

Textual Amendments

F1158 Word in rule 45.16(2)(a)(ii) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\)](#), [23\(2\)\(a\)](#)

F1159 Rule 45.16(2)(a)(iii) omitted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\)](#), [23\(2\)\(b\)](#)

Amount of fixed commencement costs in a claim for the recovery of money or goods

45.17.—(1) In a claim to which rule 45.16(2)(a) or (b) applies, where the claim form includes a claim for fixed commencement costs—

- (a) the amount of fixed commencement costs is set out in Table 2; and
- (b) the amount claimed, or the value of the goods claimed if specified, in the claim form is to be used in determining the band in Table 2 that applies to the claim.

(2) The amounts shown in Table 6 are to be allowed in addition, if applicable.

When defendant only liable for fixed commencement costs

45.18. Where—

- (a) the only claim is for a specified sum of money; and
- (b) the defendant pays the money claimed within 14 days after being served with the particulars of claim, together with the fixed commencement costs stated in the claim form,

the defendant is not liable for any further costs unless the court orders otherwise.

Fixed costs on entry of judgment in a claim for the recovery of money or goods

45.19. Where—

- (a) the claimant has claimed fixed commencement costs under rule 45.17; and
- (b) judgment is entered in a claim to which rule 45.16(2)(a) or (b) applies in the circumstances specified in Table 3,

the amount to be included in the judgment for the claimant’s legal representative’s charges is the total of—

- (i) the fixed commencement costs; and
- (ii) the relevant amount shown in Table 3.

Amount of fixed commencement costs in a claim for the recovery of land (including possession) or a demotion claim or prohibited conduct standard contract claim (Wales)

45.20.—(1) The amount of fixed commencement costs in a claim to which rule 45.16(2)(c), (d) or (f) applies is set out in Table 4.

(2) The amounts shown in Table 6 are to be allowed in addition, if applicable.

Fixed costs on entry of judgment in a claim for the recovery of land (including possession) or a demotion claim or prohibited conduct standard contract claim (Wales)

45.21. Table 5 sets out the amounts to be allowed in respect of a legal representative’s charges in the circumstances mentioned.

Miscellaneous fixed costs

45.22. Table 6 shows the amount to be allowed in respect of legal representative’s charges in the circumstances mentioned.

Fixed costs of enforcement

45.23. Table 7 shows the amount to be allowed in respect of legal representatives’ costs in the circumstances mentioned. The amounts shown in Table 6 are to be allowed in addition, if applicable.

SECTION III

HM Revenue and Customs

Scope, application and interpretation

45.24.—(1) This Section applies where—

- (a) the only claim is a claim conducted by an HMRC Officer in the County Court for the recovery of a debt; and
 - (b) the Commissioners obtain judgment on the claim.
- (2) Where this Section applies, unless the court orders otherwise, the only costs allowed in respect of HMRC charges are those specified in this Section.
- (3) For the purpose of this Section—
- (a) ‘His Majesty’s Revenue and Customs charges’ means the fixed costs set out in Table 8 and Table 9;
 - (b) ‘HMRC Officer’ means a person appointed by the Commissioners under section 2 of the Commissioners for Revenue and Customs Act 2005 and authorised to conduct County Court proceedings for recovery of debt under section 25(1A) of that Act;
 - (c) ‘debt’ means any sum payable to the Commissioners under or by virtue of an enactment or under a contract settlement; and
 - (d) ‘Commissioners’ means commissioners for HMRC appointed under section 1 of the Commissioners for Revenue and Customs Act 2005.
- (4) HMRC charges must, for the purpose of this Section, be claimed as ‘legal representative’s costs’ on relevant court forms.
- (5) Any appropriate court fee shall be allowed in addition to the costs set out in this Section.
- (6) The claim form may include a claim for fixed commencement costs.

Amount of fixed commencement costs in a County Court claim for the recovery of money conducted by an HMRC Officer

- 45.25.** The amount of fixed commencement costs in a claim to which rule 45.24 applies—
- (a) is set out in Table 8; and
 - (b) the amount claimed in the claim form is to be used for determining which claim band in Table 8 applies.

Fixed costs on entry of judgment in a County Court claim for recovery of money conducted by an HMRC Officer

- 45.26.** Where—
- (a) an HMRC Officer has claimed fixed commencement costs under Rule 45.25; and
 - (b) judgment is entered in a claim to which rule 45.24 applies,
- the amount to be included in the judgment for HMRC charges is the total of—
- (i) the fixed commencement costs; and
 - (ii) the amount in Table 9 relevant to the value of the claim.

SECTION IV

The Pre-Action Protocols for Low Value Personal Injury Claims in Road Traffic Accidents and Low Value Personal Injury (Employers’ Liability and Public Liability) Claims

Scope and interpretation

- 45.27.—**(1) This Section applies to claims that have been or should have been started under Part 8 in accordance with Practice Direction 49F (‘the Stage 3 Procedure’).

(2) A reference to Claim Notification Form or Court Proceedings Pack is a reference to the form used in the relevant Protocol.

Application of fixed costs and disbursements

45.28. The only costs allowed are—

- (a) the fixed costs in accordance with Table 10 and Table 11; and
- (b) the disbursements in accordance with Section IX of this Part.

Amount of fixed costs

45.29.—(1) In Table 10 and Table 11—

‘Type A fixed costs’ means the legal representative’s costs;

‘Type B fixed costs’ means the advocate’s costs; and

‘Type C fixed costs’ means the costs for the advice on the amount of damages where the claimant is a child.

(2) ‘Advocate’ means a person exercising a right of audience as a representative of, or on behalf of, a party.

Where the claimant obtains judgment for an amount more than the defendant’s relevant Protocol offer

45.30. Where rule ^{F1160}36.30](1)(b) or (c) applies, the court shall order the defendant to pay

- (a) where not already paid by the defendant, the Stage 1 and 2 fixed costs;
- (b) where the claim is determined—
 - (i) on the papers, Stage 3 Type A fixed costs;
 - (ii) at a Stage 3 hearing, Stage 3 Type A and B fixed costs; or
 - (iii) at a Stage 3 hearing and the claimant is a child, Type A, B and C fixed costs; and
- (c) disbursements allowed in accordance with Section IX of this Part.

Textual Amendments

F1160 Word in rule 45.30 substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), 9(5)

Settlement at Stage 2 or Stage 3 where the claimant is a child

45.31.—(1) This rule applies where—

- (a) the claimant is a child;
- (b) there is a settlement—
 - (i) at Stage 2 of the relevant Protocol; or
 - (ii) after proceedings are started under the Stage 3 Procedure and the settlement is more than the defendant’s relevant Protocol offer; and
- (c) an application is made to the court to approve the settlement.

(2) Where the court approves the settlement—

(a) where paragraph (1)(b)(i) applies, at a settlement hearing at Stage 2 of the relevant Protocol; or
(b) where paragraph (1)(b)(ii) applies, at the settlement hearing under the Stage 3 procedure,
it shall order the defendant to pay—

- (i) the Stage 1 and 2 fixed costs;
- (ii) the Stage 3 Type A, B and C fixed costs; and
- (iii) disbursements allowed in accordance with Section IX of this Part.

(3) Where the court does not approve the settlement—

- (a) at a settlement hearing at Stage 2 of the relevant Protocol; or
- (b) at the settlement hearing under the Stage 3 procedure,

it shall order the defendant to pay the Stage 1 and 2 fixed costs.

(4) Paragraphs (5) and (6) apply where the court does not approve the settlement at the first settlement hearing but does approve the settlement at—

- (a) where paragraph (1)(b)(i) applies, a second settlement hearing; or
- (b) where paragraph (1)(b)(ii) applies, the Stage 3 hearing.

(5) At the second settlement hearing or Stage 3 hearing, as appropriate, the court shall order the defendant to pay—

- (a) the Stage 3 Type A and C fixed costs for the first settlement hearing;
- (b) disbursements allowed in accordance with Section IX of this Part; and
- (c) the Stage 3 Type B fixed costs for one of the hearings.

(6) The court in its discretion may also order—

- (a) the defendant to pay an additional amount of either or both the Stage 3—
 - (i) Type A fixed costs;
 - (ii) Type B fixed costs; or
- (b) the claimant to pay an amount equivalent to either or both of the Stage 3—
 - (i) Type A fixed costs;
 - (ii) Type B fixed costs.

(7) Where paragraph (1)(b)(ii) applies and the settlement is not approved at the Stage 3 hearing the court shall order the defendant to pay the Stage 3 Type A fixed costs.

Where the court orders that the claim is not suitable to be determined under the Stage 3 Procedure and the claimant is a child

45.32. Where

- (a) the claimant is a child; and
- (b) at a settlement hearing or the Stage 3 hearing the court orders that the claim is not suitable to be determined under the Stage 3 Procedure,

the court shall order the defendant to pay—

- (i) the Stage 1 and 2 fixed costs; and
- (ii) the Stage 3 Type A, B and C fixed costs.

Settlement before proceedings are issued under Stage 3

45.33. Where

- (a) there is a settlement after the Court Proceedings Pack has been sent to the defendant but before proceedings are issued under Stage 3; and
- (b) the settlement is more than the defendant's relevant Protocol offer,

the fixed costs shall include an additional amount equivalent to the Stage 3 Type A fixed costs.

Additional advice on the value of the claim

45.34.—(1) Where—

- (a) the value of the claim for damages is more than £10,000;
- (b) an additional advice has been obtained from a specialist legal representative, and that advice—
 - (i) is within the legal representative's specialist expertise; and
 - (ii) is reasonably required to value the claim,

the fixed costs may include an additional amount equivalent to the Stage 3 Type C fixed costs.

(2) In a claim to which the RTA Protocol applies—

- (a) vehicle related damages are excluded for the purpose of valuing a claim under paragraph (1)(a); and
- (b) 'vehicle related damages' has the meaning ascribed to it by paragraph 1.1(18) of the RTA Protocol.

Failure to comply or electing not to continue with the relevant Protocol – costs consequences

45.35.—(1) This rule applies where the claimant—

- (a) does not comply with the process set out in the relevant Protocol; or
- (b) elects not to continue with that process,

and starts proceedings under Part 7.

(2) Subject to paragraph (3), where a judgment is given in favour of the claimant but—

- (a) the court determines that the defendant did not proceed with the process set out in the relevant Protocol because the claimant provided insufficient information on the Claim Notification Form;
- (b) the court considers that the claimant acted unreasonably—
 - (i) by discontinuing the process set out in the relevant Protocol and starting proceedings under Part 7;
 - (ii) by valuing the claim at more than £25,000, so that the claimant did not need to comply with the relevant Protocol; or
 - (iii) except for paragraph (2)(a), in any other way that caused the process in the relevant Protocol to be discontinued; or
- (c) the claimant did not comply with the relevant Protocol at all despite the claim falling within the scope of the relevant Protocol,

the court may order the defendant to pay no more than the fixed costs in rule 45.28 together with the disbursements allowed in accordance with Section IX of this Part.

(3) Where a judgment is given in favour of the claimant but the claimant did not comply with the process in paragraph 6.3A(2) of the RTA Protocol, the court may not order the defendant to pay the claimant's costs and disbursements save in exceptional circumstances.

(4) Where the claimant starts proceedings under paragraph [F11617.29] of the RTA Protocol or paragraph [F11627.27] of the EL/PL Protocol and the court orders the defendant to make an interim payment of no more than the interim payment made under paragraph [F11637.19(2) or (3)] of the RTA Protocol or paragraph [F11647.18(2) or (3)] of the EL/PL Protocol the court shall, on the final determination of the proceedings, order the defendant to pay no more than—

(a) the Stage 1 and 2 fixed costs; and

(b) the disbursements allowed in accordance with Section IX of this Part.

(5) Nothing in Section VI or Section VII of this Part shall prevent the court making an order under this rule where appropriate.

Textual Amendments

F1161 Word in rule 45.35(4) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **23(3)(a)**

F1162 Word in rule 45.35(4) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **23(3)(b)**

F1163 Words in rule 45.35(4) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **23(3)(c)**

F1164 Words in rule 45.35(4) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **23(3)(d)**

Where the parties have settled after proceedings have started

45.36.—(1) This rule applies where an application is made under rule 45.40 (costs-only application after a claim is started under Part 8 in accordance with Practice Direction 49F).

(2) Where the settlement is more than the defendant's relevant Protocol offer the court shall order the defendant to pay—

(a) the Stage 1 and 2 fixed costs where not already paid by the defendant;

(b) the Stage 3 Type A fixed costs; and

(c) disbursements allowed in accordance with Section IX of this Part.

(3) Where the settlement is less than or equal to the defendant's relevant Protocol offer the court shall order the defendant to pay—

(a) the Stage 1 and 2 fixed costs where not already paid by the defendant; and

(b) disbursements allowed in accordance with Section IX of this Part.

(4) The court may, in its discretion, order either party to pay the costs of the application.

Where the claimant obtains judgment for an amount equal to or less than the defendant's relevant Protocol offer

45.37. Where rule [F116536.30](1)(a) applies, the court shall order the claimant to pay

(a) where the claim is determined—

(i) on the papers, Stage 3 Type A fixed costs; or

(i) at a hearing, Stage 3 Type A and B fixed costs;

- (b) any Stage 3 disbursements allowed in accordance with Section IX of this Part.

Textual Amendments

F1165 Word in rule 45.37 substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(6)**

Adjournment

45.38. Where the court adjourns a settlement hearing or a Stage 3 hearing it may, in its discretion, order a party to pay

- (a) an additional amount of the Stage 3 Type B fixed costs; and
- (b) any court fee for that adjournment.

Account of payment of Stage 1 and Stage 2 fixed costs

45.39. Where a claim no longer continues under the relevant Protocol the court shall, when making any order as to costs including an order for fixed recoverable costs under Section VI or Section VII of this Part, take into account the Stage 1 and Stage 2 fixed costs that have been paid by the defendant.

Costs-only application after a claim is started under Part 8 in accordance with Practice Direction 49F

45.40.—(1) This rule sets out the procedure where—

- (a) the parties to a dispute have reached an agreement on all issues (including which party is to pay the costs) which is made or confirmed in writing; but
- (b) they have failed to agree the amount of those costs; and
- (c) proceedings have been started under Part 8 in accordance with Practice Direction 49F.

(2) Either party may make an application for the court to determine the costs.

(3) Where an application is made under this rule the court shall assess the costs in accordance with the relevant provisions in rule 45.31 in so far as that rule applies to proceedings started under the Stage 3 Procedure and the settlement is more than the defendant’s relevant Protocol offer or rule 45.36.

(4) Rule 44.5 (amount of costs where costs are payable pursuant to a contract) does not apply to an application under this rule.

SECTION V

The Pre-Action Protocol for Personal Injury Claims Below The Small Claims Limit in Road Traffic Accidents

Failure to comply with, or continue under, the RTA Small Claims Protocol

45.41.—(1) This rule applies where the claimant—

- (a) does not comply with the process set out in the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents (‘the RTA Small Claims Protocol’); or
- (b) either—

- (i) elects not to continue with that process; or
 - (ii) elects not to proceed with that process having been notified by the defendant pursuant to paragraph 6.15(4)(b) of the RTA Protocol that if proceedings were issued, the small claims track would be the normal track for that claim, and starts proceedings under Part 7 which are not allocated to the small claims track.
- (2) Where a judgment is given in favour of the claimant, but—
- (a) the court considers that the claimant acted unreasonably—
 - (i) by valuing the overall claim at more than £10,000 or the claim for damages for injury at more than £5,000, so that the claimant did not need to comply with the RTA Small Claims Protocol;
 - (ii) by electing not to proceed under the RTA Small Claims Protocol, following notification pursuant to paragraph 6.15(4)(b) of the RTA Protocol; or
 - (iii) in any other way that caused the process in the RTA Small Claims Protocol to be discontinued; or
 - (b) the claimant did not comply with the RTA Small Claims Protocol at all despite the claim falling within the scope of the Protocol,

the court may order the defendant to pay no more than the fixed costs together with disbursements allowed in accordance with paragraphs 1.13 and 1.14 of Practice Direction 27B.

Claims which do not continue under the RTA Small Claims Protocol

- 45.42.**—(1) This rule applies where—
- (a) a claim has been started under the RTA Small Claims Protocol, but no longer continues under that Protocol; and
 - (b) the claim has not subsequently proceeded under the RTA Protocol.
- (2) Where this rule applies, Section VI of this Part applies as though the claim had started under the RTA Protocol, except where—
- (a) the court makes an order under rule 45.41; or
 - (b) the claim no longer continues under the RTA Small Claims Protocol because either the claimant or defendant becomes a protected party as defined in rule 21.1(2).

SECTION VI

Fixed Costs in the Fast Track

Scope

- 45.43.**—(1) This Section applies to any claim which would normally be or is allocated to the fast track.
- (2) This Section does not apply where Section IV, Section VII or Section VIII of this Part applies.

Amount of fixed costs

- 45.44.** For so long as the claim is allocated neither to the small claims track, the intermediate track or the multi-track, the only costs allowed in any claim which would normally be or is allocated to the fast track are
- (a) the fixed costs in Table 12; and

- (b) the disbursements as set out in Section IX of this Part.

Fixed costs

45.45.—(1) In Table 12—

- (a) unless stated otherwise, “damages”—
- (i) means any form of monetary relief;
 - (ii) in a claim which has no monetary value, shall be taken to mean an amount equivalent to—
 - (aa) £10,000 in a claim assigned to complexity band 2;
 - (bb) £15,000 in a claim assigned to complexity band 3; and
 - (cc) £20,000 in a claim assigned to complexity band 4;
 - (iii) in a claim which includes both a claim for monetary relief and a claim which has no monetary value, means the applicable amount in sub-paragraph (ii) taken together with the monetary value in sub-paragraph (i); and
 - (iv) in so far as it applies to monetary relief, means—
 - (aa) agreed damages; or
 - (bb) an amount awarded following trial;

(Rule 44.2 provides that the court has a discretion as to the costs order to be made including whether an order for costs relating only to a distinct part of the proceedings is appropriate.)

- (b) the figures in each of stages A to C are the cumulative totals for costs incurred up to and including that stage;
- (c) the figures in stage D are separate sums where the claim is disposed of at trial; and
- (d) a reference to a ‘trial’ is a reference to the final hearing.

Specialist legal advice

45.46.—(1) Where a claim would normally be assigned to complexity band 4, under rule 26.15 in addition to the costs allowable in Table 12, the fixed costs may include an amount in accordance with Table 13.

- (2) The additional costs in Table 13 are only allowable where—
- (a) the legal advice is obtained from, or a statement of case is drafted by—
 - (i) a specialist legal representative in respect of a matter within their specialist expertise; or
 - (ii) the intended trial advocate; and
 - (b) the use of that person to provide the advice or draft the statement of case is justified.

(3) A court may only order payment for one advice in writing or in conference unless further advice is justified.

(Rule 2.3 defines ‘legal representative’.)

Advice obtained in claims started under the RTA Protocol or the EL/PL Protocol

45.47.—(1) This rule applies where a claim has been started under the RTA Protocol or the EL/PL Protocol.

- (2) Where this rule applies and—

- (a) an advice has been obtained from a legal representative as provided for in the relevant Protocol; or
 - (b) an advice has been obtained from a specialist legal representative on the amount of damages where the claimant is a child and that advice—
 - (i) is within the legal representative’s particular expertise; and
 - (ii) is reasonably required to value the claim,
- the fixed costs may include an additional amount of £150.

Preliminary issue or separate trial

45.48.—(1) Where a costs order is made in favour of a party in respect of a preliminary issue, that party is entitled to the fixed costs in Table 12 for the stage applicable at the date the preliminary issue is concluded, together with such disbursements as are allowed in accordance with Section IX of this Part.

(2) Where a claim continues following the conclusion of a preliminary issue and a costs order is made in favour of a party on conclusion of the claim, that party shall be entitled to—

- (a) additional fixed costs, if it is the party in whose favour a costs order is made under paragraph (1); or
- (b) fixed costs, if the party is not a party in whose favour a costs order is made under paragraph (1),

being in either case the amount specified for the stage in Table 12 within which the claim concludes, less the applicable amount in stage B(1), together with such disbursements as are allowed in accordance with Section IX of this Part.

SECTION VII

Fixed Costs in the Intermediate Track

Scope

45.49.—(1) This Section sets out the costs which are to be allowed in any claim which would normally be or is allocated to the intermediate track.

(2) This Section does not apply where Section IV, Section VI or Section VIII of this Part applies.

Amount of fixed costs

45.50.—(1) For as long as the case is not allocated to the multi-track, the only costs allowed in any claim which would normally be or is allocated to the intermediate track are—

- (a) the fixed costs in Table 14; and
 - (b) the disbursements as set out in Section IX of this Part.
- (2) In Table 14—
- (a) a reference to a date set by the court means the first date so set, notwithstanding that the parties may agree an extension to a later date, unless the court orders otherwise;
 - (b) unless stated otherwise, “damages”—
 - (i) means any form of monetary relief; or
 - (ii) in a claim which has no monetary value, shall be taken to mean an amount equivalent to—
 - (aa) £25,000 in a claim assigned to complexity band 1;

- (bb) £50,000 in a claim assigned to complexity band 2;
- (cc) £75,000 in a claim assigned to complexity band 3; and
- (dd) £100,000 in a claim assigned to complexity band 4;
- (iii) in a claim which includes both a claim for monetary relief and a claim which has no monetary value, means the applicable amount in sub-paragraph (ii) taken together with the monetary value in sub-paragraph (i); and
- (iv) in so far as it applies to monetary relief, means—
 - (aa) agreed damages; or
 - (bb) an amount awarded following trial;

(Rule 44.2 provides that the court has a discretion as to the costs order to be made including whether an order for costs relating only to a distinct part of the proceedings is appropriate.)

- (c) the figures in each of stages S1, S3, S4, S5, S6 and S8 are the cumulative totals for costs incurred up to and including that stage;
- (d) the figures in stages S2, S7 and S9 to S15 are separate sums for those steps, if carried out; and
- (e) a reference to a ‘trial’ is a reference to the final hearing.

(3) The costs to be awarded for stage S1 are subject to assessment up to a maximum of the figure shown for stage S1 in Table 14, except in a claim for personal injuries where the figure shown is fixed.

- (4) The costs in stages S2, S7 and S14 of Table 14 are only allowed where—
 - (a) legal advice is obtained from, or a statement of case is drafted by—
 - (b) a specialist legal representative in respect of a matter within their specialist expertise; or
 - (c) the intended trial advocate; and
 - (d) the use of that person to provide the advice or draft the statement of case is justified.

Preliminary issue or separate trial

45.51.—(1) Subject to paragraph (3), where a costs order is made in favour of a party in respect of a preliminary issue, that party is entitled to the fixed costs in Table 14 for the stage applicable at the date the preliminary issue is concluded, together with—

- (a) if there has been a trial, those fees appropriate in stages S8 and 9; and
- (b) if appropriate, those costs specified in stages S2, S7, S9, S12, S13 and S14.

(2) Subject to paragraph (3), where a claim continues following the conclusion of a preliminary issue and a costs order is made in favour of a party on conclusion of the claim, that party shall be entitled to—

- (a) additional fixed costs, if it is the party in whose favour a costs order is made under paragraph (1); or
- (b) fixed costs, if the party is not a party in whose favour a costs order is made under paragraph (1),

being in either case the amount specified for the stage in Table 14 within which the claim concludes less the amount in stage S3, together with—

- (c) if there has been a trial, those fees appropriate in stages S8 and 9; and
- (d) if appropriate, those costs specified in stages S9, S12, S13 and S14.

(3) Only one set of fees can be recovered by any one party under stages S13 and S14 whether under paragraph (1) or (2).

(4) The parties are entitled to disbursements allowed in accordance with Section IX of this Part incurred in any period for which costs are payable to them.

SECTION VIII

Claims for Noise Induced Hearing Loss

Scope

45.52.—(1) This Section sets out the costs which are to be allowed in any claim for noise induced hearing loss which—

- (a) has been or should have been started under Annex E of the Pre-Action Protocol for Disease and Illness Claims; and
- (b) would normally be or is allocated to the fast track.

(2) Subject to rule 45.6(3), or unless a rule in this Section provides otherwise, the costs which are to be allowed are applicable to both claimants and defendants.

Amount of fixed costs

45.53.—(1) The only costs allowed in any claim to which this Section applies are—

- (a) the fixed costs in Table 15; and
- (b) the disbursements set out in Section IX of this Part.

(2) The cost of any additional pre-litigation advice is included within the Stage A costs and is not separately recoverable.

More than one defendant

45.54.—(1)) In Table 15, the reference to the number of defendants is to the number of active defendants against whom the claimant obtains a settlement or an award of damages.

(2) Where the defendants have all admitted liability and coordinate settlement between them, only one set of Stage 2 costs is allowed.

(3) Where at least one defendant admits liability and settles pre-litigation and at least one defendant denies liability—

- (a) the fixed costs payable by those defendants who have admitted liability are 100% of the stage 2A or 2B costs for those defendants as appropriate; and
- (b) Stage 3 and any subsequent stages shall apply to the remaining defendants, provided that the claimant must give credit for the costs already payable under (a), so that the maximum entitlement under any stage is for the applicable stage costs.

Preliminary issues trials

45.55. Where the claimant succeeds at trial of a preliminary issue on limitation and an order for costs is made in favour of the claimant

- (a) the fixed costs may include those stages which would apply as if this was a trial of the claim, including trial advocacy fees; and
- (b) the claimant if successful in their claim for damages is entitled to additional fixed costs for the litigation stages only, starting with stage L2.

Restoration proceedings

^{F1166}45.56.

Textual Amendments
^{F1166}Rule 45.56 omitted (6.4.2024) by virtue of The Civil Procedure (Amendment) Rules 2024 (S.I. 2024/106), rules 1(1), 9(7)

SECTION IX
Disbursements

Scope of this section

- 45.57.**—(1) This Section sets out the disbursements which are to be allowed in any claim to which Section IV, Section VI, Section VII or Section VIII of this Part applies.
- (2) Subject to rule 45.62, the court—
- (a) may allow a claim for a disbursement of a type mentioned in rules 45.58, 45.59, 45.60 and 45.61, as applicable, and where it does so, the amount to be allowed is ^{F1167}... that which is reasonable and proportionate; but
 - (b) shall not allow a claim for any other type of disbursement.
- (3) Where appropriate, VAT may be recovered in addition to the cost of any disbursement allowable under this Section.

Textual Amendments
^{F1167}Word in rule 45.57(2)(a) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), 23(4)

Disbursements – Section IV

- 45.58.** In a claim to which Section IV applies, the disbursements to be allowed are
- (a) subject to rule 45.62, the cost of obtaining—
 - (i) medical records; and
 - (ii) expert medical reports as provided for in the relevant Protocol;
 - (b) the cost of obtaining non-medical expert reports as provided for in the relevant Protocol;
 - (c) court fees payable—
 - (i) as a result of Part 21 being applicable;
 - (ii) where proceedings are started as a result of a limitation period that is about to expire; and
 - (iii) in respect of the Stage 3 Procedure;
 - (d) the provider cost of a telephone hearing;
 - (e) additionally, in a claim to which the RTA Protocol applies—
 - (i) an engineer’s report; and
 - (ii) a search of the records of—

- (aa) the Driver Vehicle Licensing Authority; and
- (bb) the Motor Insurance Database; and
- (f) any other disbursement reasonably incurred due to a particular feature of the dispute or any requirement of these Rules.

Disbursements – Section VI

45.59. [^{F1168}Subject to rule 45.15A, in a claim] to which Section VI applies, the disbursements to be allowed are

- (a) in a claim started under a relevant Protocol to which Section IV applies—
 - (i) the applicable disbursements referred to in rule 45.58(a) and (b) and (d) to (f);
 - (ii) any court fees;
 - (iii) in a claim which arises from a road traffic accident, the cost of obtaining a police report;
 - (iv) any expert's fee for attending the trial where the court has given permission for the expert to attend;
 - (v) any interpreters' or translators' fees;
 - (vi) expenses which a party or witness has incurred in travelling to and from a hearing or in staying away from home for the purposes of attending a hearing; and
 - (vii) a sum not exceeding the amount specified in Table 16 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 purpose of attending a hearing; and
- (b) in any other claim to which Section VI applies, any disbursement which has been reasonably incurred, other than a disbursement covering work for which costs are already allowed in Section VI.

Textual Amendments

F1168 Words in rule 45.59 substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(8)**

Disbursements – Section VII

45.60. [^{F1169}Subject to rule 45.15A, in a claim] to which Section VII applies, the court may allow any disbursement which has been reasonably incurred, other than a disbursement covering work for which costs are already allowed in Section VII.

Textual Amendments

F1169 Words in rule 45.60 substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(9)**

Disbursements – Section VIII

45.61.—(1) Subject to [^{F1170}rule 45.15A], in a claim to which Section VIII applies, the disbursements to be allowed are—

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) the fees for the intended trial advocate for any step reasonably undertaken where both the use of that advocate and the cost are justified; and
- (b) any other disbursement which has been reasonably incurred.

^{F1171}(2)

Textual Amendments

F1170 Words in rule 45.61(1) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(10)(a)**

F1171 Rule 45.61(2) omitted (6.4.2024) by virtue of [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **9(10)(b)**

Soft tissue injury and whiplash injury claims

45.62.—(1) This rule applies—

- (a) to a soft tissue injury claim; or
- (b) a claim which consists of, or includes, a claim for a whiplash injury,

which arises from a road traffic accident.

(2) Where this rule applies, the only sums (exclusive of VAT) that are recoverable in respect of the cost of obtaining a fixed cost medical report or medical records are as follows—

- (a) obtaining the first report from an accredited medical expert selected via the MedCo Portal: £180;
- (b) obtaining a further report where justified from an expert from one of the following disciplines—
 - (i) Consultant Orthopaedic Surgeon (inclusive of a review of medical records where applicable): £420;
 - (ii) Consultant in Accident and Emergency Medicine: £360;
 - (iii) General Practitioner registered with the General Medical Council: £180; or
 - (iv) Physiotherapist registered with the Health and Care Professions Council: £180;
- (c) obtaining medical records: no more than £30 plus the direct cost from the holder of the records, and limited to £80 in total for each set of records required. Where relevant records are required from more than one holder of records, the fixed fee applies to each set of records required;
- (d) addendum report on medical records (except by Consultant Orthopaedic Surgeon): £50; and
- (e) answer to questions under Part 35: £80.

(3) Save in exceptional circumstances, no fee may be allowed for the cost of obtaining a report to which paragraph (1) applies where the medical expert—

- (a) has provided treatment to the claimant;
- (b) is associated with any person who has provided treatment; or
- (c) proposes or recommends treatment that they or an associate then provide.

(4) The cost of obtaining a further report from an expert not listed in paragraph (2) is not fixed, but the use of that expert and the cost must be justified.

(5) In this rule, ‘accredited medical expert’, ‘associate’, ‘associated with’, ‘fixed cost medical report’ ‘MedCo’, ‘soft tissue injury claim’ and ‘whiplash injury’ have the same meaning as in paragraph 1.1(A1), (1A), (10A), (12A), and (16A) and (20), respectively, of the RTA Protocol.]

[^{F1128}PART 46

COSTS –SPECIAL CASES

Modifications etc. (not altering text)

C91 Pt. 46 applied (with modifications) (1.7.2015) by S.I. 2007/1744, **rule 160** (as substituted by The Court of Protection (Amendment) Rules 2015 (S.I. 2015/548), rules 1(2)(b), **52**)

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

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SECTION I

Costs Payable by or to Particular Persons

Pre-commencement disclosure and orders for disclosure against a person who is not a party

46.1.—(1) This paragraph applies where a person applies—

- (a) for an order under—
 - (i) section 33 of the Senior Courts Act 1981; or
 - (ii) section 52 of the County Courts Act 1984,

(which give the court powers exercisable before commencement of proceedings); or

- (b) for an order under—
 - (i) section 34 of the Senior Courts Act 1981; or
 - (ii) section 53 of the County Courts Act 1984,

(which give the court power to make an order against a non-party for disclosure of documents, inspection of property etc.).

(2) The general rule is that the court will award the person against whom the order is sought that person's costs—

- (a) of the application; and
- (b) of complying with any order made on the application.

(3) The court may however make a different order, having regard to all the circumstances, including—

- (a) the extent to which it was reasonable for the person against whom the order was sought to oppose the application; and
- (b) whether the parties to the application have complied with any relevant pre-action protocol.

Costs orders in favour of or against non-parties

46.2.—(1) Where the court is considering whether to exercise its power under section 51 of the Senior Courts Act 1981 (costs are in the discretion of the court) to make a costs order in favour of or against a person who is not a party to proceedings, that person must—

- (a) be added as a party to the proceedings for the purposes of costs only; and
- (b) be given a reasonable opportunity to attend a hearing at which the court will consider the matter further.

(2) This rule does not apply—

- (a) where the court is considering whether to—
 - (i) make an order against the Lord Chancellor in proceedings in which the Lord Chancellor has provided legal aid to a party to the proceedings;
 - (ii) make a wasted costs order (as defined in rule 46.8); and
- (b) in proceedings to which rule 46.1 applies (pre-commencement disclosure and orders for disclosure against a person who is not a party).

Modifications etc. (not altering text)

C92 Rule 46.2(2)(a)(i) modified (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\)](#), regs. 1, [14\(4\)\(b\)](#)

Limitations on court's power to award costs in favour of trustee or personal representative

46.3.—(1) This rule applies where—

- (a) a person is or has been a party to any proceedings in the capacity of trustee or personal representative; and
- (b) rule 44.5 does not apply.

(2) The general rule is that that person is entitled to be paid the costs of those proceedings, insofar as they are not recovered from or paid by any other person, out of the relevant trust fund or estate.

(3) Where that person is entitled to be paid any of those costs out of the fund or estate, those costs will be assessed on the indemnity basis.

Costs where money is payable by or to a child or protected party

46.4.—(1) This rule applies to any proceedings where a party is a child or protected party and—

- (a) money is ordered or agreed to be paid to, or for the benefit of, that party; or
- (b) money is ordered to be paid by that party or on that party’s behalf.

(“Child” and “protected party” have the same meaning as in rule 21.1(2).)

(2) The general rule is that—

- (a) the court must order a detailed assessment of the costs payable by, or out of money belonging to, any party who is a child or protected party; and
- (b) on an assessment under paragraph (a), the court must also assess any costs payable to that party in the proceedings, unless—
 - (i) the court has issued a default costs certificate in relation to those costs under rule 47.11; or
 - (ii) the costs are payable in proceedings to which [F1175Section IV] of Part 45 applies.

(3) The court need not order detailed assessment of costs in the circumstances set out in [F1176paragraph (5) or in] Practice Direction 46.

(4) Where—

- (a) a claimant is a child or protected party; and
- (b) a detailed assessment has taken place under paragraph (2)(a),

the only amount payable by the child or protected party is the amount which the court certifies as payable.

[F1177(5) Where the costs payable comprise only the success fee claimed by the child’s or protected party’s legal representative under a conditional fee agreement or the balance of any payment under a damages based agreement, the court may direct that—

- (a) the assessment procedure referred to in rule 46.10 and paragraph 6 of Practice Direction 46 shall not apply; and
- (b) such costs be assessed summarily.]

(This rule applies to a counterclaim by or on behalf of a child or protected party by virtue of rule 20.3.)

Textual Amendments

F1175 Words in rule 46.4(2)(b)(ii) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **16(2)** (with rule 2)

F1176 Words in rule 46.4(3) inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(2), **5(a)**

F1177 Rule 46.4(5) inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(2), **5(b)**

Litigants in person

46.5.—(1) This rule applies where the court orders (whether by summary assessment or detailed assessment) that the costs of a litigant in person are to be paid by any other person.

(2) The costs allowed under this rule will not exceed, except in the case of a disbursement, two-thirds of the amount which would have been allowed if the litigant in person had been represented by a legal representative.

- (3) The litigant in person shall be allowed—
- (a) costs for the same categories of—
 - (i) work; and
 - (ii) disbursements,which would have been allowed if the work had been done or the disbursements had been made by a legal representative on the litigant in person’s behalf;
 - (b) the payments reasonably made by the litigant in person for legal services relating to the conduct of the proceedings; and
 - (c) the costs of obtaining expert assistance in assessing the costs claim.
- (4) The amount of costs to be allowed to the litigant in person for any item of work claimed will be—
- (a) where the litigant can prove financial loss, the amount that the litigant can prove to have been lost for time reasonably spent on doing the work; or
 - (b) where the litigant cannot prove financial loss, an amount for the time reasonably spent on doing the work at the rate set out in Practice Direction 46.
- (5) A litigant who is allowed costs for attending at court to conduct the case is not entitled to a witness allowance in respect of such attendance in addition to those costs.
- (6) For the purposes of this rule, a litigant in person includes—
- (a) a company or other corporation which is acting without a legal representative; and
 - (b) any of the following who acts in person (except where any such person is represented by a firm in which that person is a partner)—
 - (i) a barrister;
 - (ii) a solicitor;
 - (iii) a solicitor’s employee;
 - (iv) a manager of a body recognised under section 9 of the Administration of Justice Act 1985 ; or
 - (v) a person who, for the purposes of the 2007 Act, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act).

Costs where the court has made a group litigation order

- 46.6.**—(1) This rule applies where the court has made a Group Litigation Order (“GLO”).
- (2) In this rule—
- “individual costs” means costs incurred in relation to an individual claim on the group register;
 - “common costs” means—
 - (i) costs incurred in relation to the GLO issues;
 - (ii) individual costs incurred in a claim while it is proceeding as a test claim, and
 - (iii) costs incurred by the lead legal representative in administering the group litigation; and‘group litigant’ means a claimant or defendant, as the case may be, whose claim is entered on the group register.
- (3) Unless the court orders otherwise, any order for common costs against group litigants imposes on each group litigant several liability for an equal proportion of those common costs.

[^{F1178}(4) The general rule is that a group litigant who is the paying party will, in addition to any liability to pay the receiving party, be liable for—

- (a) the individual costs of that group litigant’s claim; and
- (b) an equal proportion, together with all the other group litigants, of the common costs.]

(5) Where the court makes an order about costs in relation to any application or hearing which involved—

- (a) one or more GLO issues; and
- (b) issues relevant only to individual claims,

the court will direct the proportion of the costs that is to relate to common costs and the proportion that is to relate to individual costs.

(6) Where common costs have been incurred before a claim is entered on the group register, the court may order the group litigant to be liable for a proportion of those costs.

(7) Where a claim is removed from the group register, the court may make an order for costs in that claim which includes a proportion of the common costs incurred up to the date on which the claim is removed from the group register.

(Part 19 sets out rules about group litigation.)

Textual Amendments

F1178 Rule 46.6(4) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **21(a)**

Orders in respect of pro bono representation

46.7.—(1) Where the court makes an order under section 194(3) of the 2007 Act—

- (a) [^{F1179}the] court may order the payment to the prescribed charity of a sum no greater than the costs specified in Part 45 to which the party with pro bono representation would have been entitled in accordance with that Part and in respect of that representation had it not been provided free of charge; or
- (b) where Part 45 does not apply, the court may determine the amount of the payment (other than a sum equivalent to fixed costs) to be made by the paying party to the prescribed charity by—
 - (i) making a summary assessment; or
 - (ii) making an order for detailed assessment,

of a sum equivalent to all or part of the costs the paying party would have been ordered to pay to the party with pro bono representation in respect of that representation had it not been provided free of charge.

(2) Where the court makes an order under section 194(3) of the 2007 Act, the order must direct that the payment by the paying party be made to the prescribed charity.

(3) The receiving party must send a copy of the order to the prescribed charity within 7 days of receipt of the order.

(4) Where the court considers making or makes an order under section 194(3) of the 2007 Act, Parts 44 to 47 apply, where appropriate, with the following modifications—

- (a) references to “costs orders”, “orders about costs” or “orders for the payment of costs” are to be read, unless otherwise stated, as if they refer to an order under section 194(3);

- (b) references to “costs” are to be read as if they referred to a sum equivalent to the costs that would have been claimed by, incurred by or awarded to the party with pro bono representation in respect of that representation had it not been provided free of charge; and
- (c) references to “receiving party” are to be read, as meaning a party who has pro bono representation and who would have been entitled to be paid costs in respect of that representation had it not been provided free of charge.

Textual Amendments

F1179 Word in rule 46.7(1)(a) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **21(b)**

SECTION II

Costs relating to Legal Representatives

Personal liability of legal representative for costs – wasted costs orders

46.8.—(1) This rule applies where the court is considering whether to make an order under section 51(6) of the Senior Courts Act 1981 (court’s power to disallow or (as the case may be) order a legal representative to meet, “wasted costs”).

(2) The court will give the legal representative a reasonable opportunity to make written submissions or, if the legal representative prefers, to attend a hearing before it makes such an order.

(3) When the court makes a wasted costs order, it will—

- (a) specify the amount to be disallowed or paid; or
- (b) direct a costs judge or a [^{F35}District Judge] to decide the amount of costs to be disallowed or paid.

(4) The court may direct that notice must be given to the legal representative’s client, in such manner as the court may direct—

- (a) of any proceedings under this rule; or
- (b) of any order made under it against his legal representative.

Textual Amendments

F35 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

Basis of detailed assessment of solicitor and client costs

46.9.—(1) This rule applies to every assessment of a solicitor’s bill to a client except a bill which is to be paid out of the Community Legal Service Fund under the Legal Aid Act 1988 or the Access to Justice Act 1999 [^{F1180}or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012].

(2) Section 74(3) of the Solicitors Act 1974 applies unless the solicitor and client have entered into a written agreement which expressly permits payment to the solicitor of an amount of costs greater than that which the client could have recovered from another party to the proceedings.

(3) Subject to paragraph (2), costs are to be assessed on the indemnity basis but are to be presumed—

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) to have been reasonably incurred if they were incurred with the express or implied approval of the client;
- (b) to be reasonable in amount if their amount was expressly or impliedly approved by the client;
- (c) to have been unreasonably incurred if—
 - (i) they are of an unusual nature or amount; and
 - (ii) the solicitor did not tell the client that as a result the costs might not be recovered from the other party.

(4) Where the court is considering a percentage increase on the application of the client, the court will have regard to all the relevant factors as they reasonably appeared to the solicitor or counsel when the conditional fee agreement was entered into or varied.

Textual Amendments

F1180 Words in [rule 46.9\(1\)](#) inserted (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\)](#), reg. 1, [Sch. para. 2\(a\)](#) (with [reg. 14\(4\)](#))

Assessment procedure

46.10.—(1) This rule sets out the procedure to be followed where the court has made an order under Part III of the Solicitors Act 1974 for the assessment of costs payable to a solicitor by the solicitor’s client.

(2) The solicitor must serve a breakdown of costs within 28 days of the order for costs to be assessed.

(3) The client must serve points of dispute within 14 days after service on the client of the breakdown of costs.

(4) The solicitor must serve any reply within 14 days of service on the solicitor of the points of dispute.

(5) Either party may file a request for a hearing date—

- (a) after points of dispute have been served; but
- (b) no later than 3 months after the date of the order for the costs to be assessed.

(6) This procedure applies subject to any contrary order made by the court.

SECTION III

Costs on Allocation and Re-Allocation

Costs on the small claims track and fast track

^{F1181}**46.11.**

Textual Amendments

F1181 [Rule 46.11](#) omitted (1.10.2023) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), [rules 1\(1\)](#), [16\(3\)](#) (with [rule 2](#))

Limitation on amount court may allow where a claim allocated to the fast track settles before trial

^{F1182} **46.12.**

Textual Amendments
F1182 Rule 46.12 omitted (1.10.2023) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **16(4)** (with rule 2)

Costs following allocation, re-allocation and non-allocation

46.13.—(1) Any costs orders made before a claim is allocated will not be affected by allocation.

^{F1183} (2)

(3) Where the court is assessing costs on the standard basis of a claim which concluded without being allocated to a track, it may restrict those costs to costs that would have been allowed on the track to which the claim would have been allocated if allocation had taken place.

Textual Amendments
F1183 Rule 46.13(2) omitted (1.10.2023) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **16(5)** (with rule 2)

SECTION IV
Costs-only Proceedings

Costs-only proceedings

46.14.—(1) This rule applies where—

- (a) the parties to a dispute have reached an agreement on all issues (including which party is to pay the costs) which is made or confirmed in writing; but
- (b) they have failed to agree the amount of those costs; and
- (c) no proceedings have been started.

[^{F1184}(1A) This rule does not apply to a dispute to which the procedure under section 10 of Practice Direction 27B applies.]

- (2) Where this rule applies, the procedure set out in this rule must be followed.
- (3) Proceedings under this rule are commenced by issuing a claim form in accordance with Part 8.
- (4) The claim form must contain or be accompanied by the agreement or confirmation.
- (5) In proceedings to which this rule applies the court may make an order for the payment of costs the amount of which is to be determined by assessment and/or, where appropriate, for the payment of fixed costs.
- (6) Where this rule applies but the procedure set out in this rule has not been followed by a party—
 - (a) that party will not be allowed costs greater than those that would have been allowed to that party had the procedure been followed; and
 - (b) the court may award the other party the costs of the proceedings up to the point where an order for the payment of costs is made.

(7) Rule 44.5 (amount of costs where costs are payable pursuant to a contract) does not apply to claims started under the procedure in this rule.

Textual Amendments

F1184 Rule 46.14(1A) inserted (31.5.2021) by [The Civil Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/196\)](#), rules 1(1), **9**

F¹¹⁸⁵ V COSTS IN CLAIMS FOR JUDICIAL REVIEW

Textual Amendments

F1185 Pt. 46 Section 5 inserted (13.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(3), **6** (with rule 12(1)); S.I. 2015/778, art. 3, **Sch. 1 para. 70**

Claims for judicial review: costs against interveners

46.15.—(1) In this rule the terms “intervener” and “relevant party” have the same meaning as in section 87 of the Criminal Justice and Courts Act 2015 (“the 2015 Act”).

(2) A relevant party may apply to the court for an order for an intervener to pay costs in accordance with section 87 of the 2015 Act.

(Section 87 of the 2015 Act applies to judicial review proceedings in the High Court and Court of Appeal.)

(Rule 54.17 makes provision for any person to be able to apply for permission to file evidence or make representations at the hearing of a judicial review.)]

F¹¹⁸⁶ SECTION VI

Judicial Review Costs Capping Orders under Part 4 of the Criminal Justice and Courts Act 2015

Textual Amendments

F1186 Pt. 46 Section 6 inserted (8.8.2016) by [The Civil Procedure \(Amendment No. 2\) Rules 2016 \(S.I. 2016/707\)](#), rules 2, **5(b)** (with rule 6); S.I. 2016/717, art. 3(d)

Judicial review costs capping orders – general

46.16.—(1) For the purposes of this Section—

- (a) “judicial review costs capping order” means a costs capping order made by the High Court or the Court of Appeal in accordance with sections 88, 89 and 90 of the 2015 Act; and
- (b) “the 2015 Act” means the Criminal Justice and Courts Act 2015.

(2) This Section does not apply to a costs capping order under rule 3.19.

(Rule 3.19 makes provision for orders limiting the amount of future costs (including disbursements) which a party may recover pursuant to an order for costs subsequently made.)

Applications for judicial review costs capping orders

46.17.—(1) An application for a judicial review costs capping order must—

- (a) be made on notice and, subject to paragraphs (2) and (3), in accordance with Part 23; and
- (b) be supported by evidence setting out—
 - (i) why a judicial review costs capping order should be made, having regard, in particular, to the matters at subsections (6) to (8) of section 88 of the 2015 Act and subsection (1) of section 89 of that Act;
 - (ii) a summary of the applicant’s financial resources;
 - (iii) the costs (and disbursements) which the applicant considers the parties are likely to incur in the future conduct of the proceedings; and
 - (iv) if the applicant is a body corporate, whether it is able to demonstrate that it is likely to have financial resources available to meet liabilities arising in connection with the proceedings.

(2) Subject to paragraph (3), the applicant must serve a copy of the application notice and copies of the supporting documents on every other party.

(3) On application by the applicant, the court may dispense with the need for the applicant to serve the evidence setting out a summary of the applicant’s financial resources on one or more of the parties.

(4) The court may direct the applicant to provide additional information or evidence to support its application.

Court to consider making directions

46.18. If the applicant is a body corporate, and the evidence supporting its application in accordance with rule 46.17(1)(b)(iv) sets out that it is unable to demonstrate that it is likely to have financial resources available to meet liabilities arising in connection with the proceedings, the court must consider giving directions for the provision of information about the applicant’s members and their ability to provide financial support for the purposes of the proceedings.

Applications to vary judicial review costs capping orders

46.19.—(1) An application to vary a judicial review costs capping order must be made on notice and, subject to paragraphs (2) and (3), in accordance with Part 23.

(2) Subject to paragraph (3), the applicant must serve a copy of the application notice and copies of any supporting documents on every other party.

(3) If the application is supported by evidence setting out a summary of the applicant’s financial resources, the court may, on application by the applicant, dispense with the need for the applicant to serve such evidence on one or more of the parties.]

F1187VII

SCALE COSTS FOR CLAIMS IN THE INTELLECTUAL PROPERTY ENTERPRISE COURT

Textual Amendments

F1187Pt. 46 Section 7 inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **18(2)**

Scope and interpretation

46.20.—(1) Subject to paragraph (2), this Section applies to proceedings in the Intellectual Property Enterprise Court.

(2) This Section does not apply where—

- (a) the court considers that a party has behaved in a manner which amounts to an abuse of the court’s process; or
- (b) the claim concerns the infringement or revocation of a patent or registered design or registered trade mark the validity of which has been certified by a court or by the Comptroller-General of Patents, Designs and Trade Marks in earlier proceedings.

(3) The court will make a summary assessment of the costs of the party in whose favour any order for costs is made. Rules 44.2(8), 44.7(b) and Part 47 do not apply to this Section.

(4) ‘Scale costs’ means the costs set out in Table A and Table B of the Practice Direction supplementing this Part.

Amount of scale costs

46.21.—(1) Subject to rule 46.22, the court will not order a party to pay total costs of more than—

- (a) £60,000 on the final determination of a claim in relation to liability; and
- (b) £30,000 on an inquiry as to damages or account of profits.

(2) The amounts in paragraph (1) apply after the court has applied the provision on set off in accordance with rule 44.12(a).

(3) The maximum amount of scale costs that the court will award for each stage of the claim is set out in Practice Direction 46.

(4) The amount of the scale costs awarded by the court in accordance with paragraph (3) will depend on the nature and complexity of the claim.

(5) Subject to assessment where appropriate, the following may be recovered in addition to the amount of the scale costs set out in Practice Direction 46 – Costs - Special Cases—

- (a) court fees;
- (b) costs relating to the enforcement of any court order; and
- (c) wasted costs.

(6) Where appropriate, VAT may be recovered in addition to the amount of the scale costs and any reference in this Section to scale costs is a reference to those costs net of any such VAT.

Summary assessment of the costs of an application where a party has behaved unreasonably

46.22. Costs awarded to a party under rule 63.26(2) are in addition to the total costs that may be awarded to that party under rule 46.21.]

^{F1188}SECTION VIII

ENVIRONMENTAL REVIEW COSTS

Textual Amendments

F1188Pt. 46 Section 8 inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **18(2)**

Environmental review costs

46.23.—(1) In this Section, “party” includes an intervener or interested party.

(2) Subject to paragraph (3), no party to a claim for environmental review (for which see Section III of Part 54) is entitled to an order for costs against any other party.

(3) The court may make an order for costs against a party if satisfied that the conduct of a party or that party’s legal representative, before or during the proceedings, was unreasonable or improper.

(4) Where—

- (a) the court makes an order under paragraph (2) against a legally represented party; and
- (b) the party is not present when the order is made,

the party’s legal representative must notify that party in writing of the order no later than 7 days after the legal representative receives notice of the order.]

^{F1189}SECTION IX

Costs Limits in Aarhus Convention Claims

Textual Amendments

F1189Pt. 46 Section 9 inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **16(6)** (with rule 2)

Scope and interpretation

46.24.—(1) This section provides for the costs which are to be recoverable between the parties in Aarhus Convention claims.

(2) In this Section—

- (a) “Aarhus Convention claim” means a claim brought by one or more members of the public by judicial review or review under statute which challenges the legality of any decision, act or omission of a body exercising public functions, and which is within the scope of Article 9(1), 9(2) or 9(3) of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1998 (“the Aarhus Convention”);
- (b) references to a member or members of the public are to be construed in accordance with the Aarhus Convention.

(3) This Section does not apply to appeals other than appeals brought under section 289(1) of the Town and Country Planning Act 1990 or section 65(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which are for the purposes of this Section to be treated as reviews under statute.

(Rule 52.19A makes provision in relation to costs of an appeal.)

(The Aarhus Convention is available on the UNECE website at <https://www.unece.org/env/pp/welcome.html>.)

Opting out, and other cases where rules 46.26 to 46.28 do not apply to a claimant

46.25.—(1) Subject to paragraph (2), rules 46.26 to 46.28 apply where a claimant who is a member of the public has—

- (a) stated in the claim form that the claim is an Aarhus Convention claim; and

(b) filed and served with the claim form a schedule of the claimant's financial resources, which is verified by a statement of truth and provides details of—

- (i) the claimant's significant assets, liabilities, income and expenditure; and
- (ii) in relation to any financial support which any person has provided or is likely to provide to the claimant, the aggregate amount which has been provided and which is likely to be provided.

(2) Subject to paragraph (3), rules 46.26 to 46.28 do not apply where the claimant has stated in the claim form that although the claim is an Aarhus Convention claim, the claimant does not wish those rules to apply.

(3) If there is more than one claimant, rules 46.26 to 46.28 do not apply in relation to the costs payable by or to any claimant who has not acted as set out in paragraph (1), or who has acted as set out in paragraph (2), or who is not a member of the public.

Limit on costs recoverable from a party in an Aarhus Convention claim

46.26.—(1) Subject to rules 46.25 and 46.28, a claimant or defendant in an Aarhus Convention claim may not be ordered to pay costs exceeding the amounts in paragraph (2) or (3) or as varied in accordance with rule 46.27.

(2) For a claimant the amount is—

- (a) £5,000 where the claimant is claiming only as an individual and not as, or on behalf of, a business or other legal person;
- (b) £10,000 in all other cases.

(3) For a defendant the amount is £35,000.

(4) In an Aarhus Convention claim with multiple claimants or multiple defendants, the amounts in paragraphs (2) and (3) (subject to any direction of the court under rule 46.27) apply in relation to each such claimant or defendant individually and may not be exceeded, irrespective of the number of receiving parties.

Varying the limit on costs recoverable from a party in an Aarhus Convention claim

46.27.—(1) The court may vary the amounts in rule 46.26 or may remove altogether the limits on the maximum costs liability of any party in an Aarhus Convention claim.

(2) The court may vary such an amount or remove such a limit only on an application made in accordance with paragraphs (5) to (7) (“an application to vary”) and if satisfied that—

- (a) to do so would not make the costs of the proceedings prohibitively expensive for the claimant; and
- (b) in the case of a variation which would reduce a claimant's maximum costs liability or increase that of a defendant, without the variation the costs of the proceedings would be prohibitively expensive for the claimant.

(3) Proceedings are to be considered prohibitively expensive for the purpose of this rule if their likely costs (including any court fees which are payable by the claimant) either—

- (a) exceed the financial resources of the claimant; or
- (b) are objectively unreasonable having regard to—
 - (i) the situation of the parties;
 - (ii) whether the claimant has a reasonable prospect of success;
 - (iii) the importance of what is at stake for the claimant;
 - (iv) the importance of what is at stake for the environment;

- (v) the complexity of the relevant law and procedure; and
- (vi) whether the claim is frivolous.

(4) When the court considers the financial resources of the claimant for the purposes of this rule, it must have regard to any financial support which any person has provided or is likely to provide to the claimant.

(5) Subject to paragraph (6), an application to vary must—

- (a) if made by the claimant, be made in the claim form and provide the claimant's reasons why, if the variation were not made, the costs of the proceedings would be prohibitively expensive for the claimant;
- (b) if made by the defendant, be made in the acknowledgment of service and provide the defendant's reasons why, if the variation were made, the costs of the proceedings would not be prohibitively expensive for the claimant; and
- (c) be determined by the court at the earliest opportunity.

(6) An application to vary may be made at a later stage if there has been a significant change in circumstances (including evidence that the schedule of the claimant's financial resources contained false or misleading information) which means that the proceedings would now—

- (a) be prohibitively expensive for the claimant if the variation were not made; or
- (b) not be prohibitively expensive for the claimant if the variation were made.

(7) An application under paragraph (6) must—

- (a) if made by the claimant—
 - (i) be accompanied by a revised schedule of the claimant's financial resources or confirmation that the claimant's financial resources have not changed; and
 - (ii) provide reasons why the proceedings would now be prohibitively expensive for the claimant if the variation were not made; and
- (b) if made by the defendant, provide reasons why the proceedings would now not be prohibitively expensive for the claimant if the variation were made.

(Rule 39.2(3)(c) makes provision for a hearing (or any part of it) to be in private if it involves confidential information (including information relating to personal financial matters) and publicity would damage that confidentiality.)

Challenging whether the claim is an Aarhus Convention claim

46.28.—(1) Where a claimant has complied with rule 46.25(1), and subject to rule 46.25(2) and (3), rule 46.26 applies unless—

- (a) the defendant has in the acknowledgment of service—
 - (i) denied that the claim is an Aarhus Convention claim; and
 - (ii) set out the defendant's grounds for such denial; and
- (b) the court has determined that the claim is not an Aarhus Convention claim.

(2) Where the defendant denies that the claim is an Aarhus Convention claim, the court must determine that issue at the earliest opportunity.

(3) In any proceedings to determine whether the claim is an Aarhus Convention claim—

- (a) if the court holds that the claim is not an Aarhus Convention claim, it shall, except for good reason, make no order for costs in relation to those proceedings;
- (b) if the court holds that the claim is an Aarhus Convention claim, it shall, except for good reason, order the defendant to pay the claimant's costs of those proceedings to be assessed

on the standard basis, and that order may be enforced even if this would increase the costs payable by the defendant beyond the amount stated in rule 46.26(3) or any variation of that amount.]]

[^{F1128}PART 47

PROCEDURE FOR DETAILED ASSESSMENT OF COSTS AND DEFAULT PROVISIONS

Modifications etc. (not altering text)

- C93** Pt. 47 applied (with modifications) (1.7.2015) by S.I. 2007/1744, **rule 160** (as substituted by The Court of Protection (Amendment) Rules 2015 (S.I. 2015/548), rules 1(2)(b), **52**)
- C94** Pt. 47 applied (5.7.2018) by The Housing Administration (England and Wales) Rules 2018 (S.I. 2018/719), rules 1.1, **4.29(3)** (with rule 1.2)
- C95** Pt. 47 applied (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rules 1, **4.27(3)** (with rule 1.2)
- C96** Pt. 47 applied (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **120(3)** (with rule 4(1))
- C97** Pt. 47 applied (with modifications) (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **224**, 225 (with rule 5)
- C98** Pt. 47 applied (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **116(3)** (with rule 2)

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SECTION I

General Rules about Detailed Assessment

Time when detailed assessment may be carried out

47.1. The general rule is that the costs of any proceedings or any part of the proceedings are not to be assessed by the detailed procedure until the conclusion of the proceedings, but the court may order them to be assessed immediately.

(Practice Direction 47 gives further guidance about when proceedings are concluded for the purpose of this rule.)

No stay of detailed assessment where there is an appeal

47.2. Detailed assessment is not stayed pending an appeal unless the court so orders.

Powers of an authorised court officer

47.3.—(1) An authorised court officer has all the powers of the court when making a detailed assessment, except—

- (a) power to make a wasted costs order as defined in rule 46.8;
- (b) power to make an order under—
 - (i) rule 44.11 (powers in relation to misconduct);
 - (ii) [^{F1190}rules] 47.8 (sanction for delay in commencing detailed assessment proceedings) [^{F1191}and 47.14.(3) and (4) (sanction for delay in requesting a detailed assessment hearing)];
 - (iii) paragraph (2) (objection to detailed assessment by authorised court officer); and
- (c) power to make a detailed assessment of costs payable to a solicitor by that solicitor’s client, unless the costs are being assessed under rule 46.4 (costs where money is payable to a child or protected party).

(2) Where a party objects to the detailed assessment of costs being made by an authorised court officer, the court may order it to be made by a costs judge or a [^{F35}District Judge].

(Practice Direction 47 sets out the relevant procedure.)

Textual Amendments

F35 Words in Rules substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

F1190 Word in rule 47.3(1)(b)(ii) substituted (6.4.2022) by *The Civil Procedure (Amendment) Rules 2022* (S.I. 2022/101), rules 1(1), **14(a)**

F1191 Words in rule 47.3(1)(b)(ii) inserted (6.4.2022) by *The Civil Procedure (Amendment) Rules 2022* (S.I. 2022/101), rules 1(1), **14(b)**

Venue for detailed assessment proceedings

47.4.—(1) All applications and requests in detailed assessment proceedings must be made to or filed at the appropriate office.

(Practice Direction 47 sets out the meaning of “appropriate office” in any particular case)

(2) The court may direct that the appropriate office is to be the Costs Office.

[^{F1192}(3) In the County Court, a court may direct that another County Court hearing centre is to be the appropriate office.]

(4) A direction under paragraph (3) may be made without proceedings being transferred to that court.

(Rule 30.2 makes provision for [^{F1193}the transfer within the County Court of proceedings] for detailed assessment of costs.)

Textual Amendments

F1192 Rule 47.4(3) substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **20(a)**; S.I. 2014/954, art. 2(a)

F1193 Words in rule 47.4 substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **20(b)**; S.I. 2014/954, art. 2(a)

SECTION II

Costs Payable by one Party to another – Commencement of Detailed Assessment Proceedings

Application of this Section

- 47.5.** This Section of Part 47 applies where a cost officer is to make a detailed assessment of—
- costs which are payable by one party to another; or
 - the sum which is payable by one party to the prescribed charity pursuant to an order under section 194(3) of the 2007 Act.

Commencement of detailed assessment proceedings

47.6.—(1) Detailed assessment proceedings are commenced by the receiving party serving on the paying party—

- notice of commencement in the relevant practice form; ^{F1194} ...
- ^{F1195} a copy or copies of the bill of costs, as required by Practice Direction 47; and]
- ^{F1196} if required by Practice Direction 47,] a breakdown of the costs claimed for each phase of the proceedings

(Rule 47.7 sets out the period for commencing detailed assessment proceedings.)

(2) The receiving party must also serve a copy of the notice of commencement [^{F1197}, the bill and, ^{F1198} if required by Practice Direction 47,] the breakdown] on any other relevant persons specified in Practice Direction 47.

(3) A person on whom a copy of the notice of commencement is served under paragraph (2) is a party to the detailed assessment proceedings (in addition to the paying party and the receiving party).

(Practice Direction 47 deals with—

- other documents which the party must file when requesting detailed assessment;
- the court’s powers where it considers that a hearing may be necessary;
- the form of a bill; and
- the length of notice which will be given if a hearing date is fixed.)

^{F1199}(Paragraphs 7B.2 to 7B.7 of the Practice Direction - Civil Recovery Proceedings contain provisions about detailed assessment of costs in relation to civil recovery orders.)]

Textual Amendments

F1194 Word in rule 47.6(1)(a) omitted (1.10.2015) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2015 \(S.I. 2015/1569\)](#), rules 1(2), **8(a)**

F1195 Rule 47.6(1)(b) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **5(a)(i)**

F1196 Words in rule 47.6(1)(c) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **5(a)(ii)**

F1197 Words in rule 47.6(2) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, **10**

F1198 Words in rule 47.6(2) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **5(b)**

F1199 Words in rule 47.6 inserted (31.7.2013) by [The Civil Procedure \(Amendment No.6\) Rules 2013 \(S.I. 2013/1695\)](#), rules 2, **8**

Period for commencing detailed assessment proceedings

47.7. The following table shows the period for commencing detailed assessment proceedings.

<i>Source of right to detailed assessment</i>	<i>Time by which detailed assessment proceedings must be commenced</i>
Judgment, direction, order, award or other determination	3 months after the date of the judgment etc. Where detailed assessment is stayed pending an appeal, 3 months after the date of the order lifting the stay
Discontinuance under Part 38	3 months after the date of service of notice of discontinuance under rule 38.3; or 3 months after the date of the dismissal of application to set the notice of discontinuance aside under rule 38.4
Acceptance of an offer to settle under Part 36	3 months after the date when the right to costs arose

Sanction for delay in commencing detailed assessment proceedings

47.8.—(1) Where the receiving party fails to commence detailed assessment proceedings within the period specified—

- (a) in rule 47.7; or
- (b) by any direction of the court,

the paying party may apply for an order requiring the receiving party to commence detailed assessment proceedings within such time as the court may specify.

(2) On an application under paragraph (1), the court may direct that, unless the receiving party commences detailed assessment proceedings within the time specified by the court, all or part of the costs to which the receiving party would otherwise be entitled will be disallowed.

(3) If—

- (a) the paying party has not made an application in accordance with paragraph (1); and
- (b) the receiving party commences the proceedings later than the period specified in rule 47.7,

the court may disallow all or part of the interest otherwise payable to the receiving party under—

- (i) section 17 of the Judgments Act 1838; or
- (ii) section 74 of the County Courts Act 1984,

but will not impose any other sanction except in accordance with rule 44.11 (powers in relation to misconduct).

(4) Where the costs to be assessed in a detailed assessment are payable out of the Community Legal Service Fund, this rule applies as if the receiving party were the solicitor to whom the costs are payable and the paying party were the Legal Services Commission.

[^{F1200}(5) Where the costs to be assessed in a detailed assessment are payable by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, this rule applies as if the receiving party were the solicitor to whom the costs are payable and the paying party were the Lord Chancellor.]

Textual Amendments

F1200 Rule 47.8(5) inserted (1.4.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (S.I. 2013/534), reg. 1, Sch. para. 2(b) (with reg. 14(4))

Points of dispute and consequence of not serving

47.9.—(1) The paying party and any other party to the detailed assessment proceedings may dispute any item in the bill of costs by serving points of dispute on—

- (a) the receiving party; and
- (b) every other party to the detailed assessment proceedings.

(2) The period for serving points of dispute is 21 days after the date of service of the notice of commencement.

(3) If a party serves points of dispute after the period set out in paragraph (2), that party may not be heard further in the detailed assessment proceedings unless the court gives permission.

(Practice Direction 47 sets out requirements about the form of points of dispute.)

(4) The receiving party may file a request for a default costs certificate if—

- (a) the period set out in paragraph (2) for serving points of dispute has expired; and
- (b) the receiving party has not been served with any points of dispute.

(5) If any party (including the paying party) serves points of dispute before the issue of a default costs certificate the court may not issue the default costs certificate.

(Section IV of this Part sets out the procedure to be followed after points of dispute have been served.)

Procedure where costs are agreed

47.10.—(1) If the paying party and the receiving party agree the amount of costs, either party may apply for a costs certificate (either interim or final) in the amount agreed.

(Rule 47.16 and rule 47.17 contain further provisions about interim and final costs certificates respectively)

(2) An application for a certificate under paragraph (1) must be made to the court which would be the venue for detailed assessment proceedings under rule 47.4.

SECTION III

Costs payable by one Party to another – Default Provisions

Default costs certificate

47.11.—(1) Where the receiving party is permitted by rule 47.9 to obtain a default costs certificate, that party does so by filing a request in the relevant practice form.

(Practice Direction 47 deals with the procedure by which the receiving party may obtain a default costs certificate.)

- (2) A default costs certificate will include an order to pay the costs to which it relates.

(3) Where a receiving party obtains a default costs certificate, the costs payable to that party for the commencement of detailed assessment proceedings will be the sum set out in Practice Direction 47.

(4) A receiving party who obtains a default costs certificate in detailed assessment proceedings pursuant to an order under section 194(3) of the 2007 Act must send a copy of the default costs certificate to the prescribed charity.

Setting aside a default costs certificate

47.12.—(1) The court will set aside a default costs certificate if the receiving party was not entitled to it.

(2) In any other case, the court may set aside or vary a default costs certificate if it appears to the court that there is some good reason why the detailed assessment proceedings should continue.

(Practice Direction 47 contains further details about the procedure for setting aside a default costs certificate and the matters which the court must take into account)

(3) Where the court sets aside or varies a default costs certificate in detailed assessment proceedings pursuant to an order under section 194(3) of the Legal Services Act 2007, the receiving party must send a copy of the order setting aside or varying the default costs certificate to the prescribed charity.

SECTION IV

Costs payable by one Party to another – Procedure where Points of Dispute are Served

Optional Reply

47.13.—(1) Where any party to the detailed assessment proceedings serves points of dispute, the receiving party may serve a reply on the other parties to the assessment proceedings.

(2) The receiving party may do so within 21 days after being served with the points of dispute to which the reply relates.

(Practice Direction 47 sets out the meaning of “reply”.)

Detailed assessment hearing

47.14.—(1) Where points of dispute are served in accordance with this Part, the receiving party must file a request for a detailed assessment hearing within 3 months of the expiry of the period for commencing detailed assessment proceedings as specified—

- (a) in rule 47.7; or
- (b) by any direction of the court.

(2) Where the receiving party fails to file a request in accordance with paragraph (1), the paying party may apply for an order requiring the receiving party to file the request within such time as the court may specify.

(3) On an application under paragraph (2), the court may direct that, unless the receiving party requests a detailed assessment hearing within the time specified by the court, all or part of the costs to which the receiving party would otherwise be entitled will be disallowed.

(4) If—

- (a) the paying party has not made an application in accordance with paragraph (2); and
- (b) the receiving party files a request for a detailed assessment hearing later than the period specified in paragraph (1),

the court may disallow all or part of the interest otherwise payable to the receiving party under—

- (i) section 17 of the Judgments Act 1838; or
- (ii) section 74 of the County Courts Act 1984,

but will not impose any other sanction except in accordance with rule 44.11 (powers in relation to misconduct).

(5) No party other than—

- (a) the receiving party;
- (b) the paying party; and
- (c) any party who has served points of dispute under rule 47.9,

may be heard at the detailed assessment hearing unless the court gives permission.

(6) Only items specified in the points of dispute may be raised at the hearing, unless the court gives permission.

(7) If an assessment is carried out at more than one hearing, then for the purposes of rule [F1201]52.12] time for appealing shall not start to run until the conclusion of the final hearing, unless the court orders otherwise.

(Practice Direction 47 specifies other documents which must be filed with the request for hearing and the length of notice which the court will give when it fixes a hearing date.)

Textual Amendments

F1201 Word in [rule 47.14\(7\)](#) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), [rules 2, 9](#)

Provisional Assessment

47.15.—(1) This rule applies to any detailed assessment proceedings commenced in the High Court or [F53]the County Court] on or after 1 April 2013 in which the costs claimed are the amount set out in paragraph 14.1 of the practice direction supplementing this Part, or less.

(2) In proceedings to which this rule applies, the parties must comply with the procedure set out in Part 47 as modified by paragraph 14 Practice Direction 47.

(3) The court will undertake a provisional assessment of the receiving party's costs on receipt of Form N258 and the relevant supporting documents specified in Practice Direction 47.

(4) The provisional assessment will be based on the information contained in the bill and supporting papers and the contentions set out in Precedent G (the points of dispute and any reply).

[F1202] (5) In proceedings which do not go beyond provisional assessment, the maximum amount the court will award to any party as costs of the assessment (other than the costs of drafting the bill of costs) is £1,500 together with any VAT thereon and any court fees paid by that party.]

(6) The court may at any time decide that the matter is unsuitable for a provisional assessment and may give directions for the matter to be listed for hearing. The matter will then proceed under rule 47.14 without modification.

(7) When a provisional assessment has been carried out, the court will send a copy of the bill, as provisionally assessed, to each party with a notice stating that any party who wishes to challenge any aspect of the provisional assessment must, within 21 days of the receipt of the notice, file and serve on all other parties a written request for an oral hearing. If no such request is filed and served within that period, the provisional assessment shall be binding upon the parties, save in exceptional circumstances.

- (8) The written request referred to in paragraph (7) must—
- (a) identify the item or items in the court’s provisional assessment which are sought to be reviewed at the hearing; and
 - (b) provide a time estimate for the hearing.
- (9) The court then will fix a date for the hearing and give at least 14 days’ notice of the time and place of the hearing to all parties.
- (10) Any party which has requested an oral hearing, will pay the costs of and incidental to that hearing unless—
- (a) it achieves an adjustment in its own favour by 20% or more of the sum provisionally assessed; or
 - (b) the court otherwise orders.

Textual Amendments

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

F1202 Rule 47.15(5) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **22**

SECTION V

Interim Costs Certificate and Final Costs Certificate

Power to issue an interim certificate

47.16.—(1) The court may at any time after the receiving party has filed a request for a detailed assessment hearing –

- (a) issue an interim costs certificate for such sum as it considers appropriate; or
- (b) amend or cancel an interim certificate.

(2) An interim certificate will include an order to pay the costs to which it relates, unless the court orders otherwise.

(3) The court may order the costs certified in an interim certificate to be paid into court.

(4) Where the court –

- (a) issues an interim costs certificate; or
- (b) amends or cancels an interim certificate,

in detailed assessment proceedings pursuant to an order under section 194(3) of the 2007 Act, the receiving party must send a copy of the interim costs certificate or the order amending or cancelling the interim costs certificate to the prescribed charity.

Final costs certificate

47.17.—(1) In this rule a “completed bill” means a bill calculated to show the amount due following the detailed assessment of the costs.

(2) The period for filing the completed bill is 14 days after the end of the detailed assessment hearing.

(3) When a completed bill is filed the court will issue a final costs certificate and serve it on the parties to the detailed assessment proceedings.

(4) Paragraph (3) is subject to any order made by the court that a certificate is not to be issued until other costs have been paid.

(5) A final costs certificate will include an order to pay the costs to which it relates, unless the court orders otherwise.

(Practice Direction 47 deals with the form of a final costs certificate.)

(6) Where the court issues a final costs certificate in detailed assessment proceedings pursuant to an order under section 194(3) of the 2007 Act, the receiving party must send a copy of the final costs certificate to the prescribed charity.

SECTION VI

Detailed Assessment Procedure for Costs of A LSC Funded Client or ^{F1203}, an Assisted Person or Person to Whom Legal Aid is Made Available] where Costs are Payable out of the Community Legal Service Fund ^{F1204} or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012]

Textual Amendments

F1203 Words in Pt. 47 Section 6 heading substituted (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\), reg. 1, Sch. para. 2\(c\)\(i\)](#) (with reg. 14(4))

F1204 Words in Pt. 47 Section 6 heading inserted (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\), reg. 1, Sch. para. 2\(c\)\(ii\)](#) (with reg. 14(4))

Detailed assessment procedure where costs are payable out of the Community Legal Services Fund ^{F1205} or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012]

47.18.—(1) Where the court is to assess costs of a LSC funded client ^{F1206}, an assisted person or a person to whom legal aid is provided] which are payable out of the Community Legal Services Fund ^{F1207} or by the Lord Chancellor under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012], that person’s solicitor may commence detailed assessment proceedings by filing a request in the relevant practice form.

(2) A request under paragraph (1) must be filed within 3 months after the date when the right to detailed assessment arose.

(3) The solicitor must also serve a copy of the request for detailed assessment on the LSC funded client ^{F1208}, the assisted person or the person to whom legal aid is provided], if notice of that person’s interest has been given to the court in accordance with community legal service or legal aid regulations.

(4) Where the solicitor has certified that the LSC funded client or that person wishes to attend an assessment hearing, the court will, on receipt of the request for assessment, fix a date for the assessment hearing.

(5) Where paragraph (3) does not apply, the court will, on receipt of the request for assessment provisionally assess the costs without the attendance of the solicitor, unless it considers that a hearing is necessary.

(6) After the court has provisionally assessed the bill, it will return the bill to the solicitor.

(7) The court will fix a date for an assessment hearing if the solicitor informs the court, within 14 days after receiving the provisionally assessed bill, that the solicitor wants the court to hold such a hearing.

Textual Amendments

F1205 Words in rule 47.18 heading inserted (1.4.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (S.I. 2013/534), reg. 1, **Sch. para. 2(d)** (with reg. 14(4))

F1206 Words in rule 47.18(1) substituted (1.4.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (S.I. 2013/534), reg. 1, **Sch. para. 2(e)(i)** (with reg. 14(4))

F1207 Words in rule 47.18(1) inserted (1.4.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (S.I. 2013/534), reg. 1, **Sch. para. 2(e)(ii)** (with reg. 14(4))

F1208 Words in rule 47.18(3) substituted (1.4.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (S.I. 2013/534), reg. 1, **Sch. para. 2(f)** (with reg. 14(4))

Detailed assessment procedure where costs are payable out of a fund other than the community legal service fund

47.19.—(1) Where the court is to assess costs which are payable out of a fund other than the Community Legal Service Fund, the receiving party may commence detailed assessment proceedings by filing a request in the relevant practice form.

(2) A request under paragraph (1) must be filed within 3 months after the date when the right to detailed assessment arose.

(3) The court may direct that the party seeking assessment serve a copy of the request on any person who has a financial interest in the outcome of the assessment.

(4) The court will, on receipt of the request for assessment, provisionally assess the costs without the attendance of the receiving party, unless the court considers that a hearing is necessary.

(5) After the court has provisionally assessed the bill, it will return the bill to the receiving party.

(6) The court will fix a date for an assessment hearing if the receiving party informs the court, within 14 days after receiving the provisionally assessed bill, that the receiving party wants the court to hold such a hearing.

SECTION VII

Costs of Detailed Assessment Proceedings

Liability for costs of detailed assessment proceedings

47.20.—(1) The receiving party is entitled to the costs of the detailed assessment proceedings except where—

- (a) the provisions of any Act, any of these Rules or any relevant practice direction provide otherwise; or
- (b) the court makes some other order in relation to all or part of the costs of the detailed assessment proceedings.

(2) Paragraph (1) does not apply where the receiving party has pro bono representation in the detailed assessment proceedings but that party may apply for an order in respect of that representation under section 194(3) of the 2007 Act.

(3) In deciding whether to make some other order, the court must have regard to all the circumstances, including—

- (a) the conduct of all the parties;
- (b) the amount, if any, by which the bill of costs has been reduced; and
- (c) whether it was reasonable for a party to claim the costs of a particular item or to dispute that item.

(4) The provisions of Part 36 apply to the costs of detailed assessment proceedings with the following modifications—

- (a) “claimant” refers to “receiving party” and “defendant” refers to “paying party”;
- (b) “trial” refers to “detailed assessment hearing”;
- [^{F1209}(c) a detailed assessment hearing is “in progress” from the time when it starts until the bill of costs has been assessed or agreed;]
- (d) for rule [^{F1210}36.14](7) substitute [^{F1211}“If such sum is not paid within 14 days of acceptance of the offer, or such other period as has been agreed, the receiving party may apply for a final costs certificate for the unpaid sum.”;]
- (e) a reference to “judgment being entered” is to the completion of the detailed assessment, and references to a “judgment” being advantageous or otherwise are to the outcome of the detailed assessment.

(5) The court will usually summarily assess the costs of detailed assessment proceedings at the conclusion of those proceedings.

(6) Unless the court otherwise orders, interest on the costs of detailed assessment proceedings will run from the date of default, interim or final costs certificate, as the case may be.

(7) For the purposes of rule [^{F1212}36.17], detailed assessment proceedings are to be regarded as an independent claim.

Textual Amendments

F1209 Rule 47.20(4)(c) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **11(a)(i)**

F1210 Word in rule 47.20(4)(d) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **11(a)(ii)(aa)**

F1211 Words in rule 47.20(4)(d) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **11(a)(ii)(bb)**

F1212 Word in rule 47.20(7) substituted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(c), **11(b)**

SECTION VIII

Appeals from Authorised Court Officers in Detailed Assessment Proceedings

Right to appeal

47.21. Any party to detailed assessment proceedings may appeal against a decision of an authorised court officer in those proceedings.

Court to hear appeal

47.22. An appeal against a decision of an authorised court officer lies to a costs judge or a [^{F35}District Judge] of the High Court.

Textual Amendments

F35 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

Appeal procedure

47.23.—(1) The appellant must file an appeal notice within 21 days after the date of the decision against which it is sought to appeal.

- (2) On receipt of the appeal notice, the court will—
- (a) serve a copy of the notice on the parties to the detailed assessment proceedings; and
 - (b) give notice of the appeal hearing to those parties.

Powers of the court on appeal

- 47.24.** On an appeal from an authorised court officer the court will—
- (a) re-hear the proceedings which gave rise to the decision appealed against; and
 - (b) make any order and give any directions as it considers appropriate.]

[^{F1128}PART 48

PART 2 OF THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012 RELATING TO CIVIL LITIGATION FUNDING AND COSTS: TRANSITIONAL PROVISION IN RELATION TO PRE-COMMENCEMENT FUNDING ARRANGEMENTS

48.1.—(1) The provisions of CPR Parts 43 to 48 relating to funding arrangements, and the attendant provisions of the Costs Practice Direction, will apply in relation to a pre-commencement funding arrangement as they were in force immediately before 1 April 2013, with such modifications (if any) as may be made by a practice direction on or after that date.

(2) A reference in rule 48.2 to a rule is to that rule as it was in force immediately before 1 April 2013.

- 48.2.**—(1) A pre-commencement funding arrangement is—
- (a) in relation to proceedings other than insolvency-related proceedings, publication and privacy proceedings or a mesothelioma claim—
 - (i) a funding arrangement as defined by rule 43.2(1)(k)(i) where—
 - (aa) the agreement was entered into before 1 April 2013 specifically for the purposes of the provision to the person by whom the success fee is payable of advocacy or litigation services in relation to the matter that is the subject of the proceedings in which the costs order is to be made; or

- (bb) the agreement was entered into before 1 April 2013 and advocacy or litigation services were provided to that person under the agreement in connection with that matter before 1 April 2013;
 - (ii) a funding arrangement as defined by rule 43.2(1)(k)(ii) where the party seeking to recover the insurance premium took out the insurance policy in relation to the proceedings before 1 April 2013;
 - (iii) a funding arrangement as defined by rule 43.2(1)(k)(iii) where the agreement with the membership organisation to meet the costs was made before 1 April 2013 specifically in respect of the costs of other parties to proceedings relating to the matter which is the subject of the proceedings in which the costs order is to be made;
- (b) in relation to insolvency-related proceedings, publication and privacy proceedings or a mesothelioma claim—
 - (i) a funding arrangement as defined by rule 43.2(1)(k)(i) where—
 - (aa) the agreement was entered into before the relevant date specifically for the purposes of the provision to the person by whom the success fee is payable of advocacy or litigation services in relation to the matter that is the subject of the proceedings in which the costs order is to be made; or
 - (bb) the agreement was entered into before the relevant date and advocacy or litigation services were provided to that person under the agreement in connection with that matter before the relevant date;
 - (ii) a funding arrangement as defined by rule 43.2(1)(k)(ii) where the party seeking to recover the insurance premium took out the insurance policy in relation to the proceedings before the relevant date.
- (2) In paragraph (1)—
 - (a) “insolvency-related proceedings” means any proceedings—
 - (i) in England and Wales brought by a person acting in the capacity of—
 - (aa) a liquidator of a company which is being wound up in England and Wales or Scotland under Parts IV or V of the Insolvency Act 1986; or
 - (bb) a trustee of a bankrupt’s estate under Part IX of the Insolvency Act 1986;
 - (ii) brought by a person acting in the capacity of an administrator appointed pursuant to the provisions of Part II of the Insolvency Act 1986;
 - (iii) in England and Wales brought by a company which is being wound up in England and Wales or Scotland under Parts IV or V of the Insolvency Act 1986; or
 - (iv) brought by a company which has entered administration under Part II of the Insolvency Act 1986;
 - (b) “news publisher” means a person who publishes a newspaper, magazine or website containing news or information about or comment on current affairs;
 - (c) “publication and privacy proceedings” means proceedings for—
 - (i) defamation;
 - (ii) malicious falsehood;
 - (iii) breach of confidence involving publication to the general public;
 - (iv) misuse of private information; or
 - (v) harassment, where the defendant is a news publisher.
 - (d) “a mesothelioma claim” is a claim for damages in respect of diffuse mesothelioma (within the meaning of the Pneumoconiosis etc. (Workers’ Compensation) Act 1979; and

- (e) “the relevant date” is the date on which sections 44 and 46 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force in relation to proceedings of the sort in question.]

[^{F1213}PART 49

SPECIFIC PROCEEDINGS

Textual Amendments

F1213 Pt. 49 substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rule 1(1), [Sch. 2](#)

Practice directions for specific proceedings

49.1. The practice directions made under this Rule apply to proceedings of the types described in them.]

PART 50

APPLICATION OF THE SCHEDULES

Modifications etc. (not altering text)

C99 Pt. 50 applied (with modifications) (30.12.2005) by [The Family Procedure \(Adoption\) Rules 2005 \(S.I. 2005/2795\)](#), [rule 5\(5\)](#)

C100 Pt. 50 applied (with modifications) (6.4.2011) by [The Family Procedure Rules 2010 \(S.I. 2010/2955\)](#), [rule 33.1\(2\)](#) (with [rules 2.1, 33.1\(1\)](#))

50.—(1) The Schedules to these Rules set out, with modifications, certain provisions previously contained in the Rules of the Supreme Court 1965(**38**) and the County Court Rules 1981(**39**).

(2) These Rules apply in relation to the proceedings to which the Schedules apply subject to the provisions in the Schedules and the relevant practice directions.

(3) A provision previously contained in the Rules of the Supreme Court 1965—

- (a) is headed “RSC”;
- (b) is numbered with the Order and rule numbers it bore as part of the RSC; and
- (c) unless otherwise stated in the Schedules or the relevant practice direction, applies only to proceedings in the High Court.

(4) A provision previously contained in the County Court Rules 1981—

- (a) is headed “CCR”;
- (b) is numbered with the Order and rule numbers it bore as part of the CCR; and
- (c) unless otherwise stated in the Schedules or the relevant practice direction, applies only to proceedings in the [^{F18}County Court] .

(38) S.I. 1965/1776.

(39) S.I. 1981/1687.

(5) A reference in a Schedule to a rule by number alone is a reference to the rule so numbered in the Order in which the reference occurs.

(6) A reference in a Schedule to a rule by number prefixed by “CPR” is a reference to the rule with that number in these Rules.

(7) In the Schedules, unless otherwise stated, “the Act” means—

- (a) in a provision headed “RSC”, the Supreme Court Act 1981; and
- (b) in a provision headed “CCR”, the County Courts Act 1984.

Textual Amendments

F18 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; [S.I. 2014/954](#), art. 2(a)

Commencement Information

I218 [Rule 50](#) in force at 26.4.1999, see [Signature](#)

PART 51

[^{F1214}Transitional Arrangements and Pilot Schemes]

Textual Amendments

F1214 Pt. 51 heading substituted (15.10.2001) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(a), **5(a)** (with rule 24)

^{F1215}**51.**

Textual Amendments

F1215 Rule 51 renumbered as rule 51.1 (15.10.2001) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(a), **5(b)** (with rule 24)

^{F1216}**51.1.**

Textual Amendments

F1216 Rule 51.1 omitted (6.4.2021) by virtue of [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **12(1)**

[^{F1217}**51.2** Practice directions may modify or disapply any provision of these Rules—

- (a) for specified periods; and
- (b) in relation to proceedings in specified courts,

during the operation of pilot schemes for assessing the use of new practices and procedures in connection with proceedings.]

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F1217 Rule 51.2 inserted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(a), **5(c)** (with rule 24)

[^{F1218} Temporary modifications for coronavirus or other emergency

51.3. Practice directions may modify or disapply any provision of these rules—

- (a) for specified periods; and
- (b) in relation to proceedings in specified courts,

in order to address issues for the work of the courts arising from the coronavirus (SARS-CoV-2) outbreak or any other public emergency.]

Textual Amendments

F1218 Rule 51.3 inserted (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), **12(2)**

[^{F1219} PART 52 APPEALS

Textual Amendments

F1219 Pt. 52 substituted (3.10.2016) by The Civil Procedure (Amendment No. 3) Rules 2016 (S.I. 2016/788), rule 2, **Sch.** (with rule 16)

Modifications etc. (not altering text)

- C101** Pt. 52 applied (6.4.2017) by The Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024), rules 1, **12.58** (with rule 3(3), Sch. 2)
- C102** Pt. 52 applied (5.7.2018) by The Housing Administration (England and Wales) Rules 2018 (S.I. 2018/719), rules 1.1, **4.40** (with rule 1.2)
- C103** Pt. 52 applied (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rules 1, **4.37** (with rule 1.2)
- C104** Pt. 52 applied (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **133(3)** (with rule 4(1))
- C105** Pt. 52 applied (with modifications) (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **187**, 236-239 (with rule 5)
- C106** Pt. 52 applied (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **129(3)** (with rule 2)

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SECTION I

Scope and interpretation

Scope and interpretation

52.1.—^{F1223}(1) The rules in this Part apply to—

- (a) appeals to the civil division of the Court of Appeal;
- (b) appeals to the High Court;
- (c) appeals to the County Court;
- (d) applications made in the High Court or the Court of Appeal for permission to appeal to the Supreme Court in contempt proceedings; and
- (e) applications made in the Court of Appeal for permission to appeal to the Supreme Court in proceedings other than contempt proceedings.]

(2) This Part does not apply to an appeal in detailed assessment proceedings against a decision of an authorised court officer.

(3) In this Part—

- (a) “appeal” includes an appeal by way of case stated;
 - (b) “appeal court” means the court to which an appeal is made [^{F1224}but does not include the Supreme Court];
 - (c) “lower court” means the court, tribunal or other person or body from whose decision an appeal is brought [^{F1225}but does not include the Court of Appeal];
 - (d) “appellant” means a person who brings or seeks to bring an appeal;
 - (e) “respondent” means—
 - (i) a person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal; and
 - (ii) a person who is permitted by the appeal court to be a party to the appeal; ^{F1226}...
 - (f) “appeal notice” means an appellant’s or respondent’s notice [^{F1227}; and]
 - ^{F1228}(g) reference to an appeal in contempt proceedings is reference to—
 - (i) an appeal by a defendant in respect of any order or decision made by a court in the exercise of its jurisdiction to punish for contempt of court or under an enactment enabling the court to deal with an offence as if it were a contempt of court or under section 14, 92 or 118 of the County Courts Act 1984; and
 - (ii) an appeal by an applicant in respect of any order made on an application for committal or attachment.]
- (4) This Part is subject to any rule, enactment or practice direction which sets out special provisions with regard to any particular category of appeal.

Textual Amendments

- F1223**Rule 52.1(1) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(a)**
- F1224**Words in rule 52.1(3)(b) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(i)**
- F1225**Words in rule 52.1(3)(c) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(ii)**
- F1226**Word in rule 52.1(3)(e)(ii) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(iii)**
- F1227**Word in rule 52.1(3)(f) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(iv)**
- F1228**Rule 52.1(3)(g) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(2)(b)(v)**

Parties to comply with Practice Directions 52A to 52E

52.2. All parties to an appeal must comply with Practice Directions 52A to 52E.

SECTION II

Permission to appeal – General

Permission to appeal

52.3.—(1) An appellant or respondent requires permission to appeal—

- (a) where the appeal is from a decision of a judge in the County Court or the High Court, or to the Court of Appeal from a decision of a judge in the family court, except where the appeal is against—
- (i) a committal order [^{F1229}made in the County Court or by a single judge of the High Court not sitting on an appeal];
 - (ii) a refusal to grant habeas corpus; or
 - (iii) a secure accommodation order made under section 25 of the Children Act 1989 [^{F1230}or section 119 of the Social Services and Well-being (Wales) Act 2014]; ^{F1231}...
- (b) as provided by Practice Directions 52A to 52E [^{F1232}; or]
- ^{F1233}(c) where the appeal is from the decision of—
- (i) a Divisional Court in contempt proceedings;
 - (ii) a single judge of the High Court made on appeal in contempt proceedings;
 - (iii) the Court of Appeal in contempt proceedings; or
 - (iv) the Court of Appeal in proceedings other than contempt proceedings.]

(Other enactments may provide that permission is required for particular appeals.)

(2) [^{F1234}Unless the appeal is within paragraph (1)(c), an] application for permission to appeal may be made—

- (a) to the lower court at the hearing at which the decision to be appealed was made [^{F1235}or any adjournment of that hearing]; or
- (b) to the appeal court in an appeal notice.

(Rule 52.12 sets out the time limits for filing an appellant’s notice at the appeal court. Rule 52.13 sets out the time limits for filing a respondent’s notice at the appeal court. Any application for permission to appeal to the appeal court must be made in the appeal notice (see rules 52.12(1) and 52.13(3)).)

(3) [^{F1236}Unless the appeal is within paragraph (1)(c), where] the lower court refuses an application for permission to appeal—

- (a) a further application for permission may be made to the appeal court; and
- (b) the order refusing permission must specify—
 - (i) the court to which any further application for permission should be made; and
 - (ii) the level of judge who should hear the application.

Textual Amendments

F1229 Words in rule 52.3(1)(a)(i) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(i)**

F1230 Words in rule 52.3(1)(a)(iii) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **6(a)**

F1231 Word in rule 52.3(1)(a)(iii) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(ii)**

F1232 Word in rule 52.3(1)(b) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(iii)**

F1233 Rule 52.3(1)(c) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(a)(iv)**

F1234 Words in rule 52.3(2) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(b)**

F1235 Words in rule 52.3(2)(a) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **9(1)**

F1236 Words in rule 52.3(3) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(3)(c)**

[^{F1237}Permission to appeal in certain contempt proceedings

52.3A.—(1) Where the appeal is one to which rule 52.3(1)(c)(i), (ii) or (iii) applies—

- (a) an application for permission to appeal must be made to the Divisional Court or the single judge of the High Court or the Court of Appeal (as the case may be); and
- (b) the application must be made within 28 days of the date on which that Court provides reasons for its decision.

(2) Where the appeal is one to which rule 52.3(1)(c)(iv) applies, an application for permission to appeal must be made to the Court of Appeal.]

Textual Amendments

F1237 Rule 52.3A inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(4)**

Determination of applications for permission to appeal to the County Court and High Court

52.4.—(1) Where an application for permission to appeal is made to an appeal court other than the Court of Appeal, the appeal court will determine the application on paper without an oral hearing, [^{F1238}unless the court otherwise directs, or] as provided for under paragraph (2).

(2) Subject to paragraph (3) and except where a rule or practice direction provides otherwise, where the appeal court, without a hearing, refuses permission to appeal, the person seeking permission may request the decision to be reconsidered at an oral hearing.

(3) Where in the appeal court a judge of the High Court, a Designated Civil Judge or a Specialist Circuit Judge refuses permission to appeal without an oral hearing and considers that the application is totally without merit, the judge may make an order that the person seeking permission may not request the decision to be reconsidered at an oral hearing.

(4) For the purposes of paragraph (3), “Specialist Circuit Judge” means any Circuit Judge in the County Court nominated to hear cases in the [^{F1239}Circuit Commercial], Chancery or Technology and Construction Court lists.

(5) Rule 3.3(5) (party able to apply to set aside, etc., a decision made of court’s own initiative) does not apply to an order made under paragraph (3) that the person seeking permission may not request the decision to be reconsidered at an oral hearing.

(6) A request under paragraph (2) must be filed within 7 days after service of the notice that permission has been refused.

Textual Amendments

F1238 Words in rule 52.4(1) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **6(b)(i)**

F1239 Words in rule 52.4(4) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **6(b)(ii)**

Determination of applications for permission to appeal to the Court of Appeal

52.5.—(1) Where an application for permission to appeal is made to the Court of Appeal, the Court of Appeal will determine the application on paper without an oral hearing, except as provided for under paragraph (2).

(2) The judge considering the application on paper may direct that the application be determined at an oral hearing, and must so direct if the judge is of the opinion that the application cannot be fairly determined on paper without an oral hearing.

(3) An oral hearing directed under paragraph (2) must be listed—

- (a) no later than 14 days from the date of the direction under that paragraph; and
- (b) before the judge who made that direction,

unless the court directs otherwise.

(4) The Court of Appeal may, in any direction under paragraph (2)—

- (a) identify any issue or issues on which the party seeking permission should specifically focus its submissions at the oral hearing in order to assist the court to determine the application; and
- (b) direct the respondent to serve and file written submissions and to attend the oral hearing.

Permission to appeal test – first appeals

52.6.—(1) Except where rule 52.7 [^{F1240}or rule 52.7A] applies, permission to appeal may be given only where—

- (a) the court considers that the appeal would have a real prospect of success; or
- (b) there is some other compelling reason for the appeal to be heard.

(2) An order giving permission under this rule or under rule 52.7 may—

- (a) limit the issues to be heard; and
- (b) be made subject to conditions.

(Rule 3.1(3) also provides that the court may make an order subject to conditions.)

(Rule 25.15 provides for the court to order security for costs of an appeal.)

Textual Amendments

F1240 Words in rule 52.6(1) inserted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(5)**

Permission to appeal test – second appeals

52.7.—(1) Permission is required from the Court of Appeal for any appeal to that court from a decision of the County Court, the family court or the High Court which was itself made on appeal, or a decision of the Upper Tribunal which was made on appeal from a decision of the First-tier Tribunal on a point of law where the Upper Tribunal has refused permission to appeal to the Court of Appeal.

(2) The Court of Appeal will not give permission unless it considers that—

- (a) the appeal would—
 - (i) have a real prospect of success; and
 - (ii) raise an important point of principle or practice; or
- (b) there is some other compelling reason for the Court of Appeal to hear it.

[^{F1241}Permission to appeal in contempt proceedings where the appeal lies to the Supreme Court

- 52.7A.**—(1) This rule applies where the appeal is—
- (a) one to which rule 52.3(1)(c)(ii) applies; or
 - (b) from a decision to which rule 52.3(1)(c)(i) or (iii) applies and which was itself made on appeal.
- (2) Where this rule applies the court from which the appeal lies may grant permission only if—
- (a) that court certifies that a point of general public importance is involved in the decision; and
 - (b) it appears to that court that the point is one which ought to be considered by the Supreme Court.]

Textual Amendments

F1241 Rule 52.7A inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(6)**

SECTION III

Permission to appeal – judicial review appeals, planning statutory review appeals and appeals from the Employment Appeal Tribunal

Judicial review appeals from the High Court

52.8.—(1) Where permission to apply for judicial review has been refused at a hearing in the High Court, an application for permission to appeal may be made to the Court of Appeal [^{F1242}except where precluded by section 18(1)(a) of the Senior Courts Act 1981].

(2) Where permission to apply for judicial review of a decision of the Upper Tribunal has been refused by the High Court on the papers or where permission to apply for judicial review has been refused on the papers and recorded as being totally without merit in accordance with rule 23.12, an application for permission to appeal may be made to the Court of Appeal.

(3) An application under paragraph (1) must be made within 7 days of the decision of the High Court to refuse to give permission to apply for judicial review.

(4) An application under paragraph (2) must be made within 7 days of service of the order of the High Court refusing permission to apply for judicial review.

(5) On an application under paragraph (1) or (2), the Court of Appeal may, instead of giving permission to appeal, give permission to apply for judicial review.

(6) Where the Court of Appeal gives permission to apply for judicial review in accordance with paragraph (5), the case will proceed in the High Court unless the Court of Appeal orders otherwise.

Textual Amendments

F1242 Words in rule 52.8(1) inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **24(7)**

Judicial review appeals from the Upper Tribunal

52.9.—(1) Where permission to bring judicial review proceedings has been refused by the Upper Tribunal at a hearing and permission to appeal has been refused by the Upper Tribunal, an application for permission to appeal may be made to the Court of Appeal.

(2) Where an application for permission to bring judicial review proceedings has been determined by the Upper Tribunal on the papers and recorded as being totally without merit and permission to appeal has been refused by the Upper Tribunal, an application for permission to appeal may be made to the Court of Appeal.

(3) An application under this rule to the Court of Appeal must be made within 7 days of—

- (a) the decision of the Upper Tribunal refusing permission to appeal to the Court of Appeal, where that decision was made at a hearing; or
- (b) service of the order of the Upper Tribunal refusing permission to appeal to the Court of Appeal, where the decision to refuse permission was made on the papers.

Planning statutory review appeals

52.10.—(1) Where permission to apply for a planning statutory review has been refused at a hearing in the High Court, an application for permission to appeal may be made to the Court of Appeal.

(See Part 8 and [F1243Practice Direction 54D].)

(2) Where permission to apply for a planning statutory review has been refused by the High Court on the papers and recorded as totally without merit in accordance with rule 23.12, an application for permission to appeal may be made to the Court of Appeal.

(3) An application under paragraph (1) must be made within 7 days of the decision of the High Court to refuse to give permission to apply for a planning statutory review.

(4) An application under paragraph (2) must be made within 7 days of service of the order of the High Court refusing permission to apply for a planning statutory review.

(5) On an application under paragraph (1) or (2) the Court of Appeal may, instead of giving permission to appeal, give permission to apply for a planning statutory review.

(6) Where the Court of Appeal gives permission to apply for a planning statutory review in accordance with paragraph (5), the case will proceed in the High Court unless the Court of Appeal orders otherwise.

Textual Amendments

F1243 Words in rule 52.10 substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), 15

Appeals from the Employment Appeal Tribunal

52.11.—(1) Where on an appeal to the Employment Appeal Tribunal either—

- (a) the appellant or special advocate has been given notice under rule 3(7) of the Employment Appeal Tribunal Rules 1993 (“the 1993 Rules”) and an order has been made under rule 3(7ZA) of those Rules; or
- (b) a direction has been made under rule 3(10) of the 1993 Rules that no further action shall be taken on the notice of appeal,

the appellant may apply to the Court of Appeal for permission to appeal.

- (2) An application under paragraph (1) must be made within 7 days of the date of—
- (a) service of the notice under rule 3(7) of the 1993 Rules; or
 - (b) the direction made under rule 3(10) of those Rules,

as the case may be.

(3) The Court of Appeal may, instead of giving permission to appeal, direct that the notice under rule 3(7) of the 1993 Rules or (as the case may be) the direction under rule 3(10) of those Rules shall be of no effect so that the appeal shall proceed in the Employment Appeal Tribunal as if the notice or direction had not been given or made, but such a direction shall not be given unless the test for the grant of permission to appeal under rule 52.6(2) is met.

SECTION IV

Additional rules

Appellant's notice

52.12.—(1) Where the appellant seeks permission from the appeal court, it must be requested in the appellant's notice.

- (2) The appellant must file the appellant's notice at the appeal court within—
- (a) such period as may be directed by the lower court [^{F1244}at the hearing at which the decision to be appealed was made or any adjournment of that hearing] (which may be longer or shorter than the period referred to in sub-paragraph (b)); or
 - (b) where the court makes no such direction, and subject to the specific provision about time limits in rules 52.8 to 52.11 and Practice Direction 52D, 21 days after the date of the decision of the lower court which the appellant wishes to appeal.

(3) Subject to paragraph (4) and unless the appeal court orders otherwise, an appellant's notice must be served on each respondent—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days,

after it is filed.

(4) Where an appellant seeks permission to appeal against a decision to refuse to grant an interim injunction under section 41 of the Policing and Crime Act 2009, the appellant is not required to serve the appellant's notice on the respondent.

Textual Amendments

F1244 Words in rule 52.12(2)(a) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **9(2)**

Respondent's notice

52.13.—(1) A respondent may file and serve a respondent's notice.

- (2) A respondent who—
- (a) is seeking permission to appeal from the appeal court; or
 - (b) wishes to ask the appeal court to uphold the decision of the lower court for reasons different from or additional to those given by the lower court,

must file a respondent's notice.

(3) Where the respondent seeks permission from the appeal court it must be requested in the respondent's notice.

(4) A respondent's notice must be filed within—

- (a) such period as may be directed by the lower court [^{F1245}at the hearing at which the decision to be appealed was made or any adjournment of that hearing]; or
- (b) where the court makes no such direction, 14 days after the date in paragraph (5).

(5) The date referred to in paragraph (4) is—

- (a) the date the respondent is served with the appellant's notice where—
 - (i) permission to appeal was given by the lower court; or
 - (ii) permission to appeal is not required;
- (b) the date the respondent is served with notification that the appeal court has given the appellant permission to appeal; or
- (c) the date the respondent is served with notification that the application for permission to appeal and the appeal itself are to be heard together.

(6) Unless the appeal court orders otherwise, a respondent's notice must be served on the appellant and any other respondent—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days,

after it is filed.

(7) This rule does not apply where rule 52.12(4) applies.

Textual Amendments

F1245 Words in rule 52.13(4)(a) inserted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **9(3)**

Transcripts at public expense

52.14.—(1) Subject to paragraph (2), the lower court or the appeal court may direct, on the [^{F1246}request] of a party to the proceedings, that an official transcript of the judgment of the lower court, or of any part of the evidence or the proceedings in the lower court, be obtained at public expense for the purposes of an appeal.

(2) Before making a direction under paragraph (1), the court must be satisfied that—

- (a) the [^{F1247}requesting party] qualifies for fee remission or is otherwise in such poor financial circumstances that the cost of obtaining a transcript would be an excessive burden; and
- (b) it is necessary in the interests of justice for such a transcript to be obtained.

[^{F1248}(3) A request under paragraph (1) must be made on the approved form.]

Textual Amendments

F1246 Word in rule 52.14(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **20(a)**

F1247 Words in rule 52.14(2)(a) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **20(b)**

F1248Rule 52.14(3) inserted (1.10.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(1), **20(c)**

Variation of time

52.15.—(1) An application to vary the time limit for filing an appeal notice must be made to the appeal court.

- (2) The parties may not agree to extend any date or time set by—
- (a) these Rules;
 - (b) Practice Directions 52A to 52E; or
 - (c) an order of the appeal court or the lower court.

(Rule 3.1(2)(a) provides that the court may extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired).)

(Rule 3.1(2)(b) provides that the court may adjourn or bring forward a hearing.)

[^{F1249}Variation of time in certain contempt proceedings

52.15A. A defendant in contempt proceedings may apply to extend the time set out at rule 52.3A(1)(a) and (b).]

Textual Amendments

F1249Rule 52.15A inserted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(1), **24(8)**

Stay^(GL)

52.16. Unless—

- (a) the appeal court or the lower court orders otherwise; or
- (b) the appeal is from the Immigration and Asylum Chamber of the Upper Tribunal,

an appeal shall not operate as a stay of any order or decision of the lower court.

Amendment of appeal notice

52.17. An appeal notice may not be amended without the permission of the appeal court.

Striking out^(GL) appeal notices and setting aside^(GL) or imposing conditions on permission to appeal

52.18.—(1) The appeal court may—

- (a) strike out the whole or part of an appeal notice;
- (b) set aside permission to appeal in whole or in part;
- (c) impose or vary conditions upon which an appeal may be brought.

(2) The court will only exercise its powers under paragraph (1) where there is a compelling reason for doing so.

(3) Where a party was present at the hearing at which permission was given, that party may not subsequently apply for an order that the court exercise its powers under sub-paragraphs (1)(b) or (1)(c).

Orders to limit the recoverable costs of an appeal [F1250 – general]

52.19.—(1) [F1251 Subject to rule 52.19A, in] any proceedings in which costs recovery is normally limited or excluded at first instance, an appeal court may make an order that the recoverable costs of an appeal will be limited to the extent which the court specifies.

(2) In making such an order the court will have regard to—

- (a) the means of both parties;
- (b) all the circumstances of the case; and
- (c) the need to facilitate access to justice.

(3) If the appeal raises an issue of principle or practice upon which substantial sums may turn, it may not be appropriate to make an order under paragraph (1).

(4) An application for such an order must be made as soon as practicable and will be determined without a hearing unless the court orders otherwise.

Textual Amendments

F1250 Word in rule 52.19 heading inserted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **9(1)(a)** (with rule 13(3))

F1251 Words in rule 52.19(1) substituted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **9(1)(b)** (with rule 13(3))

[F1252 Orders to limit the recoverable costs of an appeal – appeals in Aarhus Convention claims]

52.19A.—(1) In this rule, “Aarhus Convention claim” and “prohibitively expensive” have the same meanings as in [F1253 Section IX of Part 46], and “claimant” means a claimant to whom rules [F1254 46.26 to 46.28] apply.

(2) In an appeal against a decision made in an Aarhus Convention claim to which rules [F1255 46.26 to 46.28] apply, the court must—

- (a) consider whether the costs of the proceedings will be prohibitively expensive for a party who was a claimant; and
- (b) if they will be, make an order limiting the recoverable costs to the extent necessary to prevent this.

(3) When the court considers the financial resources of a party for the purposes of this rule, it must have regard to any financial support which any person has provided or is likely to provide to that party.]

Textual Amendments

F1252 Rule 52.19A inserted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **9(2)** (with rule 13(3))

F1253 Words in rule 52.19A(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **17(a)(i)** (with rule 2)

F1254 Words in rule 52.19A(1) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), 17(a)(ii) (with rule 2)

F1255 Words in rule 52.19A(2) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), 17(b) (with rule 2)

Appeal court's powers

52.20.—(1) In relation to an appeal the appeal court has all the powers of the lower court.

(Rule 52.1(4) provides that this Part is subject to any enactment that sets out special provisions with regard to any particular category of appeal. Where such an enactment gives a statutory power to a tribunal, person or other body, it may be the case that the appeal court may not exercise that power on an appeal.)

(2) The appeal court has power to—

- (a) affirm, set aside or vary any order or judgment made or given by the lower court;
- (b) refer any claim or issue for determination by the lower court;
- (c) order a new trial or hearing;
- (d) make orders for the payment of interest;
- (e) make a costs order.

(3) In an appeal from a claim tried with a jury the Court of Appeal may, instead of ordering a new trial—

- (a) make an order for damages; or
- (b) vary an award of damages made by the jury.

(4) The appeal court may exercise its powers in relation to the whole or part of an order of the lower court.

(Part 3 contains general rules about the court's case management powers.)

(5) If the appeal court—

- (a) refuses an application for permission to appeal;
- (b) strikes out an appellant's notice; or
- (c) dismisses an appeal,

and it considers that the application, the appellant's notice or the appeal is totally without merit, the provisions of paragraph (6) must be complied with.

(6) Where paragraph (5) applies—

- (a) the court's order must record the fact that it considers the application, the appellant's notice or the appeal to be totally without merit; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.

Hearing of appeals

52.21.—(1) Every appeal will be limited to a review of the decision of the lower court unless—

- (a) a practice direction makes different provision for a particular category of appeal; or
- (b) the court considers that in the circumstances of an individual appeal it would be in the interests of justice to hold a re-hearing.

(2) Unless it orders otherwise, the appeal court will not receive—

- (a) oral evidence; or
 - (b) evidence which was not before the lower court.
- (3) The appeal court will allow an appeal where the decision of the lower court was—
- (a) wrong; or
 - (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.
- (4) The appeal court may draw any inference of fact which it considers justified on the evidence.
- (5) At the hearing of the appeal, a party may not rely on a matter not contained in that party's appeal notice unless the court gives permission.

Non-disclosure of Part 36 offers and payments

52.22.—(1) [^{F1256}Unless the appeal court otherwise orders, the] fact that a Part 36 offer or payment into court has been made must not be disclosed to any judge of the appeal court who is to hear or determine—

- (a) an application for permission to appeal; or
- (b) an appeal,

until all questions (other than costs) have been determined.

(2) Paragraph (1) does not apply if the Part 36 offer or payment into court is relevant to the substance of the appeal.

(3) Paragraph (1) does not prevent disclosure in any application in the appeal proceedings if disclosure of the fact that a Part 36 offer or payment into court has been made is properly relevant to the matter to be decided.

(Rule 36.4 has the effect that a Part 36 offer made in proceedings at first instance will not have consequences in any appeal proceedings. Therefore, a fresh Part 36 offer needs to be made in appeal proceedings. However, this rule applies to a Part 36 offer whether made in the original proceedings or in the appeal.)

Textual Amendments

F1256 Words in rule 52.22(1) substituted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), 5(1)

SECTION V

Special provisions relating to the Court of Appeal

Assignment of appeals to the Court of Appeal

52.23.—(1) Where the court from or to which an appeal is made or from which permission to appeal is sought (“the relevant court”) considers that—

- (a) an appeal which is to be heard by the County Court or the High Court would raise an important point of principle or practice; or
- (b) there is some other compelling reason for the Court of Appeal to hear it,

the relevant court may order the appeal to be transferred to the Court of Appeal.

(The Master of the Rolls has the separate statutory power to direct that an appeal which would be heard by the County Court or the High Court should be heard instead by the Court of Appeal – see section 57 of the Access to Justice Act 1999.)

(2) The Master of the Rolls or the Court of Appeal may remit an appeal to the court in which the original appeal was or would have been brought.

Who may exercise the powers of the Court of Appeal

52.24.—(1) A court officer assigned to the Civil Appeals Office who is—

(a) a barrister; ^{F1257}...

(b) a solicitor [^{F1258}; or]

[^{F1259}(c) a Fellow of the Chartered Institute of Legal Executives [^{F1260} or a CILEX lawyer].]

may exercise the jurisdiction of the Court of Appeal with regard to the matters set out in paragraph (2) with the consent of the Master of the Rolls.

(2) The matters referred to in paragraph (1) are—

(a) any matter incidental to proceedings in the Court of Appeal;

(b) any other matter where there is no substantial dispute between the parties; and

(c) the dismissal of an appeal or application where a party has failed to comply with any order, rule or practice direction.

(3) A court officer may not decide an application for—

(a) permission to appeal;

(b) bail pending an appeal;

(c) an injunction^(GL);

(d) a stay^(GL) of execution of any order or decision of the lower court other than a temporary stay over a period when the Court of Appeal is not sitting or cannot conveniently be convened;

(e) a stay of proceedings in the lower court.

(4) Decisions of a court officer will be made without an oral hearing, unless a court officer directs otherwise.

(5) A party may request any decision of a court officer to be reviewed by a single judge, and—

(a) the review will be determined on paper without an oral hearing; except that

(b) the judge determining the review on paper may direct that the review be determined at an oral hearing, and must so direct if the judge is of the opinion that the review cannot be fairly determined on paper without an oral hearing.

(6) A party may request a decision of a single judge made without a hearing (other than a decision made on a review under paragraph (5) and a decision determining an application for permission to appeal) to be reconsidered, and—

(a) the reconsideration will be determined by the same or another judge on paper without an oral hearing; except that

(b) the judge determining the reconsideration on paper may direct that the reconsideration be determined at an oral hearing, and must so direct if the judge is of the opinion that the reconsideration cannot be fairly determined on paper without an oral hearing.

(7) A request under paragraph (5) or (6) must be filed within 7 days after the party is served with notice of the decision.

(8) A single judge may refer any matter for a decision by a court consisting of two or more judges. (Section 54(4) of the Access to Justice Act 1999 provides that there is no appeal from the decision of a single judge on an application for permission to appeal.)

(Section 58(2) of the Senior Courts Act 1981 provides that there is no appeal to the Supreme Court from decisions of the Court of Appeal that—

(a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and

(b) do not involve the determination of an appeal or of an application for permission to appeal, and which may be called into question by rules of court. Paragraphs (5) and (6) of this rule provide the procedure for the calling into question of such decisions.)

Textual Amendments

F1257 Word in rule 52.24(1)(a) omitted (6.4.2020) by virtue of [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(2)(a)**

F1258 Word in rule 52.24(1)(b) inserted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(2)(b)**

F1259 Rule 52.24(1)(c) inserted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **5(2)(c)**

F1260 Words in rule 52.24(1)(c) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **26**

SECTION VI

Special provisions relating to statutory appeals

Statutory appeals – court’s power to hear any person

52.25.—(1) In a statutory appeal any person may apply for permission—

(a) to file evidence; or

(b) to make representations at the appeal hearing.

(2) An application under paragraph (1) must be made promptly.

Appeals under the Law of Property Act 1922

52.26. An appeal lies to the High Court against a decision of the Secretary of State under paragraph 16 of Schedule 15 to the Law of Property Act 1922.

Appeals from certain tribunals

52.27.—(1) A person who was a party to proceedings before a tribunal referred to in section 11(1) of the Tribunals and Inquiries Act 1992 and is dissatisfied in point of law with the decision of the tribunal may appeal to the High Court.

(2) The tribunal may, on its own initiative or at the request of a party to the proceedings before it, state, in the form of a special case for the decision of the High Court, a question of law arising in the course of the proceedings.

Appeals under certain planning legislation

52.28.—(1) Where the Secretary of State has given a decision in proceedings on an appeal under Part VII of the Town and Country Planning Act 1990 against an enforcement notice—

- (a) the appellant;
- (b) the local planning authority; or
- (c) another person having an interest in the land to which the notice relates,

may appeal to the High Court against the decision on a point of law.

(2) Where the Secretary of State has given a decision in proceedings on an appeal under Part VIII of that Act against a notice under section 207 of that Act—

- (a) the appellant;
- (b) the local planning authority; or
- (c) another person (other than the appellant) on whom the notice was served,

may appeal to the High Court against the decision on a point of law.

(3) Where the Secretary of State has given a decision in proceedings on an appeal under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a listed building enforcement notice—

- (a) the appellant;
- (b) the local planning authority; or
- (c) any other person having an interest in the land to which the notice relates,

may appeal to the High Court against the decision on a point of law.

Appeals under certain legislation relating to pensions

52.29. Where an appeal lies to the High Court—

- (a) under section 151(4) of the Pension Schemes Act 1993 from a determination or direction of the Pensions Ombudsman; or
- (b) under section 217(1) of the Pensions Act 2004 from a determination or direction of the Pension Protection Fund Ombudsman,

the permission of the High Court is required for such an appeal to be brought.

SECTION VII

Reopening final appeals

Reopening of final appeals

52.30.—(1) The Court of Appeal or the High Court will not reopen a final determination of any appeal unless—

- (a) it is necessary to do so in order to avoid real injustice;
- (b) the circumstances are exceptional and make it appropriate to reopen the appeal; and
- (c) there is no alternative effective remedy.

(2) In paragraphs (1), (3), (4) and (6), “appeal” includes an application for permission to appeal.

(3) This rule does not apply to appeals to the County Court.

(4) Permission is needed to make an application under this rule to reopen a final determination of an appeal even in cases where under rule 52.3(1) permission was not needed for the original appeal.

(5) There is no right to an oral hearing of an application for permission unless, exceptionally, the judge so directs.

(6) The judge must not grant permission without directing the application to be served on the other party to the original appeal and giving that party an opportunity to make representations.

(7) There is no right of appeal or review from the decision of the judge on the application for permission, which is final.

(8) The procedure for making an application for permission is set out in Practice Direction 52A.]

[^{F1261}PART 53

MEDIA AND COMMUNICATIONS CLAIMS

Textual Amendments

F1261Pt. 53 substituted (1.10.2019) by [The Civil Procedure \(Amendment No. 3\) Rules 2019 \(S.I. 2019/1118\)](#), rule 1(1), [Sch.](#) (with rule 5)

Contents of this Part

Rule 53.1	Scope of this Part
Rule 53.2	Specialist list
Rule 53.3	Application of the Civil Procedure Rules
Rule 53.4	Proceedings in the Media and Communications List
Rule 53.5	Summary disposal under the Defamation Act 1996
Rule 53.6	Sources of information

Scope of this Part

53.1.—(1) This Part contains rules about media and communications claims.

(2) A “media and communications claim” means a claim which—

- (a) satisfies the requirements of paragraph (3) or (4); and
- (b) has been issued in or transferred into the Media and Communications List.

(3) A High Court claim must be issued in the Media and Communications List if it is or includes a claim for defamation, or is or includes—

- (a) a claim for misuse of private information;
- (b) a claim in data protection law; or
- (c) a claim for harassment by publication.

(4) Subject to Part 63 and any other applicable provisions, a claim not falling within paragraph (3) may be issued in the Media and Communications List if the claim arises from—

- (a) the publication or threatened publication of information via the media, online or in speech;
- or

(b) other activities of the media,
and the claimant considers it is suitable for resolution in that list.

Specialist list

53.2.—(1) The Media and Communications List is a specialist list of the High Court.

(2) One of the Judges of the [^{F1262}King’s] Bench Division shall be [^{F1263}nominated by the President of the [^{F1262}King’s] Bench Division to be] the Judge in Charge of the Media and Communications List.

(3) A Media and Communications List Judge is a judge authorised by the President of the [^{F1264}King’s] Bench Division, in consultation with the Chancellor of the High Court, to hear claims in the Media and Communications List.

(4) All proceedings in the Media and Communications List will be heard by a Media and Communications Judge, or by a Master of the [^{F1265}King’s] Bench Division, except that—

- (a) another judge of the [^{F1266}King’s] Bench Division or Chancery Division may hear urgent applications if no Media and Communications Judge is available; and
- (b) unless the court otherwise orders, any application relating to enforcement of a Media and Communications List order or judgment for the payment of money will be dealt with by a Master of the [^{F1267}King’s] Bench Division or District Judge.

Textual Amendments

F1262 Word in rule 53.2(2) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **27(1)(a)**

F1263 Words in rule 53.2(2) inserted (6.4.2020) by The Civil Procedure (Amendment) Rules 2020 (S.I. 2020/82), rules 1(1), **6**

F1264 Word in rule 53.2(3) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **27(1)(b)**

F1265 Word in rule 53.2(4) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **27(1)(c)**

F1266 Word in rule 53.2(4)(a) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **27(1)(c)**

F1267 Word in rule 53.2(4)(b) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **27(1)(c)**

Application of the Civil Procedure Rules

53.3. These Rules and their practice directions apply to claims in the Media and Communications List unless this Part or a practice direction provides otherwise.

(Practice Direction 53B makes provision as to statements of case, and for certain kinds of application, in media and communications claims.)

Proceedings in the Media and Communications List

53.4.—(1) A media and communications claim that is issued in the High Court must be issued in the [^{F1268}King’s] Bench Division, Royal Courts of Justice, and marked in the top left corner “Media and Communications List”.

(2) A media and communications claim that is issued in a District Registry of the High Court must be transferred either to the County Court or to the Royal Courts of Justice (as appropriate).

Textual Amendments

F1268 Word in rule 53.4(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 27(2)

Summary disposal under the Defamation Act 1996

53.5.—(1) This rule provides for summary disposal in accordance with the Defamation Act 1996 (“the Act”).

(2) In proceedings for summary disposal under sections 8 and 9 of the Act, rules 24.4 (procedure), 24.5 (evidence) and 24.6 (directions) apply.

(3) An application for summary judgment under Part 24 may not be made if—

- (a) an application has been made for summary disposal in accordance with the Act, and that application has not been disposed of; or
- (b) summary relief has been granted on an application for summary disposal under the Act.

(4) The court may on any application for summary disposal direct the defendant to elect whether or not to make an offer to make amends under section 2 of the Act.

(5) When it makes a direction under paragraph (4), the court must specify the time by which and the manner in which—

- (a) the election is to be made; and
- (b) the notification of it is to be given to the court and the other parties.

Sources of information

53.6. Unless the court orders otherwise, a party will not be required to provide further information about the identity of the defendant’s sources of information.

(Part 18 provides for requests for further information.)]

[^{F1269}PART 54

[^{F1270}JUDICIAL REVIEW AND STATUTORY REVIEW]

Textual Amendments

F1269 Pt. 54 inserted (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rule 1, [Sch.](#) (with rule 30)

F1270 Pt. 54 heading substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, 3

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

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[^{F1276}SECTION I—
JUDICIAL REVIEW]

Textual Amendments
F1276Pt. 54 Section 1 heading inserted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rule 1, **Sch. Pt. 1**

Scope and interpretation

- 54.1.**—(1) [^{F1277}This Section of this Part] contains rules about judicial review.
- (2) [^{F1278}In this Section]—
- (a) a “claim for judicial review” means a claim to review the lawfulness of—
 - (i) an enactment; or
 - (ii) a decision, action or failure to act in relation to the exercise of a public function.
 - ^{F1279}(b)
 - ^{F1280}(c)
 - ^{F1281}(d)
 - (e) “the judicial review procedure” means the Part 8 procedure as modified by [^{F1282}this Section];
 - (f) “interested party” means any person (other than the claimant and defendant) who is directly affected by the claim; and
 - (g) “court” means the High Court, unless otherwise stated.

(Rule 8.1(6)(b) provides that a rule or practice direction may, in relation to a specified type of proceedings, disapply or modify any of the rules set out in Part 8 as they apply to those proceedings)

Textual Amendments
F1277Words in [rule 54.1\(1\)](#) substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, **5(a)**
F1278Words in [rule 54.1\(2\)](#) substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, **5(b)(i)**
F1279[Rule 54.1\(2\)\(b\)](#) omitted (1.5.2004) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(d), **12**

- F1280** Rule 54.1(2)(c) omitted (1.5.2004) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(d), **12**
- F1281** Rule 54.1(2)(d) omitted (1.5.2004) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(d), **12**
- F1282** Words in rule 54.1(2)(e) substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, **5(b)(ii)**

[^{F1283}Who may exercise the powers of the High Court

54.1A.—(1) A court officer assigned to the Administrative Court office who is—

- (a) a barrister; ^{F1284} ...
- (b) a solicitor [^{F1285}; or]
- ^{F1286} [a Fellow of the Chartered Institute of Legal Executives [^{F1287} or a CILEX lawyer],]

may exercise the jurisdiction of the High Court with regard to the matters set out in paragraph (2) with the consent of the President of the [^{F1288}King's] Bench Division.

- (2) The matters referred to in paragraph (1) are—
 - (a) any matter incidental to any proceedings in the High Court;
 - (b) any other matter where there is no substantial dispute between the parties; and
 - (c) the dismissal of an appeal or application where a party has failed to comply with any order, rule or practice direction.
- (3) A court officer may not decide an application for—
 - (a) permission to bring judicial review proceedings;
 - (b) an injunction;
 - (c) a stay of any proceedings, other than a temporary stay of any order or decision of the lower court over a period when the High Court is not sitting or cannot conveniently be convened, unless the parties seek a stay by consent.
- (4) Decisions of a court officer may be made without a hearing.
- (5) A party may request any decision of a court officer to be reviewed by a judge of the High Court.
- (6) At the request of a party, a hearing will be held to reconsider a decision of a court officer, made without a hearing.
- (7) A request under paragraph (5) or (6) must be filed within 7 days after the party is served with notice of the decision.]

Textual Amendments

- F1283** Rule 54.1A inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **9(b)**
- F1284** Word in rule 54.1A(1)(a) omitted (6.4.2020) by virtue of [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **7(a)**
- F1285** Word in rule 54.1A(1)(b) substituted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **7(b)**
- F1286** Rule 54.1A(1)(c) inserted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **7(c)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F1287 Words in rule 54.1A(1)(c) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **28(1)(a)**

F1288 Word in rule 54.1A(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **28(1)(b)**

When this [^{F1289}Section] must be used

54.2 —The judicial review procedure must be used in a claim for judicial review where the claimant is seeking—

- (a) a mandatory order;
- (b) a prohibiting order;
- (c) a quashing order; or
- (d) an injunction under section 30 of the Supreme Court Act 1981 (restraining a person from acting in any office in which he is not entitled to act).

Textual Amendments

F1289 Word in rule 54.2 heading substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, **5(c)**

When this [^{F1290}Section] may be used

54.3.—(1) The judicial review procedure may be used in a claim for judicial review where the claimant is seeking—

- (a) a declaration; or
- (b) an injunction^(g1).

(Section 31(2) of the Supreme Court Act 1981 sets out the circumstances in which the court may grant a declaration or injunction in a claim for judicial review)

(Where the claimant is seeking a declaration or injunction in addition to one of the remedies listed in rule 54.2, the judicial review procedure must be used)

54.3.—(2) A claim for judicial review may include a claim for damages [^{F1291}, restitution or the recovery of a sum due] but may not seek [^{F1292}such a remedy] alone.

(Section 31(4) of the Supreme Court Act 1981 sets out the circumstances in which the court may award damages [^{F1293}, restitution or the recovery of a sum due] on a claim for judicial review)

Textual Amendments

F1290 Word in rule 54.3 heading substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, **5(c)**

F1291 Words in rule 54.3(2) inserted (1.5.2004) by [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(d), **13(a)(i)**

F1292 Words in rule 54.3(2) substituted (1.5.2004) by [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(d), **13(a)(ii)**

F1293 Words in rule 54.3 inserted (1.5.2004) by [The Civil Procedure \(Amendment No. 5\) Rules 2003 \(S.I. 2003/3361\)](#), rules 1(d), **13(b)**

Permission required

54.4 The court’s permission to proceed is required in a claim for judicial review whether started under this [^{F1294}Section] or transferred to the Administrative Court.

Textual Amendments

F1294 Word in rule 54.4 substituted (1.4.2003) by The Civil Procedure (Amendment) Rules 2003 (S.I. 2003/364), rules 1, 5(d)

Time limit for filing claim form

54.5.—
^{F1295}(A1) In this rule—

“the planning acts” has the same meaning as in section 336 of the Town and Country Planning Act 1990;

[^{F1296}“decision governed by the Public Contracts Regulations 2015” means any decision the legality of which is or may be affected by a duty owed to an economic operator by virtue of regulations 89 or 90 of those Regulations (and for this purpose it does not matter that the claimant is not an economic operator); and]

“economic operator” has the same meaning as in [^{F1297}regulation 2(1) of the Public Contracts Regulations 2015].]

(1) The claim form must be filed—

(a) promptly; and

(b) in any event not later than 3 months after the grounds to make the claim first arose.

(2) The time [^{F1298}limits] in this rule may not be extended by agreement between the parties.

(3) This rule does not apply when any other enactment specifies a shorter time limit for making the claim for judicial review.

[
^{F1299}(4) Paragraph (1) does not apply in the cases specified in paragraphs [^{F1300}(5), (6) and (7)].

(5) Where the application for judicial review relates to a decision made by the Secretary of State or local planning authority under the planning acts, the claim form must be filed not later than six weeks after the grounds to make the claim first arose.

(6) Where the application for judicial review relates to a decision governed by [^{F1301}the Public Contracts Regulations 2015], the claim form must be filed within the time within which an economic operator would have been required by [^{F1302}regulation 92(2)] of those Regulations (and disregarding the rest of that regulation) to start any proceedings under those Regulations in respect of that decision.]

[
^{F1303}(7) Where the application for judicial review is in respect of a failure by a competent authority to comply with the Public Service Obligations in Transport Regulations 2023 in deciding to enter into a public services contract or make a general rule, the claim form must be filed within the applicable time period specified in regulation 24(1) of those Regulations.]

Textual Amendments

- F1295** Rule 54.5(A1) inserted (1.7.2013) by [The Civil Procedure \(Amendment No. 4\) Rules 2013](#) (S.I. 2013/1412), [rules 1, 4\(a\)\(i\)](#) (with [rule 5](#))
- F1296** Words in rule 54.5(A1) substituted (26.2.2015) by [The Public Contracts Regulations 2015](#) (S.I. 2015/102), [reg. 1\(2\), Sch. 6 para. 11\(2\)\(a\)](#)
- F1297** Words in rule 54.5(A1) substituted (26.2.2015) by [The Public Contracts Regulations 2015](#) (S.I. 2015/102), [reg. 1\(2\), Sch. 6 para. 11\(2\)\(b\)](#)
- F1298** Word in rule 54(2) substituted (1.7.2013) by [The Civil Procedure \(Amendment No. 4\) Rules 2013](#) (S.I. 2013/1412), [rules 1, 4\(a\)\(ii\)](#) (with [rule 5](#))
- F1299** Rule 54(4)-(6) inserted (1.7.2013) by [The Civil Procedure \(Amendment No. 4\) Rules 2013](#) (S.I. 2013/1412), [rules 1, 4\(a\)\(iii\)](#) (with [rule 5](#))
- F1300** Words in rule 54.5(4) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024](#) (S.I. 2024/106), [rules 1\(1\), 10\(2\)\(a\)](#)
- F1301** Words in rule 54.5(6) substituted (26.2.2015) by [The Public Contracts Regulations 2015](#) (S.I. 2015/102), [reg. 1\(2\), Sch. 6 para. 11\(3\)\(a\)](#)
- F1302** Words in rule 54.5(6) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016](#) (S.I. 2016/788), [rules 2, 11](#)
- F1303** Rule 54.5(7) inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024](#) (S.I. 2024/106), [rules 1\(1\), 10\(2\)\(b\)](#)

Claim form

54.6.—(1) In addition to the matters set out in rule 8.2 (contents of the claim form) the claimant must also state—

- (a) the name and address of any person he considers to be an interested party;
- (b) that he is requesting permission to proceed with a claim for judicial review; ^{F1304}...
- (c) any remedy (including any interim remedy) he is claiming ^{F1305}; and]

[where appropriate, the grounds on which it is contended that the claim is an Aarhus ^{F1306}(d) Convention claim.

(Rules ^{F1307}[46.24 to 46.27] make provision about costs in Aarhus Convention claims.)]

(Part 25 sets out how to apply for an interim remedy)

(2) The claim form must be accompanied by the documents required by ^{F1308}Practice Direction 54A].

Textual Amendments

- F1304** Word in rule 54.6(1)(b) omitted (1.4.2013) by virtue of [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), [rules 2, 18\(a\)](#) (with [rule 22](#))
- F1305** Word in rule 54.6(1)(c) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), [rules 2, 18\(b\)](#) (with [rule 22](#))
- F1306** Rule 54.6(1)(d) and words inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), [rules 2, 18\(c\)](#) (with [rule 22](#))
- F1307** Words in rule 54.6(1) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023](#) (S.I. 2023/572), [rules 1\(1\), 18](#) (with [rule 2](#))
- F1308** Words in rule 54.6(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), [rules 1\(2\), 29\(b\)](#)

Service of claim form

54.7 The claim form must be served on—

- (a) the defendant; and
- (b) unless the court otherwise directs, any person the claimant considers to be an interested party, within 7 days after the date of issue.

[^{F1309}Judicial review of decisions of the Upper Tribunal

54.7A.—(1) Where the Upper Tribunal has refused permission to appeal against a decision of the First-tier Tribunal, no application for judicial review of the Upper Tribunal’s decision, or which relates to the First-tier Tribunal’s decision, may be made except where the question in the judicial review application is—

- (a) whether the application for permission to appeal was validly made to the Upper Tribunal;
- (b) whether the Upper Tribunal when refusing permission to appeal was properly constituted; or
- (c) whether the Upper Tribunal is acting or has acted in bad faith or in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.

(2) The claim form and the supporting documents must be filed no later than 16 days after the date on which notice of the Upper Tribunal’s decision was sent to the applicant.]

Textual Amendments

F1309Rule 54.7A substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **28(2)**

Acknowledgment of service

54.8.—(1) Any person served with the claim form who wishes to take part in the judicial review must file an acknowledgment of service in the [^{F1310}approved] form in accordance with the following provisions of this rule.

(2) Any acknowledgment of service must be—

- (a) filed not more than 21 days after service of the claim form; and
- (b) served on—
 - (i) the claimant; and
 - (ii) subject to any direction under rule 54.7(b), any other person named in the claim form, as soon as practicable and, in any event, not later than 7 days after it is filed.

(3) The time limits under this rule may not be extended by agreement between the parties.

(4) The acknowledgment of service—

(a) must—

[^{F1311}(i)] where the person filing it intends to contest the claim, set out a summary of his grounds for doing so; and

[^{F1312}[^{F1311}(ii)]] where the person filing it intends to contest the application for permission on the basis that it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred, set out a summary of the grounds for doing so; and]

[^{F1311}(iii)] state the name and address of any person the person filing it considers to be an interested party; and

(b) may include or be accompanied by an application for directions.

(5) Rule 10.3(2) does not apply.

[^{F1313}(Section 31(3C) of the Senior Courts Act 1981 requires the court, where it is asked to do so by the defendant, to consider whether the outcome for the claimant would have been substantially different if the conduct complained of had not occurred.)]

Textual Amendments

F1310 Word in rule 54.8(1) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **10(1)**

F1311 Rule 54.8(4)(a)(i)(ia)(ii) renumbered as rule 54.8(4)(a)(i)(ii)(iii) (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **10(3)**

F1312 Rule 54.8(4)(a)(ia) inserted (13.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(4), **7** (with rule 12(2)); S.I. 2015/778, art. 3, **Sch. 1 para. 69**

F1313 Words in rule 54.8 inserted (13.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(4), **8** (with rule 12(2)); S.I. 2015/778, art. 3, **Sch. 1 para. 69**

[^{F1314}Reply to acknowledgment of service

54.8A.—(1) A claimant who has been served with any acknowledgment of service in accordance with rule 54.8(2)(b)(i) may file a reply.

(2) Any reply must be—

(a) filed not more than 7 days after service of the acknowledgment of service; and

(b) served on—

(i) the defendant; and

(ii) any person served with the claim form,

as soon as practicable and in any event not later than 7 days after it is filed.

(3) The time limits under this rule may not be extended by agreement between the parties.

(4) Practice Direction 54A makes provision as to the content and length of any reply.]

Textual Amendments

F1314 Rule 54.8A inserted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **10(4)**

Failure to file acknowledgment of service

54.9.—(1) Where a person served with the claim form has failed to file an acknowledgment of service in accordance with rule 54.8, he—

(a) may not take part in a hearing to decide whether permission should be given unless the court allows him to do so; but

(b) provided he complies with rule 54.14 or any other direction of the court regarding the filing and service of—

(i) detailed grounds for contesting the claim or supporting it on additional grounds; and

(ii) any written evidence,

may take part in the hearing of the judicial review.

(2) Where that person takes part in the hearing of the judicial review, the court may take his failure to file an acknowledgment of service into account when deciding what order to make about costs.

(3) Rule 8.4 does not apply.

Permission given

54.10.—(1) Where permission to proceed is given the court may also give directions.

[^{F1315}(2) Directions under paragraph (1) may include—

(a) a stay^(GL) of proceedings to which the claim relates;

(b) directions requiring the proceedings to be heard by a Divisional Court.]

Textual Amendments

F1315Rule 54.10(2) substituted (20.10.2010) by [The Civil Procedure \(Amendment No.3\) Rules 2010 \(S.I. 2010/2577\)](#), rules 1(2), 3

Service of order giving or refusing permission

54.11 The court will serve—

(a) the order giving or refusing permission; and

[any certificate (if not included in the order) that permission has been granted for reasons
^{F1316}(ai) of exceptional public interest in accordance with section 31(3F) of the Senior Courts Act 1981; and]

(b) any directions,

on—

(i) the claimant;

(ii) the defendant; and

(iii) any other person who filed an acknowledgment of service.

Textual Amendments

F1316Rule 54.11(ai) inserted (13.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(4), 9 (with rule 12(2)); S.I. 2015/778, art. 3, **Sch. 1 para. 69**

[^{F1317}Permission decision where court requires a hearing

54.11A.—(1) This rule applies where the court wishes to hear submissions on—

(a) whether it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred; and if so

(b) whether there are reasons of exceptional public interest which make it nevertheless appropriate to give permission.

(2) The court may direct a hearing to determine whether to give permission.

(3) The claimant, defendant and any other person who has filed an acknowledgment of service must be given at least 2 days' notice of the hearing date.

(4) The court may give directions requiring the proceedings to be heard by a Divisional Court.

(5) The court must give its reasons for giving or refusing permission.]

Textual Amendments

F1317Rule 54.11A inserted (13.4.2015) by [The Civil Procedure \(Amendment No. 2\) Rules 2015 \(S.I. 2015/670\)](#), rules 2(4), **10** (with rule 12(2)); S.I. 2015/778, art. 3, **Sch. 1 para. 69**

Permission decision without a hearing

54.12.—(1) This rule applies where the court, without a hearing—

(a) refuses permission to proceed; or

(b) gives permission to proceed—

(i) subject to conditions; or

(ii) on certain grounds only.

(2) The court will serve its reasons for making the decision when it serves the order giving or refusing permission in accordance with rule 54.11.

(3) [^{F1318}Subject to paragraph (7), the] claimant may not appeal but may request the decision to be reconsidered at a hearing.

(4) A request under paragraph (3) must be filed within 7 days after service of the reasons under paragraph (2).

(5) The claimant, defendant and any other person who has filed an acknowledgment of service will be given at least 2 days' notice of the hearing date.

[^{F1319}(6) The court may give directions requiring the proceedings to be heard by a Divisional Court.]

[^{F1320}(7) Where the court refuses permission to proceed and records the fact that the application is totally without merit in accordance with rule 23.12, the claimant may not request that decision to be reconsidered at a hearing.]

Textual Amendments

F1318Words in rule 54.12(3) substituted (1.7.2013) by [The Civil Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/1412\)](#), rules 1, **4(b)(i)** (with rule 5)

F1319Rule 54.12(6) inserted (20.10.2010) by [The Civil Procedure \(Amendment No.3\) Rules 2010 \(S.I. 2010/2577\)](#), rules 1(2), **4**

F1320Rule 54.12(7) inserted (1.7.2013) by [The Civil Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/1412\)](#), rules 1, **4(b)(ii)** (with rule 5)

Defendant etc. may not apply to set aside^(gl)

54.13 Neither the defendant nor any other person served with the claim form may apply to set aside^(gl) an order giving permission to proceed.

Response

54.14.—(1) A defendant and any other person served with the claim form who wishes to contest the claim or support it on additional grounds must file and serve—

- (a) detailed grounds for contesting the claim or supporting it on additional grounds; and
- (b) any written evidence,

within 35 days after service of the order giving permission.

(2) The following rules do not apply—

- (a) rule 8.5(3) and 8.5(4) (defendant to file and serve written evidence at the same time as acknowledgment of service); and
- (b) rule 8.5(5) and 8.5(6) (claimant to file and serve any reply within 14 days).

Where claimant seeks to rely on additional grounds

54.15 The court's permission is required if a claimant seeks to rely on grounds other than those for which he has been given permission to proceed.

Evidence

54.16.—(1) Rule 8.6 [^{F1321}(1)] does not apply.

(2) No written evidence may be relied on unless—

- (a) it has been served in accordance with any—
 - (i) rule under this [^{F1322}Section]; or
 - (ii) direction of the court; or
- (b) the court gives permission.

Textual Amendments

F1321 Word in rule 54.16(1) inserted (2.12.2002) by The Civil Procedure (Amendment) Rules 2002 (S.I. 2002/2058), rules 1(b), 21

F1322 Word in rule 54.16 substituted (1.4.2003) by The Civil Procedure (Amendment) Rules 2003 (S.I. 2003/364), rules 1, 5(d)

Court's powers to hear any person

54.17.—(1) Any person may apply for permission—

- (a) to file evidence; or
- (b) make representations at the hearing of the judicial review.

(2) An application under paragraph (1) should be made promptly.

Judicial review may be decided without a hearing

54.18 The court may decide the claim for judicial review without a hearing where all the parties agree.

Court’s powers in respect of quashing orders

54.19.—(1) This rule applies where the court makes a quashing order in respect of the decision to which the claim relates.

[^{F1323}(2) The court may—

- (a) (i) remit the matter to the decision-maker; and
- (ii) direct it to reconsider the matter and reach a decision in accordance with the judgment of the court; or
- (b) in so far as any enactment permits, substitute its own decision for the decision to which the claim relates.

(Section 31 of the Supreme Court Act 1981 enables the High Court, subject to certain conditions, to substitute its own decision for the decision in question.)]

(3)

^{F1324}

Textual Amendments
^{F1323}Rule 54.19(2) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **7(b)**
^{F1324}Rule 54.19(3) and words omitted (6.4.2008) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **7(c)**

Transfer

54.20 The court may—

- (a) order a claim to continue as if it had not been started under this [^{F1325}Section]; and
- (b) where it does so, give directions about the future management of the claim.

(Part 30 (transfer) applies to transfers to and from the Administrative Court)

Textual Amendments
^{F1325}Word in rule 54.20(a) substituted (1.4.2003) by [The Civil Procedure \(Amendment\) Rules 2003 \(S.I. 2003/364\)](#), rules 1, **5(e)**

[^{F1326}II PLANNING COURT

Textual Amendments
^{F1326}Pt. 54 Section 2 inserted (6.4.2014) by [The Civil Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/610\)](#), rules 2, **3** (with rule 4)

General

54.21.—(1) This Section applies to Planning Court claims.

(2) In this Section, “Planning Court claim” means a judicial review or statutory challenge which —

- (a) involves any of the following matters —
- (i) planning permission, other development consents, the enforcement of planning control and the enforcement of other statutory schemes;
 - (ii) applications under the Transport and Works Act 1992;
 - (iii) wayleaves;
 - (iv) highways and other rights of way;
 - (v) compulsory purchase orders;
 - (vi) village greens;
 - (vii) European Union environmental legislation and domestic transpositions, including assessments for development consents, habitats, waste and pollution control;
 - (viii) national, regional or other planning policy documents, statutory or otherwise; or
 - (ix) any other matter the judge appointed under rule 54.22(2) [^{F1327}considers appropriate] considers appropriate; and
- (b) has been issued or transferred to the Planning Court.

(Part 30 (Transfer) applies to transfers to and from the Planning Court.)

Textual Amendments

F1327 Words in rule 54.21(2)(a)(ix) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), [rules 2, 9](#)

Specialist list

54.22.—(1) The Planning Court claims form a specialist list.

(2) A judge nominated by the President of the [^{F1328}King’s] Bench Division will be in charge of the Planning Court specialist list and will be known as the Planning Liaison Judge.

[^{F1329}(3) The President of the [^{F1330}King’s] Bench Division will be responsible for the nomination of specialist planning judges to deal with Planning Court claims which are significant within the meaning of [^{F1331}Practice Direction 54D], and of other judges to deal with other Planning Court claims.]

Textual Amendments

F1328 Word in [rule 54.22\(3\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 28\(3\)](#)

F1329 [Rule 54.22\(3\)](#) inserted (5.6.2014) by [The Civil Procedure \(Amendment No. 5\) Rules 2014 \(S.I. 2014/1233\)](#), [rules 1, 4](#)

F1330 Word in [rule 54.22\(2\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\), 28\(3\)](#)

F1331 Words in [rule 54.22\(3\)](#) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), [rules 1\(1\), 16\(a\)](#)

Application of the Civil Procedure Rules

54.23. These Rules and their practice directions will apply to Planning Court claims unless this section or a practice direction provides otherwise.

Further provision about Planning Court claims

54.24. [^{F1332}Practice Direction 54D] makes further provision about Planning Court claims, in particular about the timescales for determining such claims.]

Textual Amendments

F1332 Words in rule 54.24 substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **16(b)**

^{F1333}SECTION III

ENVIRONMENTAL REVIEW UNDER THE ENVIRONMENT ACT 2021

Textual Amendments

F1333 Pt. 54 Section 3 inserted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **21(2)**

Scope and interpretation

54.25.—(1) This Section contains rules about environmental review.

(2) In this Section—

- (a) “claim for environmental review” means a claim made by the Office for Environmental Protection (“OEP”) under section 38 of the Environment Act 2021;
- (b) “the environmental review procedure” means the Part 8 procedure as modified by this Section;
- (c) “interested party” means any person (other than the claimant and defendant) who is directly affected by the claim; and
- (d) “court” means the High Court.

Who may exercise the powers of the High Court

54.26.—(1) Rule 54.1A (excluding paragraph (3)(a) of the rule) applies to a claim for environmental review.

(2) A claim for environmental review shall be assigned to the Planning Court.

When this Section must be used

54.27.—(1) The environmental review procedure must be used where a claim for environmental review is made.

(2) Practice Direction 54E applies to the environmental review procedure.

Time limit for filing claim form

54.28.—(1) The claim form must be filed not later than 6 months from the date by which a response to a decision notice was required under section 36(3) of the Environment Act 2021.

(2) The time limit in paragraph (1) may be extended, but only upon application to the court by the claimant and if the court is satisfied that it is reasonable to do so.

Claim form

54.29.—(1) In addition to the matters set out in rule 8.2 (contents of the claim form) the claimant must also state—

- (a) the name of the public authority, the defendant, against whom the claim for environmental review is brought;
- (b) the name and address of any person the claimant considers to be an interested party; and
- (c) any remedy (including any interim remedy) sought by the claimant.

(2) The claim form must be accompanied by the documents required by Practice Direction 54E.

Service of claim form

54.30. The claim form must be served on—

- (a) the defendant; and
- (b) unless the court otherwise directs, any person the claimant considers to be an interested party,

within 7 days after the date of issue.

Acknowledgment of service

54.31.—(1) Any person served with the claim form who wishes to take part in the environmental review must file an acknowledgment of service in the relevant practice form in accordance with the following provisions of this rule.

(2) Any acknowledgment of service must be—

- (a) filed not more than 35 days after service of the claim form; and
- (b) served on—
 - (i) the claimant; and
 - (ii) subject to any direction under rule 54.30(b), any other person named in the claim form,

as soon as practicable and, in any event, not later than 7 days after it is filed.

(3) The time limits under this rule may not be extended by agreement between the parties.

(4) The acknowledgment of service—

- (a) must state the name and address of any person the person filing it considers to be an interested party; and
- (b) may include or be accompanied by an application for directions.

(5) Rule 10.3(2) does not apply.

Detailed grounds and evidence

54.32.—(1) A defendant and any other person served with the claim form who wishes to contest the claim or support it on additional grounds must file and serve with the acknowledgement of service—

- (a) detailed grounds for contesting the claim or supporting it on additional grounds; and
- (b) any written evidence.

^{F1334}(2)

^{F1335}(3)

Textual Amendments

F1334Rule 54.32(2) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **28(4)**

F1335Rule 54.32(3) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **28(4)**

Failure to file acknowledgment of service

54.33.—(1) Where a person served with the claim form has failed to file an acknowledgment of service in accordance with rule 54.31 or to comply with 54.32, they may not take part in the hearing of the claim unless the court allows them to do so and they comply with rule 54.31 or any other direction of the court regarding the filing and service of—

- (a) detailed grounds for contesting the claim or supporting it on additional grounds; and
- (b) any written evidence.

(2) Where that person takes part in the hearing of the environmental review, the court may take their failure to file an acknowledgment of service into account when deciding whether an order as to costs should be made.

(3) Rule 8.4 does not apply.

Where claimant seeks to rely on additional grounds

54.34. The court’s permission is required if the claimant seeks to rely on grounds other than those set out in the original claim.

Other procedural rules

54.35. Rules 54.10 and 54.16 – 54.20 shall apply to the environmental review procedure, except that—

- (a) references to “permission to proceed” shall be disregarded; and
- (b) the reference in rule 54.19 to “the decision to which the claim relates” shall be read as referring to “the matter to which the claim relates.]]

[^{F1336} PART 55 POSSESSION CLAIMS

Textual Amendments

F1336Pt. 55 inserted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 1](#) (with [rule 31](#))

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[^{F1342}Coronavirus – temporary provision

55.A1.—(1) Practice Direction 55C makes provision for how claims under this Part (including appeals) are to proceed following the expiry of the stay provided for by rule 55.29.

(2) This Part has effect subject to Practice Direction 55C for the period specified, and in the manner specified, in Practice Direction 55C.]

Textual Amendments

F1342Rule 55.A1 inserted (23.8.2020) by [The Civil Procedure \(Amendment No. 4\) \(Coronavirus\) Rules 2020 \(S.I. 2020/751\)](#), rules 1, **2(b)**

Interpretation

55.1 In this Part—

- (a) “a possession claim” means a claim for the recovery of possession of land (including buildings or parts of buildings);
- (b) “a possession claim against trespassers” means a claim for the recovery of land which the claimant alleges is occupied only by a person or persons who entered or remained on the land without the consent of a person entitled to possession of that land but does not include a claim against a tenant or sub-tenant whether his tenancy has been terminated or not;
- (c) “mortgage” includes a legal or equitable mortgage and a legal or equitable charge and “mortgagee” is to be interpreted accordingly; ^{F1343} ...
- ^{F1344}(d) “the 1985 Act” means the Housing Act 1985;
- (e) “the 1988 Act” means the Housing Act 1988;
- (f) “a demotion claim” means a claim made by a landlord for an order under section 82A of the 1985 Act or section 6A of the 1988 Act (“a demotion order”); ^{F1345} ...
- (g) “a demoted tenancy” means a tenancy created by virtue of a demotion order][^{F1346}; and
- (h) “a suspension claim” means a claim made by a landlord for an order under section 121A of the 1985 Act.]

Textual Amendments

F1343Word in rule 55.1(c) omitted (30.6.2004) by virtue of [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **10(a)**

F1344Rules 55.1(d)-(g) substituted for rule 55.1(d) (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **10(b)**

F1345Word in rule 55.1(f) omitted (1.10.2005) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **42(a)**

F1346Rule 55.1(h) and word inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **42(b)**

I—GENERAL RULES

Scope

55.2.—(1) The procedure set out in this Section of this Part must be used where the claim includes—

- (a) a possession claim brought by a—
 - (i) landlord (or former landlord);
 - (ii) mortgagee; or
 - (iii) licensor (or former licensor);
- (b) a possession claim against trespassers; or
- (c) a claim by a tenant seeking relief from forfeiture.

[^{F1347}(Where a demotion claim or a suspension claim (or both) is made in the same claim form in which a possession claim is started, this Section of this Part applies as modified by rule 65.12. Where the claim is a demotion claim or a suspension claim only, or a suspension claim made in addition to a demotion claim, Section III of Part 65 applies).]

(2) This Section of this Part

- (a) is subject to any enactment or practice direction which sets out special provisions with regard to any particular category of claim; ^{F1348} ...
- (b) does not apply where the claimant uses the procedure set out in Section II of this Part [^{F1349}; and
- (c) does not apply where the claimant seeks an interim possession order under Section III of this Part except where the court orders otherwise or that Section so provides]

^{F1350} ...

Textual Amendments

F1347 Words in rule 55.2(1) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **43**

F1348 Word in rule 55.2(2)(a) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002](#) (S.I. 2002/2058), rules 1(b), **22(b)(i)**

F1349 Rule 55.2(2)(c) and word inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002](#) (S.I. 2002/2058), rules 1(b), **22(b)(ii)**

F1350 Words in rule 55.2(2) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002](#) (S.I. 2002/2058), rules 1(b), **22(b)(iii)**

Starting the claim

55.3.—[^{F1351}(1) In the County Court—

- (a) the claimant may make the claim at any County Court hearing centre, unless paragraph (2) applies or an enactment provides otherwise;
- (b) the claim will be issued by the hearing centre where the claim is made; and
- (c) if the claim is not made at the County Court hearing centre which serves the address where the land is situated, the claim will be sent to the hearing centre serving that address when it is issued.

(Practice Direction 55A includes further direction in respect of claims which are not made at the County Court hearing centre which serves the address where the land is situated.)]

(2) The claim may be started in the High Court if the claimant files with [^{F1352}their] claim form a certificate stating the reasons for bringing the claim in that court verified by a statement of truth
F1353
.....

(3) [^{F1354}Practice Direction 55A] refers to circumstances which may justify starting the claim in the High Court.

(4) Where, in a possession claim against trespassers, the claimant does not know the name of a person in occupation or possession of the land, the claim must be brought against “persons unknown” in addition to any named defendants.

(5) The claim form and form of defence sent with it must be in the forms set out in [^{F1355}Practice Direction 55A].

Textual Amendments

F1351 Rule 55.3(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(a)**; S.I. 2014/954, art. 2(a)

F1352 Word in rule 55.3(2) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **25(1)(a)**

F1353 Words in rule 55.3(2) omitted (1.10.2023 immediately after S.I. 2023/572 comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **25(1)(b)**

F1354 Words in rule 55.3(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(a)**

F1355 Words in rule 55.3(5) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

Particulars of claim

55.4 The particulars of claim must be filed and served with the claim form.

(^{F1356}Part 16 and Practice Direction 55A] provide details about the contents of the particulars of claim)

Textual Amendments

F1356 Words in rule 55.4 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(c)**

Hearing date

55.5.—(1) [^{F1357}Subject to paragraph (1A), the court] will fix a date for the hearing when it issues the claim form.

[
^{F1358}(1A) If the claim is not made at the County Court hearing centre which serves the address where the land is situated, a date will be fixed for hearing when the claim is received by that hearing centre.]

(2) In a possession claim against trespassers the defendant must be served with the claim form, particulars of claim and any witness statements—

(a) in the case of residential property, not less than 5 days; and

- (b) in the case of other land, not less than 2 days, before the hearing date.
- (3) In all other possession claims—
 - (a) the hearing date will be not less than 28 days from the date of issue of the claim form;
 - (b) the standard period between the issue of the claim form and the hearing will be not more than 8 weeks; and
 - (c) the defendant must be served with the claim form and particulars of claim not less than 21 days before the hearing date.
 - (Rule 3.1(2)(a) provides that the court may extend or shorten the time for compliance with any rule)

Textual Amendments

F1357 Words in rule 55.5(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(b)(i)**; S.I. 2014/954, art. 2(a)

F1358 Rule 55.5(1A) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(b)(ii)**; S.I. 2014/954, art. 2(a)

Service of claims against trespassers

55.6 Where, in a possession claim against trespassers, the claim has been issued against “persons unknown”, the claim form, particulars of claim and any witness statements must be served on those persons by—

- (a)
 - (i) attaching copies of the claim form, particulars of claim and any witness statements to the main door or some other part of the land so that they are clearly visible; and
 - (ii) if practicable, inserting copies of those documents in a sealed transparent envelope addressed to “the occupiers” through the letter box; or
- (b) placing stakes in the land in places where they are clearly visible and attaching to each stake copies of the claim form, particulars of claim and any witness statements in a sealed transparent envelope addressed to “the occupiers”.

Defendant’s response

55.7.—(1) An acknowledgment of service is not required and Part 10 does not apply.

(2) In a possession claim against trespassers rule 15.2 does not apply and the defendant need not file a defence.

(3) Where, in any other possession claim, the defendant does not file a defence within the time specified in rule 15.4, he may take part in any hearing but the court may take his failure to do so into account when deciding what order to make about costs.

(4) Part 12 (default judgment) does not apply in a claim to which this Part applies.

The hearing

55.8.—(1) At the hearing fixed in accordance with rule 55.5(1) or at any adjournment of that hearing, the court may—

- (a) decide the claim; or
- (b) give case management directions.

(2) Where the claim is genuinely disputed on grounds which appear to be substantial, case management directions given under paragraph (1)(b) will include the allocation of the claim to a track or directions to enable it to be allocated.

(3) Except where—

- (a) the claim is allocated to the fast track [^{F1359}, the intermediate track] or the multi-track; or
- (b) the court orders otherwise,

any fact that needs to be proved by the evidence of witnesses at a hearing referred to in paragraph (1) may be proved by evidence in writing.

(Rule 32.2(1) sets out the general rule about evidence. Rule 32.2(2) provides that rule 32.2(1) is subject to any provision to the contrary)

(4) Subject to paragraph (5), all witness statements must be filed and served at least 2 days before the hearing.

(5) In a possession claim against trespassers all witness statements on which the claimant intends to rely must be filed and served with the claim form.

(6) Where the claimant serves the claim form and particulars of claim, [^{F1360}the claimant] must produce at the hearing a certificate of service of those documents and rule [^{F1361}6.17(2)(a)] does not apply.

Textual Amendments

F1359 Words in rule 55.8(3)(a) inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **19(1)** (with rule 2)

F1360 Words in rule 55.8(6) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **28(a)(i)**

F1361 Word in rule 55.8(6) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **28(a)(ii)**

Allocation

55.9.—(1) When the court decides the track for a possession claim, the matters to which it shall have regard include—

- (a) the matters set out in rule [^{F1362}26.13] as modified by the relevant practice direction;
- (b) the amount of any arrears of rent or mortgage instalments;
- (c) the importance to the defendant of retaining possession of the land; ^{F1363}...
- (d) the importance of vacant possession to the claimant [^{F1364}; and
- (e) if applicable, the alleged conduct of the defendant]

(2) The court will only allocate possession claims to the small claims track if all the parties agree.

(3) Where a possession claim has been allocated to the small claims track the claim shall be treated, for the purposes of costs, as if it were proceeding on the fast track except that trial costs shall be in the discretion of the court and shall not exceed the amount that would be recoverable under [^{F1365}Part 45] if the value of the claim were up to £3,000.

(4) Where all the parties agree the court may, when it allocates the claim, order that rule 27.14 (costs on the small claims track) applies and, where it does so, paragraph (3) does not apply.

Textual Amendments

- F1362** Word in rule 55.9(1)(a) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **19(2)(a)** (with rule 2)
- F1363** Word in rule 55.9(1)(c) omitted (30.6.2004) by virtue of [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **12(a)**
- F1364** Rule 55.9(1)(e) and word inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **12(b)**
- F1365** Words in rule 55.9(3) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **19(2)(b)** (with rule 2)

Possession claims relating to mortgaged residential property

55.10.—(1) This rule applies where a mortgagee seeks possession of land which consists of or includes residential property.

[^{F1366}(2) Within 5 days of receiving notification of [^{F1366}the date of the hearing by the court, the claimant must send a notice to—

- (a) the property, addressed to “the tenant or the occupier”; ^{F1367} ...
- (b) the housing department of the local authority within which the property is located [^{F1368}; and]

[^{F1369}(c) any registered proprietor (other than the claimant) of a registered charge over the property.]]

(3) The notice referred to in [^{F1370}paragraph (2)(a)] must—

- (a) state that a possession claim for the property has started;
- (b) show the name and address of the claimant, the defendant and the court which issued the claim form; and
- (c) give details of the hearing.

[^{F1371}(3A) The notice referred to in paragraph 2(b) must contain the information in paragraph (3) and must state the full address of the property.]

(4) The claimant must produce at the hearing—

- (a) a copy of the [^{F1372}notices]; and
- (b) evidence that [^{F1373}they have been sent].

[^{F1374}(4A) An unauthorised tenant of residential property may apply to the court for the order for possession to be suspended.]

Textual Amendments

- F1366** Rule 55.10(2) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **11(a)**
- F1367** Word in rule 55.10(2)(a) omitted (30.4.2010) by virtue of [The Civil Procedure \(Amendment\) Rules 2010 \(S.I. 2010/621\)](#), rules 1(2), **10(a)(i)**
- F1368** Word in rule 55.10(2)(b) substituted (30.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010 \(S.I. 2010/621\)](#), rules 1(2), **10(a)(ii)**

- F1369** Rule 55.10(2)(c) inserted (30.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010](#) (S.I. 2010/621), rules 1(2), **10(a)(iii)**
- F1370** Words in rule 55.10(3) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(b)**
- F1371** Rule 55.10(3A) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(c)**
- F1372** Words in rule 55.10(4)(a) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(d)(i)**
- F1373** Word in rule 55.10(4)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(d)(ii)**
- F1374** Rule 55.10(4A) inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010](#) (S.I. 2010/1953), rules 1(2), **7**

[^{F1375}E] Electronic issue of certain possession claims

55.10A.—(1) A practice direction may make provision for a claimant to start certain types of possession claim in certain courts by requesting the issue of a claim form electronically.

(2) The practice direction may, in particular—

- (a) provide that only particular provisions apply in specific courts;
- (b) specify—
 - (i) the type of possession claim which may be issued electronically;
 - (ii) the conditions that a claim must meet before it may be issued electronically;
- (c) specify the court where the claim may be issued;
- (d) enable the parties to make certain applications or take further steps in relation to the claim electronically;
- (e) specify the requirements that must be fulfilled in relation to such applications or steps;
- (f) enable the parties to correspond electronically with the court about the claim;
- (g) specify the requirements that must be fulfilled in relation to electronic correspondence;
- (h) provide how any fee payable on the filing of any document is to be paid where the document is filed electronically.

(3) The Practice Direction may disapply or modify these Rules as appropriate in relation to possession claims started electronically.]

Textual Amendments

- F1375** Rule 55.10A inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **44**

***II—ACCELERATED POSSESSION CLAIMS OF PROPERTY
LET ON AN ASSURED SHORTHOLD TENANCY***

When this section may be used

55.11.—(1) The claimant may bring a possession claim under this Section of this Part where—

- (a) the claim is brought under section 21 of the 1988 Act⁽⁸⁾ to recover possession of residential property let under an assured shorthold tenancy [^{F1376}other than a demoted assured shorthold tenancy]; and
- (b) ^{F1377}... all the conditions listed in [^{F1378}rule [^{F1379}55.12]] are satisfied.

^{F1380}(2) The claim—

- (a) may be brought in any County Court hearing centre; and
- (b) will be issued by the hearing centre where it is brought.]

[^{F1381}(3) In this Section of this Part, a “demoted assured shorthold tenancy” means a demoted tenancy where the landlord is a registered social landlord [^{F1382}or a private registered provider of social housing].

^{F1383}...]

Textual Amendments

F1376 Words in rule 55.11(1)(a) inserted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **8(1)(a)**

F1377 Words in rule 55.11(1)(b) omitted (6.4.2020) by virtue of [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **8(1)(b)(i)**

F1378 Word in rule 55.11(1)(b) substituted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **13(a)(ii)**

F1379 Word in rule 55.11(1)(b) substituted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **8(1)(b)(ii)**

F1380 Rule 55.11(2) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(c)**; S.I. 2014/954, art. 2(a)

F1381 Rule 55.11(3) inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **13(b)**

F1382 Words in rule 55.11(3) inserted (1.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010 \(S.I. 2010/621\)](#), rules 1(3), **10(b)**

F1383 Words in rule 55.11 omitted (6.4.2020) by virtue of [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **8(1)(c)**

Conditions

^{F1384}**55.12** The conditions referred to in rule 55.11(1)(b) are that—

- (a) the tenancy and any agreement for the tenancy were entered into on or after 28 February 1997;
- (b) the only purpose of the claim is to recover possession of the property and no other claim is made;
- (c) the tenancy did not immediately follow an assured tenancy which was not an assured shorthold tenancy;
- (d) the tenancy fulfilled the conditions provided by section 19A of the 1988 Act;
- (e) all the tenancies under which the defendant has occupied the property—
- (i) were the subject of written agreements; or
- (ii) arose by virtue of section 5 of the 1988 Act.]

(8) 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 46.

Textual Amendments

F1384 Rule 55.12 substituted (6.4.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(1), **8(2)**

Claim form

55.13.—(1) The claim form must—

- (a) be in the form set out in [^{F1385}Practice Direction 55A]; and
- (b) (i) contain such information; and
(ii) be accompanied by such documents,
as are required by that form.

(2) All relevant sections of the form must be completed.

(3) The court will serve the claim form by first class post [^{F1386}(or an alternative service which provides for delivery on the next working day)].

Textual Amendments

F1385 Words in rule 55.13(1)(a) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

F1386 Words in rule 55.13(3) inserted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **13**

Defence

55.14.—(1) A defendant who wishes to—

- (a) oppose the claim; or
- (b) seek a postponement of possession in accordance with rule 55.18,
must file his defence within 14 days after service of the claim form.

(2) The defence should be in the form set out in [^{F1387}Practice Direction 55A].

Textual Amendments

F1387 Words in rule 55.14(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

Claim referred to judge

55.15.—(1) On receipt of the defence the court will—

- (a) send a copy to the claimant; and
- (b) refer the claim and defence to a judge.

(2) Where the period set out in rule 55.14 has expired without the defendant filing a defence—

- (a) the claimant may file a written request for an order for possession; and
- (b) the court will refer that request to a judge.

(3) Where the defence is received after the period set out in rule 55.14 has expired but before a request is filed in accordance with paragraph (2), paragraph (1) will still apply.

(4) Where—

- (a) the period set out in rule 55.14 has expired without the defendant filing a defence; and
- (b) the claimant has not made a request for an order for possession under paragraph (2) within 3 months after the expiry of the period set out in rule 55.14,
the claim will be stayed.

Consideration of the claim

55.16.—(1) After considering the claim and any defence, the judge will—

- (a) make an order for possession under rule 55.17;
- (b) where [^{F1388}the judge] is not satisfied as to any of the matters set out in paragraph (2)—
 - (i) direct that a date be fixed for a hearing; and
 - (ii) give any appropriate case management directions; or
- (c) strike out the claim if the claim form discloses no reasonable grounds for bringing the claim.

[^{F1389}(1A) If—

- (a) the judge directs that a date be fixed for hearing in accordance either with paragraph (2) or rule 55.18(1); and
- (b) the claim has not been brought in the County Court hearing centre which serves the address where the land is situated,

the judge will direct that the proceedings should be transferred to that hearing centre.]

(2) The matters referred to in paragraph (1)(b) are that—

- (a) the claim form was served; and
- (b) the claimant has established that he is entitled to recover possession under section 21 of the 1988 Act against the defendant.

(3) The court will give all parties not less than 14 days' notice of a hearing fixed under paragraph (1)(b)(i).

(4) Where a claim is struck out under paragraph (1)(c)—

- (a) the court will serve its reasons for striking out the claim with the order; and
- (b) the claimant may apply to restore the claim within 28 days after the date the order was served on him.

Textual Amendments

F1388 Words in rule 55.16(1)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(d)(i)**; S.I. 2014/954, art. 2(a)

F1389 Rule 55.16(1A) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(d)(ii)**; S.I. 2014/954, art. 2(a)

Possession order

55.17 Except where rules 55.16(1)(b) or (c) apply, the judge will make an order for possession without requiring the attendance of the parties.

Postponement of possession

55.18.—(1) Where the defendant seeks postponement of possession on the ground of exceptional hardship under section 89 of the Housing Act 1980(10), the judge may direct a hearing of that issue.

(2) Where the judge directs a hearing under paragraph (1)—

- (a) the hearing must be held before the date on which possession is to be given up; and
- (b) the judge will direct how many days' notice the parties must be given of that hearing.

(3) Where the judge is satisfied, on a hearing directed under paragraph (1), that exceptional hardship would be caused by requiring possession to be given up by the date in the order of possession, he may vary the date on which possession must be given up.

Application to set aside or vary

55.19 The court may—

- (a) on application by a party within 14 days of service of the order; or
- (b) of its own initiative,

set aside or vary any order made under rule 55.17.

F¹³⁹⁰SECTION III—INTERIM POSSESSION ORDERS

Textual Amendments

F1390Pt. 55 Section 3 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 3 Pt. 2](#)

When this section may be used

55.20.—(1) This Section of this Part applies where the claimant seeks an Interim Possession Order.

(2) In this Section—

- (a) “IPO” means Interim Possession Order; and
- (b) “premises” has the same meaning as in section 12 of the Criminal Law Act 1977.

(3) Where this Section requires an act to be done within a specified number of hours, rule 2.8(4) does not apply.

Conditions for IPO application

55.21.—(1) An application for an IPO may be made where the following conditions are satisfied—

- (a) the only claim made is a possession claim against trespassers for the recovery of premises;
- (b) the claimant—

- (i) has an immediate right to possession of the premises; and
 - (ii) has had such a right throughout the period of alleged unlawful occupation; and
 - (c) the claim is made within 28 days of the date on which the claimant first knew, or ought reasonably to have known, that the defendant (or any of the defendants), was in occupation.
- (2) An application for an IPO may not be made against a defendant who entered or remained on the premises with the consent of a person who, at the time consent was given, had an immediate right to possession of the premises.

The application

- 55.22.**—(1) Rules 55.3(1) and (4) apply to the claim.
- (2) The claim form and the defendant’s form of witness statement must be in the form set out in [F1391 Practice Direction 55A].
- (3) When he files his claim form, the claimant must also file—
- (a) an application notice in the form set out in [F1392 Practice Direction 55A]; and
 - (b) written evidence.
- (4) The written evidence must be given—
- (a) by the claimant personally; or
 - (b) where the claimant is a body corporate, by a duly authorised officer.
- (Rule 22.1(6)(b) provides that the statement of truth must be signed by the maker of the witness statement)
- (5) The court will—
- (a) issue—
 - (i) the claim form; and
 - (ii) the application for the IPO; and
 - (b) set a date for the hearing of the application.
- (6) The hearing of the application will be as soon as practicable but not less than 3 days after the date of issue.

Textual Amendments

F1391 Words in rule 55.22(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

F1392 Words in rule 55.22(3)(a) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

Service

- 55.23.**—(1) Within 24 hours of the issue of the application, the claimant must serve on the defendant—
- (a) the claim form;
 - (b) the application notice together with the written evidence in support; and
 - (c) a blank form for the defendant’s witness statement (as set out in [F1393 Practice Direction 55A]) which must be attached to the application notice.
- (2) The claimant must serve the documents listed in paragraph (1) in accordance with rule 55.6(a).

(3) At or before the hearing the claimant must file a certificate of service in relation to the documents listed in paragraph (1) and rule [F1394 6.17(2)(a)] does not apply.

Textual Amendments

F1393 Words in rule 55.23(1)(c) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

F1394 Word in rule 55.23(3) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **28(b)**

Defendant's response

55.24.—(1) At any time before the hearing the defendant may file a witness statement in response to the application.

(2) The witness statement should be in the form set out in [F1395 Practice Direction 55A].

Textual Amendments

F1395 Words in rule 55.24(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

Hearing of the application

55.25.—(1) In deciding whether to grant an IPO, the court will have regard to whether the claimant has given, or is prepared to give, the following undertakings in support of his application—

- (a) if, after an IPO is made, the court decides that the claimant was not entitled to the order to—
 - (i) reinstate the defendant if so ordered by the court; and
 - (ii) pay such damages as the court may order; and
- (b) before the claim for possession is finally decided, not to—
 - (i) damage the premises;
 - (ii) grant a right of occupation to any other person; and
 - (iii) damage or dispose of any of the defendant's property.

(2) The court will make an IPO if—

- (a) the claimant has—
 - (i) filed a certificate of service of the documents referred to in rule 55.23(1); or
 - (ii) proved service of those documents to the satisfaction of the court; and
- (b) the court considers that—
 - (i) the conditions set out in rule 55.21(1) are satisfied; and
 - (ii) any undertakings given by the claimant as a condition of making the order are adequate.

(3) An IPO will be in the form set out in [F1396 Practice Direction 55A] and will require the defendant to vacate the premises specified in the claim form within 24 hours of the service of the order.

(4) On making an IPO the court will set a date for the hearing of the claim for possession which will be not less than 7 days after the date on which the IPO is made.

- (5) Where the court does not make an IPO—
- (a) the court will set a date for the hearing of the claim;
 - (b) the court may give directions for the future conduct of the claim; and
 - (c) subject to such directions, the claim shall proceed in accordance with Section I of this Part.

Textual Amendments

F1396 Words in rule 55.25(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

Service and enforcement of the IPO

55.26.—(1) An IPO must be served within 48 hours after it is sealed.

- (2) The claimant must serve the IPO on the defendant together with copies of—
- (a) the claim form; and
 - (b) the written evidence in support,

in accordance with rule 55.6(a).

(3) [^{F1397}Rules 83.2, 83.3 and 83.26(1) to (9) do] not apply to the enforcement of an IPO.

(4) If an IPO is not served within the time limit specified by this rule, the claimant may apply to the court for directions for the claim for possession to continue under Section I of this Part.

Textual Amendments

F1397 Words in rule 55.26(3) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), rules 1, **9** (with rule 25)

After IPO made

55.27.—(1) Before the date for the hearing of the claim, the claimant must file a certificate of service in relation to the documents specified in rule 55.26(2).

- (2) The IPO will expire on the date of the hearing of the claim.
- (3) At the hearing the court may make any order it considers appropriate and may, in particular—
- (a) make a final order for possession;
 - (b) dismiss the claim for possession;
 - (c) give directions for the claim for possession to continue under Section I of this Part; or
 - (d) enforce any of the claimant’s undertakings.

(4) Unless the court directs otherwise, the claimant must serve any order or directions in accordance with rule 55.6(a).

(5) [^{F1398}Rule 83.26(10) to (12)] applies to the enforcement of a final order for possession.

Textual Amendments

F1398 Words in rule 55.27(5) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), rules 1, **10** (with rule 25)

Application to set aside IPO

55.28.—(1) If the defendant has left the premises, he may apply on grounds of urgency for the IPO to be set aside before the date of the hearing of the claim.

(2) An application under paragraph (1) must be supported by a witness statement.

(3) On receipt of the application, the court will give directions as to—

(a) the date for the hearing; and

(b) the period of notice, if any, to be given to the claimant and the method of service of any such notice.

(4) No application to set aside an IPO may be made under rule 39.3.

(5) Where no notice is required under paragraph (3)(b), the only matters to be dealt with at the hearing of the application to set aside are whether—

(a) the IPO should be set aside; and

(b) any undertaking to re-instate the defendant should be enforced,

and all other matters will be dealt with at the hearing of the claim.

(6) The court will serve on all the parties—

(a) a copy of the order made under paragraph (5); and

(b) where no notice was required under paragraph (3)(b), a copy of the defendant’s application to set aside and the witness statement in support.

(7) Where notice is required under paragraph (3)(b), the court may treat the hearing of the application to set aside as the hearing of the claim.]

[^{F1399}Stay of possession proceedings, coronavirus

55.29.—(1) Subject to paragraph (2), all possession proceedings brought under this Part and all enforcement proceedings by way of writ or warrant of possession that are—

(a) stayed immediately prior to this rule coming into force; or

(b) brought after this rule comes into force and on or before [^{F1400}19 September 2020],

are stayed until [^{F1401}20 September 2020].

(2) Paragraph (1) does not apply to—

(a) a claim against trespassers to which rule 55.6 applies;

(b) proceedings under Section III of this Part;

(c) an application for case management directions that are agreed by all the parties; or

(d) a claim for injunctive relief.

(3) Paragraph (1) does not prevent the bringing of a claim notwithstanding that it may be stayed.

(4) For the purposes of the application of any rule to any proceedings that are stayed by paragraph (1)—

(a) time does not run; and

(b) no notice is required to be given by the court.]

Textual Amendments

F1399Rule 55.29 inserted (25.6.2020) by [The Civil Procedure \(Amendment No. 2\) \(Coronavirus\) Rules 2020 \(S.I. 2020/582\)](#), rules 1, **2(b)**

F1400 Words in rule 55.29(1) substituted (22.8.2020) by [The Civil Procedure \(Amendment No. 5\) \(Coronavirus\) Rules 2020 \(S.I. 2020/889\)](#), rules 1, **2(a)**

F1401 Words in rule 55.29(1) substituted (22.8.2020) by [The Civil Procedure \(Amendment No. 5\) \(Coronavirus\) Rules 2020 \(S.I. 2020/889\)](#), rules 1, **2(b)**

^{F1402}IV RENTING HOMES WALES - GENERAL RULES

Textual Amendments

F1402 Pt. 55 Section 4 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **22(2)**

Interpretation

55.30. In this Section of this Part—

- (a) “the 2016 Act” means the Renting Homes (Wales) Act 2016;
- (b) “a contract-holder” is the person who makes an occupation contract with a landlord and is a contract-holder under sections 7 and 48 of the 2016 Act;
- (c) “Convention rights” has the meaning provided by the Human Rights Act 1998;
- (d) “a dwelling” means a dwelling let under an occupation contract;
- (e) “an extended possession order” means an order for possession against a sub-holder under section 65 of the 2016 Act;
- (f) “an occupation contract” is a tenancy or licence that is an occupation contract under section 7 of the 2016 Act;
- (g) “a prohibited conduct standard contract order claim” means a claim under section 116 of the 2016 Act;
- (h) “a Renting Homes possession claim” means a claim for the recovery of possession of a dwelling under the 2016 Act;
- (i) “a sub-holder” has the meaning provided by section 59(8) of the 2016 Act;
- (j) “a standard contract” has the meaning provided by section 8 of the 2016 Act.

Scope

55.31.—(1) The procedure set out in this Section of this Part must be used where the claim is a Renting Homes possession claim.

(Where a prohibited conduct standard contract order claim is made in the same claim form in which a Renting Homes possession claim is made, this Section of this Part applies. Where the claim is a prohibited conduct standard contract order claim only, Section III of Part 65 applies.)

(2) This Section of this Part—

- (a) is subject to any enactment or practice direction which sets out special provisions with regard to any particular category of claim;
- (b) does not apply where the claimant uses the procedure set out in Section V of this Part;
- (c) applies irrespective of whether an application for an extended possession order may be made in the course of the Renting Homes possession claim.

(8) 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 46.

Starting the claim

55.32.—(1) In the County Court—

- (a) the claimant may make the claim at any County Court hearing centre, unless paragraph (2) applies or an enactment provides otherwise;
- (b) the claim is to be issued by the hearing centre where the claim is made; and
- (c) if that hearing centre does not serve the address where the dwelling is situated, the claim is to be sent, after issue, to the hearing centre serving that address.

(Practice Direction 55A includes further direction in respect of claims which are not made at the County Court hearing centre which serves the address where the dwelling is situated.)

(2) The claim may be started in the High Court if the claimant files with their claim form a certificate stating the reasons for bringing the claim in that court verified by a statement of truth

F1403

(3) The claim form and form of defence sent with it must be in the forms specified in Practice Direction 55A.

Textual Amendments

F1403 Words in rule 55.32(2) omitted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **25(2)**

Particulars of claim

55.33. The particulars of claim must be filed and served with the claim form.

(Part 16 and Practice Direction 55A provide details about the contents of the particulars of claim.)

Hearing date

55.34.—(1) Subject to paragraph (2), the court is to fix a date for the hearing when it issues the claim form.

(2) If the claim has been sent on to the hearing centre which serves the address where the dwelling is situated, that hearing centre is to fix a date for hearing when it receives the claim.

(3) In all Renting Homes possession claims—

- (a) the hearing date is to be not less than 28 days from the date of issue of the claim form;
- (b) the standard period between the issue of the claim form and the hearing is to be not more than 8 weeks; and
- (c) the defendant must be served with the claim form and particulars of claim not less than 21 days before the hearing date.

Defendant's response and adding of sub-holder as a party

55.35.—(1) An acknowledgment of service is not required and Part 10 does not apply.

(2) Where, in any Renting Homes possession claim, the defendant does not file a defence within the time specified in rule 15.4, the defendant may take part in any hearing but the court may take their failure to do so into account when deciding what order to make about costs.

(3) Part 12 (default judgment) does not apply in a claim to which this Section applies.

(4) Where a sub-holder applies to the court to be added as a party to proceedings, the court must add them as a defendant if they are entitled to be a party under section 65(4) of the 2016 Act.

The hearing

55.36.—(1) At the hearing fixed in accordance with rule 55.34 or at any adjournment of that hearing, the court may—

- (a) decide the claim; or
- (b) give case management directions.

(2) Where the claim is genuinely disputed on grounds which appear to be substantial, case management directions given under paragraph (1)(b) will include the allocation of the claim to a track or directions to enable it to be allocated.

(3) Except where—

- (a) the claim is allocated to the fast track [^{F1404}, the intermediate track] or the multi-track; or
- (b) the court orders otherwise,

any fact that needs to be proved by the evidence of witnesses at a hearing referred to in paragraph (1) may be proved by evidence in writing.

(4) All witness statements must be filed and served at least 2 days before the hearing.

(5) Where the claimant serves the claim form and particulars of claim, the claimant must produce at the hearing a certificate of service of those documents and rule 6.17(2)(a) does not apply.

Textual Amendments

F1404 Words in rule 55.36(3)(a) inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **19(3)** (with rule 2)

Allocation

55.37.—(1) When the court decides the track for a Renting Homes possession claim, the matters it must consider include—

- (a) the matters set out in rule [^{F1405}26.13] as modified by the relevant practice direction;
- (b) the amount of any arrears of rent;
- (c) the importance to the defendant of retaining possession of the dwelling;
- (d) the importance of vacant possession to the claimant; and
- (e) if applicable, the alleged conduct of the defendant.

(2) The court may only allocate Renting Homes possession claims to the small claims track if all the parties agree.

(3) Where a Renting Homes possession claim has been allocated to the small claims track the claim must be treated, for the purposes of costs, as if it were proceeding on the fast track except that trial costs are to be in the discretion of the court and must not exceed the amount that would be recoverable under [^{F1406}Part 45] if the value of the claim were up to £3,000.

(4) Where all the parties agree the court may, when it allocates the claim, order that rule 27.14 (costs on the small claims track) applies and, where it does so, paragraph (3) does not apply.

Textual Amendments

F1405 Word in rule 55.37(1)(a) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **19(4)(a)** (with rule 2)

F1406 Words in rule 55.37(3) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **19(4)(b)** (with rule 2)

Electronic issue of certain Renting Homes possession claims

55.38.—(1) A practice direction may make provision for a claimant to start certain types of Renting Homes possession claim in certain courts by requesting the issue of a claim form electronically.

(2) The practice direction may, in particular—

- (a) provide that only particular provisions apply in specific courts;
- (b) specify—
 - (i) the type of claim which may be issued electronically;
 - (ii) the conditions that a claim must meet before it may be issued electronically;
- (c) specify the court where the claim may be issued;
- (d) enable the parties to make certain applications or take further steps in relation to the claim electronically;
- (e) specify the requirements that must be fulfilled in relation to such applications or steps;
- (f) enable the parties to correspond electronically with the court about the claim;
- (g) specify the requirements that must be fulfilled in relation to electronic correspondence;
- (h) provide how any fee payable on the filing of any document is to be paid where the document is filed electronically.

(3) The practice direction may disapply or modify these Rules as appropriate in relation to claims started electronically.]

^{F1407}RENTING HOMES WALES – ACCELERATED POSSESSION CLAIMS OF DWELLINGS LET ON A STANDARD CONTRACT

Textual Amendments

F1407 Pt. 55 Section 5 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **22(2)**

Interpretation

55.39. The definitions set out in rule 55.30 apply to this Section also.

When this Section may be used

55.40.—(1) The claimant may bring a Renting Homes possession claim under this Section of this Part where—

- (a) the claim is brought under—

- (i) section 170(10) of the 2016 Act to recover possession of a dwelling let under a periodic standard contract (following contract-holder's notice);
 - (ii) section 178 of the 2016 Act to recover possession of a dwelling let under a periodic standard contract (landlord's notice);
 - (iii) section 186 of the 2016 Act to recover possession of a dwelling let under a fixed term standard contract (landlord's notice at end of fixed term);
 - (iv) section 191 of the 2016 Act to recover possession of a dwelling let under a fixed term standard contract (following contract-holder's break clause); or
 - (v) section 199 of the 2016 Act to recover possession of a dwelling let on a fixed term standard contract (landlord's break clause); and
- (b) all the conditions listed in rule 55.41 are satisfied.
- (2) The claimant may make the claim at any County Court hearing centre, unless an enactment provides otherwise.
- (3) The claim is to be issued by the hearing centre where the claim is made.
- (4) If the hearing centre where the claim is made does not serve the address where the dwelling is situated, the claim is to be sent, after issue, to the hearing centre serving that address.

Conditions

55.41. The conditions referred to in rule 55.40(1)(b) are that—

- (a) the only purpose of the claim is to recover possession of the dwelling and no other claim is made;
- (b) the claim relates to an occupation contract which is a standard contract; and
- (c) a prescribed notice in accordance with any of the following sections of the 2016 Act was given to the contract-holder—
 - (i) section 171 (if the claim is brought under section 170 of that Act);
 - (ii) section 173 (if the claim is brought under section 178 of that Act);
 - (iii) section 186 (if the claim is brought under that section);
 - (iv) section 192 (if the claim is brought under section 191 of that Act); or
 - (v) section 194 (if the claim is brought under section 199 of that Act).

Claim form

55.42.—(1) The claim form must—

- (a) be in the form specified in Practice Direction 55A; and
 - (b) contain all information and be accompanied by all documents as are required by that form.
- (2) The court is to serve the claim form by first class post (or an alternative service which provides for delivery on the next working day).

Defence

55.43.—(1) A defendant who wishes to—

- (a) oppose the claim; or
- (b) seek a postponement of possession in accordance with rule 55.47,

must file a defence within 14 days after service of the claim form.

- (2) The defence must be in the form specified in Practice Direction 55A.

Claim referred to judge

55.44.—(1) On receipt of the defence the court must—

- (a) send a copy to the claimant; and
- (b) refer the claim and defence to a judge.

(2) Where the period set out in rule 55.43 has expired without the defendant filing a defence—

- (a) the claimant may file a written request for an order for possession; and
- (b) the court must refer that request to a judge.

(3) Where the defence is received after the period set out in rule 55.43 has expired but before a request is filed in accordance with paragraph (2), paragraph (1) still applies.

(4) Where—

- (a) the period set out in rule 55.43 has expired without the defendant filing a defence; and
- (b) the claimant has not made a request for an order for possession under paragraph (2) within 3 months after the expiry of the period set out in rule 55.43,

the claim must be stayed.

Consideration of the claim

55.45.—(1) After considering the claim and any defence, the judge may—

- (a) make an order for possession under rule 55.46 without requiring the attendance of the parties;
- (b) strike out the claim if the claim form discloses no reasonable grounds for bringing the claim; or
- (c) where paragraphs (2) or (3) apply—
 - (i) direct that a date be fixed for a hearing; and
 - (ii) give any appropriate case management directions.

(2) This paragraph applies where the judge is not satisfied either that the claim form was served or that the claimant has established that they are entitled to recover possession from the defendant.

(3) This paragraph applies where—

- (a) an application under section 36 (incomplete written statement) or section 37 (incorrect statement: contract-holder’s application to the court) of the 2016 Act has been made (and not disposed of) in connection with the occupation contract of the dwelling in respect of which the possession claim has been brought;
- (b) the claim is a claim under section 178 or section 199 of the 2016 Act, where the issue of retaliatory possession has been raised under section 217 of the 2016 Act;
- (c) the claim is a claim under section 170, section 178, section 186, section 191 or section 199 of the 2016 Act, where a defence based on the defendant’s Convention rights is raised.

(5) The court is to give all parties not less than 14 days’ notice of a hearing fixed under paragraph (1)(c)(i).

(6) Where a claim is struck out under paragraph (1)(b)—

- (a) the court is to serve its reasons for striking out the claim with the order; and

- (b) the claimant may apply to restore the claim within 28 days after the date the order was served on them.

Possession order

55.46. Except where rules 55.45(1)(b) or (c) apply, the judge must make an order for possession without requiring the attendance of the parties.

Postponement of possession

55.47.—(1) Where the defendant seeks postponement of possession on the ground of exceptional hardship under section 219 of the 2016 Act, the judge may direct a hearing of that issue.

(2) Where the judge directs a hearing under paragraph (1)—

- (a) the hearing must be held before the date on which possession is to be given up; and
- (b) the judge must direct how many days' notice the parties must be given of that hearing.

(3) Where the judge is satisfied, on a hearing directed under paragraph (1), that exceptional hardship would be caused by requiring possession to be given up by the date in the order of possession, the judge may vary the date on which possession must be given up.

Application to set aside or vary

55.48. The court may—

- (a) on application by a party within 14 days of service of the order; or
- (b) of its own initiative,

set aside or vary any order made under rule 55.46.]]

[^{F1408}PART 56

LANDLORD AND TENANT CLAIMS AND MISCELLANEOUS PROVISIONS ABOUT LAND [^{F1409}AND CLAIMS UNDER THE RENTING HOMES (WALES) ACT 2016]

Textual Amendments

F1408Pt. 56 inserted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 2](#) (with [rule 31](#))

F1409Words in Pt. 56 heading inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), [23\(1\)](#)

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I–LANDLORD AND TENANT CLAIMS

Scope and interpretation

56.1.—(1) In this Section of this Part “landlord and tenant claim” means a claim under—

- (a) the Landlord and Tenant Act 1927(**11**);
- (b) the Leasehold Property (Repairs) Act 1938(**12**);
- (c) the Landlord and Tenant Act 1954(**13**);
- (d) the Landlord and Tenant Act 1985(**14**); ^{F1411}...
- (e) the Landlord and Tenant Act 1987(**15**)[^{F1412}; or]

[section 214 of the Housing Act 2004.]
^{F1413}(f)

(2) A practice direction may set out special provisions with regard to any particular category of landlord and tenant claim.

Textual Amendments

F1411 Word in rule 56.1(1)(d) omitted (1.10.2008) by virtue of [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **29(a)(i)**

F1412 Word in rule 56.1(1)(e) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **29(a)(ii)**

F1413 Rule 56.1(1)(f) inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **29(a)(iii)**

Starting the claim

56.2.—[^{F1414}(1) In the County Court—

(11) 1978 c. 33.

(12) 1981 c. 54. Section 35A was inserted by the Administration of Justice Act 1982 (c. 53), section 15(1), Schedule 1, Part I.

(13) 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), section 125(3), Schedule 18, paragraph 46.

(14) 1997 c. 27.

(15) 1980 c. 58.

- (a) the claim may be made at any County Court hearing centre, unless paragraph (2) applies or an enactment provides otherwise;
- (b) the claim will be issued by the hearing centre where the claim is made; and
- (c) if the claim is not made at the County Court hearing centre which serves the address where the land is situated, the claim will be sent to the hearing centre serving that address.

(Practice Direction 56 includes further direction in respect of claims which are not made at the County Court hearing centre which serves the address where the land is situated.)]

(2) ^{F1415}Unless an enactment provides otherwise, the claim] may be started in the High Court if the claimant files with ^{F1416}the] claim form a certificate stating the reasons for bringing the claim in that court verified by a statement of truth ^{F1417}....

(3) ^{F1418}Practice Direction 55A] refers to circumstances which may justify starting the claim in the High Court.

^{F1419}(4)

Textual Amendments

- F1414**Rule 56.2(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **23**; S.I. 2014/954, art. 2(a)
- F1415**Words in rule 56.2 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **29(b)(i)**
- F1416**Word in rule 56.2 substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **29(b)(ii)**
- F1417**Words in rule 56.2(2) omitted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **26**
- F1418**Words in rule 56.2(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **31(a)**
- F1419**Rule 56.2(4) omitted (1.6.2004) by virtue of [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(a), **15(b)** (with rule 20(1))

^{F1420}Claims for a new tenancy under section 24 and for the termination of a tenancy under section 29(2) of the Landlord and Tenant Act 1954

56.3.—(1) This rule applies to a claim for a new tenancy under section 24 and to a claim for the termination of a tenancy under section 29(2) of the 1954 Act.

(2) In this rule—

- (a) “the 1954 Act” means the Landlord and Tenant Act 1954;
- (b) “an unopposed claim” means a claim for a new tenancy under section 24 of the 1954 Act in circumstances where the grant of a new tenancy is not opposed;
- (c) “an opposed claim” means a claim for—
 - (i) a new tenancy under section 24 of the 1954 Act in circumstances where the grant of a new tenancy is opposed; or
 - (ii) the termination of a tenancy under section 29(2) of the 1954 Act.

(3) Where the claim is an unopposed claim—

- (a) the claimant must use the Part 8 procedure, but the following rules do not apply—
 - (i) rule 8.5; and
 - (ii) rule 8.6; ^{F1421}and]

^{F1422}(b)

(c) the court will give directions about the future management of the claim following receipt of the acknowledgment of service.

[^{F1423}(4) Where the claim is an opposed claim the claimant must use the Part 7 procedure.]

([^{F1424}Practice Direction 56] contains provisions about evidence, including expert evidence in opposed claims)]

Textual Amendments

F1420Rule 56.3 substituted (1.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004](#) (S.I. 2004/1306), rules 1(a), **16** (with rule 20(1))

F1421Word in rule 56.3(3)(a)(ii) inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **29(c)(i)**

F1422Rule 56.3(3)(b) omitted (1.10.2008) by virtue of [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **29(c)(ii)**

F1423Rule 56.3(4) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **29(c)(iii)**

F1424Words in rule 56.3 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **31(b)**

II—MISCELLANEOUS PROVISIONS ABOUT LAND

Scope

56.4 A practice direction may set out special provisions with regard to claims under the following enactments—

- (a) the Chancel Repairs Act 1932(**17**);
- (b) the Leasehold Reform Act 1967(**18**);
- (c) the Access to Neighbouring Land Act 1992; ^{F1425}...
- (d) the Leasehold Reform, Housing and Urban Development Act 1993 [^{F1426}; and
- (e) the Commonhold and Leasehold Reform Act 2002]

Textual Amendments

F1425Word in rule 56.4(c) omitted (1.4.2003) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2002](#) (S.I. 2002/3219), rules 1, **7(a)**

F1426Rule 56.4(e) and word inserted (1.4.2003) by [The Civil Procedure \(Amendment No. 2\) Rules 2002](#) (S.I. 2002/3219), rules 1, **7(b)**

(17) 1995 c. 21.

(18) 1980 c. 58.

*^{F1427}III APPLICATIONS AND CLAIMS TO THE COURT
UNDER THE RENTING HOMES (WALES) ACT 2016*

Textual Amendments

F1427Pt. 56 Section 3 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **23(3)**

Scope and interpretation

56.5.—(1) In this Section of this Part —

- (a) “the 2016 Act” means the Renting Homes (Wales) Act 2016;
- (b) “Renting Homes (Wales) claim” means a claim or application under the 2016 Act other than a claim —
 - (i) for possession;
 - (ii) for a prohibited conduct standard contract order under section 116 of the 2016 Act;
 - (iii) to which the Pre-Action Protocol for Housing Disrepair Cases applies; or
 - (iv) brought in the same proceedings as a claim [^{F1428}referred to in paragraphs (i) to (iii)];
 and includes an appeal under section 78 of the 2016 Act;
- (c) “the claimant” means the person making the Renting Homes (Wales) claim, irrespective of whether it is a claim or application under the 2016 Act.

Textual Amendments

F1428Words in [rule 56.5\(1\)\(b\)\(iv\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **29**

Making the Renting Homes (Wales) claim

56.6. In the County Court, the Renting Homes (Wales) claim—

- (a) may be made at any County Court hearing centre;
- (b) is to be issued by the hearing centre where the claim is made; and
- (c) if not made at the County Court hearing centre which serves the address where the land is situated, is to be sent to the hearing centre serving that address.

Further provision for Renting Homes (Wales) claims

56.7. A practice direction may set out provisions with regard to Renting Homes (Wales) claims.]]

[^{F1429}PART 57

[^{F1430}PROBATE, INHERITANCE, PRESUMPTION OF DEATH AND GUARDIANSHIP OF MISSING PERSONS]

Textual Amendments

F1429Pt. 57 inserted (15.10.2001) by The Civil Procedure (Amendment No. 2) Rules 2001 (S.I. 2001/1388), rule 1(b), Sch. (with rule 19)

F1430Pt. 57 heading substituted (31.7.2019) by The Civil Procedure (Amendment No. 2) Rules 2019 (S.I. 2019/1034), rules 1(1), 3

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SECTION III—SUBSTITUTION AND REMOVAL OF PERSONAL REPRESENTATIVES	Rule 57.13
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Death of the missing person	Rule 57.33]

Scope of this Part and definitions

57.1.—(1) This Part contains rules about—

- (a) probate claims;
- (b) claims for the rectification of wills; ^{F1434} ...
- (c) claims and applications to—
 - (i) substitute another person for a personal representative; or
 - (ii) remove a personal representative [^{F1435}, ^{F1436} ...
- (d) claims under the Inheritance (Provision for Family and Dependents) Act 1975][^{F1437}, ^{F1438} ...
- (e) proceedings under the Presumption of Death Act 2013][^{F1439}; and]

[proceedings under the Guardianship (Missing Persons) Act 2017.]

F1440(f)

(2) In this Part:

(a) “probate claim” means a claim for—

(i) the grant of probate of the will, or letters of administration of the estate, of a deceased person;

(ii) the revocation of such a grant; or

(iii) a decree pronouncing for or against the validity of an alleged will;

not being a claim which is non-contentious (or common form) probate business;

(Section 128 of the Supreme Court Act 1981(5) defines non-contentious (or common form) probate business.)

(b) “relevant office” means—

(i) in the case of High Court proceedings in a Chancery district registry, that registry;

(ii) in the case of any other High Court proceedings, Chancery Chambers at the Royal Courts of Justice, Strand, London, WC2A 2LL; and

[^{F1441}(iii) in the case of County Court proceedings, the office of the County Court hearing centre in question;]

(c) “testamentary document” means a will, a draft of a will, written instructions for a will made by or at the request of, or under the instructions of, the testator, and any document purporting to be evidence of the contents, or to be a copy, of a will which is alleged to have been lost or destroyed;

(d) “will” includes a codicil.

Textual Amendments

F1434Word in rule 57.1(1)(b) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002](#) (S.I. 2002/2058), rules 1(b), **23(c)(i)**

F1435Rule 57.1(1)(d) and word inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002](#) (S.I. 2002/2058), rules 1(b), **23(c)(ii)**

F1436Word in rule 57.1(1)(c) omitted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), rules 2, **10(c)(i)**

F1437Rule 57.1(1)(e) and word substituted for full stop (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), rules 2, **10(c)(ii)**

F1438Word in rule 57.1(1)(d) omitted (31.7.2019) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2019](#) (S.I. 2019/1034), rules 1(1), **5(a)**

F1439Word in rule 57.1(1)(e) substituted (31.7.2019) by [The Civil Procedure \(Amendment No. 2\) Rules 2019](#) (S.I. 2019/1034), rules 1(1), **5(b)**

F1440Rule 57.1(1)(f) inserted (31.7.2019) by [The Civil Procedure \(Amendment No. 2\) Rules 2019](#) (S.I. 2019/1034), rules 1(1), **5(c)**

F1441Rule 57.1(2)(b)(iii) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **24(a)**; S.I. 2014/954, art. 2(a)

SECTION I—PROBATE CLAIMS

General

- 57.2.**—(1) This Section contains rules about probate claims.
- (2) Probate claims in the High Court are assigned to the Chancery Division.
- [^{F1442}(3) Probate claims in the [^{F18}County Court] must only be [^{F1443}started by sending the claim to, or making the claim at]—
- (a) a [^{F1444}County Court hearing centre] where there is also a Chancery district registry; or
- (b) the [^{F1445}County Court at Central London].]
- (4) All probate claims are allocated to the multi-track.

Textual Amendments

- F18** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)
- F1442** [Rule 57.2\(3\)](#) substituted (6.10.2003) by [The Civil Procedure \(Amendment No. 4\) Rules 2003](#) (S.I. 2003/2113), rules 1(c), **15**
- F1443** Words in [rule 57.2\(3\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **24(b)(i)**; S.I. 2014/954, art. 2(a)
- F1444** Words in [rule 57.2\(3\)\(a\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **24(b)(ii)**; S.I. 2014/954, art. 2(a)
- F1445** Words in [rule 57.2\(3\)\(b\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **24(b)(iii)**; S.I. 2014/954, art. 2(a)

How to start a probate claim

- 57.3** A probate claim must be commenced—
- (a) in the relevant office; and
- (b) using the procedure in Part 7.

Acknowledgment of service and defence

- 57.4.**—(1) A defendant who is served with a claim form must file an acknowledgment of service.
- (2) Subject to paragraph (3), the period for filing an acknowledgment of service is—
- (a) if the defendant is served with a claim form which states that particulars of claim are to follow, 28 days after service of the particulars of claim; and
- (b) in any other case, 28 days after service of the claim form.
- (3) If the claim form is served out of the jurisdiction under rule [^{F1446}6.32 or 6.33], the period for filing an acknowledgment of service is 14 days longer than the relevant period specified in rule [^{F1447}6.35] or [^{F1448}Practice Direction 6B].
- (4) Rule 15(4) (which provides the period for filing a defence) applies as if the words “under Part 10” were omitted from rule 15.4(1)(b).

Textual Amendments

- F1446** Words in rule 57.4(3) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **30(a)(i)**
- F1447** Word in rule 57.4(3) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **30(a)(ii)**
- F1448** Words in rule 57.4(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(a)**

Lodging of testamentary documents and filing of evidence about testamentary documents

57.5.—(1) Any testamentary document of the deceased person in the possession or control of any party must be lodged with the court.

(2) Unless the court directs otherwise, the testamentary documents must be lodged in the relevant office—

- (a) by the claimant when the claim form is issued; and
- (b) by a defendant when he acknowledges service.

(3) The claimant and every defendant who acknowledges service of the claim form must in written evidence—

- (a) describe any testamentary document of the deceased of which he has any knowledge or, if he does not know of any such testamentary document, state that fact, and
- (b) if any testamentary document of which he has knowledge is not in his possession or under his control, give the name and address of the person in whose possession or under whose control it is or, if he does not know the name or address of that person, state that fact.

(A specimen form for the written evidence about testamentary documents is annexed to [F1449 Practice Direction 57].)

(4) Unless the court directs otherwise, the written evidence required by paragraph (3) must be filed in the relevant office—

- (a) by the claimant, when the claim form is issued; and
- (b) by a defendant when he acknowledges service.

(5) Except with the permission of the court, a party shall not be allowed to inspect the testamentary documents or written evidence lodged or filed by any other party until he himself has lodged his testamentary documents and filed his evidence.

(6) The provisions of paragraphs (2) and (4) may be modified by a practice direction under this Part.

Textual Amendments

- F1449** Words in rule 57.5 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(b)(i)**

Revocation of existing grant

57.6.—(1) In a probate claim which seeks the revocation of a grant of probate or letters of administration every person who is entitled, or claims to be entitled, to administer the estate under that grant must be made a party to the claim.

(2) If the claimant is the person to whom the grant was made, he must lodge the probate or letters of administration in the relevant office when the claim form is issued.

(3) If a defendant has the probate or letters of administration under his control, he must lodge it in the relevant office when he acknowledges service.

(4) Paragraphs (2) and (3) do not apply where the grant has already been lodged at the court, which in this paragraph includes the Principal Registry of the Family Division or a district probate registry.

Contents of statements of case

57.7.—(1) The claim form must contain a statement of the nature of the interest of the claimant and of each defendant in the estate.

(2) If a party disputes another party’s interest in the estate he must state this in his statement of case and set out his reasons.

(3) Any party who contends that at the time when a will was executed the testator did not know of and approve its contents must give particulars of the facts and matters relied on.

(4) Any party who wishes to contend that—

- (a) a will was not duly executed;
- (b) at the time of the execution of a will the testator [^{F1450}lacked testamentary capacity]; or
- (c) the execution of a will was obtained by undue influence or fraud,

must set out the contention specifically and give particulars of the facts and matters relied on.

- (a) (5) (a) A defendant may give notice in his defence that he does not raise any positive case, but insists on the will being proved in solemn form and, for that purpose, will cross-examine the witnesses who attested the will.
- (b) If a defendant gives such a notice, the court will not make an order for costs against him unless it considers that there was no reasonable ground for opposing the will.

Textual Amendments

F1450 Words in rule 57.7(4)(b) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **8**

Counterclaim

57.8.—(1) A defendant who contends that he has any claim or is entitled to any remedy relating to the grant of probate of the will, or letters of administration of the estate, of the deceased person must serve a counterclaim making that contention.

(2) If the claimant fails to serve particulars of claim within the time allowed, the defendant may, with the permission of the court, serve a counterclaim and the probate claim shall then proceed as if the counterclaim were the particulars of claim.

Probate counterclaim in other proceedings

57.9.—(1) In this rule “probate counterclaim” means a counterclaim in any claim other than a probate claim by which the defendant claims any such remedy as is mentioned in rule 57.1(2)(a).

(2) Subject to the following paragraphs of this rule, this Part shall apply with the necessary modifications to a probate counterclaim as it applies to a probate claim.

(3) A probate counterclaim must contain a statement of the nature of the interest of each of the parties in the estate of the deceased to which the probate counterclaim relates.

(4) Unless an application notice is issued within 7 days after the service of a probate counterclaim for an order under rule 3.1(2)(e) or 3.4 for the probate counterclaim to be dealt with in separate proceedings or to be struck out, and the application is granted, the court [^{F1451}will] order the transfer of the proceedings to either—

(a) the Chancery Division (if it is not already assigned to that Division) and to either the Royal Courts of Justice or a Chancery district registry (if it is not already proceeding in one of those places); or

[^{F1452}(b) if the County Court has jurisdiction, to a County Court hearing centre where there is also a Chancery District Registry or the County Court at Central London.]

(5) If an order is made that a probate counterclaim be dealt with in separate proceedings, the order shall order the transfer of the probate counterclaim as required under paragraph (4).

Textual Amendments

F1451 Word in rule 57.9(4) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), [24\(c\)\(i\)](#); S.I. 2014/954, art. 2(a)

F1452 Rule 57.9(4)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), [24\(c\)\(ii\)](#); S.I. 2014/954, art. 2(a)

Failure to acknowledge service or to file a defence

57.10.—(1) A default judgment cannot be obtained in a probate claim and rule 10.2 and Part 12 do not apply.

(2) If any of several defendants fails to acknowledge service the claimant may—

(a) after the time for acknowledging service has expired; and

(b) upon filing written evidence of service of the claim form and (if no particulars of claim were contained in or served with the claim form) the particulars of claim on that defendant;

proceed with the probate claim as if that defendant had acknowledged service.

(3) If no defendant acknowledges service or files a defence then, unless on the application of the claimant the court orders the claim to be discontinued, the claimant may, after the time for acknowledging service or for filing a defence (as the case may be) has expired, apply to the court for an order that the claim is to proceed to trial.

(4) When making an application under paragraph (3) the claimant must file written evidence of service of the claim form and (if no particulars of claim were contained in or served with the claim form) the particulars of claim on each of the defendants.

(5) Where the court makes an order under paragraph (3), it may direct that the claim be tried on written evidence.

Discontinuance and dismissal

57.11.—(1) Part 38 does not apply to probate claims.

(2) At any stage of a probate claim the court, on the application of the claimant or of any defendant who has acknowledged service, may order that—

(a) the claim be discontinued or dismissed on such terms as to costs or otherwise as it thinks just; and

- (b) a grant of probate of the will, or letters of administration of the estate, of the deceased person be made to the person entitled to the grant.

SECTION II—RECTIFICATION OF WILLS

57.12.—(1) This Section contains rules about claims for the rectification of a will.

(Section 20 of the Administration of Justice Act 1982⁽⁶⁾ provides for rectification of a will. Additional provisions are contained in rule 55 of the Non-Contentious Probate Rules 1987⁽⁷⁾.)

(2) Every personal representative of the estate shall be joined as a party.

(3) [^{F1453}Practice Direction 57] makes provision for lodging the grant of probate or letters of administration with the will annexed in a claim under this Section.

Textual Amendments

F1453 Words in rule 57.12(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(c)**

SECTION III—SUBSTITUTION AND REMOVAL OF PERSONAL REPRESENTATIVES

57.13.—(1) This Section contains rules about claims and applications for substitution or removal of a personal representative.

(2) Claims under this Section must be brought in the High Court and are assigned to the Chancery Division.

(Section 50 of the Administration of Justice Act 1985⁽⁸⁾ gives the High Court power to appoint a substitute for, or to remove, a personal representative.)

(3) Every personal representative of the estate shall be joined as a party.

(4) [^{F1454}Practice Direction 57] makes provision for lodging the grant of probate or letters of administration in a claim under this Section.

(5) If substitution or removal of a personal representative is sought by application in existing proceedings, this rule shall apply with references to claims being read as if they referred to applications.

Textual Amendments

F1454 Words in rule 57.13(4) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(c)**

⁽⁶⁾ 1974 c. 39.

⁽⁷⁾ 1981 c. 54. Section 35A was inserted by the Administration of Justice Act 1982 (c. 53), section 15(1), Schedule 1, Part I.

⁽⁸⁾ 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 46.

**[^{F1455}IV CLAIMS UNDER THE INHERITANCE
(PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975**

Textual Amendments

F1455Pt. 57 Section 4 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 4 Pt. 2**

Scope of this Section

57.14 This Section contains rules about claims under the Inheritance (Provision for Family and Dependents) Act 1975(**5**) (“the Act”).

Proceedings in the High Court

57.15.—(1) Proceedings in the High Court under the Act shall be issued in either—

- (a) the Chancery Division; or
- (b) the Family Division.

(2) The Civil Procedure Rules apply to proceedings under the Act which are brought in the Family Division, except that the provisions of the Family Proceedings Rules 1991(**6**) relating to the drawing up and service of orders apply instead of the provisions in Part 40 and [^{F1456}Practice Direction 40B].

Textual Amendments

F1456Words in rule 57.15(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **32(d)**

Procedure for claims under section 1 of the Act

57.16.—(1) A claim under section 1 of the Act must be made by issuing a claim form in accordance with Part 8.

(2) Rule 8.3 (acknowledgment of service) and rule 8.5 (filing and serving written evidence) apply as modified by paragraphs (3) to (5) of this rule.

(3) The written evidence filed and served by the claimant with the claim form must [^{F1457}, except in the circumstances specified in paragraph (3A),] have exhibited to it an official copy of—

- (a) the grant of probate or letters of administration in respect of the deceased’s estate; and
- (b) every testamentary document in respect of which probate or letters of administration were granted.

[^{F1458}(3A) Where no grant has been obtained, the claimant may make a claim without naming a defendant and may apply for directions as to the representation of the estate. The written evidence must—

- (a) explain the reasons why it has not been possible for a grant to be obtained;

(5) 1983 c. 20.
(6) 1974 c. 39.

- (b) be accompanied by the original or a copy (if either is available) of the will or other testamentary document in respect of which probate or letters of administration are to be granted; and
- (c) contain the following information, so far as known to the claimant—
 - (i) brief details of the property comprised in the estate, with an approximate estimate of its capital value and any income that is received from it;
 - (ii) brief details of the liabilities of the estate;
 - (iii) the names and addresses of the persons who are in possession of the documents relating to the estate; and
 - (iv) the names of the beneficiaries and their respective interests in the estate.

(3B) Where a claim is made in accordance with paragraph (3A), the court may give directions as to the parties to the claim and as to the representation of the estate either on the claimant's application or on its own initiative.

(Section 4 of the 1975 Act as amended confirms that nothing prevents the making of an application under the Act before representation with respect to the estate of the deceased person is taken out.)]

- (4) [^{F1459}Subject to paragraph (4A), the time] within which a defendant must file and serve—
 - (a) an acknowledgment of service; and
 - (b) any written evidence,

is not more than 21 days after service of the claim form on him.

[^{F1460}(4A) If the claim form is served out of the jurisdiction under rule [^{F1461}6.32 or 6.33], the period for filing an acknowledgment of service and any written evidence is 7 days longer than the relevant period specified in rule [^{F1462}6.35] or [^{F1463}Practice Direction 6B].]

(5) A defendant who is a personal representative of the deceased must file and serve written evidence, which must include the information required by [^{F1464}Practice Direction 57].]

Textual Amendments

F1457 Words in rule 57.16(3) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), rules 2, **10(d)(i)**

F1458 Rule 57.16(3A)(3B) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), rules 2, **10(d)(ii)**

F1459 Words in rule 57.16(4) substituted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004](#) (S.I. 2004/1306), rules 1(b), **17(a)**

F1460 Rule 57.16(4A) inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004](#) (S.I. 2004/1306), rules 1(b), **17(b)**

F1461 Words in rule 57.16(4A) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **30(b)(i)**

F1462 Word in rule 57.16(4A) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **30(b)(ii)**

F1463 Words in rule 57.16(4A) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **32(e)**

F1464 Words in rule 57.16(5) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **32(b)(ii)**

F¹⁴⁶⁵SECTION V

Proceedings under the Presumption of Death Act 2013

Textual Amendments

F1465Pt. 57 Section 5 inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rule 2, Sch.

Scope and interpretation

57.17.—(1) This Section contains rules about proceedings under the Presumption of Death Act 2013.

(2) In this Section, terms used in the Presumption of Death Act 2013 Act have the meaning given by that Act, and—

- (a) “the 2013 Act” means the Presumption of Death Act 2013;
- (b) “a claim for a declaration of presumed death” means a claim under section 1 of the 2013 Act for a declaration that a missing person is presumed to be dead;
- (c) “a claim for a variation order” means a claim for an order under section 5 of the 2013 Act varying or revoking a declaration of presumed death.

Proceedings to be in the High Court

57.18.—(1) Proceedings under the 2013 Act must be issued in the High Court in either—

- (a) the Chancery Division; or
- (b) the Family Division.

(2) The Civil Procedure Rules apply to proceedings under the 2013 Act which are brought in the Family Division, except that the provisions of the Family Procedure Rules 2010 relating to the drawing up and service of orders apply instead of the provisions in Part 40 and Practice Direction 40B.

Procedure for claims for a declaration of presumed death or a variation order

57.19.—(1) A claim for a declaration of presumed death or for a variation order must be made by issuing a claim form in accordance with Part 8.

(2) In addition to the matters set out in rule 8.2 (contents of the claim form), the claim form must also include or be accompanied by the information required by Practice Direction 57B.

(3) Rules 8.2A, 8.3, 8.4 and 8.5 apply as modified by paragraphs (4) to (7) of this rule (and references elsewhere in these Rules to a defendant and to an acknowledgment of service are, where relevant, to be read as references to the substitute terms in rules 8.2A, 8.3, 8.4 and 8.5 as so modified).

(4) Rule 8.2A (issue of claim form without naming defendants) applies as if for “without naming a defendant” in paragraph (1) there were substituted “without serving notice on any person”.

(5) Rule 8.3 (acknowledgment of service) applies—

- (a) as if, instead of referring to a defendant, it referred to a person giving notice of intention to intervene or applying for permission to intervene, as the case may be;
- (b) as if, instead of referring to an acknowledgment of service, it referred to a notice of intention to intervene or an application for permission to intervene, as the case may be; and

- (c) subject to paragraph (7), with the substitution of 21 days for 14 days as the time within which the notice of intention to intervene or application for permission to intervene must be filed and served.
- (6) Rules 8.4 (consequence of not filing an acknowledgment of service) and 8.5 (filing and serving written evidence) apply—
- (a) as if, instead of referring to a defendant, they referred to a person giving notice of intention to intervene or applying for permission to intervene, as the case may be; and
 - (b) as if, instead of referring to an acknowledgment of service, they referred to a notice of intention to intervene or an application for permission to intervene, as the case may be.
- (7) If the claim form is served out of the jurisdiction under rule 6.32 or 6.33, the period for filing notice of intention to intervene or an application for permission to intervene, as the case may be, and any written evidence, is 7 days longer than the relevant period for serving an acknowledgement of service specified in rule 6.35 or Practice Direction 6B.

Giving notice of claim

57.20.—(1) Where the claim is for a declaration of presumed death, the claimant must give notice of the claim by serving a copy of it on the following persons (where not the claimant)—

- (a) the spouse or civil partner of the missing person;
- (b) any parent of the missing person;
- (c) any child of the missing person;
- (d) any sibling of the missing person;
- (e) if there are no persons within sub-paragraphs (a) to (d), the nearest relative of the missing person known to the claimant; and
- (f) any other person (including in particular any insurance company) appearing to the claimant to have an interest in the claim.

(2) Where the claim is for a variation order, the claimant must give notice of the claim by serving a copy of it on the following persons (where not the claimant)—

- (a) the person who was the claimant for the declaration of presumed death or (as the case may be) previous variation order which it is sought to have varied or revoked;
- (b) the spouse or civil partner of the missing person;
- (c) any parent of the missing person;
- (d) any child of the missing person;
- (e) any sibling of the missing person;
- (f) if there are no persons within sub-paragraphs (b) to (e), the nearest relative of the missing person known to the claimant; and
- (g) any other person (including in particular any insurance company) appearing to the claimant to have an interest in the claim.

(3) Notice under paragraph (1)(a) to (f) or paragraph (2)(a) to (g) must be given within 7 days after the claim is issued.

Advertisement of claim

57.21.—(1) The claimant (whether the claim is for a declaration of presumed death or for a variation order) must, within 7 days of issue of the claim, ensure that notice of the claim is published—

- (a) in a form which meets the requirements set out in Practice Direction 57B; and
- (b) in at least one newspaper circulating in the vicinity of the last known address of the missing person.

(2) The claimant must, at least 5 days before the hearing, file a copy of the page of the newspaper bearing the advertisement of notice of the claim required by paragraph (1) and the date on which it was published.

Interveners

57.22.—(1) The Attorney General, or a person who is entitled to intervene in proceedings under section 11(1), must first notify the court of the intention to intervene in accordance with the requirements of Practice Direction 57B.

(2) Any other person who wishes to intervene in such proceedings must submit an application for permission to intervene in accordance with the requirements of Practice Direction 57B.

(3) Where the court grants permission to intervene, it may do so on conditions and may give case management directions.

(4) The court may direct that a person who intervenes in proceedings, other than the Attorney General, be joined as a claimant or defendant.

Requirement to provide information

57.23.—(1) An application for an order under section 12(1) of the 2013 Act must be supported by evidence and must in particular—

- (a) specify or describe the information in respect of which the order is sought;
- (b) set out the reasons why the person making the application believes that the person against whom the order is sought is likely to have such information; and
- (c) include any further details, where known, of the missing person which are likely to assist in providing the information sought.

(2) The person making the application must serve a copy of the application notice on the person against whom the order is sought, and on every other party to the proceedings (within the meaning of section 20(2) of the 2013 Act), at least 14 days before the date fixed for the hearing of the application.

(3) An application for discharge or variation under section 12(6) of an order made under section 12(1) may be made without notice unless the court directs otherwise.]

[^{F1466}Requirement to send copy of declaration to the Public Guardian

57.24. Where a declaration of presumed death made under the 2013 Act satisfies section 3(3)(a) or (b) of that Act, the court must send a copy of the declaration to the Public Guardian.]

Textual Amendments

F1466Rule 57.24 inserted (31.7.2019) by [The Civil Procedure \(Amendment No. 2\) Rules 2019 \(S.I. 2019/1034\)](#), rules 1(1), 6

^{F1467}SECTION VI

PROCEEDINGS UNDER THE GUARDIANSHIP (MISSING PERSONS) ACT 2017

Textual Amendments

F1467Pt. 57 Section 6 inserted (31.7.2019) by [The Civil Procedure \(Amendment No. 2\) Rules 2019 \(S.I. 2019/1034\)](#), rule 1(1), [Sch.](#)

Scope and interpretation

57.25.—(1) This Section contains rules about proceedings under the Guardianship (Missing Persons) Act 2017.

(2) In this Section, terms used in the Guardianship (Missing Persons) Act 2017 have the meaning given by that Act, and—

- (a) “the 2017 Act” means the Guardianship (Missing Persons) Act 2017;
- (b) “the missing person” means the person who is or has been asserted to be “missing” within the meaning of the 2017 Act;
- (c) “a claim for a guardianship order” means an application under section 2 (applying for a guardianship order) of the 2017 Act for a guardianship order;
- (d) “an application for a revocation/variation order” means—
 - (i) an application under section 12 (variation of a guardianship order) of the 2017 Act for an order varying a guardianship order; or
 - (ii) an application under section 13 (revocation of a guardianship order) of the 2017 Act for an order revoking a guardianship order;
- (e) “an application relating to a guardianship order” means any application which relates to the exercise of functions of a guardian but which is not a claim for a guardianship order or an application for a revocation/variation of a guardianship order;
- (f) “an intervener” means either a person who falls within section 21(1) of the 2017 Act and who has given notice of intention to intervene, or a person to whom the court has given permission to intervene.

Proceedings to be in the High Court

57.26.—(1) Proceedings under the 2017 Act must be issued in the High Court in either—

- (a) the Chancery Division; or
- (b) the Family Division.

(2) The Civil Procedure Rules apply to proceedings under the 2017 Act which are brought in the Family Division, except that in the Family Division the provisions of Part 29 of the Family Procedure Rules 2010 relating to the drawing up and service of orders shall apply instead of the provisions in the Civil Procedure Rules Part 40 and Practice Direction 40B.

Procedure for making claims for a guardianship order

57.27.—(1) A claim for a guardianship order must be made by issuing a claim form in accordance with Part 8.

(2) Following issue, the court shall fix a date for the first hearing of the claim and which shall, unless the court otherwise orders, be not less than 56 days from the date of issue; but any person may apply for the claim or an application to be heard at an earlier date.

(3) In addition to the matters set out in rule 8.2 (contents of the claim form), the claim form must also include the information required by paragraph 1.1 of Practice Direction 57C and be accompanied by a witness statement containing the information required by paragraph 1.2 and, where appropriate, paragraph 1.3 of Practice Direction 57C.

- (4) The claim form must name the missing person as the defendant but—
- (a) the claimant need take no steps to serve the claim form upon the missing person unless the court orders otherwise;
 - (b) the court shall consider at the first hearing what, if any, directions to make regarding service or dispensing with service of the claim form upon the missing person;
 - (c) Rules 6.9, 6.15, 6.16 and 7.5 (rules as to service of the claim form) shall not apply.
- (5) Rules 8.3, 8.4 and 8.5 (rules relating to part 8 claims) shall not apply.

(Rule 57.29 sets out further steps that a claimant must take.)

Procedure for making applications for revocation/variation of guardianship orders and applications relating to guardianship orders

57.28.—(1) An application for a revocation/variation order and an application relating to a guardianship order must be made in accordance with Part 23 as modified by this rule and by paragraph 2 of Practice Direction 57C.

(2) In addition to the matters set out in rule 23.6 (what an application notice must include), the application notice must also include, or be accompanied by, a witness statement which contains the information required by paragraph 2 of Practice Direction 57C in relation to that type of application.

(3) Following issue, the court shall fix a date for the first hearing of the application which shall, unless the court otherwise orders, be not less than 56 days from the date of issue; but any person may apply for the application to be heard at an earlier date.

(4) The applicant need take no steps to serve the application or any order upon the missing person unless the court orders otherwise.

(5) Rules 23.9 and 23.11 apply as modified by paragraphs (6) and (7).

(6) Rule 23.9(2) (service of application where application made without notice) applies as if it did not refer to the missing person as defendant, but did refer also to any interveners.

(7) Rule 23.11 (power of court to proceed in the absence of a party) applies as if the words “or any intervener” were inserted after both references to “any respondent”.

(Rules 57.29 and 57.30 set out further steps that applicants must take.)

Giving notice and advertisement of claim for a guardianship order or an application for a revocation/variation order

57.29.—(1) The claimant or applicant must, within 14 days of notification of the date of the first hearing of the claim for a guardianship order or of an application for a revocation/variation order—

- (a) send notice of the claim or application to those of the following persons whose identity and current residential or e-mail address or nominated address for service are known to the claimant or applicant—
 - (i) the spouse or civil partner of the missing person;
 - (ii) any parent of the missing person;
 - (iii) any child of the missing person;
 - (iv) any sibling of the missing person;

- (v) if there are no persons within paragraphs (i) to (iv), the nearest relative of the missing person known to the claimant or applicant;
- (vi) any guardian or any former guardian of the missing person;
- (vii) any person who has previously intervened in and/or become a party to these or any proceedings in which a guardianship order was sought in relation to the missing person,

by sending (subject to any redaction ordered by the court, and subject to paragraph (2)) the material set out in paragraph 3.1 of Practice Direction 57C to the relevant addresses; and

- (b) advertise notice of the claim or application—
 - (i) in a form which meets the requirements set out in paragraph 4.1 of Practice Direction 57C;
 - (ii) in at least one public news media circulating in or relating to the vicinity of the last known usual place of residence of the missing person;
 being “Advertisement of the claim/application”.

(2) If the person has a nominated address for service known to the claimant or applicant, and provided that such address for service has been nominated expressly for the purpose of 2017 Act proceedings, the material need only be sent to that address; and, if the claimant or applicant has no access to any, or no, e-mail address of their own, they need not send the material to any e-mail address.

(3) The claimant or applicant must file at court no later than 7 days before the first hearing of the claim or application, a witness statement—

- (a) confirming compliance with paragraph (1)(a), and attaching Form N215 (Certificate of Service) completed to describe each method of sending to each person, as if references on that form to “service” were to “sending”; and
- (b) confirming compliance with paragraph (1)(b), and containing or attaching evidence of Advertisement of the claim/application, including details of how, where and when it was advertised.

Giving notice and advertisement of applications relating to guardianship orders or the potential exercise of powers under the 2017 Act

57.30.—(1) Unless the court dispenses with the need for notice, notice of an application relating to a guardianship order must be sent to those of the following persons whose identity and current residential or e-mail address or nominated address for service are known to the applicant—

- (a) the spouse or civil partner of the missing person;
- (b) any parent of the missing person;
- (c) any child of the missing person;
- (d) any sibling of the missing person;
- (e) if there are no persons within sub-paragraphs (a) to (d), the nearest relative of the missing person known to the applicant;
- (f) any guardian or any former guardian of the missing person;
- (g) any person who has previously intervened in and/or become a party to these or any proceedings in which a guardianship order was sought in relation to the missing person,

by sending (subject to any redaction ordered by the court, and subject to paragraph (2)) the material set out in paragraph 3.1 of Practice Direction 57C to the relevant addresses within 14 days after the court has notified the date for the hearing of the application.

(2) If the person has a nominated address for service known to the applicant, and provided that such address for service has been nominated expressly for the purpose of 2017 Act proceedings, the material need only be sent to that address; and, if the applicant has no access to any, or no, e-mail address of their own, they need not send the material to any e-mail address.

(3) The applicant must file at court no later than 7 days before the first hearing of the application, a witness statement confirming compliance with paragraph (1) above and attaching Form N215 (Certificate of Service) completed to describe each method of sending to each person as if references on that form to “service” were to “sending”.

(4) The court may make—

- (a) a direction for advertisement of the application; and
- (b) any further provision for notification or service of the application.

(5) If the court is considering whether to exercise a power under the 2017 Act without an application having been made, the court may require—

- (i) notice of the matter to be given (in such manner the court may direct) to any of the persons listed in paragraph (1), or to any other person; and
- (ii) the matter to be advertised in such manner as the court may direct.

Interveners

57.31.—(1) A person who is entitled under section 21(1) (right to intervene) of the 2017 Act to intervene in a claim for a guardianship order, an application for a revocation/variation order, or an application relating to a guardianship order should, not less than 14 days before the first hearing date of the claim or application, notify the court and the claimant/applicant of any intention to intervene in accordance with the requirements of paragraph 5.1 of Practice Direction 57C.

(2) On receipt of a notice under paragraph (1) the court may give case management directions.

(3) Failure to comply with paragraph (1) shall not prevent the person from intervening (if they are otherwise entitled to do so) but may be taken into account on any question relating to costs.

(4) Any other person who wishes to intervene in such proceedings must, not less than 14 days before the first hearing date of the claim or application, file with the court and serve on the claimant/applicant an application for permission to intervene in accordance with Part 23 and paragraph 5.2 of Practice Direction 57C.

(5) Within 7 days of receiving an application for permission to intervene—

- (a) from a person who has not been sent or served with the claim form or the application notice, the claimant/applicant must serve a copy of the claim form or application, the evidence in support and notice of the hearing date, upon the person seeking permission to intervene; and in any case
- (b) the claimant or applicant must file with the court and serve upon the person seeking permission to intervene, a statement of whether or not they object and any evidence in support of any objection.

(6) Where the court grants permission to intervene to a person who otherwise has no entitlement to intervene under section 21(1) (right to intervene) of the 2017 Act, it may do so on conditions and may give case management directions.

(7) The court may direct that a person who intervenes in proceedings be added as a claimant (provided that they consent in writing) or defendant to the claim.

Requirement to send copy of all orders made to the Public Guardian

57.32. Where the court makes a guardianship order, a revocation/variation order, an order relating to the functions of a guardian, or an order granting or refusing permission to intervene, it shall send a copy of such order to the Public Guardian.

Death of the missing person

57.33.—(1) If the missing person has died before or dies after the issue of the claim then, subject to any order of the court, the claim shall not abate or be stayed, and rule [^{F1468}19.12] shall not apply.

(2) If the claimant considers that there is real doubt as to whether the missing person is still alive, the claim form may incorporate claims under both the Presumption of Death Act 2013 (“the 2013 Act”) and the 2017 Act.

(3) If the court determines at any point in the claim that the missing person has not been known to be alive for a period of seven years whether before or after the issue of the claim, the court may order that the claim should continue as if it had been brought under the 2013 Act.

(4) The court may make an order under or in relation to paragraphs (2) and (3) on such terms and conditions and with such consequential provisions as it considers appropriate.]]

Textual Amendments

F1468Word in rule 57.33(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 30

[^{F1469}PART 57A

BUSINESS AND PROPERTY COURTS

Textual Amendments

F1469Pt. 57A inserted (1.10.2018) by [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rule 1(1), Sch.

Contents of this Part

The Business and Property Courts	Rule 57A.1
Courts and lists	Rule 57A.2
Application of the Civil Procedure Rules	Rule 57A.3

The Business and Property Courts

57A.1.—(1) The courts listed in paragraph (2) together constitute the Business and Property Courts.

(2) The courts referred to in paragraph (1) are—

- (a) the Chancery Division of the High Court, the Commercial Court, the Technology and Construction Court, the Circuit Commercial Court and the Admiralty Court located in the Royal Courts of Justice, Rolls Building; together with

- (b) the Chancery Division of the High Court, the Technology and Construction Court and the Circuit Commercial Courts in the District Registries of the High Court specified in Practice Direction 57AA – Business and Property Courts.

Courts and lists

57A.2. The work of the Business and Property Courts is divided and listed into the courts or lists specified in Practice Direction 57AA – Business and Property Courts.

Application of the Civil Procedure Rules

57A.3. These Rules and their practice directions apply to claims in the Business and Property Courts unless this Part or a practice direction provides otherwise.]

[^{F1470}PART 58 COMMERCIAL COURT

Textual Amendments

F1470Pt. 58 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rule 1(c), [Sch. 2](#)

Contents of this Part

Scope of this Part and interpretation	Rule 58.1
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Statements of case	Rule 58.11
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Case management	Rule 58.13
Disclosure—ships papers	Rule 58.14
Judgments and orders	Rule 58.15

Scope of this Part and interpretation

58.1.—(1) This Part applies to claims in the Commercial Court of the [^{F1471}King’s] Bench Division.

(2) In this Part and [^{F1472}Practice Direction 58], “commercial claim” means any claim arising out of the transaction of trade and commerce and includes any claim relating to—

- (a) a business document or contract;
- (b) the export or import of goods;
- (c) the carriage of goods by land, sea, air or pipeline;
- (d) the exploitation of oil and gas reserves or other natural resources;
- (e) insurance and re-insurance;
- (f) banking and financial services;
- (g) the operation of markets and exchanges;
- (h) the purchase and sale of commodities;
- (i) the construction of ships;
- (j) business agency; and
- (k) arbitration.

Textual Amendments

F1471 Word in rule 58.1(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **31(1)**

F1472 Words in rule 58.1(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **33(a)**

Specialist list

58.2.—(1) The commercial list is a specialist list for claims proceeding in the Commercial Court.

(2) One of the judges of the Commercial Court shall be in charge of the commercial list.

Application of the Civil Procedure Rules

58.3 These Rules and their practice directions apply to claims in the commercial list unless this Part or a practice direction provides otherwise.

Proceedings in the commercial list

58.4.—(1) A commercial claim may be started in the commercial list.

(2) [^{F1473}Rule 30.5 applies] applies to claims in the commercial list, except that a Commercial Court judge may order a claim to be transferred to any other specialist list.

(Rule 30.5(3) provides that an application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list)

Textual Amendments

F1473 Words in rule 58.4(2) substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **14**

Claim form and particulars of claim

58.5.—(1) If, in a Part 7 claim, particulars of claim are not contained in or served with the claim form—

- (a) the claim form must state that, if an acknowledgment of service is filed which indicates an intention to defend the claim, particulars of claim will follow;
- (b) when the claim form is served, it must be accompanied by the documents specified in rule 7.8(1);
- (c) the claimant must serve particulars of claim within 28 days of the filing of an acknowledgment of service which indicates an intention to defend; and
- (d) rule 7.4(2) does not apply.

(2) A statement of value is not required to be included in the claim form.

(3) If the claimant is claiming interest, he must—

- (a) include a statement to that effect; and
- (b) give the details set out in rule 16.4(2),

in both the claim form and the particulars of claim.

Acknowledgment of service

58.6.—(1) A defendant must file an acknowledgment of service in every case.

(2) Unless paragraph (3) applies, the period for filing an acknowledgment of service is 14 days after service of the claim form.

(3) Where the claim form is served out of the jurisdiction, or on the agent of a defendant who is overseas, the time periods provided by [^{F1474}rules 6.12(3), 6.35 and 6.37(5)] apply after service of the claim form.

Textual Amendments

F1474 Words in rule 58.6(3) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **31(a)**

Disputing the court's jurisdiction

58.7.—(1) Part 11 applies to claims in the commercial list with the modifications set out in this rule.

(2) An application under rule 11(1) must be made within 28 days after filing an acknowledgment of service.

(3) If the defendant files an acknowledgment of service indicating an intention to dispute the court's jurisdiction, the claimant need not serve particulars of claim before the hearing of the application.

Default judgment

58.8.—(1) If, in a Part 7 claim in the commercial list, a defendant fails to file an acknowledgment of service, the claimant need not serve particulars of claim before he may obtain or apply for default judgment in accordance with Part 12.

(2) Rule [^{F1475}12.7(1)] applies with the modification that paragraph (a) shall be read as if it referred to the claim form instead of the particulars of claim.

Textual Amendments

F1475 Word in rule 58.8(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **24**

[^{F1476} Admissions

58.9 Where the claim is for a specified amount of money and the defendant admits part of the claim, the claimant may apply under Part 14 for judgment on the admission but rules 14.2 and 14.6(5) to (7) do not apply.]

Textual Amendments

F1476 Rule 58.9 substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **27**

Defence and Reply

58.10.—(1) Part 15 (defence and reply) applies to claims in the commercial list with the modification to rule [^{F1477}15.8(a)] that the claimant must—

- (a) file any reply to a defence; and
- (b) serve it on all other parties,

within 21 days after service of the defence.

(2) [^{F1478}Rule 6.35 (in relation to the period)] for filing a defence where the claim form is served out of the jurisdiction) applies to claims in the commercial list, except that if the particulars of claim are served after the defendant has filed an acknowledgment of service the period for filing a defence is 28 days from service of the particulars of claim.

Textual Amendments

F1477 Word in rule 58.10(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **31(2)**

F1478 Words in rule 58.10(2) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **31(b)**

Statements of case

58.11 The court may at any time before or after the issue of the claim form order a claim in the commercial list to proceed without the filing or service of statements of case.

Part 8 claims

58.12 Part 8 applies to claims in the commercial list, with the modification that a defendant to a Part 8 claim who wishes to rely on written evidence must file and serve it within 28 days after filing an acknowledgment of service.

Case management

58.13.—(1) All proceedings in the commercial list are treated as being allocated to the multi-track and Part 26 does not apply.

(2) The following parts only of Part 29 apply—

(a) rule 29.3(2) (legal representative to attend case management conferences and pre-trial reviews);

(b) rule 29.5 (variation of case management timetable) with the exception of rule 29.5(1)(c).

(3) As soon as practicable the court will hold a case management conference which must be fixed in accordance with [F1479]Practice Direction 58].

(4) At the case management conference or at any hearing at which the parties are represented the court may give such directions for the management of the case as it considers appropriate.

Textual Amendments

F1479 Words in rule 58.13(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **33(b)**

Disclosure—ships papers

58.14.—(1) If, in proceedings relating to a marine insurance policy, the underwriters apply for specific disclosure under rule 31.12, the court may—

(a) order a party to produce all the ships papers; and

(b) require that party to use his best endeavours to obtain and disclose documents which are not or have not been in his control.

(2) An order under this rule may be made at any stage of the proceedings and on such terms, if any, as to staying the proceedings or otherwise, as the court thinks fit.

Judgments and orders

58.15.—(1) Except for orders made by the court on its own initiative and unless the court orders otherwise, every judgment or order will be drawn up by the parties, and rule 40.3 is modified accordingly.

(2) An application for a consent order must include a draft of the proposed order signed on behalf of all the parties to whom it relates.

(3) Rule 40.6 (consent judgments and orders) does not apply.]

[F1480]PART 59

[F1481]CIRCUIT COMMERCIAL COURTS]

Textual Amendments

F1480 Pt. 59 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001](#) (S.I. 2001/4015), rule 1(c), **Sch. 3**

F1481 Pt. 59 heading substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/889), rules 1(1), **7(1)**

Contents of this Part

Scope of this Part and interpretation	Rule 59.1
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Scope of this Part and interpretation

- 59.1.**—(1) This Part applies to claims in [^{F1482}Circuit Commercial Courts].
- (2) A claim may only be started in a [^{F1483}Circuit Commercial Court] if it—
- (a) relates to a commercial or business matter in a broad sense; and
 - [^{F1484}(b) is not required to proceed in another specialist list of the Business and Property Courts.]
- (3) In this Part and [^{F1485}Practice Direction 59]—
- [^{F1486}(a) “[^{F1483}Circuit Commercial Court]” means a specialist list established within the courts listed in [^{F1487}Practice Direction 59];]
 - (b) “[^{F1488}Circuit Commercial claim]” means a claim proceeding in a [^{F1483}Circuit Commercial Court]; and
 - (c) “[^{F1489}Circuit Commercial judge]” means a judge authorised to sit in a [^{F1483}Circuit Commercial Court].

Textual Amendments

F1482 Words in rule 59.1(1) substituted (1.10.2017) by The Civil Procedure (Amendment No. 2) Rules 2017 (S.I. 2017/889), rules 1(1), **7(3)(a)**

F1483 Words in Pt. 59 substituted (1.10.2017) by The Civil Procedure (Amendment No. 2) Rules 2017 (S.I. 2017/889), rules 1(1), **7(2)(a)**

F1484 Rule 59.1(2)(b) substituted (1.10.2017) by The Civil Procedure (Amendment No. 2) Rules 2017 (S.I. 2017/889), rules 1(1), **7(3)(b)**

F1485 Words in rule 59.1(3) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **34(a)(i)**

F1486 Rule 59(3)(a) substituted (2.10.2006) by The Civil Procedure (Amendment) Rules 2006 (S.I. 2006/1689), rules 1, **9**

F1487 Words in rule 59.1(3)(a) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **34(a)(ii)**

F1488 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(b)**

F1489 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(d)**

Application of the Civil Procedure Rules

59.2 These Rules and their practice directions apply to [^{F1490}Circuit Commercial claims] unless this Part or a practice direction provides otherwise.

Textual Amendments

F1490 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(c)**

Transfer of proceedings

59.3 [^{F1491}Rule 30.5 applies] applies with the modifications that—

- (a) a [^{F1489}Circuit Commercial judge] may transfer a [^{F1488}Circuit Commercial claim] to another [^{F1483}Circuit Commercial Court]; and
- (b) a Commercial Court judge may transfer a claim from the Commercial Court to a [^{F1483}Circuit Commercial Court].

(Rule 30.5(3) provides that an application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list)

Textual Amendments

F1483 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(a)**

F1488 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(b)**

F1489 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(d)**

F1491 Words in rule 59.3 substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **15**

Claim form and particulars of claim

59.4.—(1) If particulars of claim are not contained in or served with the claim form—

- (a) the claim form must state that, if an acknowledgment of service is filed which indicates an intention to defend the claim, particulars of claim will follow;
- (b) when the claim form is served, it must be accompanied by the documents specified in rule 7.8(1);
- (c) the claimant must serve particulars of claim within 28 days of the filing of an acknowledgment of service which indicates an intention to defend; and
- (d) rule 7.4(2) does not apply.

(2) If the claimant is claiming interest, he must—

(a) include a statement to that effect; and
 (b) give the details set out in rule 16.4(2),
 in both the claim form and the particulars of claim.

(3) [^{F1492}Rule 12.7(1)(a) applies] with the modification that references to the particulars of claim shall be read as if they referred to the claim form.

Textual Amendments

F1492 Words in rule 59.4(3) substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **28(1)**

Acknowledgment of service

59.5.—(1) A defendant must file an acknowledgment of service in every case.

(2) Unless paragraph (3) applies, the period for filing an acknowledgment of service is 14 days after service of the claim form.

(3) Where the claim form is served out of the jurisdiction, or on the agent of a defendant who is overseas, the time periods provided by rules [^{F1493}6.12(3), 6.35 and 6.37(5)] apply after service of the claim form.

Textual Amendments

F1493 Words in [rule 59.5\(3\)](#) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **32(a)**

Disputing the court's jurisdiction

59.6.—(1) Part 11 applies to [^{F1490}Circuit Commercial claims] with the modifications set out in this rule.

(2) An application under rule 11(1) must be made within 28 days after filing an acknowledgment of service.

(3) If the defendant files an acknowledgment of service indicating an intention to dispute the court's jurisdiction, the claimant need not serve particulars of claim before the hearing of the application.

Textual Amendments

F1490 Words in [Pt. 59](#) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(c)**

Default judgment

59.7.—(1) Part 12 applies to [^{F1490}Circuit Commercial claims], except that rules 12.10 and 12.11 apply as modified by paragraphs (2) and (3) of this rule.

(2) If, in a Part 7 claim—

- (a) the claim form has been served but no particulars of claim have been served; and
- (b) the defendant has failed to file an acknowledgment of service,

the claimant must make an application if he wishes to obtain a default judgment.

(3) The application may be made without notice, but the court may direct it to be served on the defendant.

Textual Amendments

F1490 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(c)**

[^{F1494}Admissions

59.8 Where the claim is for a specified amount of money and the defendant admits part of the claim, the claimant may apply under Part 14 for judgment on the admission but rules 14.2 and 14.6(5) to (7) do not apply.]

Textual Amendments

F1494 Rule 59.8 substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(1), **28(2)**

Defence and Reply

59.9.—(1) Part 15 (Defence and Reply) applies to [^{F1490}Circuit Commercial claims] with the modification to rule [^{F1495}15.8(a)] that the claimant must—

- (a) file any reply to a defence; and
- (b) serve it on all other parties,

within 21 days after service of the defence.

(2) [^{F1496}Rule 6.35 (in relation to the period)] for filing a defence where the claim form is served out of the jurisdiction) applies to [^{F1490}Circuit Commercial claims], except that if the particulars of claim are served after the defendant has filed an acknowledgment of service the period for filing a defence is 28 days from service of the particulars of claim.

Textual Amendments

F1490 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(c)**

F1495 Word in rule 59.9(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **32**

F1496 Words in rule 59.9(2) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **32(b)**

Statements of case

59.10 The court may at any time before or after issue of the claim form order a [^{F1488}Circuit Commercial claim] to proceed without the filing or service of statements of case.

Textual Amendments

F1488 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(b)**

Case management

59.11.—(1) All [^{F1490}Circuit Commercial claims] are treated as being allocated to the multi-track, and Part 26 does not apply.

(2) The following parts only of Part 29 apply—

(a) rule 29.3(2) (appropriate legal representative to attend case management conferences and pre-trial reviews); and

(b) rule 29.5 (variation of case management timetable) with the exception of rule 29.5(1)(c).

(3) As soon as practicable the court will hold a case management conference which must be fixed in accordance with [^{F1497}Practice Direction 59].

(4) At the case management conference or at any hearing at which the parties are represented the court may give such directions for the management of the case as it considers appropriate.

Textual Amendments

F1490 Words in Pt. 59 substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **7(2)(c)**

F1497 Words in rule 59.11(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **34(b)**

Judgments and orders

59.12.—(1) Except for orders made by the court of its own initiative and unless the court otherwise orders every judgment or order will be drawn up by the parties, and rule 40.3 is modified accordingly.

(2) An application for a consent order must include a draft of the proposed order signed on behalf of all the parties to whom it relates.

(3) Rule 40.6 (consent judgments and orders) does not apply.]

[^{F1498}**PART 60**

TECHNOLOGY AND CONSTRUCTION COURT CLAIMS

Textual Amendments

F1498 Pt. 60 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rule 1(c), **Sch. 4**

Contents of this Part

General

Rule 60.1

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General

60.1.—(1) This Part applies to Technology and Construction Court claims (“TCC claims”).

(2) In this Part and [^{F1499}Practice Direction 60]—

(a) “TCC claim” means a claim which—

- (i) satisfies the requirements of paragraph (3); and
- (ii) has been issued in or transferred into the specialist list for such claims;

(b) “Technology and Construction Court” means any court in which TCC claims are dealt with in accordance with this Part or [^{F1500}Practice Direction 60]; and

(c) “TCC judge” means any judge authorised to hear TCC claims.

(3) A claim may be brought as a TCC claim if—

- (a) it involves issues or questions which are technically complex; or
- (b) a trial by a TCC judge is desirable.

(^{F1501}Practice Direction 60] gives examples of types of claims which it may be appropriate to bring as TCC claims.)

(4) TCC claims include all official referees' business referred to in section 68(1)(a) of the Supreme Court Act 1981.

(5) TCC claims will be dealt with—

- (a) in a Technology and Construction Court; and
- (b) by a TCC judge, unless—
 - (i) this Part or [^{F1502}Practice Direction 60] permits otherwise; or
 - (ii) a TCC judge directs otherwise.

Textual Amendments

F1499 Words in rule 60.1(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(a)**

F1500 Words in rule 60.1(2)(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(a)**

F1501 Words in rule 60.1 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(b)**

F1502 Words in rule 60.1(5)(b)(i) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(a)**

Specialist list

60.2.—(1) TCC claims form a specialist list.

(2) A judge will be appointed to be the judge in charge of the TCC specialist list.

Application of the Civil Procedure Rules

60.3 These Rules and their practice directions apply to TCC claims unless this Part or a practice direction provides otherwise.

Issuing a TCC claim

60.4 A TCC claim must be issued in—

- (a) the High Court in London;
- (b) a district registry of the High Court; or
- (c) a [^{F1503}County Court hearing centre] specified in [^{F1504}Practice Direction 60].

Textual Amendments

F1503 Words in rule 60.4(c) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **25**; S.I. 2014/954, art. 2(a)

F1504 Words in rule 60.4(c) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(c)**

Reply

60.5 Part 15 (Defence and Reply) applies to TCC claims with the modification to rule 15.8 that the claimant must—

- (a) file any reply to a defence; and
- (b) serve it on all other parties,

within 21 days after service of the defence.

Case management

60.6.—(1) All TCC claims are treated as being allocated to the multi-track and Part 26 does not apply.

(2) Part 29 and [^{F1505}Practice Direction 29] apply to the case management of TCC claims, except where they are varied by or inconsistent with [^{F1506}Practice Direction 60].]

Textual Amendments

F1505 Words in rule 60.6(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(d)(i)**

F1506 Words in rule 60.6(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **35(d)(ii)**

[^{F1507}Judgments and Orders

60.7.—(1) Except for orders made by the court of its own initiative and unless the court otherwise orders, every judgment or order made in claims proceeding in the Technology and Construction Court will be drawn up by the parties, and rule 40.3 is modified accordingly.

(2) An application for a consent order must include a draft of the proposed order signed on behalf of all the parties to whom it relates.

(3) Rule 40.6 (consent judgments and orders) does not apply.]

Textual Amendments

F1507Rule 60.7 inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **45**

[^{F1508}PART 61

ADMIRALTY CLAIMS

Textual Amendments

F1508Pt. 61 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rule 1(c), **Sch. 5**

Contents of this Part

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Scope and interpretation

61.1.—(1) This Part applies to admiralty claims.

(2) In this Part—

- (a) “admiralty claim” means a claim within the Admiralty jurisdiction of the High Court as set out in section 20 of the Supreme Court Act 1981;
- (b) “the Admiralty Court” means the Admiralty Court of the [^{F1509}King’s] Bench Division of the High Court of Justice;

[“the Admiralty Judge” means the judge in charge of the Admiralty Court and any other ^{F1510}(ba) judge authorised to sit in the Admiralty Court;

- (bb) “the Admiralty Registrar” means the holder of the office of this name listed in column 1 of Part II of Schedule 2 to the Senior Courts Act 1981 or any person who is authorised to exercise the powers of this office in accordance with s.91(1) of the Act;
- (bc) “claim in personam” means an admiralty claim, other than a claim in rem, brought in accordance with section 21(1) of the Senior Courts Act 1981;]
- (c) “claim in rem” means a claim in an admiralty action in rem [^{F1511}brought in accordance with section 21(2) to (5) of the Senior Courts Act 1981;];
- (d) “collision claim” means a claim within section 20(3)(b) of the Supreme Court Act 1981;
- (e) “limitation claim” means a claim under the Merchant Shipping Act 1995 for the limitation of liability in connection with a ship or other property;
- (f) “salvage claim” means a claim—
- (i) for or in the nature of salvage;
 - (ii) for special compensation under Article 14 of Schedule 11 to the Merchant Shipping Act 1995;
 - (iii) for the apportionment of salvage; and
 - (iv) arising out of or connected with any contract for salvage services;
- (g) “caution against arrest” means a caution entered in the Register under rule 61.7;
- (h) “caution against release” means a caution entered in the Register under rule 61.8;
- (i) “the Register” means the Register of cautions against arrest and release which is open to inspection as provided by [^{F1512}Practice Direction 61];
- (j) “the Marshal” means the Admiralty Marshal;
- (k) “ship” includes any vessel used in navigation; ^{F1513}...
- (l) “the Registrar” means the [^{F1514}Admiralty Registrar; and]
- [“electronic track data” means a digital or electronic recording of the track of a vessel
- ^{F1515}(m) (including any associated visual or aural recordings) as recorded by, for example, ship or shore-based AIS (Automatic Identification System), ECDIS (Electronic Chart and Display Information System), or a voyage data recorder].
- (3) Part 58 (Commercial Court) applies to claims in the Admiralty Court except where this Part provides otherwise.
- (4) The Registrar has all the powers of the Admiralty judge except where a rule or practice direction provides otherwise.

Textual Amendments

- F1509** Word in rule 61.1(2)(b) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **33(1)**
- F1510** Rules 61.1(2)(ba)-(bc) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **10(a)**
- F1511** Words in rule 61.1(2)(c) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **10(b)**
- F1512** Words in rule 61.1(2)(i) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**
- F1513** Word in rule 61.1(2)(k) omitted (6.4.2019) by virtue of [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **10(c)**
- F1514** Words in rule 61.1(2)(l) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **10(d)**

F1515Rule 61.1(m) inserted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(a), **10(1)**

Admiralty claims

61.2.—(1) The following claims must be started in the Admiralty Court—

- (a) a claim—
 - (i) in rem;
 - (ii) for damage done by a ship;
 - (iii) concerning the ownership of a ship;
 - (iv) under the Merchant Shipping Act 1995;
 - ^{F1516}(v)
 - (vi) by a master or member of a crew for wages;
 - (vii) in the nature of towage; or
 - (viii) in the nature of pilotage;
- (b) a collision claim;
- (c) a limitation claim; or
- (d) a salvage claim.

(2) Any other admiralty claim may be started in the Admiralty Court [^{F1517}and a claim for loss of life or personal injury specified in section 20(2)(f) of the Senior Courts Act 1981 should be started in the Admiralty Court in the circumstances set out in Practice Direction 61].

(3) Rule [^{F1518}30.5] applies to claims in the Admiralty Court except that the Admiralty Court may order the transfer of a claim to—

- (a) the Commercial [^{F1519}Court];
- (b) a [^{F1520}Circuit Commercial Court]; [^{F1521}or]
- ^{F1522}(c)
- (d) any other appropriate court.

Textual Amendments

F1516Rule 61.2(1)(a)(v) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **33(2)(a)**

F1517Words in rule 61.2(2) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **33(2)(b)**

F1518Word in rule 61.2(3) substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **16**

F1519Word in rule 61.2(3)(a) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **11(a)**

F1520Words in rule 61.2(3)(b) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **8(a)**

F1521Word in rule 61.2(3)(b) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **11(b)**

F1522Rule 61.2(3)(c) omitted (6.4.2019) by virtue of [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **11(c)**

Claims in rem

- 61.3.**—(1) This rule applies to claims in rem.
- (2) A claim in rem is started by the issue of an in rem claim form as set out in [^{F1523}Practice Direction 61].
- (3) Subject to rule 61.4, the particulars of claim must—
- (a) be contained in or served with the claim form; or
 - (b) be served on the defendant by the claimant within 75 days after service of the claim form.
- (4) An acknowledgment of service must be filed within 14 days after service of the claim form.
- (5) The claim form must be served—
- (a) in accordance with [^{F1524}Practice Direction 61]; and
 - (b) within 12 months after the date of issue and rules 7.5 and 7.6 are modified accordingly.
- (6) If a claim form has been issued (whether served or not), any person who wishes to defend the claim may file an acknowledgment of service.

Textual Amendments

F1523 Words in rule 61.3(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

F1524 Words in rule 61.3(5)(a) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

Special provisions relating to collision claims

- 61.4.**—(1) This rule applies to collision claims.
- (2) A claim form [^{F1525}should not] contain or be followed by particulars of claim and rule 7.4 does not apply.
- (3) An acknowledgment of service must be filed.
- (4) A party who wishes to dispute the court's jurisdiction must make an application under Part 11 within 2 months after filing his acknowledgment of service.
- [^{F1526}(4A) Every party must—
- (a) within 21 days after the defendant files their acknowledgment of service; or
 - (b) where the defendant applies under Part 11, within 21 days after the defendant files their further acknowledgment of service,
- disclose any electronic track data which is or has been in its control, in accordance with Part 31, and ^{F1527}... provide copies, or permit inspection, of that electronic track data within 7 days of a request by another party to do so.]
- (5) Every party must—
- (a) within 2 months after the defendant files the acknowledgment of service; or
 - (b) where the defendant applies under Part 11, within 2 months after the defendant files the further acknowledgment of service,
- file at the court a completed collision statement of case in the form specified in [^{F1528}Practice Direction 61].

- [^{F1529}(6) A collision statement case must—

- (a) be in a form set out in Practice Direction 61
- (b) contain the matters set out in Practice Direction 61; and
- (c) be verified by a statement of truth.]

[
^{F1530}(6A) Each party must file a collision defence in respect of each collision statement of case filed by another party.

(6B) A party's collision defence must—

- (a) be filed within 28 days of service of the relevant collision statement of case on that party;
- (b) comply with the requirements set out in Practice Direction 61; and
- (c) be verified by a statement of truth.

(6C) A party may file a collision reply to a collision defence filed by another party.

(6D) A party's collision reply must—

- (a) be filed within 21 days of service of the relevant collision defence on that party; and
- (b) be verified by a statement of truth.]

(7) A claim form in a collision claim [^{F1531}in personam] may not be served out of the jurisdiction unless—

- (a) the case falls within section 22(2)(a), (b) or (c) of the Supreme Court Act 1981; or
- (b) the defendant has submitted to or agreed to submit to the jurisdiction; and the court gives permission in accordance with [^{F1532}Section IV] of Part 6 [^{F1533}; or]

[rule 6.33 applies.]

^{F1534}(c)

(8) Where permission to serve a claim form out of the jurisdiction is given, the court will specify the period within which the defendant may file an acknowledgment of service and, where appropriate, a collision statement of case.

(9) Where, in a collision claim in rem (“the original claim”)—

- (a) (i) a [^{F1535}counterclaim]; or
- (ii) a cross claim in rem arising out of the same collision or occurrence is made; and
- (b) (i) the party bringing the original claim has caused the arrest of a ship or has obtained security in order to prevent such arrest; and
- (ii) the party bringing the [^{F1535}counterclaim] or cross claim is unable to arrest a ship or otherwise obtain security,

the party bringing the [^{F1535}counterclaim] or cross claim may apply to the court to stay the original claim until sufficient security is given to satisfy any judgment that may be given in favour of that party.

(10) The consequences set out in paragraph (11) apply where a party to a claim to establish liability for a collision claim (other than a claim for loss of life or personal injury)—

- (a) makes an offer to settle in the form set out in paragraph (12) not less than 21 days before the start of the trial;
- (b) that offer is not accepted; and
- (c) the maker of the offer obtains at trial an apportionment equal to or more favourable than his offer.

- (11) Where paragraph (10) applies the parties will, unless the court considers it unjust, be entitled to the following costs—
- (a) the maker of the offer will be entitled to—
 - (i) all his costs from 21 days after the offer was made; and
 - (ii) his costs before then [^{F1536}in accordance with the apportionment found at trial]; and
 - (b) all other parties to whom the offer was made—
 - (i) will be entitled to their costs up to 21 days after the offer was made [^{F1537}in accordance with the apportionment found at trial]; but
 - (ii) will not be entitled to their costs thereafter.
- (12) An offer under paragraph (10) must be in writing and must contain—
- (a) an offer to settle liability at stated percentages;
 - (b) an offer to pay costs in accordance with the same percentages;
 - (c) a term that the offer remain open for 21 days after the date it is made; and
 - (d) a term that, unless the court orders otherwise, on expiry of that period the offer remains open on the same terms except that the offeree should pay all the costs from that date until acceptance.

Textual Amendments

- F1525** Words in rule 61.4(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), [rules 1\(1\)](#), [26\(1\)](#)
- F1526** Rule 61.4(4A) inserted (28.2.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), [rules 2\(a\)](#), [10\(2\)](#)
- F1527** Words in rule 61.4(4A) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [33\(3\)\(a\)](#)
- F1528** Words in rule 61.4(5) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [36\(a\)](#)
- F1529** Rule 61.4(6) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [33\(3\)\(b\)](#) (with [rule 1\(4\)](#))
- F1530** Rule 61.4(6A)-(6D) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [33\(4\)](#) (with [rule 1\(4\)](#))
- F1531** Words in rule 61.4(7) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\)](#), [12\(a\)\(i\)](#)
- F1532** Words in rule 61.4(7)(b) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), [rules 1\(2\)](#), [33\(a\)](#)
- F1533** Word in rule 61.4(7) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\)](#), [12\(a\)\(ii\)](#)
- F1534** Rule 61.4(7)(c) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\)](#), [12\(a\)\(iii\)](#)
- F1535** Words in rule 61.4(9) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\)](#), [12\(b\)](#)
- F1536** Words in rule 61.4(11)(a)(ii) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\)](#), [12\(c\)\(i\)](#)
- F1537** Words in rule 61.4(11)(b)(i) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), [rules 1\(1\)](#), [12\(c\)\(ii\)](#)

Arrest

61.5.—(1) In a claim in rem—

- (a) a claimant; and
- (b) a judgment creditor

may apply to have the property proceeded against arrested.

(2) [^{F1538}Practice Direction 61] sets out the procedure for applying for arrest.

(3) A party making an application for arrest must—

- (a) request a search to be made in the Register before the warrant is issued to determine whether there is a caution against arrest in force with respect to that property; and
- (b) file a declaration in the form set out in [^{F1539}Practice Direction 61].

(4) A warrant of arrest may not be issued as of right in the case of property in respect of which the beneficial ownership, as a result of a sale or disposal by any court in any jurisdiction exercising admiralty jurisdiction in rem, has changed since the claim form was issued.

(5) A warrant of arrest may not be issued against a ship owned by a State where by any convention or treaty, the United Kingdom has undertaken to minimise the possibility of arrest of ships of that State until—

- (a) notice in the form set out in [^{F1540}Practice Direction 61] has been served on a consular officer at the consular office of that State in London or the port at which it is intended to arrest the ship; and
- (b) a copy of that notice is attached to any declaration under paragraph (3)(b).

(6) Except—

- (a) with the permission of the court; or
- (b) where notice has been given under paragraph (5),

a warrant of arrest may not be issued in a claim in rem against a foreign ship belonging to a port of a State in respect of which an order in council has been made under section 4 of the Consular Relations Act 1968, until the expiration of 2 weeks from appropriate notice to the consul.

(7) A warrant of arrest is valid for 12 months but may only be executed if the claim form—

- (a) has been served; or
- (b) remains valid for service at the date of execution.

(8) Property may only be arrested by the Marshal or his substitute.

(9) Property under arrest—

- (a) may not be moved unless the court orders otherwise; and
- (b) may be immobilised or prevented from sailing in such manner as the Marshal may consider appropriate.

(10) Where an in rem claim form has been issued and security sought, any person who has filed an acknowledgment of service may apply for an order specifying the amount and form of security to be provided.

Textual Amendments

F1538 Words in rule 61.5(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(b)**

F1539 Words in rule 61.5(3)(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

F1540 Words in rule 61.5(5)(a) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

Security in claim in rem

61.6.—(1) This rule applies if, in a claim in rem, security has been given to—

- (a) obtain the release of property under arrest; or
- (b) prevent the arrest of property.

[^{F1541}(2) Unless the terms on which security has been given provide otherwise, the court may order that—

- (a) the amount of security be reduced, and may stay the claim until the order is complied with; or
- (b) the amount of security be increased, and may give the claimant permission to arrest or re-arrest the property proceeded against to obtain further security.]

(3) The court may not make an order under paragraph (2)(b) if the total security to be provided would exceed the value of the property at the time—

- (a) of the original arrest; or
- (b) security was first given (if the property was not arrested).

Textual Amendments

F1541 Rule 61.6(2) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **13**

Cautions against arrest

61.7.—(1) Any person may file a request for a caution against arrest.

(2) When a request under paragraph (1) is filed the court will enter the caution in the Register if the request is in the form set out in [^{F1542}Practice Direction 61] and—

- (a) the person filing the request undertakes—
 - (i) to file an acknowledgment of service; and
 - (ii) to give sufficient security to satisfy the claim with interest and costs; or
- (b) where the person filing the request has constituted a limitation fund in accordance with Article 11 of the Convention on Limitation of Liability for Maritime Claims 1976 he—
 - (i) states that such a fund has been constituted; and
 - (ii) undertakes that the claimant will acknowledge service of the claim form by which any claim may be begun against the property described in the request.

(3) A caution against arrest—

- (a) is valid for 12 months after the date it is entered in the Register; but
- (b) may be renewed for a further 12 months by filing a further request.

(4) Paragraphs (1) and (2) apply to a further request under paragraph (3)(b).

(5) Property may be arrested if a caution against arrest has been entered in the Register but the court may order that—

- (a) the arrest be discharged; and

- (b) the party procuring the arrest pays compensation to the owner of or other persons interested in the arrested property.

Textual Amendments

F1542 Words in rule 61.7(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

Release and cautions against release

61.8.—(1) Where property is under arrest—

- (a) an in rem claim form may be served upon it; and
- (b) it may be arrested by any other person claiming to have an in rem claim against it.

(2) Any person who—

- (a) claims to have an in rem right against any property under arrest; and
- (b) wishes to be given notice of any application in respect of that property or its proceeds of sale,

may file a request for a caution against release in the form set out in [^{F1543}Practice Direction 61].

(3) When a request under paragraph (2) is filed, a caution against release will be entered in the Register.

[^{F1544}(3A) A caution against release—

- (a) is valid for 12 months after the date it is entered in the Register; and
- (b) may be renewed for a further 12 months by filing a further request.]

(4) Property will be released from arrest if—

- (a) it is sold by the court;
- (b) the court orders release on an application made by any party;
- (c) (i) the arresting party; and
(ii) all persons who have entered cautions against release
file a request for release in the form set out in [^{F1545}Practice Direction 61]; or
- (d) any party files—

- (i) a request for release in the form set out in [^{F1546}Practice Direction 61] (containing an undertaking); and
- (ii) consents to the release of the arresting party and all persons who have entered cautions against release.

(5) Where the release of any property is delayed by the entry of a caution against release under this rule any person who has an interest in the property may apply for an order that the person who entered the caution pay damages for losses suffered by the applicant because of the delay.

(6) the court may not make an order under paragraph (5) if satisfied that there was good reason to—

- (a) request the entry of; and
- (b) maintain

the caution.

- (7) Any person—
- (a) interested in property under arrest or in the proceeds of sale of such property; or
 - (b) whose interests are affected by any order sought or made,
- may be made a party to any claim in rem against the property or proceeds of sale.
- (8) Where—
- (a) (i) a ship is not under arrest but cargo on board her is; or
 - (ii) a ship is under arrest but cargo on board her is not; and
 - (b) persons interested in the ship or cargo wish to discharge the cargo,
- they may, without being made parties, request the Marshal to authorise steps to discharge the cargo.
- (9) If—
- (a) the Marshal considers a request under paragraph (8) reasonable; and
 - (b) the applicant gives an undertaking in writing acceptable to the Marshal to pay—
 - (i) his fees; and
 - (ii) all expenses to be incurred by him or on his behalf on demand,
- the Marshal will apply to the court for an order to permit the discharge of the cargo.
- 10)** Where persons interested in the ship or cargo are unable or unwilling to give an undertaking as referred to in paragraph (9)(b), they may—
- (a) be made parties to the claim; and
 - (b) apply to the court for an order for—
 - (i) discharge of the cargo; and
 - (ii) directions as to the fees and expenses of the Marshal with regard to the discharge and storage of the cargo.

Textual Amendments

F1543 Words in rule 61.8(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

F1544 Rule 61.8(3A) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **14**

F1545 Words in rule 61.8(4)(c) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

F1546 Words in rule 61.8(4)(d)(i) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

Judgment in default

- 61.9.**—(1) In [^{F1547}an admiralty claim] the claimant may obtain judgment in default of—
- (a) an acknowledgment of service only if [^{F1548}at the date on which judgment is entered]—
 - (i) the defendant has not filed an acknowledgment of service; and
 - [^{F1549}(ii) the relevant time limit for doing so has expired;]
 - (b) defence only if [^{F1550}at the date on which judgment is entered]—
 - (i) a defence has not been filed; and

- (ii) the relevant time limit for doing so has expired.
- (2) In a collision claim, a party who has filed a collision statement of case within the time specified by rule 61.4(5) may obtain judgment in default of a collision statement of case only if [^{F1551}at the date on which judgment is entered]—
 - (a) the party against whom judgment is sought has not filed a collision statement of case; and
 - (b) the time for doing so set out in rule 61.4(5) has expired.
- (3) An application for judgment in default—
 - (a) [^{F1552}in a claim in rem] must be made by filing—
 - (i) an application notice as set out in [^{F1553}Practice Direction 61];
 - (ii) a certificate proving service of the claim form; and
 - (iii) evidence proving the claim to the satisfaction of the court; and
 - (b) [^{F1554}in a claim in personam] must be made in accordance with Part 12 with any necessary modifications.
- (4) An application notice seeking judgment in default and, unless the court orders otherwise, all evidence in support, must be served on all persons who have entered cautions against release on the Register.
- (5) The court may set aside or vary any judgment in default entered under this rule.
- (6) The claimant may apply to the court for judgment against a party at whose instance a notice against arrest was entered where—
 - (a) the claim form has been served on that party;
 - (b) the sum claimed in the claim form does not exceed the amount specified in the undertaking given by that party in accordance with rule 61.7(2)(a)(ii); and
 - (c) that party has not fulfilled that undertaking within 14 days after service on him of the claim form.

Textual Amendments

- F1547** Words in rule 61.9(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **26(2)(a)(i)**
- F1548** Words in rule 61.9(1)(a) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **14(a)(i)**
- F1549** Rule 61.9(1)(a)(ii) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **26(2)(a)(ii)**
- F1550** Words in rule 61.9(1)(b) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **14(a)(ii)**
- F1551** Words in rule 61.9(2) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **14(b)**
- F1552** Words in rule 61.9(3)(a) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **26(2)(b)(i)**
- F1553** Words in rule 61.9(3)(a)(i) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**
- F1554** Words in rule 61.9(3)(b) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **26(2)(b)(ii)**

Sale by the court, priorities and payment out

61.10.—(1) An application for an order for the survey, appraisalment or sale of a ship may be made in a claim in rem at any stage by any party.

(2) [^{F1555}Unless the court is satisfied that there is good reason not to do so, if] the court makes an order for sale, it [^{F1556}must set]—

- (a) ^{F1557}... a time within which notice of claims against the proceeds of sale must be filed; and
- (b) the time and manner in which [^{F1558}that time limit] must be advertised.

(3) Any party with a judgment against the property or proceeds of sale may at any time after the time referred to in paragraph (2) apply to the court for the determination of priorities.

(4) An application notice under paragraph (3) must be served on all persons who have filed a claim against the property.

(5) Payment out of the proceeds of sale will be made only to judgment creditors and—

- (a) in accordance with the determination of priorities; or
- (b) as the court orders.

Textual Amendments

F1555Words in rule 61.10(2) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **10(a)**

F1556Words in rule 61.10(2) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **10(b)**

F1557Word in rule 61.10(2)(a) omitted (1.10.2021) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **10(c)**

F1558Words in rule 61.10(2)(b) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **10(d)**

Limitation claims

61.11.—(1) This rule applies to limitation claims.

(2) A claim is started by the issue of a limitation claim form as set out in [^{F1559}Practice Direction 61].

(3) The—

- (a) claimant; and
- (b) at least one defendant

must be named in the claim form, but all other defendants may be described.

(4) The claim form—

- (a) must be served on all named defendants and any other defendant who requests service upon him; and
- (b) may be served on any other defendant.

(5) The claim form may not be served out of the jurisdiction unless—

- (a) the claim falls within section 22(2)(a), (b) or (c) of the Supreme Court Act 1981;
- (b) the defendant has submitted to or agreed to submit to the jurisdiction of the court; or
- (c) the Admiralty Court has jurisdiction over the claim under any applicable Convention; and

the court grants permission in accordance with [^{F1560}Section IV] of Part 6 [^{F1561}; or]

- [rule 6.33 applies.]
- ^{F1562}(d)
- (6) An acknowledgment of service is not required.
- (7) Every defendant upon whom a claim form is served must—
- (a) within 28 days of service file—
- (i) a defence; or
- (ii) a notice that [^{F1563}the defendant] admits the right of the claimant to limit liability; or
- (b) if [^{F1564}the defendant] wishes to—
- (i) dispute the jurisdiction of the court; or
- (ii) argue that the court should not exercise its jurisdiction,
- file within 14 days of service (or where the claim form is served out of the jurisdiction, within the time specified in rule [^{F1565}6.35]) an acknowledgment of service as set out in [^{F1566}Practice Direction 61].
- (8) If a defendant files an acknowledgment of service under paragraph (7)(b) he will be treated as having accepted that the court has jurisdiction to hear the claim unless he applies under Part 11 within 14 days after filing the acknowledgment of service.
- (9) Where one or more named defendants admits the right to limit—
- (a) the claimant may apply for a restricted limitation decree in the form set out in [^{F1567}Practice Direction 61]; and
- (b) the court will issue a decree in the form set out in [^{F1568}Practice Direction 61] limiting liability only against those named defendants who have admitted the claimant's right to limit liability.
- (10) A restricted limitation decree—
- (a) may be obtained against any named defendant who fails to file a defence within the time specified for doing so; and
- (b) need not be advertised, but a copy must be served on the defendants to whom it applies.
- (11) Where all the defendants upon whom the claim form has been served admit the claimant's right to limit liability—
- (a) the claimant may apply to the Admiralty Registrar for a general limitation decree in the form set out in [^{F1569}Practice Direction 61]; and
- (b) the court will issue a limitation decree.
- (12) Where one or more of the defendants upon whom the claim form has been served do not admit the claimant's right to limit, the claimant may apply for a general limitation decree in the form set out in [^{F1570}Practice Direction 61].
- (13) When a limitation decree is granted the court—
- (a) may—
- (i) order that any proceedings relating to any claim arising out of the occurrence be stayed;
- (ii) order the claimant to establish a limitation fund if one has not been established or make such other arrangements for payment of claims against which liability is limited; or
- (iii) if the decree is a restricted limitation decree, distribute the limitation fund; and

- (b) will, if the decree is a general limitation decree, give directions as to advertisement of the decree and set a time within which notice of claims against the fund must be filed or an application made to set aside the decree.
- (14) When the court grants a general limitation decree the claimant must—
- (a) advertise it in such manner and within such time as the court directs; and
 - (b) file—
 - (i) a declaration that the decree has been advertised in accordance with paragraph (a); and
 - (ii) copies of the advertisements.
- (15) No later than the time set in the decree for filing claims, each of the defendants who wishes to assert a claim must file and serve his statement of case on—
- (a) the limiting party; and
 - (b) all other defendants except where the court orders otherwise.
- (16) Any person other than a defendant upon whom the claim form has been served may apply to the court within the time fixed in the decree to have a general limitation decree set aside.
- (17) An application under paragraph (16) must be supported by a declaration—
- (a) stating that the applicant has a claim against the claimant arising out of the occurrence; and
 - (b) setting out grounds for contending that the claimant is not entitled to the decree, either in the amount of limitation or at all.
- [^{F1571}(18) The claimant may constitute a limitation fund by—
- (a) making a payment into court;
 - (b) providing security in such form and on such terms as considered adequate by the court; or
 - (c) a combination of (a) and (b),
- the procedure for which, in each case, is set out in Practice Direction 61.]
- (19) A limitation fund may be established before or after a limitation claim has been started.
- (20) If a limitation claim is not commenced within 75 days after the date the fund was established—
- (a) the fund will lapse; ^{F1572}...
 - (b) all money in court (including interest) will be repaid to the person who made the payment into court [^{F1573}; and]
- [any security provided will be discharged.]
- ^{F1574}(c)
- (21) Money paid into court under paragraph (18) will not be paid out [^{F1575}, nor will any security provided be discharged,] except under an order of the court.
- (22) A limitation claim for—
- (a) a restricted decree may be brought by counterclaim; and
 - (b) a general decree may only be brought by counterclaim with the permission of the court.

Textual Amendments

F1559 Words in rule 61.11(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **36(a)**

- F1560** Words in rule 61.11(5) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **33(b)(i)**
- F1561** Words in rule 61.11(5) substituted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(a)(i)**
- F1562** Words in rule 61.11(5) inserted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(a)(ii)**
- F1563** Words in rule 61.11(7)(a)(ii) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **33(b)(ii)(aa)**
- F1564** Words in rule 61.11(7)(b) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **33(b)(ii)(bb)**
- F1565** Word in rule 61.11(7)(b) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **33(b)(ii)(cc)**
- F1566** Words in rule 61.11(7) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **36(a)**
- F1567** Words in rule 61.11(9)(a) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **36(a)**
- F1568** Words in rule 61.11(9)(b) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **36(a)**
- F1569** Words in rule 61.11(11)(a) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **36(a)**
- F1570** Words in rule 61.11(12) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **36(a)**
- F1571** Rule 61.11(18) substituted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(b)**
- F1572** Word in rule 61.11(20)(a) omitted (6.4.2019) by virtue of The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(c)(i)**
- F1573** Word in rule 61.11(20)(b) substituted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(c)(ii)**
- F1574** Rule 61.11(20)(c) inserted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(c)(iii)**
- F1575** Words in rule 61.11(21) inserted (6.4.2019) by The Civil Procedure (Amendment) Rules 2019 (S.I. 2019/342), rules 1(1), **15(d)**

Stay of proceedings

61.12 Where the court orders a stay of any claim in rem—

- (a) any property under arrest in the claim remains under arrest; and
- (b) any security representing the property remains in force,

unless the court orders otherwise.

Assessors

61.13 The court may sit with assessors when hearing—

- (a) collision claims; ^{F1576} ...
- (b) other claims involving issues of navigation or seamanship [^{F1577}; or]

[a reference as defined in paragraph 13.1 of Practice Direction 61,]
^{F1578}(c)

[^{F1579} and, whenever it does so, the parties] will not be permitted to call expert witnesses unless the court orders otherwise.]

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

[^{F1580}(Paragraph 26A of Practice Direction 52C makes provision regarding assessors who assist the Court of Appeal in appeals from decisions of the Admiralty Court.)]

Textual Amendments

F1576 Word in rule 61.13(a) omitted (6.4.2019) by virtue of [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **16(a)**

F1577 Word in rule 61.13(b) substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **16(b)**

F1578 Rule 61.13(c) inserted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **16(c)**

F1579 Words in rule 61.13 substituted (6.4.2019) by [The Civil Procedure \(Amendment\) Rules 2019 \(S.I. 2019/342\)](#), rules 1(1), **16(d)**

F1580 Words in rule 61.13 inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **11**

[^{F1581}PART 62

ARBITRATION CLAIMS

Textual Amendments

F1581 Pt. 62 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rule 1(c), **Sch. 6**

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Scope of this Part and interpretation

62.1.—(1) This Part contains rules about arbitration claims.

(2) In this Part—

- (a) “the 1950 Act” means the Arbitration Act 1950;
- (b) “the 1975 Act” means the Arbitration Act 1975;
- (c) “the 1979 Act” means the Arbitration Act 1979;
- (d) “the 1996 Act” means the Arbitration Act 1996;
- (e) references to—

(i) the 1996 Act; or

(ii) any particular section of that Act

include references to that Act or to the particular section of that Act as applied with modifications by the ACAS Arbitration Scheme (England and Wales) Order 2001; and

- (f) “arbitration claim form” means a claim form in the form set out in [^{F1582}Practice Direction 62].

(3) Part 58 (Commercial Court) applies to arbitration claims in the Commercial Court, Part 59 ([^{F1583}Circuit Commercial Court]) applies to arbitration claims in the [^{F1583}Circuit Commercial Court] and Part 60 (Technology and Construction Court claims) applies to arbitration claims in the Technology and Construction Court, except where this Part provides otherwise.

Textual Amendments

F1582 Words in rule 62.1(2)(f) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 37

F1583 Words in rule 62.1(3) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), 9

I CLAIMS UNDER THE 1996 ACT

Interpretation

62.2.—(1) In this Section of this Part “arbitration claim” means—

- (a) any application to the court under the 1996 Act;
- (b) a claim to determine—
 - (i) whether there is a valid arbitration agreement;
 - (ii) whether an arbitration tribunal is properly constituted; or
 what matters have been submitted to arbitration in accordance with an arbitration agreement;
- (c) a claim to declare that an award by an arbitral tribunal is not binding on a party; and
- (d) any other application affecting—
 - (i) arbitration proceedings (whether started or not); or
 - (ii) an arbitration agreement.

(2) This Section of this Part does not apply to an arbitration claim to which Sections II or III of this Part apply.

Starting the claim

62.3.—(1) Except where paragraph (2) applies an arbitration claim must be started by the issue of an arbitration claim form in accordance with the Part 8 procedure.

(2) An application under section 9 of the 1996 Act to stay legal proceedings must be made by application notice to the court dealing with those proceedings.

(3) The courts in which an arbitration claim may be started are set out in [^{F1584}Practice Direction 62].

(4) Rule [^{F1585}30.5] applies with the modification that a judge of the Technology and Construction Court may transfer the claim to any other court or specialist list.

Textual Amendments

F1584 Words in rule 62.3(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **37**

F1585 Word in rule 62.3(4) substituted (6.4.2006) by [The Civil Procedure \(Amendment No.4\) Rules 2005 \(S.I. 2005/3515\)](#), rules 1, **17**

Arbitration claim form

62.4.—(1) An arbitration claim form must—

- (a) include a concise statement of—
 - (i) the remedy claimed; and
 - (ii) any questions on which the claimant seeks the decision of the court;
- (b) give details of any arbitration award challenged by the claimant, identifying which part or parts of the award are challenged and specifying the grounds for the challenge;
- (c) show that any statutory requirements have been met;
- (d) specify under which section of the 1996 Act the claim is made;

- (e) identify against which (if any) defendants a costs order is sought; and
- (f) specify either—
 - (i) the persons on whom the arbitration claim form is to be served, stating their role in the arbitration and whether they are defendants; or
 - (ii) that the claim is made without notice under section 44(3) of the 1996 Act and the grounds relied on.
- (2) Unless the court orders otherwise an arbitration claim form must be served on the defendant within 1 month from the date of issue and rules 7.5 and 7.6 are modified accordingly.
- (3) Where the claimant applies for an order under section 12 of the 1996 Act (extension of time for beginning arbitral proceedings or other dispute resolution procedures), he may include in his arbitration claim form an alternative application for a declaration that such an order is not needed.

Service out of the jurisdiction

62.5.—(1) [^{F1586}Subject to paragraph (2A), the] court may give permission to serve an arbitration claim form out of the jurisdiction if—

- (a) the claimant seeks to—
 - (i) challenge; or
 - (ii) appeal on a question of law arising out of, an arbitration award made within the jurisdiction;

(The place where an award is treated as made is determined by section 53 of the 1996 Act.)

- (b) the claim is for an order under section 44 of the 1996 Act; or
- (c) the claimant—
 - (i) seeks some other remedy or requires a question to be decided by the court affecting an arbitration (whether started or not), an arbitration agreement or an arbitration award; and
 - (ii) the seat of the arbitration is or will be within the jurisdiction or the conditions in section 2(4) of the 1996 Act are satisfied.

(2) An application for permission under paragraph (1) must be supported by written evidence—

- (a) stating the grounds on which the application is made; and
- (b) showing in what place or country the person to be served is, or probably may be found.

[^{F1587}(2A) An arbitration claim form falling within (1)(a) to (c) above may be served out of the jurisdiction without permission if—

- (a) the seat of the arbitration is or will be in England and Wales; and
- (b) the respondent is party to the arbitration agreement in question.]

(3) Rules [^{F1588}6.34, 6.35 and][^{F1589}6.40 to 6.46] apply to the service of an arbitration claim form under paragraph (1) [^{F1590}or (2A)].

(4) An order giving permission to serve an arbitration claim form out of the jurisdiction must specify the period within which the defendant may file an acknowledgment of service.

Textual Amendments

- F1586** Words in rule 62.5(1) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **27(a)**
- F1587** Rule 62.5(2A) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **27(b)**
- F1588** Words in rule 62.5(3) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **27(c)(i)**
- F1589** Words in rule 62.5(3) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **34(a)**
- F1590** Words in rule 62.5(3) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **27(c)(ii)**

Notice

62.6.—(1) Where an arbitration claim is made under section 24, 28 or 56 of the 1996 Act, each arbitrator must be a defendant.

(2) Where notice must be given to an arbitrator or any other person it may be given by sending him a copy of—

- (a) the arbitration claim form; and
- (b) any written evidence in support.

(3) Where the 1996 Act requires an application to the court to be made on notice to any other party to the arbitration, that notice must be given by making that party a defendant.

Case management

62.7.—(1) Part 26 and any other rule that requires a party to file [^{F1591}a directions questionnaire] does not apply.

- (2) Arbitration claims are allocated to the multi-track.
- (3) Part 29 does not apply.

(4) The automatic directions set out in [^{F1592}Practice Direction 62] apply unless the court orders otherwise.

Textual Amendments

- F1591** Words in rule 62.7(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **25**
- F1592** Words in rule 62.7(4) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **37**

Stay of legal proceedings

62.8.—(1) An application notice seeking a stay of legal proceedings under section 9 of the 1996 Act must be served on all parties to those proceedings who have given an address for service.

(2) A copy of an application notice under paragraph (1) must be served on any other party to the legal proceedings (whether or not he is within the jurisdiction) who has not given an address for service, at—

- (a) his last known address; or

- (b) a place where it is likely to come to his attention.
- (3) Where a question arises as to whether—
 - (a) an arbitration agreement has been concluded; or
 - (b) the dispute which is the subject-matter of the proceedings falls within the terms of such an agreement,

the court may decide that question or give directions to enable it to be decided and may order the proceedings to be stayed pending its decision.

Variation of time

- 62.9.**—(1) The court may vary the period of 28 days fixed by section 70(3) of the 1996 Act for—
- (a) challenging the award under section 67 or 68 of the Act; and
 - (b) appealing against an award under section 69 of the Act.
- (2) An application for an order under paragraph (1) may be made without notice being served on any other party before the period of 28 days expires.
- (3) After the period of 28 days has expired—
- (a) an application for an order extending time under paragraph (1) must—
 - (i) be made in the arbitration claim form; and
 - (ii) state the grounds on which the application is made;
 - (b) any defendant may file written evidence opposing the extension of time within 7 days after service of the arbitration claim form; and
 - (c) if the court extends the period of 28 days, each defendant’s time for acknowledging service and serving evidence shall start to run as if the arbitration claim form had been served on the date when the court’s order is served on that defendant.

Hearings

- 62.10.**—(1) The court may order that an arbitration claim be heard either in public or in private.
- (2) Rule 39.2 does not apply.
- (3) Subject to any order made under paragraph (1)—
- (a) the determination of—
 - (i) a preliminary point of law under section 45 of the 1996 Act; or
 - (ii) an appeal under section 69 of the 1996 Act on a question of law arising out of an award,will be heard in public; and
 - (b) all other arbitration claims will be heard in private.
- (4) Paragraph (3)(a) does not apply to—
- (a) the preliminary question of whether the court is satisfied of the matters set out in section 45(2)(b); or
 - (b) an application for permission to appeal under section 69(2)(b).

II OTHER ARBITRATION CLAIMS

Scope of this Section

62.11.—(1) This Section of this Part contains rules about arbitration claims to which the old law applies.

(2) In this Section—

- (a) “the old law” means the enactments specified in Schedules 3 and 4 of the 1996 Act as they were in force before their amendment or repeal by that Act; and
- (b) “arbitration claim” means any application to the court under the old law and includes an appeal (or application for permission to appeal) to the High Court under section 1(2) of the 1979 Act.

(3) This Section does not apply to—

- (a) a claim to which Section III of this Part applies; or
- (b) a claim on the award.

Applications to Judge

62.12 A claim—

- (a) seeking permission to appeal under section 1(2) of the 1979 Act;
- (b) under section 1(5) of that Act (including any claim seeking permission); or
- (c) under section 5 of that Act,

must be made in the High Court and will be heard by a judge of the Commercial Court unless any such judge directs otherwise.

Starting the claim

62.13.—(1) Except where paragraph (2) applies an arbitration claim must be started by the issue of an arbitration claim form in accordance with the Part 8 procedure.

(2) Where an arbitration claim is to be made in existing proceedings—

- (a) it must be made by way of application notice; and
- (b) any reference in this Section of this Part to an arbitration claim form includes a reference to an application notice.

(3) The arbitration claim form in an arbitration claim under section 1(5) of the 1979 Act (including any claim seeking permission) must be served on—

- (a) the arbitrator or umpire; and
- (b) any other party to the reference.

Claims in District Registries

62.14 If—

- (a) a claim is to be made under section 12(4) of the 1950 Act for an order for the issue of a witness summons to compel the attendance of the witness before an arbitrator or umpire; and
- (b) the attendance of the witness is required within the district of a District Registry,

the claim may be started in that Registry.

Time limits and other special provisions about arbitration claims

62.15.—(1) An arbitration claim to—

- (a) remit an award under section 22 of the 1950 Act;
- (b) set aside an award under section 23(2) of that Act or otherwise; or
- (c) direct an arbitrator or umpire to state the reasons for an award under section 1(5) of the 1979 Act,

must be made, and the arbitration claim form served, within 21 days after the award has been made and published to the parties.

(2) An arbitration claim to determine any question of law arising in the course of a reference under section 2(1) of the Arbitration Act 1979 must be made, and the arbitration claim form served, within 14 days after—

- (a) the arbitrator or umpire gave his consent in writing to the claim being made; or
- (b) the other parties so consented.

(3) An appeal under section 1(2) of the 1979 Act must be filed, and the arbitration claim form served, within 21 days after the award has been made and published to the parties.

(4) Where reasons material to an appeal under section 1(2) of the 1979 Act are given on a date subsequent to the publication of the award, the period of 21 days referred to in paragraph (3) will run from the date on which reasons are given.

(5) In every arbitration claim to which this rule applies—

- (a) the arbitration claim form must state the grounds of the claim or appeal;
- (b) where the claim or appeal is based on written evidence, a copy of that evidence must be served with the arbitration claim form; and
- (c) where the claim or appeal is made with the consent of the arbitrator, the umpire or the other parties, a copy of every written consent must be served with the arbitration claim form.

(6) In an appeal under section 1(2) of the 1979 Act—

- (a) a statement of the grounds for the appeal specifying the relevant parts of the award and reasons; and
- (b) where permission is required, any written evidence in support of the contention that the question of law concerns—
 - (i) a term of a contract; or
 - (ii) an event,

which is not a “one-off” term or event,

must be filed and served with the arbitration claim form.

(7) Any written evidence in reply to written evidence under paragraph (6)(b) must be filed and served on the claimant not less than 2 days before the hearing.

(8) A party to a claim seeking permission to appeal under section 1(2) of the 1979 Act who wishes to contend that the award should be upheld for reasons not expressed or fully expressed in the award and reasons must file and serve on the claimant, a notice specifying the grounds of his contention not less than 2 days before the hearing.

Service out of the jurisdiction

62.16.—(1) Subject to paragraph (2)—

- (a) any arbitration claim form in an arbitration claim under the 1950 Act or the 1979 Act; or

- (b) any order made in such a claim,
 may be served out of the jurisdiction with the permission of the court if the arbitration to which the claim relates—
- (i) is governed by the law of England and Wales; or
 - (ii) has been, is being, or will be, held within the jurisdiction.
- (2) An arbitration claim form seeking permission to enforce an award may be served out of the jurisdiction with the permission of the court whether or not the arbitration is governed by the law of England and Wales.
- (3) An application for permission to serve an arbitration claim form out of the jurisdiction must be supported by written evidence—
- (a) stating the grounds on which the application is made; and
 - (b) showing in what place or country the person to be served is, or probably may be found.
- (4) Rules [^{F1593}6.40 to 6.46] apply to the service of an arbitration claim form under paragraph (1).
- (5) An order giving permission to serve an arbitration claim form out of the jurisdiction must specify the period within which the defendant may file an acknowledgment of service.

Textual Amendments

F1593 Words in [rule 62.16\(4\)](#) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), [rules 1\(2\)](#), [34\(b\)](#)

III ENFORCEMENT

Scope of this Section

62.17 This Section of this Part applies to all arbitration enforcement proceedings other than by a claim on the award.

Enforcement of awards

62.18.—(1) An application for permission under—

- (a) section 66 of the 1996 Act;
- (b) section 101 of the 1996 Act;
- (c) section 26 of the 1950 Act; or
- (d) section 3(1)(a) of the 1975 Act,

to enforce an award in the same manner as a judgment or order may be made without notice in an arbitration claim form.

(2) The court may specify parties to the arbitration on whom the arbitration claim form must be served.

(3) The parties on whom the arbitration claim form is served must acknowledge service and the enforcement proceedings will continue as if they were an arbitration claim under Section I of this Part.

(4) With the permission of the court the arbitration claim form may be served out of the jurisdiction irrespective of where the award is, or is treated as, made.

(5) Where the applicant applies to enforce an agreed award within the meaning of section 51(2) of the 1996 Act—

- (a) the arbitration claim form must state that the award is an agreed award; and
 - (b) any order made by the court must also contain such a statement.
- (6) An application for permission must be supported by written evidence—
- (a) exhibiting—
 - (i) where the application is made under section 66 of the 1996 Act or under section 26 of the 1950 Act, the arbitration agreement and the original award (or copies);
 - (ii) where the application is under section 101 of the 1996 Act, the documents required to be produced by section 102 of that Act; or
 - (iii) where the application is under section 3(1)(a) of the 1975 Act, the documents required to be produced by section 4 of that Act;
 - (b) stating the name and the usual or last known place of residence or business of the claimant and of the person against whom it is sought to enforce the award; and
 - (c) stating either—
 - (i) that the award has not been complied with; or
 - (ii) the extent to which it has not been complied with at the date of the application.
- (7) An order giving permission must—
- (a) be drawn up by the claimant; and
 - (b) be served on the defendant by—
 - (i) delivering a copy to him personally; or
 - (ii) sending a copy to him at his usual or last known place of residence or business.
- (8) An order giving permission may be served out of the jurisdiction—
- (a) without permission; and
 - (b) in accordance with rules ^{F1594}6.40 to 6.46] as if the order were an arbitration claim form.
- (9) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the court may set—
- (a) the defendant may apply to set aside the order; and
 - (b) the award must not be enforced until after—
 - (i) the end of that period; or
 - (ii) any application made by the defendant within that period has been finally disposed of.
- (10) The order must contain a statement of—
- (a) the right to make an application to set the order aside; and
 - (b) the restrictions on enforcement under rule 62.18(9)(b).
- (11) Where a body corporate is a party any reference in this rule to place of residence or business shall have effect as if the reference were to the registered or principal address of the body corporate.

Textual Amendments

F1594 Words in rule 62.18(8)(b) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **34(c)**

Interest on awards

62.19.—(1) Where an applicant seeks to enforce an award of interest the whole or any part of which relates to a period after the date of the award, he must file a statement giving the following particulars—

- (a) whether simple or compound interest was awarded;
- (b) the date from which interest was awarded;
- (c) where rests were provided for, specifying them;
- (d) the rate of interest awarded; and
- (e) a calculation showing—
 - (i) the total amount claimed up to the date of the statement; and
 - (ii) any sum which will become due on a daily basis.

(2) A statement under paragraph (1) must be filed whenever the amount of interest has to be quantified for the purpose of—

- (a) obtaining a judgment or order under section 66 of the 1996 Act (enforcement of the award); or
- (b) enforcing such a judgment or order.

Registration in High Court of foreign awards

62.20.—(1) Where—

- (a) an award is made in proceedings on an arbitration in any part of a [^{F1595}British overseas territory] or other territory to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 (“the 1933 Act”) extends;
- (b) Part II of the Administration of Justice Act 1920 extended to that part immediately before Part I of the 1933 Act was extended to that part; and
- (c) an award has, under the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place,

[^{F1596}rules 74.1 to 74.7 and 74.9 apply in relation to the award as they apply] in relation to a judgment given by the court subject to the modifications in paragraph (2).

(2) The modifications referred to in paragraph (1) are as follows—

- (a) for references to the [^{F1597}State of origin] are substituted references to the place where the award was made; and
- (b) the written evidence required by [^{F1598}rule 74.4] must state (in addition to the matters required by that rule) that to the best of the information or belief of the maker of the statement the award has, under the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

Textual Amendments

F1595 Words in rule 62.20(1)(a) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **34(d)**

F1596 Words in rule 62.20(1) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **24(a)**

F1597 Words in rule 62.20(2)(a) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **24(b)**

F1598 Words in rule 62.20(2)(b) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **24(c)**

Registration of awards under the Arbitration (International Investment Disputes) Act 1966

62.21.—(1) In this rule—

- (a) “the 1966 Act” means the Arbitration (International Investment Disputes) Act 1966;
- (b) “award” means an award under the Convention;
- (c) “the Convention” means the Convention on the settlement of investment disputes between States and nationals of other States which was opened for signature in Washington on 18th March 1965;
- (d) “judgment creditor” means the person seeking recognition or enforcement of an award; and
- (e) “judgment debtor” means the other party to the award.

[^{F1599}(2) Subject to the provisions of this rule, the following provisions of Part 74 apply with such modifications as may be necessary in relation to an award as they apply in relation to a judgment to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 applies—

- (a) rule 74.1;
- (b) rule 74.3;
- (c) rule 74.4(1), (2)(a) to (d), and (4);
- (d) rule 74.6 (except paragraph (3)(c) to (e)); and
- (e) rule 74.9(2).]

(3) An application to have an award registered in the High Court under section 1 of the 1966 Act must be made in accordance with the Part 8 procedure.

(4) The written evidence required by [^{F1600}rule 74.4] in support of an application for registration must—

- (a) exhibit the award certified under the Convention instead of the judgment (or a copy of it); and
- (b) in addition to stating the matters referred to in [^{F1601}rule 74.4(2)(a) to (d)], state whether—
 - (i) at the date of the application the enforcement of the award has been stayed (provisionally or otherwise) under the Convention; and
 - (ii) any, and if so what, application has been made under the Convention, which, if granted, might result in a stay of the enforcement of the award.

(5) Where, on granting permission to register an award or an application made by the judgment debtor after an award has been registered, the court considers—

- (a) that the enforcement of the award has been stayed (whether provisionally or otherwise) under the Convention; or
- (b) that an application has been made under the Convention which, if granted, might result in a stay of the enforcement of the award,

the court may stay the enforcement of the award for such time as it considers appropriate.]

Textual Amendments

F1599 Rule 62.21(2) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **25(a)**

F1600 Words in rule 62.21(4) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **25(b)**

F1601 Words in rule 62.21(4)(b) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **25(c)**

[^{F1602}PART 63

INTELLECTUAL PROPERTY CLAIMS

Textual Amendments

F1602 Pt. 63 substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rule 1(2), **Sch. 1**

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[^{F1608}Allocation to the small claims track Rule 63.27

Extent to which rules in this Part apply to small claims Rule 63.28]

Scope of this Part and interpretation

63.1.—(1) This Part applies to all intellectual property claims including—

(a) registered intellectual property rights such as—

- (i) patents;
- (ii) registered designs; and
- (iii) registered trade marks; and

(b) unregistered intellectual property rights such as—

- (i) copyright;
- (ii) design right;
- (iii) the right to prevent passing off; and
- (iv) the other rights set out in [^{F1609}Practice Direction 63].

(2) In this Part—

- (a) “the 1977 Act” means the Patents Act 1977;
- (b) “the 1988 Act” means the Copyright, Designs and Patents Act 1988;
- (c) “the 1994 Act” means the Trade Marks Act 1994;
- (d) “the Comptroller” means the Comptroller General of Patents, Designs and Trade Marks;
- (e) “patent” means a patent under the 1977 Act or a supplementary protection certificate granted by the Patent Office under Article 10(1) of [Council Regulation \(EEC\) No. 1768/92](#)

- or of Regulation (EC) No. 1610/96 of the European Parliament and the Council and includes any application for a patent or supplementary protection certificate;
- (f) “Patents Court” means the Patents Court of the High Court constituted as part of the Chancery Division by section 6(1) of the Senior Courts Act 1981;
- [^{F1610}(g) ‘Intellectual Property Enterprise Court’ means a specialist list established within the Chancery Division of the High Court;]
- [^{F1611}(h) ‘enterprise judge’ means a judge authorised by the Chancellor of the High Court to sit in the Intellectual Property Enterprise Court;]
- ^{F1612}(i)
- (j) “the register” means whichever of the following registers is appropriate—
- (i) patents maintained by the Comptroller under section 32 of the 1977 Act;
- (ii) designs maintained by the registrar under section 17 of the Registered Designs Act 1949;
- (iii) trade marks maintained by the registrar under section 63 of the 1994 Act;
- ^{F1613}(iv)
- ^{F1614}(v)
- (vi) plant varieties maintained by the Controller under regulation 12 of the Plant Breeders’ Rights Regulations 1998; and
- ^{F1615}(vii)
- (k) “the registrar” means—
- (i) the registrar of trade marks; or
- (ii) the registrar of registered designs,
- whichever is appropriate.
- (3) [^{F1616}Save as provided in rule 63.27, claims] to which this Part applies are allocated to the multi-track. [^{F1617}Rule [^{F1618}26.4(1)] applies save for the modification that the court will send the parties a notice requiring the parties to file proposed directions by the date specified in the notice. For a claim which is allocated to the multi-track by this rule, rule [^{F1619}26.4(2)] and rules [^{F1620}26.5 to 26.18] do not apply.]

Textual Amendments

- F1609** Words in rule 63.1(1)(b)(iv) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **38(a)**
- F1610** Rule 63.1(2)(g) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(b)(i)**
- F1611** Rule 63.1(2)(h) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(b)(ii)**
- F1612** Rule 63.1(2)(i) omitted (6.4.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **38(b)**
- F1613** Rule 63.1(2)(j)(iv) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **13(2)** (with reg. 24) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))
- F1614** Rule 63.1(2)(j)(v) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **13(2)** (with reg. 24) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))

- F1615** Rule 63.1(2)(j)(vii) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **13(2)** (with reg. 24) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))
- F1616** Words in rule 63.1(3) substituted (1.10.2012) by The Civil Procedure (Amendment No.2) Rules 2012 (S.I. 2012/2208), rules 1, **10(b)**
- F1617** Words in rule 63.1(3) inserted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, **26(c)**
- F1618** Word in rule 63.1(3) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **20(a)** (with rule 2)
- F1619** Word in rule 63.1(3) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **20(b)** (with rule 2)
- F1620** Words in rule 63.1(3) substituted (1.10.2023) by The Civil Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/572), rules 1(1), **20(c)** (with rule 2)

I PATENTS AND REGISTERED DESIGNS

Scope of Section I and allocation

- 63.2.**—(1) This Section applies to—
- (a) any claim under—
 - (i) the 1977 Act;
 - (ii) the Registered Designs Act 1949;
 - (iii) the Defence Contracts Act 1958; and
 - (b) any claim relating to—
 - ^{F1621}(i)
 - (ii) semiconductor topography rights; or
 - (iii) plant varieties.
- (2) Claims to which this Section applies must be started in—
- (a) the Patents Court; or
 - (b) [^{F1622}the Intellectual Property Enterprise Court].

Textual Amendments

- F1621** Rule 63.2(1)(b)(i) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **13(3)** (with reg. 24) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))
- F1622** Words in rule 63.2(2)(b) substituted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, **26(d)**

Specialist list

- 63.3.** Claims in the Patents Court [^{F1623}form a specialist list] for the purpose of rule 30.5.

Textual Amendments

F1623 Words in rule 63.3 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(e)**

Patents judge

^{F1624}**63.4.**

Textual Amendments

F1624 Rule 63.4 omitted (1.10.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2010](#) (S.I. 2010/1953), rules 1(2), **8(b)**

Starting the claim

63.5. Claims to which this Section applies must be started—

- (a) by a Part 7 claim form; or
- (b) in existing proceedings under Part 20.

Claim for infringement or challenge to validity of a patent or registered design

63.6. A statement of case in a claim for infringement or a claim in which the validity of a patent or registered design is challenged must contain particulars as set out in [^{F1625}Practice Direction 63].

Textual Amendments

F1625 Words in rule 63.6 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **38(a)**

Defence and reply

63.7. Part 15 applies with the modification—

- (a) to rule 15.4(1)(b) that in a claim for infringement under rule 63.6, the period for filing a defence where the defendant files an acknowledgment of service under Part 10 is 42 days after service of the particulars of claim;
- (b) that where rule 15.4(2) provides for a longer period to file a defence than in rule 63.7(a), then the period of time in rule 15.4(2) will apply; and
- (c) to rule 15.8 that the claimant must—
 - (i) file any reply to a defence; and
 - (ii) serve it on all other parties,
 within 21 days of service of the defence.

Case management

63.8.—(1) Parties do not need to file [^{F1626}a directions questionnaire].

(2) The following provisions only of Part 29 apply—

- (a) rule 29.3(2) (legal representatives to attend case management conferences);
- (b) rule 29.4 [^{F1627}(the parties must endeavour to agree case management directions)]; and
- (c) rule 29.5 (variation of case management timetable) with the exception of paragraph (1) (b) and (c).

(3) As soon as practicable the court will hold a case management conference which must be fixed in accordance with [^{F1628}Practice Direction 63].

Textual Amendments

F1626 Words in rule 63.8(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(f)(i)**

F1627 Words in rule 63.8(2)(b) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(f)(ii)**

F1628 Words in rule 63.8(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **38(a)**

Disclosure and inspection

63.9. Part 31 is modified to the extent set out in [^{F1629}Practice Direction 63].

Textual Amendments

F1629 Words in rule 63.9 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **38(a)**

Application to amend a patent specification in existing proceedings

63.10.—(1) An application under section 75 of the 1977 Act for permission to amend the specification of a patent by the proprietor of the patent must be made by application notice.

(2) The application notice must—

(a) give particulars of—

(i) the proposed amendment sought; and

(ii) the grounds upon which the amendment is sought;

(b) state whether the applicant will contend that the claims prior to the amendment are valid; and

(c) be served by the applicant on all parties and the Comptroller within 7 days of it being filed.

(3) The application notice must, if it is reasonably possible, be served on the Comptroller electronically.

(4) Unless the court otherwise orders, the Comptroller will, as soon as practicable, advertise the application to amend in the journal.

(5) The advertisement will state that any person may apply to the Comptroller for a copy of the application notice.

(6) Within 14 days of the first appearance of the advertisement any person who wishes to oppose the application must file and serve on all parties and the Comptroller a notice opposing the application which must include the grounds relied on.

(7) Within 28 days of the first appearance of the advertisement the applicant must apply to the court for directions.

(8) Unless the court otherwise orders, the applicant must within 7 days serve on the Comptroller any order of the court on the application.

(9) In this rule “the journal” means the journal published pursuant to rules under section 123(6) of the 1977 Act.

Court’s determination of question or application

63.11.—(1) This rule applies where the Comptroller—

- (a) declines to deal with a question under section 8(7), 12(2), 37(8) or 61(5) of the 1977 Act;
- (b) declines to deal with an application under section 40(5) of the 1977 Act; or
- (c) certifies under section 72(7)(b) of the 1977 Act that the court should determine the question whether a patent should be revoked.

(2) Any person seeking the court’s determination of that question or application must start a claim for that purpose within 14 days of receiving notification of the Comptroller’s decision.

(3) A person who fails to start a claim within the time prescribed by rule 63.11(2) will be deemed to have abandoned the reference or application.

(4) A party may apply to the Comptroller or the court to extend the period for starting a claim prescribed by rule 63.11(2) even where the application is made after expiration of that period.

Application by employee for compensation

63.12.—(1) An application by an employee for compensation under section 40(1) or (2) of the 1977 Act must be made—

- (a) in a claim form; and
- (b) within the period prescribed by paragraphs (2), (3) and (4).

(2) The prescribed period begins on the date of the grant of the patent and ends 1 year after the patent has ceased to have effect.

(3) Where the patent has ceased to have effect as a result of failure to pay renewal fees, the prescribed period continues as if the patent has remained continuously in effect provided that—

- (a) the renewal fee and any additional fee are paid in accordance with section 25(4) of the 1977 Act; or
- (b) restoration is ordered by the Comptroller following an application under section 28 of the 1977 Act.

(4) Where restoration is refused by the Comptroller following an application under section 28 of the 1977 Act, the prescribed period will end 1 year after the patent has ceased to have effect or 6 months after the date of refusal, whichever is the later.

II REGISTERED TRADE MARKS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Allocation

63.13. Claims relating to matters arising out of the 1994 Act and other intellectual property rights set out in [^{F1630}Practice Direction 63] must be started in—

- (a) the Chancery Division;
- (b) [^{F1631}the Intellectual Property Enterprise Court]; or

- (c) save as set out in [^{F1632}Practice Direction 63], a [^{F1633}County Court hearing centre] where there is also a Chancery District Registry.

Textual Amendments

F1630 Words in rule 63.13 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **38(a)**

F1631 Words in rule 63.13(b) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(g)**

F1632 Words in rule 63.13(c) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **38(a)**

F1633 Words in rule 63.13(c) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **27(a)**; S.I. 2014/954, art. 2(a)

III SERVICE OF DOCUMENTS AND PARTICIPATION BY THE COMPTROLLER

Service of documents

63.14.—(1) Subject to paragraph (2), Part 6 applies to service of a claim form and any document in any proceedings under this Part.

(2) A claim form relating to a registered right may be served—

[^{F1634}(a) on a party who has registered the right at the address for service given for that right in the appropriate register at—

(i) the United Kingdom Patent Office^{F1635} ...

^{F1636}(ii)

provided the address is within the United Kingdom; or]

(b) in accordance with rule ^{F1637}... 6.33(1) or 6.33(2) on a party who has registered the right at the address for service given for that right in the appropriate register at—

(i) the United Kingdom Patent Office^{F1638} ...

^{F1639}(ii)

(3) Where a party seeks any remedy (whether by claim form, counterclaim or application notice), which would if granted affect an entry in any United Kingdom Patent Office register, that party must serve on the Comptroller or registrar—

- (a) the claim form, counterclaim or application notice;
- (b) any other statement of case where relevant (including any amended statement of case); and
- (c) any accompanying documents.

Textual Amendments

F1634 Rule 63.14(2)(a) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **27(b)(i)**

F1635 Word in rule 63.14(2)(a)(i) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **13(4)(a)(i)** (with reg. 24) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))

F1636 Rule 63.14(2)(a)(ii) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **13(4)(a)(ii)** (with reg. 24) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F1637** Word in rule 63.14(2)(b) omitted (6.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **27(b)(ii)**
- F1638** Word in rule 63.14(2)(b)(i) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **13(4)(b)(i)** (with reg. 24) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))
- F1639** Rule 63.14(2)(b)(ii) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **13(4)(b)(ii)** (with reg. 24) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(g); 2020 c. 1, Sch. 5 para. 1(1))

Participation by the Comptroller

- 63.15.** Where the documents set out in rule 63.14(3) are served, the Comptroller or registrar—
- (a) may take part in proceedings; and
 - (b) need not serve a defence or other statement of case unless the court orders otherwise.

IV APPEALS

Appeals from decisions of the Comptroller or the registrar

- 63.16.**—(1) Part 52 applies to appeals from decisions of the Comptroller and the registrar.
- (2) Appeals about patents [^{F1640}and registered designs] must be made to the Patents Court, and other appeals to the Chancery Division.
- (3) Where Part 52 requires a document to be served, it must also be served on the Comptroller or registrar, as appropriate.

Textual Amendments

- F1640** Words in rule 63.16(2) inserted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2, **11(2)**

[^{F1641}SECTION V

[^{F1642}INTELLECTUAL PROPERTY ENTERPRISE COURT]

Textual Amendments

- F1641** Pt. 63 Section 5 inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rule 1(2), **Sch. 2**
- F1642** Words in Pt. 63 heading substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(h)**

Scope of this Section

- 63.17.** This Part, as modified by this Section, applies to claims started in or transferred to [^{F1643}the Intellectual Property Enterprise Court].

[

^{F1644}**63.17A.**—(1) In proceedings in the Intellectual Property Enterprise Court in which a claim is made for damages or an account of profits, the amount or value of that claim shall not exceed £500,000.

- (2) In determining the amount or value of a claim for the purpose of paragraph (1), a claim for—
- (a) interest, other than interest payable under an agreement; or
 - (b) costs,

shall be disregarded.

(3) Paragraph (1) shall not apply if the parties agree that the Intellectual Property Enterprise Court shall have jurisdiction to award damages or profits in excess of £500,000.]

Textual Amendments

F1643 Words in rule 63.17 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(i)**

F1644 Rule 63.17A inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(j)**

Transfer of proceedings

^{F1645}**63.18.**—(1) Rule 30.5 applies save for the modifications—

- (a) a judge sitting in the County Court or the general Chancery Division may order proceedings to be transferred to the Intellectual Property Enterprise Court; and
- (b) an application for the transfer of proceedings from the County Court or the general Chancery Division to the Intellectual Property Enterprise Court may be made to a judge sitting in the County Court or the general Chancery Division respectively.

(2) When considering whether to transfer proceedings to or from the Intellectual Property Enterprise Court, the court will have regard to the provisions of Practice Direction 30.]

Textual Amendments

F1645 Rule 63.18 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(k)**

^{F1646}**Enterprise judges and ^{F1607}District Judges]**

63.19.—(1) Subject to paragraph (2), proceedings in ^{F1647}the Intellectual Property Enterprise Court will be dealt with by an enterprise judge.]

^{F1648}(1A)

^{F1649}(2) Unless the court otherwise orders, the following matters will be dealt with by a ^{F35}District Judge]—

- (a) allocation of claims to the small claims track or multi-track in accordance with rule 63.27(3);
- (b) claims allocated to the small claims track; and
- (c) all proceedings for the enforcement of any financial element of an Intellectual Property Enterprise Court judgment.

(3) For the purposes of the Practice Direction 52A – Appeals: General Provisions, a decision of a [F35 District Judge] shall be treated as a decision by a [F35 District Judge] hearing a F1650 ... claim in the County Court. An appeal from such a decision shall be heard by an enterprise judge.]

Textual Amendments

- F35** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)
- F1607** Words in Rules substituted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)
- F1646** Rule 63.19 heading substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(l)(i)**
- F1647** Words in rule 63.19(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(l)(ii)**
- F1648** Rule 63.19(1A) omitted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016](#) (S.I. 2016/788), rules 2, **12(a)**
- F1649** Rule 63.19(2)(3) substituted for rule 63.19(2) (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(l)(iv)**
- F1650** Word in rule 63.19(3) omitted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016](#) (S.I. 2016/788), rules 2, **12(b)**

Statements of case

63.20.—(1) Part 16 applies with the modification that a statement of case must set out concisely all the facts and arguments upon which the party serving it relies.

(2) The particulars of claim must state whether the claimant has complied with paragraph [F1651 6] of the Practice Direction (Pre-Action Conduct).

Textual Amendments

- F1651** Word in rule 63.20(2) substituted (6.4.2017) by [The Civil Procedure \(Amendment\) Rules 2017](#) (S.I. 2017/95), rules 2, **11(1)**

Statement of truth

63.21. Part 22 applies with the modification that the statement of truth verifying a statement of case must be signed by a person with knowledge of the facts alleged, or if no one person has knowledge of all the facts, by persons who between them have knowledge of all the facts alleged.

Defence and reply

63.22.—(1) Rule 63.7 does not apply and Part 15 applies with the following modifications.

(2) Where the particulars of claim contain a confirmation in accordance with rule 63.20(2), the period for filing a defence [F1652 where the defendant files an acknowledgment of service under Part 10] is 42 days after service of the particulars of claim unless rule 15.4(2) provides for a longer period to do so.

(3) Where the particulars of claim do not contain a confirmation in accordance with rule 63.20(2), the period for filing a defence [F1653 where the defendant files an acknowledgment of service under Part 10] is 70 days after service of the particulars of claim.

(4) Where the claimant files a reply to a defence it must be filed and served on all other parties within 28 days of service of the defence.

(5) Where the defendant files a reply to a defence to a counterclaim it must be filed and served on all other parties within 14 days of service of the defence to the counterclaim.

(6) The periods in this rule may only be extended by order of the court and for good reason.

Textual Amendments

F1652 Words in rule 63.22(2) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(m)(i)**

F1653 Words in rule 63.22(3) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(m)(ii)**

Case management

63.23.—(1) At the first case management conference after those defendants who intend to file and serve a defence have done so, the court will identify the issues and decide whether to make an order in accordance with paragraph 29.1 of Practice Direction 63.

(2) Save in exceptional circumstances the court will not [^{F1654}permit] a party to submit material in addition to that ordered under paragraph (1).

(3) The court may determine the claim on the papers where all parties consent.

Textual Amendments

F1654 Word in rule 63.23(2) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(n)**

Disclosure and inspection

63.24.—(1) Rule 63.9 does not apply.

(2) Part 31 applies save that the provisions on standard disclosure do not apply.

Applications

63.25.—(1) Part 23 applies with the modifications set out in this rule.

(2) Except at the case management conference provided for in rule 63.23(1), a respondent to an application must file and serve on all relevant parties a response within 5 days of the service of the application notice.

(3) The court will deal with an application without a hearing unless the court considers it necessary to hold a hearing.

(4) An application to transfer the claim to the [^{F1655}Patents Court or general Chancery Division] or to stay proceedings must be made before or at the case management conference provided for in rule 63.23(1).

(5) The court will consider an application to transfer the claim later in the proceedings only where there are exceptional circumstances.

Textual Amendments

F1655 Words in rule 63.25(4) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(o)**

Costs

63.26.—(1) Subject to paragraph (2), the court will reserve the costs of an application to the conclusion of the trial when they will be subject to summary assessment.

(2) Where a party has behaved unreasonably the court [^{F1656}may] make an order for costs at the conclusion of the hearing.

(3) Where the court makes a summary assessment of costs, it will do so in accordance with [^{F1657}Section VII of Part 46].]

Textual Amendments

F1656 Word in rule 63.26(2) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **26(p)(i)**

F1657 Words in rule 63.26(3) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **28(1)** (with rule 1(3))

[^{F1658}Allocation to the small claims track

63.27.—(1) A claim started in or transferred to [^{F1659}the Intellectual Property Enterprise Court] will be allocated to the small claims track if—

- (a) rule 63.13, but not rule 63.2, applies to the claim;
- (b) the value of the claim is not more than [^{F1660}£10,000];
- (c) it is stated in the particulars of claim that the claimant wishes the claim to be allocated to the small claims track; and
- (d) no objection to the claim being allocated to the small claims track is raised by the defendant in the defence.

^{F1661}(2)

(3) If either—

- (a) the requirements of rule 63.27(1)(a), (b) and (c) are satisfied, but in the defence the defendant objects to the claim being allocated to the small claims track; or
- (b) the requirements of rule 63.27(1)(a) and (b) are satisfied, but not (c), and in the defence the defendant requests that the claim be allocated to the small claims track,

the court will allocate the claim to the small claims track or the multi-track in accordance with Part 26 (case management – preliminary stage). [^{F1662}For that purpose the court will send the parties a directions questionnaire and require them to file completed directions questionnaires and to serve them on all other parties within 14 days]

(4) Part 27 (small claims track) shall apply to claims allocated to the small claims track in [^{F1663}the Intellectual Property Enterprise Court] with the modification to rule 27.2(1)(a) that Part 25 (interim remedies) shall not apply to such claims at all. [^{F1664}Section VII of Part 46] (scale costs for claims in [^{F1663}the Intellectual Property Enterprise Court]) shall not apply to claims allocated to the small claims track in [^{F1663}the Intellectual Property Enterprise Court].]

Textual Amendments

- F1658** Rule 63.27 inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012](#) (S.I. 2012/2208), rules 1, **10(c)**
- F1659** Words in rule 63.27(1) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(q)(i)**
- F1660** Sum in rule 63.27(1)(b) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013](#) (S.I. 2013/262), rules 2, **19** (with rule 22)
- F1661** Rule 63.27(2) omitted (1.10.2013) by virtue of [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(q)(ii)**
- F1662** Words in rule 63.27(3) inserted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(q)(iii)**
- F1663** Words in rule 63.27(4) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(q)(iv)(aa)**
- F1664** Words in rule 63.27(4) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022](#) (S.I. 2022/783), rules 1(1), **28(2)** (with rule 1(3))

[^{F1665}Extent to which rules in this Part apply to small claims

63.28.—(1) To the extent provided by this rule, this Part shall apply to a claim allocated to, or requested to be allocated to, the small claims track in [^{F1666}the Intellectual Property Enterprise Court].

(2) Rules 63.1, 63.13, 63.18, 63.20, 63.21, 63.22, 63.25, 63.26(1) and (2), and 63.27 shall apply to the claim.

(3) No other rules in this Part shall apply.]]

Textual Amendments

- F1665** Rule 63.28 inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012](#) (S.I. 2012/2208), rules 1, **10(c)**
- F1666** Words in rule 63.28 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **26(r)**

[^{F1667}PART 63A

FINANCIAL LIST

Textual Amendments

- F1667** Pt. 63A inserted (1.10.2015) by [The Civil Procedure \(Amendment No. 4\) Rules 2015](#) (S.I. 2015/1569), rule 1(2), **Sch.**

Contents of this Part

<i>Title</i>	<i>Rule number</i>
Scope of this Part and interpretation	Rule 63A.1
Specialist list	Rule 63A.2

<i>Title</i>	<i>Rule number</i>
Application of the Civil Procedure Rules	Rule 63A.3
Proceedings in the Financial List	Rule 63A.4

Scope of this Part and interpretation

63A.1.—(1) This Part applies to claims in the Financial List.

(2) In this Part and Practice Direction 63AA, “Financial List claim” means any claim which—

- (a) principally relates to loans, project finance, banking transactions, derivatives and complex financial products, financial benchmark, capital or currency controls, bank guarantees, bonds, debt securities, private equity deals, hedge fund disputes, sovereign debt, or clearing and settlement, and is for more than £50 million or equivalent;
- (b) requires particular expertise in the financial markets; or
- (c) raises issues of general importance to the financial markets.

(3) “Financial markets” for these purposes include the fixed income markets (covering repos, bonds, credit derivatives, debt securities and commercial paper generally), the equity markets, the derivatives markets, the loan markets, the foreign currency markets, and the commodities markets.

Specialist list

63A.2.—(1) The Financial List is a single specialist list. Claims in the Financial List may be commenced in the Commercial Court or the Chancery Division in London.

(2) The Chancellor of the High Court and the Judge in Charge of the Commercial Court have joint overall responsibility for all claims in the Financial List.

Application of the Civil Procedure Rules

63A.3. These Rules and their practice directions apply to claims in the Financial List unless this Part or a practice direction provides otherwise.

Proceedings in the Financial List

63A.4.—(1) A Financial List claim may be started in the Financial List.

(2) All claims in the Financial List will be allocated at the time of the first case management conference to a designated judge who is a Financial List judge.

(3) A Financial List judge is a judge of the Chancery Division or the Commercial Court who has been authorised to try claims in the Financial List.

(4) Rule 30.5 applies to proceedings in the Financial List, except that a Financial List judge may order a claim to be transferred to any other specialist list.

(5) Rules 58.5 to 58.13 and 58.15 apply to claims in the Financial List in the same manner as they apply to claims in the Commercial List.]

[^{F1668}PART 64
ESTATES, TRUSTS AND CHARITIES

Textual Amendments

F1668Pt. 64 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 5](#)

Contents of this Part

General	Rule 64.1
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I

CLAIMS RELATING TO THE ADMINISTRATION OF ESTATES AND TRUSTS

Scope of this Section	Rule 64.2
Claim form	Rule 64.3
Parties	Rule 64.4

II

CHARITY PROCEEDINGS

Scope of this Section and interpretation	Rule 64.5
Application for permission to take charity proceedings	Rule 64.6

General

64.1.—(1) This Part contains rules—

- (a) in Section I, about claims relating to—
 - (i) the administration of estates of deceased persons, and
 - (ii) trusts; and
- (b) in Section II, about charity proceedings.

(2) In this Part and [^{F1669}Practice Directions 64A and 64B], where appropriate, references to trustees include executors and administrators.

(3) All proceedings in the High Court to which this Part applies must be brought in the Chancery Division.

Textual Amendments

F1669Words in rule 64.1(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), [39\(a\)](#)

SECTION I: CLAIMS RELATING TO THE ADMINISTRATION OF ESTATES AND TRUSTS

Scope of this Section

64.2 This Section of this Part applies to claims—

- (a) for the court to determine any question arising in—
 - (i) the administration of the estate of a deceased person; or
 - (ii) the execution of a trust;
- (b) for an order for the administration of the estate of a deceased person, or the execution of a trust, to be carried out under the direction of the court (“an administration order”);
- (c) under the Variation of Trusts Act 1958(7); or
- (d) under section 48 of the Administration of Justice Act 1985(8).

Claim form

64.3 A claim to which this Section applies must be made by issuing a Part 8 claim form.

Parties

64.4.—(1) In a claim to which this Section applies, other than an application under section 48 of the Administration of Justice Act 1985—

- (a) all the trustees must be parties;
- (b) if the claim is made by trustees, any of them who does not consent to being a claimant must be made a defendant; and
- (c) the claimant may make parties to the claim any persons with an interest in or claim against the estate, or an interest under the trust, who it is appropriate to make parties having regard to the nature of the order sought.

(2) In addition, in a claim under the Variation of Trusts Act 1958, unless the court directs otherwise any person who—

- (a) created the trust; or
- (b) provided property for the purposes of the trust,

must, if still alive, be made a party to the claim.

(The court may, under rule 19.2, order additional persons to be made parties to a claim.)

SECTION II: CHARITY PROCEEDINGS

Scope of this Section and interpretation

64.5.—(1) This Section applies to charity proceedings.

(2) In this Section—

- (a) “the Act” means the Charities Act 1993(9);
- (b) “charity proceedings” has the same meaning as in section 33(8) of the Act; and
- (c) “the Commissioners” means the Charity Commissioners for England and Wales.

(7) 1981 c. 54. Section 35A was inserted by the Administration of Justice Act 1982 (c. 53), section 15(1), Schedule 1, Part I.

(8) 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 46.

(9) 1982 c. 27.

Application for permission to take charity proceedings

64.6.—(1) An application to the High Court under section 33(5) of the Act for permission to start charity proceedings must be made within 21 days after the refusal by the Commissioners of an order authorising proceedings.

(2) The application must be made by issuing a Part 8 claim form, which must contain the information specified in [F1670Practice Direction 64A].

(3) The Commissioners must be made defendants to the claim, but the claim form need not be served on them or on any other person.

(4) The judge considering the application may direct the Commissioners to file a written statement of their reasons for their decision.

(5) The court will serve on the applicant a copy of any statement filed under paragraph (4).

(6) The judge may either—

- (a) give permission without a hearing; or
- (b) fix a hearing.]

Textual Amendments

F1670 Words in rule 64.6(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **39(b)**

[F1671]PART 65

PROCEEDINGS RELATING TO ANTI-SOCIAL BEHAVIOUR AND HARASSMENT

Textual Amendments

F1671 Pt. 65 inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rule 1(b), **Sch. 2** (with rule 20(2)(a))

Contents of this Part

Scope of this Part	Rule 65.1
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I HOUSING ACT 1996 INJUNCTIONS

Scope of this Section and interpretation	Rule 65.2
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Applications for an injunction	Rule 65.3
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Injunction containing provisions to which a power of arrest is attached	Rule 65.4
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Application for warrant of arrest under section 155(3) of the 1996 Act	Rule 65.5
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Proceedings following arrest	Rule 65.6
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Recognizance Rule 65.7

II APPLICATIONS BY LOCAL AUTHORITIES FOR POWER OF ARREST TO BE ATTACHED TO AN INJUNCTION

Scope of this Section and interpretation Rule 65.8

Applications under section 91(3) of the 2003 Act for a power of arrest to be attached to any provision of an injunction Rule 65.9

Injunction containing provisions to which a power of arrest is attached Rule 65.10

[^{F1672} III DEMOTION CLAIMS, PROHIBITED CONDUCT STANDARD CONTRACT ORDER CLAIMS (IN WALES), RELATED PROCEEDINGS AND APPLICATIONS (IN ENGLAND) TO SUSPEND THE RIGHT TO BUY]

Scope of this Section and interpretation Rule 65.11

Demotion claims [^{F1673}, prohibited conduct standard contract order claims or suspension claims] made in the alternative to possession claims Rule 65.12

Other demotion claims [^{F1674}, prohibited conduct standard contract order claims or suspension claims] Rule 65.13

Starting a demotion claim [^{F1675}, prohibited conduct standard contract order claim or suspension claim] Rule 65.14

Particulars of claim Rule 65.15

Hearing date Rule 65.16

Defendant's response Rule 65.17

The hearing Rule 65.18

Allocation Rule 65.19

Proceedings relating to demoted tenancies [^{F1676} and prohibited conduct standard contract order claims] Rule 65.20

IV ANTI-SOCIAL BEHAVIOUR ORDERS UNDER THE CRIME AND DISORDER ACT 1998

Scope of this Section and interpretation Rule 65.21

Application where the relevant authority is a party to the principal proceedings	Rule 65.22
Application by a relevant authority to join a person to the principal proceedings	Rule 65.23
Application where the relevant authority is not a party to the principal proceedings	Rule 65.24
Evidence	Rule 65.25
Application for an interim order	Rule 65.26

V CLAIMS UNDER THE PROTECTION FROM HARASSMENT ACT 1997

Scope of this Section and interpretation	Rule 65.27
Claims under section 3 of the 1997 Act	Rule 65.28
Application for issue of a warrant of arrest under section 3(3) of the 1997 Act	Rule 65.29
Proceedings following arrest	Rule 65.30

[^{F1677}VI DRINKING BANNING ORDERS UNDER THE VIOLENT CRIME REDUCTION ACT 2006

Scope of this Section and interpretation	Rule 65.31
Application where the relevant authority is a party in principal proceedings	Rule 65.32
Application where the relevant authority is not a party in principal proceedings	Rule 65.33
Application by a relevant authority to join a person to the principal proceedings	Rule 65.34
Evidence	Rule 65.35
Application for an interim order	Rule 65.36]

VII PARENTING ORDERS UNDER THE ANTI-SOCIAL BEHAVIOUR ACT 2003

Scope of this Section and interpretation	Rule 65.37
Applications for parenting orders	Rule 65.38
Applications by the relevant authority to be joined to proceedings	Rule 65.39
Applications by the relevant authority to join a parent to proceedings	Rule 65.40
Evidence	Rule 56.41

[^{F1678}VIII INJUNCTIONS UNDER THE POLICING AND CRIME ACT 2009
^{F1679}AND UNDER PART 1 OF THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014]

Scope of this Section and interpretation	Rule 65.42
Applications for an injunction	Rule 65.43
Injunction containing provisions to which a power of arrest is attached	Rule 65.44
Application to vary or discharge an injunction	Rule 65.45
Application for warrant of arrest under section 44(2) of the 2009 Act[^{F1680} or section 10 of the 2014 Act]	Rule 65.46
Proceedings following arrest under the 2009 Act	Rule 65.47
Recognizance	Rule 65.48
Applications for a power of arrest to be attached to any provision of an injunction	Rule 65.49]

Scope of this Part

65.1. This Part contains rules—

- (a) in Section I, about injunctions under the Housing Act 1996;
- (b) in Section II, about applications by local authorities under section 91(3) of the Anti-social Behaviour Act 2003 for a power of arrest to be attached to an injunction;
- [^{F1681}(c) in Section III, about claims for demotion orders under the Housing Acts 1985 and 1988, and for prohibited conduct standard contract orders under the Renting Homes (Wales) Act 2016, and related proceedings;]
- (d) in Section IV, about anti-social behaviour orders under the Crime and Disorder Act 1998;
- (e) in Section V, about claims under section 3 of the Protection from Harassment Act 1997 [^{F1682};] [^{F1683} ...
- [^{F1685}]
- [^{F1684}(f) in Section VI, about applications for drinking banning orders and interim drinking banning [^{F1686}(f) orders under sections 4 and 9 of the Violent Crime Reduction Act 2006; ^{F1687} ...]
- (g) in Section VII, about parenting orders under sections 26A and 26B of the Anti-social Behaviour Act 2003][^{F1688}; and
- (h) in Section VIII, about injunctions under the Policing and Crime Act 2009.]

Textual Amendments
F1681 Rule 65.1(c) substituted (1.12.2022) by The Civil Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/783), rules 1(2), **29(2)**

- F1682**Rule 65.1(e): semicolon substituted for full stop (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(b)**
- F1683**Word in rule 65.1(e) omitted (31.8.2009) by virtue of [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(3), **13(b)**
- F1684**Rule 65.1(f)(g) inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(c)**
- F1685**Rule 65.1(f) omitted (1.10.2008) by virtue of [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **36(b)(ii)**
- F1686**Rule 65.1(f) inserted (31.8.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(3), **13(c)**
- F1687**Word in rule 65.1(f) omitted (31.1.2011) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(3), **9(b)(i)**; S.I. 2010/2988, **art. 2**
- F1688**Rule 65.1(h) and word inserted (31.1.2011) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(3), **9(b)(ii)**; S.I. 2010/2988, **art. 2**

SECTION I

Housing Act 1996 injunctions

Scope of this Section and interpretation

^{F1689}**65.2.**

Textual Amendments

F1689Rules 65.2-65.7 omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(a)**

Applications for an injunction

^{F1689}**65.3.**

Textual Amendments

F1689Rules 65.2-65.7 omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(a)**

Injunction containing provisions to which a power of arrest is attached

^{F1689}**65.4.**

Textual Amendments

F1689Rules 65.2-65.7 omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(a)**

Application for warrant of arrest under section 155(3) of the 1996 Act

^{F1689}**65.5.**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F1689Rules 65.2-65.7 omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(a)**

Proceedings following arrest

65.6. ^{F1689}

Textual Amendments

F1689Rules 65.2-65.7 omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(a)**

Recognizance

^{F1689}**65.7.**

Textual Amendments

F1689Rules 65.2-65.7 omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(a)**

SECTION II

Applications by local authorities for power of arrest to be attached to an injunction

Scope of this Section and interpretation

65.8.—(1) This Section applies to applications by local authorities under section 91(3) of the Anti-social Behaviour Act 2003 [^{F1690}or under section 27(3) of the Police and Justice Act 2006] for a power of arrest to be attached to an injunction.

(Section 91 of the 2003 Act^{F1691} and section 27 of the 2006 Act apply] to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants in their area)

(2) In this Section “the 2003 Act” means the Anti-social Behaviour Act 2003.

[
^{F1692}(3) In this Section “the 2006 Act” means the Police and Justice Act 2006.]

Textual Amendments

F1690Words in rule 65.8(1) inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(d)(i)**

F1691Words in rule 65.8(1) substituted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(d)(ii)**

F1692Rule 65.8(3) inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(d)(iii)**

Applications under section 91(3) of the 2003 Act^{F1693} or section 27(3) of the 2006 Act] for a power of arrest to be attached to any provision of an injunction

65.9.—(1) An application under section 91(3) of the 2003 Act^{F1694} or section 27(3) of the 2006 Act] for a power of arrest to be attached to any provision of an injunction must be made in the proceedings seeking the injunction by—

- (a) the claim form;
- (b) the acknowledgment of service;
- (c) the defence or counterclaim in a Part 7 claim; or
- (d) application under Part 23.

(2) Every application must be supported by written evidence.

(3) Every application made on notice must be served personally, together with a copy of the written evidence, by the local authority on the person against whom the injunction is sought not less than 2 days before the hearing.

(Attention is drawn to rule 25.3(3)—applications without notice)

Textual Amendments

F1693 Words in rule 65.9 heading inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(e)(i)**

F1694 Words in rule 65.9(1) inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(e)(ii)**

Injunction containing provisions to which a power of arrest is attached

65.10.—(1) Where a power of arrest is attached to a provision of an injunction on the application of a local authority under section 91(3) of the 2003 Act, the following rules in Section I of this Part shall apply—

- (a) rule 65.4; and
- (b) paragraphs (1), (2), (4) and (5) of rule 65.6.

I
^{F1695}(1A) Where a power of arrest is attached to a provision of an injunction on the application of a local authority under section 27(3) of the 2006 Act, the following rules in Section I of this Part apply—

- (a) rule 65.4;
- (b) paragraphs (1), (2), (4) and (5) of rule 65.6;
- (c) paragraph (1) of rule 65.7, as if the reference to paragraph 2(2)(b) of Schedule 15 to the Housing Act 1996 was a reference to paragraph 2(2)(b) of Schedule 10 to the 2006 Act; and
- (d) paragraph (2) of rule 65.7.]

^{F1696}(2)

Textual Amendments

F1695 Rule 65.10(1A) inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(f)**

F1696 Rule 65.10(2) omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(b)**; S.I. 2014/954, art. 2(a)

[^{F1697}III DEMOTION CLAIMS, PROHIBITED CONDUCT STANDARD CONTRACT ORDER CLAIMS (IN WALES), RELATED PROCEEDINGS AND APPLICATIONS (IN ENGLAND) TO SUSPEND THE RIGHT TO BUY]

Textual Amendments

F1697 Pt. 65 Section 3 heading substituted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(3)**

Scope of this Section and interpretation

65.11.—(1) This Section applies to—

(a) claims by a landlord for an order under section 82A of the Housing Act 1985 or under section 6A of the Housing Act 1988 (“a demotion order”); ^{F1698} ...

[claims by a landlord for an order under section 121A of the Housing Act 1985 (“a ^{F1699}(aa) suspension order”); ^{F1700} ...]

(b) proceedings relating to a tenancy created by virtue of a demotion order [^{F1701}; and]

[claims by a landlord for an order under section 116 of the Renting Homes (Wales) Act ^{F1702}(c) 2016.]

(2) In this Section—

[“the 2016 Act” means the Renting Homes (Wales) Act 2016;] ^{F1703}(za)

(a) “a demotion claim” means a claim made by a landlord for a demotion order; ^{F1704} ...

(b) “a demoted tenancy” means a tenancy created by virtue of a demotion order ;

[“a dwelling” means a dwelling let under an occupation contract; ^{F1705}(ba)

(bb) “a prohibited conduct standard contract” has the meaning provided by section 116(6) of the 2016 Act;

(bc) “a prohibited conduct standard contract order” is an order imposed under section 116 of the 2016 Act;

(bd) “a prohibited conduct standard contract order claim” means a claim for a prohibited conduct standard contract order;

(be) “a Renting Homes possession claim” means a claim for the recovery of possession of a dwelling under the 2016 Act;]

[“suspension claim” means a claim made by a landlord for a suspension order; and ^{F1706}(c)

(d) “suspension period” means the period during which the suspension order suspends the right to buy in relation to the dwelling house.]

Textual Amendments

- F1698** Word in rule 65.11(1)(a) omitted (1.10.2005) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(b)(i)**
- F1699** Rule 65.11(1)(aa) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(b)(ii)**
- F1700** Word in rule 65.11(1)(aa) omitted (1.12.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(4)(a)(i)**
- F1701** Word in rule 65.11(1)(b) substituted for full stop (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(4)(a)(ii)**
- F1702** Rule 65.11(1)(c) inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(4)(a)(iii)**
- F1703** Rule 65.11(2)(za) inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(4)(b)(i)**
- F1704** Word in rule 65.11(2)(a) omitted (1.10.2005) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(c)(i)**
- F1705** Rules 65.11(2)(ba)-(be) inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(4)(b)(ii)**
- F1706** Rule 65.11(2)(c)(d) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(c)(ii)**

Demotion claims [^{F1707}, prohibited conduct standard contract order claims][^{F1708} or suspension claims] made in the alternative to possession claims

65.12.—[

^{F1709}(1)] Where a demotion order [^{F1710} or suspension order (or both)] is claimed in the alternative to a possession order, the claimant must use the Part 55 procedure and Section I of Part 55 applies, except that the claim must be made [^{F1711} in accordance with rule 55.3(1)].

[^{F1712}(2) Where a prohibited conduct standard contract order is claimed in the alternative to a possession order, the claimant must use the Part 55 procedure and Section IV of Part 55 applies.]

Textual Amendments

- F1707** Words in rule 65.12 heading inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(5)**
- F1708** Words in rule 65.12 heading inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(d)(i)**
- F1709** Rule 65.12 renumbered as rule 65.12(1) (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(6)**
- F1710** Words in rule 65.12 inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(d)(ii)**
- F1711** Words in rule 65.12 substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(c)**; S.I. 2014/954, art. 2(a)
- F1712** Rule 65.12(2) inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(7)**

Other demotion [^{F1713}claims, prohibited conduct standard contract order claims][^{F1714}or suspension] claims

65.13. Where a demotion claim [^{F1715}or suspension claim (or both)][^{F1716}, or a prohibited conduct standard contract order claim] is made other than in a possession claim [^{F1717}or a Renting Homes possession claim], rules 65.14 to 65.19 apply.

Textual Amendments

F1713 Words in rule 65.13 heading inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\), rules 1\(2\), 29\(8\)](#)

F1714 Words in rule 65.13 heading inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\), rules 1\(c\), 48\(e\)\(i\)](#)

F1715 Words in rule 65.13 inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\), rules 1\(c\), 48\(e\)\(ii\)](#)

F1716 Words in rule 65.13 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\), rules 1\(2\), 29\(9\)\(a\)](#)

F1717 Words in rule 65.13 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\), rules 1\(2\), 29\(9\)\(b\)](#)

Starting a demotion [^{F1718}claim, prohibited conduct standard contract order claim][^{F1719}or suspension] claim

- (a) **65.14.** [^{F1720}(1) (a) The claim may be made at any County Court hearing centre;
- (b) the claim will be issued by the hearing centre where the claim is made; and
- (c) if the claim is not made at the County Court hearing centre which serves the address where the property [^{F1721}or dwelling] is situated, the claim, when it is issued, will be sent to that hearing centre.

(Practice Direction 65 makes further provision in respect of claims which are not made at the County Court hearing centre which serves the address where the property [^{F1722}or dwelling] is situated.)]

(2) The claim form and form of defence sent with it must be in the forms set out in [^{F1723}Practice Direction 65].

(^{F1724}Part 16 and Practice Direction 65] provide details about the contents of the particulars of claim)

Textual Amendments

F1718 Words in rule 65.14 heading inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\), rules 1\(2\), 29\(10\)](#)

F1719 Words in rule 65.14 heading inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\), rules 1\(c\), 48\(f\)\(i\)](#)

F1720 Rule 65.14(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\), rules 2\(1\), 28\(d\); S.I. 2014/954, art. 2\(a\)](#)

F1721 Words in rule 65.14(1)(c) inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\), rules 1\(2\), 29\(11\)](#)

F1722 Words in rule 65.14 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\), rules 1\(2\), 29\(12\)](#)

F1723 Words in rule 65.14(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **40(a)**

F1724 Words in rule 65.14(2) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **40(b)**

Particulars of claim

65.15. The particulars of claim must be filed and served with the claim form.

Hearing date

65.16.—(1) The court will fix a date for the hearing when it issues the claim form.

(2) The hearing date will be not less than 28 days from the date of issue of the claim form.

(3) The standard period between the issue of the claim form and the hearing will be not more than 8 weeks.

(4) The defendant must be served with the claim form and the particulars of claim not less than 21 days before the hearing date.

(Rule 3.1(2)(a) provides that the court may extend or shorten the time for compliance with any rule and rule 3.1(2)(b) provides that the court may adjourn or bring forward a hearing)

Defendant's response

65.17.—(1) An acknowledgement of service is not required and Part 10 does not apply.

(2) Where the defendant does not file a defence within the time specified in rule 15.4 he may take part in any hearing but the court may take his failure to do so into account when deciding what order to make about costs.

(3) Part 12 (default judgment) does not apply ^{F1725}

Textual Amendments

F1725 Words in rule 65.17(3) omitted (1.10.2005) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(g)**

The hearing

65.18.—(1) At the hearing fixed in accordance with rule 65.16(1) or at any adjournment of that hearing the court [^{F1726}shall take appropriate steps to ensure that the respondent is aware of their entitlement to a reasonable opportunity to obtain legal representation and to apply for legal aid which may be available without any means test, and] may—

(a) [^{F1727}decide the claim]; or

(b) give case management directions.

(2) Where [^{F1728}the claim] is genuinely disputed on grounds which appear to be substantial, case management directions given under paragraph (1)(b) will include the allocation of [^{F1728}the claim] to a track or directions to enable it to be allocated.

(3) Except where—

(a) [^{F1729}the claim] is allocated to the fast track [^{F1730}, intermediate track] or the multi-track; or

(b) the court directs otherwise,

any fact that needs to be proved by the evidence of witnesses at a hearing referred to in paragraph (1) may be proved by evidence in writing.

(Rule 32.2(1) sets out the general rule about evidence. Rule 32.2(2) provides that rule 32.2(1) is subject to any provision to the contrary)

(4) All witness statements must be filed and served at least two days before the hearing.

(5) Where the claimant serves the claim form and particulars of claim, [F1731the claimant] must produce at the hearing a certificate of service of those documents and rule [F17326.17(2)(a)] does not apply.

Textual Amendments

F1726 Words in rule 65.18(1) inserted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **17(1)**

F1727 Words in rule 65.18(1)(a) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(h)(i)**

F1728 Words in rule 65.18(2) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(h)(ii)**

F1729 Words in rule 65.18(3)(a) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(h)(iii)**

F1730 Words in rule 65.18(3)(a) inserted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **21(1)** (with rule 2)

F1731 Words in rule 65.18(5) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **36(c)(i)**

F1732 Word in rule 65.18(5) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **36(c)(ii)**

Allocation

65.19. When the court decides the track for [F1733the claim], the matters to which it shall have regard include—

- (a) the matters set out in rule [F173426.13]; and
- (b) the nature and extent of the conduct alleged.

Textual Amendments

F1733 Words in rule 65.19 substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **48(i)**

F1734 Word in rule 65.19(a) substituted (1.10.2023) by [The Civil Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/572\)](#), rules 1(1), **21(2)** (with rule 2)

Proceedings relating to demoted tenancies [F1735 and prohibited conduct standard contract order claims]

65.20. A practice direction may make provision about proceedings relating to demoted tenancies [F1736or to prohibited conduct standard contracts].

Textual Amendments

F1735 Words in rule 65.20 heading inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(13)**

F1736 Words in rule 65.20 inserted (1.12.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(2), **29(14)**

SECTION IV

Anti-social behaviour orders under the Crime and Disorder Act 1998

Scope of this Section and interpretation

65.21.—(1) This Section applies to applications in proceedings in [^{F53}the County Court] under sub-sections (2), (3) or (3B) of section 1B of the Crime and Disorder Act 1998 by a relevant authority, and to applications for interim orders under section 1D of that Act.

(2) In this Section—

- (a) “the 1998 Act” means the Crime and Disorder Act 1998;
- (b) “relevant authority” has the same meaning as in section 1(1A) of the 1998 Act; and
- (c) “the principal proceedings” means any proceedings in [^{F53}the County Court].

Textual Amendments

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

Application where the relevant authority is a party in principal proceedings

65.22.—(1) Subject to paragraph (2)—

- (a) where the relevant authority is the claimant in the principal proceedings, an application under section 1B(2) of the 1998 Act for an order under section 1B(4) of the 1998 Act must be made in the claim form; and
- (b) where the relevant authority is a defendant in the principal proceedings, an application for an order must be made by application notice which must be filed with the defence.

(2) Where the relevant authority becomes aware of the circumstances that lead it to apply for an order after its claim is issued or its defence filed, the application must be made by application notice as soon as possible thereafter.

(3) Where the application is made by application notice, it should normally be made on notice to the person against whom the order is sought.

Application by a relevant authority to join a person to the principal proceedings

65.23.—(1) An application under section 1B(3B) of the 1998 Act by a relevant authority which is a party to the principal proceedings to join a person to the principal proceedings must be made—

- (a) in accordance with Section I of Part 19;
- (b) in the same application notice as the application for an order under section 1B(4) of the 1998 Act against the person; and

- (c) as soon as possible after the relevant authority considers that the criteria in section 1B(3A) of the 1998 Act are met.
- (2) The application notice must contain—
 - (a) the relevant authority’s reasons for claiming that the person’s anti-social acts are material in relation to the principal proceedings; and
 - (b) details of the anti-social acts alleged.
- (3) The application should normally be made on notice to the person against whom the order is sought.

Application where the relevant authority is not party in principal proceedings

- 65.24.**—(1) Where the relevant authority is not a party to the principal proceedings—
- (a) an application under section 1B(3) of the 1998 Act to be made a party must be made in accordance with Section I of Part 19; and
 - (b) the application to be made a party and the application for an order under section 1B(4) of the 1998 Act must be made in the same application notice.
- (2) The applications—
- (a) must be made as soon as possible after the authority becomes aware of the principal proceedings; and
 - (b) should normally be made on notice to the person against whom the order is sought.

Evidence

65.25. An application for an order under section 1B(4) of the 1998 Act must be accompanied by written evidence, which must include evidence that section 1E of the 1998 Act has been complied with.

Application for an interim order

- 65.26.**—(1) An application for an interim order under section 1D of the 1998 Act must be made in accordance with Part 25.
- (2) The application should normally be made—
- (a) in the claim form or application notice seeking the order; and
 - (b) on notice to the person against whom the order is sought.

SECTION V

Proceedings under the Protection from Harassment Act 1997

Scope of this Section

65.27. This Section applies to proceedings under section 3 of the Protection from Harassment Act 1997 (“the 1997 Act”).

Claims under section 3 of the 1997 Act

- 65.28.**—[
- ^{F1737}(1)] A claim under section 3 of the 1997 Act—
- (a) shall be subject to the Part 8 procedure [^{F1738}and—]

^{F1739}(...) ...

- ^{F1740}(i) in the High Court, must be commenced in the [^{F1741}King's] Bench Division, or
- (ii) in the County Court, may be commenced at any County Court hearing centre.]

[
^{F1742}(2) If the application is commenced at a County Court hearing centre which does not serve the address where—

- (a) the defendant resides or carries on business; or
- (b) the claimant resides or carries on business,

the claim will be issued by the County Court hearing centre where the claim is commenced and sent to the hearing centre serving the address at (a)(i) or (ii), as appropriate.

(Practice Direction 65 makes further provision in respect of claims which are not commenced at the County Court hearing centre which serves the address where the property is situated.)]

Textual Amendments

F1737Rule 65.28 renumbered as rule 65.28(1) (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(e)(i)**; S.I. 2014/954, art. 2(a)

F1738Word in rule 65.28(1)(a) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(e)(ii)**; S.I. 2014/954, art. 2(a)

F1739Words in rule 65.28(1)(b) omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(e)(iii)(aa)**; S.I. 2014/954, art. 2(a)

F1740Rule 65.28(1)(b)(i)(ii) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(e)(iii)(bb)**; S.I. 2014/954, art. 2(a)

F1741Word in rule 65.28(1)(b)(i) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **34**

F1742Rule 65.28(2) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(e)(iv)**; S.I. 2014/954, art. 2(a)

Applications for issue of a warrant of arrest under section 3(3) of the 1997 Act

- 65.29.**—(1) An application for a warrant of arrest under section 3(3) of the 1997 Act—
- (a) must be made in accordance with Part 23; and
 - (b) may be made without notice.
- (2) The application notice must be supported by affidavit evidence which must—
- (a) set out the grounds for the application;
 - (b) state whether the claimant has informed the police of the conduct of the defendant as described in the affidavit; and
 - (c) state whether, to the claimant's knowledge, criminal proceedings are being pursued.

Proceedings following arrest

- 65.30.**—(1) The judge before whom a person is brought following his arrest may—
- (a) deal with the matter; or
 - (b) adjourn the proceedings.
- (2) Where the proceedings are adjourned and the arrested person is released—

- (a) the matter must be dealt with (whether by the same or another judge) within 28 days of the date on which the arrested person appears in court; and
- (b) the arrested person must be given not less than 2 days' notice of the hearing.

[^{F1743}VI]

Drinking Banning Orders under the Violent Crime Reduction Act 2006

Textual Amendments

F1743 Pt. 65 Section 6 inserted (31.8.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rule 1(3), **Sch. 2**

Scope of this Section and interpretation

65.31.—(1) This Section applies to applications in proceedings in [^{F53}the County Court] under sub-sections (2), (3) or (5) of section 4 of the Violent Crime Reduction Act 2006 by a relevant authority, and to applications for interim orders under section 9 of that Act.

(2) In this Section—

- (a) “the 2006 Act” means the Violent Crime Reduction Act 2006;
- (b) “relevant authority” has the same meaning as in section 14(1) of the 2006 Act; and
- (c) “the principal proceedings” means any proceedings in [^{F53}the County Court].

Textual Amendments

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

Application where the relevant authority is a party in principal proceedings

65.32.—(1) Subject to paragraph (2)—

- (a) where the relevant authority is the claimant in the principal proceedings, an application under section 4(2) of the 2006 Act for an order under section 4(7) of the 2006 Act must be made in the claim form; and
- (b) where the relevant authority is a defendant in the principal proceedings, an application for an order must be made by application notice which must be filed with the defence.

(2) Where the relevant authority becomes aware of the circumstances that lead it to apply for an order after its claim is issued or its defence filed, the application must be made by application notice as soon as possible thereafter.

(3) Where the application is made by application notice, it should normally be made on notice to the person against whom the order is sought.

Application where the relevant authority is not a party in principal proceedings

65.33.—(1) Where the relevant authority is not a party to the principal proceedings—

- (a) an application under section 4(3) of the 2006 Act to be made a party must be made in accordance with Section I of Part 19; and

- (b) the application to be made a party and the application for an order under section 4(7) of the 2006 Act must be made in the same application notice.
- (2) The applications—
 - (a) must be made as soon as possible after the relevant authority becomes aware of the principal proceedings; and
 - (b) should normally be made on notice to the person against whom the order is sought.

Application by a relevant authority to join a person to the principal proceedings

65.34.—(1) An application under section 4(5) of the 2006 Act by a relevant authority which is a party to the principal proceedings to join a person to the principal proceedings must be made—

- (a) in accordance with Section I of Part 19;
- (b) in the same application notice as the application for an order under section 4(7) of the 2006 Act against the person; and
- (c) as soon as possible after the relevant authority considers that the criteria in section 4(4) of the 2006 Act are met.
- (2) The application notice must contain—
 - (a) the relevant authority’s reasons for claiming that the person’s conduct is material in relation to the principal proceedings; and
 - (b) details of the conduct alleged.
- (3) The application should normally be made on notice to the person against whom the order is sought.

Evidence

65.35. An application for an order under section 4(7) of the 2006 Act must be accompanied by written evidence, which must include evidence that section 4(6) of the 2006 Act has been complied with.

Application for an interim order

65.36.—(1) An application for an interim order under section 9 of the 2006 Act must be made in accordance with Part 25.

- (2) The application should normally be made—
 - (a) in the claim form or application notice seeking the order; and
 - (b) on notice to the person against whom the order is sought.
- (3) An application for an interim order may be—
 - (a) made without a copy of the application notice being served on the person against whom the order is sought;
 - (b) heard in the absence of the person against whom the order is sought, with the permission of the court.]

r^{F1744}VII

Parenting Orders under the Anti-Social Behaviour Act 2003

Textual Amendments

F1744Pt. 65 Section 7 inserted (1.10.2007) by [The Civil Procedure \(Amendment\) Rules 2007 \(S.I. 2007/2204\)](#), rules 1, **19(g)**

Scope of this Section and interpretation

65.37.—(1) This Section of this Part applies in relation to applications for parenting orders under sections 26A and 26B of the Anti-social Behaviour Act 2003 by a relevant authority.

(2) In this Section—

- (a) “the 2003 Act” means the Anti-social Behaviour Act 2003; and
- (b) “relevant authority” has the same meaning as in section 26C of the 2003 Act.

Applications for parenting orders

65.38.—(1) Subject to paragraph (2)—

- (a) where the relevant authority is the claimant in the proceedings, an application for an order under section 26A or 26B of the 2003 Act must be made in the claim form; and
- (b) where the relevant authority is a defendant in the proceedings, an application for such an order must be made by application notice which must be filed with the defence.

(2) Where the relevant authority becomes aware of the circumstances that lead it to apply for an order after its claim is issued or its defence filed, the application must be made by application notice as soon as possible thereafter.

(3) Where the application is made by application notice, it must normally be made on notice to the person against whom the order is sought.

Applications by the relevant authority to be joined to proceedings

65.39.—(1) Where the relevant authority is not a party to the proceedings—

- (a) an application under section 26C(2) of the 2003 Act to be made a party must be made in accordance with Section I of Part 19; and
- (b) the application to be made a party and the application for an order under section 26A or 26B of the 2003 Act must be made in the same application notice.

(2) The applications—

- (a) must be made as soon as possible after the relevant authority becomes aware of the proceedings; and
- (b) must normally be made on notice to the person against whom the order is sought.

Applications by the relevant authority to join a parent to proceedings

65.40.—(1) An application under section 26C(3) of the 2003 Act by a relevant authority which is a party to the proceedings to join a parent to those proceedings must be made—

- (a) in the same application notice as the application for an order under section 26A or 26B of the 2003 Act; and

- (b) as soon as possible after the relevant authority considers that the grounds for the application are met.
- (2) Rule 19.2 does not apply in relation to an application made by a relevant authority under section 26C(3) of the 2003 Act to join a parent to the proceedings.
- (3) The application notice must contain—
- (a) the relevant authority’s reasons for claiming the anti-social behaviour of the child or young person is material in relation to the proceedings; and
 - (b) details of the behaviour alleged.
- (4) The application must normally be made on notice to the person against whom the order is sought.

Evidence

65.41. An application under section 26A, 26B or 26C of the 2003 Act must be accompanied by written evidence.]

^{F1745}SECTION VIII

Injunctions under the Policing and Crime Act 2009 ^{F1746} and under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014]

Textual Amendments

F1745Pt. 65 Section 8 inserted (31.1.2011) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rule 1(3), [Sch. 3](#); [S.I. 2010/2988](#), [art. 2](#)

F1746Words in Pt. 65 Section 8 heading inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, [11\(b\)](#)

Scope of this Section and interpretation

65.42.—(1) This Section applies to applications for an injunction and other related proceedings under Part 4 of the Policing and Crime Act 2009 (Injunctions: gang-related violence) ^{F1747} and under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (Injunctions)].

^{F1748}(2) In this Section—

- (a) “the 2009 Act” means the Policing and Crime Act 2009”; and
- (b) “the 2014 Act” means the Anti-Social Behaviour, Crime and Policing Act 2014.]

Textual Amendments

F1747Words in rule 65.42(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, [11\(c\)\(i\)](#)

F1748Rule 65.42(2) substituted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, [11\(c\)\(ii\)](#)

Applications for an injunction

65.43.—(1) An application for an injunction under Part 4 of the 2009 Act^{F1749} or Part 1 of the 2014 Act] is subject to the Part 8 procedure as modified by this rule and Practice Direction 65.

(2) The application ^{F1750} ...—

(a) [^{F1751}must be] made by a claim form in accordance with Practice Direction 65;

^{F1752}(b) may be made at any County Court hearing centre; ^{F1753} ...]

(c) [^{F1754}must be] supported by a witness statement which must be filed with the claim form [^{F1755}; and]

[must include a statement that the respondent is entitled to a reasonable opportunity to ^{F1756}(d) obtain legal representation and to apply for legal aid which may be available without any means test.]

[
^{F1757}(2A) If the application—

(a) is on notice; and

(b) is made at a County Court hearing centre which does not serve the address where—

(i) the defendant resides or carries on business; or

(ii) the claimant resides or carries on business,

the application will be issued by the County Court hearing centre where the application is made and sent to the hearing centre serving the address at (b)(i) or (ii), as appropriate.

(Practice Direction 65 makes further provision in respect of applications which are not made at the County Court hearing centre which serves the address where the defendant resides or the conduct complained of occurred.)]

(3) The claim form must state—

(a) the matters required by rule 8.2; and

(b) the terms of the injunction applied for.

(4) An application under this rule may be made without notice and where such an application without notice is made—

[the application may—

^{F1758}(a1) (i) be made at any County Court hearing centre;

(ii) be heard at the hearing centre where the application is made; and

(iii) at any stage of the proceedings, be transferred by the court to—

(aa) the hearing centre which serves the address where the defendant resides or where the conduct complained of occurred; or

(bb) another hearing centre as the court considers appropriate;]

(a) the witness statement in support of the application must state the reasons why notice has not been given; and

(b) the following rules do not apply—

(i) 8.3;

(ii) 8.4;

(iii) 8.5(2) to (6);

(iv) 8.6(1);

(v) 8.7; and

(vi) 8.8.

(5) In every application made on notice, the application notice must be served, together with a copy of the witness statement, by the claimant on the defendant personally.

- (6) An application made on notice may be listed for hearing before the expiry of the time for the defendant to file an [F1759 acknowledgment] of service under rule 8.3, and in such a case—
- (a) the claimant must serve the application notice and witness statement on the defendant not less than 2 days before the hearing; and
 - (b) the defendant may take part in the hearing whether or not the defendant has filed an acknowledgment of service.

Textual Amendments

- F1749** Words in rule 65.43(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(d)**
- F1750** Words in rule 65.43(2) omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(i)(aa)**; S.I. 2014/954, art. 2(a)
- F1751** Words in rule 65.43(2)(a) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(i)(bb)**; S.I. 2014/954, art. 2(a)
- F1752** Rule 65.43(2)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(i)(cc)**; S.I. 2014/954, art. 2(a)
- F1753** Word in rule 65.43(2)(b) omitted (6.4.2022) by virtue of [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **17(2)(a)**
- F1754** Words in rule 65.43(2)(c) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(ii)**; S.I. 2014/954, art. 2(a)
- F1755** Word in rule 65.43(2)(c) substituted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **17(2)(b)**
- F1756** Rule 65.43(2)(d) inserted (6.4.2022) by [The Civil Procedure \(Amendment\) Rules 2022 \(S.I. 2022/101\)](#), rules 1(1), **17(2)(c)**
- F1757** Rule 65.43(2A) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(iii)**; S.I. 2014/954, art. 2(a)
- F1758** Rule 65.43(4)(a1) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(iv)**; S.I. 2014/954, art. 2(a)
- F1759** Word in rule 65.43(6) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **28(f)(v)**; S.I. 2014/954, art. 2(a)

Injunction containing provisions to which a power of arrest is attached

65.44.—(1) In this rule ‘relevant provision’ means a provision of an injunction to which a power of arrest is attached.

(Section 36(6) and (7) and section 40(3) and 41(4) of the 2009 Act[F1760] and section 4(1)(a) and (b) and (2) of the 2014 Act] confer powers to attach a power of arrest to an injunction.)

- (2) Where an injunction contains one or more relevant provisions—
- (a) each relevant provision must be set out in a separate paragraph of the injunction; and
 - (b) subject to paragraph (3), the claimant must deliver a copy of the relevant provisions to any police station for the area where the conduct occurred.
- (3) Where the injunction has been granted without notice, the claimant must not deliver a copy of the relevant provisions to any police station for the area where the conduct occurred before the defendant has been served with the injunction containing the relevant provisions.
- (4) Where an order is made varying or discharging any relevant provision, the claimant must—
- (a) immediately inform the police station to which a copy of the relevant provisions was delivered under paragraph (2)(b); and
 - (b) deliver a copy of the order to any police station so informed.

Textual Amendments

F1760 Words in rule 65.44 inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(e)**

Application to vary or discharge an injunction

65.45.—(1) An application to vary or discharge an injunction under section 42(1)(b) of the 2009 Act^{F1761} or section 8(1)(a) and (b) of the 2014 Act] must be made in accordance with Part 23.

(2) An application by the claimant to vary or discharge the injunction under section 42(1)(b) of the 2009 Act may be made without notice.

(3) If an application under this rule is made without giving notice, the application notice must state the reasons why notice has not been given.

Textual Amendments

F1761 Words in rule 65.45(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(f)**

Application for warrant of arrest under section 44(2) of the 2009 Act^{F1762} or section 10 of the 2014 Act]

65.46.—(1) An application for a warrant of arrest under section 44(2) of the 2009 Act^{F1763} or section 10 of the 2014 Act] must be made in accordance with Part 23 and may be made without notice.

(2) An applicant for a warrant of arrest under section 44(2) of the 2009 Act^{F1764} or section 10 of the 2014 Act] must—

- (a) file an affidavit setting out grounds for the application with the application notice; or
- (b) give oral evidence of the grounds for the application at the hearing.

(3) Where in accordance with sub-paragraph (2)(b), oral evidence is given, the applicant must produce a written record of that evidence which must be served on the person arrested at the time of the arrest.

Textual Amendments

F1762 Words in rule 65.46 heading inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(g)**

F1763 Words in rule 65.46(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(g)**

F1764 Words in rule 65.46(2) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(g)**

Proceedings following arrest under the 2009 Act^{F1765} and under the 2014 Act]

65.47.—(1) This rule applies where a person is arrested pursuant to—

- (a) a power of arrest attached to a provision of an injunction; or
- (b) a warrant of arrest.

- (2) The judge before whom a person is brought following his arrest may—
 - (a) deal with the matter; or
 - (b) adjourn the proceedings.
 - (3) If proceedings under section 43 or 44 of the 2009 Act^{F1766} or section 9 or 10 of the 2014 Act] are adjourned and the arrested person is released—
 - (a) the matter must be dealt with (whether by the same or another judge) within 28 days of the date on which the arrested person appears in court; and
 - (b) the arrested person must be given not less than 2 days’ notice of the hearing.
 - ^{F1767}(4) A contempt application may be issued even if the arrested person is not dealt with within the period in sub-paragraph (3)(a).]
 - ^{F1768}(5)
- F1768
...

Textual Amendments

F1765 Words in rule 65.47 heading inserted (1.10.2018) by [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(b)(i)**

F1766 Words in rule 65.47(3) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(h)**

F1767 Rule 65.47(4) substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **15(1)** (with rule 2)

F1768 Rule 65.47(5) and words omitted (1.10.2018) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2018 \(S.I. 2018/975\)](#), rules 1(1), **6(b)(ii)**

Recognizance

- 65.48.**—(1) Where, in accordance with paragraph 2(2)(b) of Schedule 5 to the 2009 Act^{F1769} or paragraph 2(3)(b) of Schedule 1 to the 2014 Act], the court fixes the amount of any recognizance with a view to it being taken subsequently, the recognizance may be taken by—
- (a) a judge;
 - (b) a justice of the peace;
 - (c) a justices’ ^{F1770}legal adviser];
 - (d) a police officer of the rank of inspector or above, or in charge of a police station; or
 - (e) where the arrested person is in custody, the governor or keeper of a prison,
- with the same consequences as if it had been entered into before the court.
- (2) The person having custody of an applicant for bail must release that person if satisfied that the required recognizances have been taken.

Textual Amendments

F1769 Words in rule 65.48(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **11(i)**

F1770 Words in rule 65.48(1)(c) substituted (6.4.2020) by [The Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(Consequential, Transitional and Saving Provision\) Regulations 2020 \(S.I. 2020/100\)](#), reg. 1(2), **Sch. para. 5(3)** (with reg. 4)

Applications for a power of arrest to be attached to any provision of an injunction

65.49.—(1) An application under section 34 or 39 of the 2009 Act^{F1771} or section 5 or 6 of the 2014 Act] which includes an application for a power of arrest to be attached to any provision of an injunction must be made in the proceedings seeking the injunction by—

- (a) the claim form; or
- (b) an application under Part 23.

(2) Every application must be supported by written evidence.

(3) Every application made on notice must be served personally, together with a copy of the written evidence, by the applicant on the person against whom the injunction is sought not less than 2 days before the hearing.

(Attention is drawn to rule 25.3(3) – applications without notice.))]

Textual Amendments

F1771 Words in rule 65.49(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), rules 2, **11(j)**

[^{F1772}PART 66

CROWN PROCEEDINGS

Textual Amendments

F1772 Pt. 66 inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rule 1(c), **Sch. 2**

Contents of this Part

Scope of this Part and interpretation	Rule 66.1
Application of the Civil Procedure Rules	Rule 66.2
Action on behalf of the Crown	Rule 66.3
Counterclaims, other [^{F1773} additional] claims, and set-off	Rule 66.4
Applications in revenue matters	Rule 66.5
Enforcement against the Crown	Rule 66.6
Money due from the Crown	Rule 66.7

Scope of this Part and interpretation

66.1.—(1) This Part contains rules for civil proceedings by or against the Crown, and other civil proceedings to which the Crown is a party.

(2) In this Part—

- (a) “the Act” means the Crown Proceedings Act 1947;

- (b) “civil proceedings by the Crown” means the civil proceedings described in section 23(1) of the Act, but excluding the proceedings described in section 23(3);
- (c) “civil proceedings against the Crown” means the civil proceedings described in section 23(2) of the Act, but excluding the proceedings described in section 23(3);
- (d) “civil proceedings to which the Crown is a party” has the same meaning as it has for the purposes of Parts III and IV of the Act by virtue of section 38(4).

Application of the Civil Procedure Rules

66.2 These Rules and their practice directions apply to civil proceedings by or against the Crown and to other civil proceedings to which the Crown is a party unless this Part, a practice direction or any other enactment provides otherwise.

Action on behalf of the Crown

66.3.—(1) Where by reason of a rule, practice direction or court order the Crown is permitted or required—

- (a) to make a witness statement,
- (b) to swear an affidavit,
- (c) to verify a document by a statement of truth;
- (d) to make a disclosure statement; or
- (e) to discharge any other procedural obligation,

that function shall be performed by an appropriate officer acting on behalf of the Crown.

- (2) The court may if necessary nominate an appropriate officer.

Counterclaims, other ^{F1774}additional claims, and set-off

66.4.—(1) In a claim by the Crown for taxes, duties or penalties, the defendant cannot make a counterclaim or other ^{F1775}additional claim or raise a defence of set-off.

(2) In any other claim by the Crown, the defendant cannot make a counterclaim or other ^{F1776}additional claim or raise a defence of set-off which is based on a claim for repayment of taxes, duties or penalties.

(3) In proceedings by or against the Crown in the name of the Attorney-General, no counterclaim or other ^{F1777}additional claim can be made or defence of set-off raised without the permission of the court.

(4) In proceedings by or against the Crown in the name of a government department, no counterclaim or other ^{F1778}additional claim can be made or defence of set-off raised without the permission of the court unless the subject-matter relates to that government department.

Textual Amendments

F1774Word in rule 66.4 heading substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **35(2)(a)**

F1775Word in rule 66.4(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **35(2)(b)**

F1776Word in rule 66.4(2) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **35(2)(c)**

F1777 Word in rule 66.4(3) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **35(2)(d)**

F1778 Word in rule 66.4(4) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **35(2)(e)**

Applications in revenue matters

66.5.—(1) This rule sets out the procedure under section 14 of the Act, which allows the Crown to make summary applications in the High Court in certain revenue matters.

- (2) The application must be made in the High Court using the Part 8 procedure.
- (3) The title of the claim form must clearly identify the matters which give rise to the application.

Enforcement against the Crown

66.6.—(1) The following rules do not apply to any order against the Crown—

- ^{F1779}(a) Rules 40.8A and 70.2A and Parts 69 to 73, 81, [^{F1780}83, 84 and 89]; and
- ^{F1781}(b)
- (c) CCR[^{F1782}Order] 28.

(2) In paragraph (1), “order against the Crown” means any judgment or order against the Crown, a government department, or an officer of the Crown as such, made—

- (a) in civil proceedings by or against the Crown;
- (b) in proceedings in the Administrative Court;
- (c) in connection with an arbitration to which the Crown is a party; or
- (d) in other civil proceedings to which the Crown is a party.

(3) An application under section 25(1) of the Act for a separate certificate of costs payable to the applicant may be made without notice.

Textual Amendments

F1779 Words in rule 66.6(1)(a) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), rules 1, **11(a)** (with rule 25)

F1780 Words in rule 66.6(1)(a) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, **11(a)** (with rule 25)

F1781 Rule 66.6(1)(b) omitted (22.4.2014) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), rules 1, **11(b)** (with rule 25)

F1782 Word in rule 66.6(1)(c) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, **11(b)** (with rule 25)

Money due from the Crown

66.7.—(1) None of the following orders—

- (a) a third party debt order under Part 72;
- (b) an order for the appointment of a receiver under Part 69; or
- (c) an order for the appointment of a sequestrator under RSC Order 45,

may be made or have effect in respect of any money due from the Crown.

(2) In paragraph (1), “money due from the Crown” includes money accruing due, and money alleged to be due or accruing due.

(3) An application for an order under section 27 of the Act—

- (a) restraining a person from receiving money payable to him by the Crown; and
- (b) directing payment of the money to the applicant or another person,

may be made under Part 23.

(4) The application must be supported by written evidence setting out the facts on which it is based, and in particular identifying the debt from the Crown.

(5) Where the debt from the Crown is money in a National Savings Bank account, the witness must if possible identify the number of the account and the name and address of the branch where it is held.

(6) Notice of the application, with a copy of the written evidence, must be served—

- (a) on the Crown, and
- (b) on the person to be restrained,

at least 7 days before the hearing.

(7) Rule 72.8 applies to an application under this rule as it applies to an application under rule 72.2 for a third party debt order, except that the court will not have the power to order enforcement to issue against the Crown.]

[^{F1783}PART 67

PROCEEDINGS RELATING TO SOLICITORS

Textual Amendments

F1783Pt. 67 inserted (1.4.2005) by [The Civil Procedure \(Amendment No. 4\) Rules 2004 \(S.I. 2004/3419\)](#), rule 1, [Sch. 2](#)

Scope and interpretation

67.1.—(1) This Part contains rules about the following types of proceedings relating to solicitors—

- (a) proceedings to obtain an order for a solicitor to deliver a bill or cash account and proceedings in relation to money or papers received by a solicitor (rule 67.2);
- (b) proceedings under Part III of the Solicitors Act 1974(2) relating to the remuneration of solicitors (rule 67.3); and
- (c) proceedings under Schedule 1 to the Solicitors Act 1974(3) arising out of the Law Society’s intervention in a solicitor’s practice (rule 67.4).

(2) In this Part—

- “the Act” means the Solicitors Act 1974; and
- “LLP” means limited liability partnership.

(2) 1981 c. 54.

(3) 1894 c. 39.

(^{F1784}Section II of Part 46 and paragraphs 6.4 to 6.19 of Practice Direction 46] contain provisions about the procedure and basis for the detailed assessment of solicitor and client costs under Part III of the Act)

(^{F1785}Practice Direction 52] contains provisions about appeals to the High Court from the Solicitors Disciplinary Tribunal under section 49 of the Act)

Textual Amendments

F1784 Words in rule 67.1 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, 27(a)

F1785 Words in rule 67.1 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), 41(a)

Power to order solicitor to deliver cash account etc.

67.2.—(1) Where the relationship of solicitor and client exists or has existed, the orders which the court may make against the solicitor, on the application of the client or his personal representatives, include any of the following—

- (a) to deliver a bill or cash account;
- (b) to pay or deliver up any money or securities;
- (c) to deliver a list of the moneys or securities which the solicitor has in his possession or control on behalf of the applicant;
- (d) to pay into or lodge in court any such money or securities.

(2) An application for an order under this rule must be made—

- (a) by Part 8 claim form; or
- (b) if the application is made in existing proceedings, by application notice in accordance with Part 23.

(3) If the solicitor alleges that he has a claim for costs against the applicant, the court may make an order for—

- (a) the detailed assessment and payment of those costs; and
- (b) securing the payment of the costs, or protecting any solicitor's lien.

Proceedings under Part III of the Act

67.3.—(1) A claim for an order under Part III of the Act for the assessment of costs payable to a solicitor by his client—

- (a) which—
 - (i) relates to contentious business done in [^{F53}the County Court]; and
 - (ii) is within the financial limit of the [^{F1786}County Court's] jurisdiction specified in section 69(3) of the Act(4),
 may be made in [^{F1787}the County Court];
- (b) in every other case, must be made in the High Court.

(Rule 30.2 makes provision for [^{F1788}the County Court] to transfer the proceedings to another [^{F18}County Court] for detailed assessment of costs)

(4) 1983 c. 20.

(Provisions about the venue for detailed assessment proceedings are contained in rule 47.4 [F1789] and [F1790] paragraphs 4.1 to 4.3 of Practice Direction 47 [F1791] ...)

- (2) A claim for an order under Part III of the Act must be made—
- (a) by Part 8 claim form; or
 - (b) if the claim is made in existing proceedings, by application notice in accordance with Part 23.

(A model form of claim form is annexed to the Costs Practice Direction)

- (3) A claim in the High Court under Part III of the Act may be determined by—
- (a) a High Court judge;
 - (b) a Master, a costs judge or a [F35]District Judge] of the Principal Registry of the Family Division; or
 - (c) a [F35]District Judge], if the costs are for—
 - (i) contentious business done in proceedings in the [F1792]District Registry] of which he is the [F35]District Judge];
 - (ii) contentious business done in proceedings in [F53]the County Court] within the district of that [F1793]District Registry]; or
 - (iii) non-contentious business.

Textual Amendments

- F18** Words in Rules substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)
- F35** Words in Rules substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)
- F53** Words in Rules substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)
- F1786** Words in rule 67.3(1)(a)(ii) substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **29(a)(i)(aa)**; S.I. 2014/954, art. 2(a)
- F1787** Words in rule 67.3(1)(a) substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **29(a)(i)(bb)**; S.I. 2014/954, art. 2(a)
- F1788** Words in rule 67.3(1) substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **29(a)(ii)**; S.I. 2014/954, art. 2(a)
- F1789** Word in rule 67.3 substituted (6.4.2010) by *The Civil Procedure (Amendment No.2) Rules 2009* (S.I. 2009/3390), rules 1(2), **41(b)(i)**
- F1790** Words in rule 67.3 substituted (1.10.2013) by *The Civil Procedure (Amendment No.7) Rules 2013* (S.I. 2013/1974), rules 2, **27(b)**
- F1791** Words in rule 67.3 omitted (6.4.2010) by virtue of *The Civil Procedure (Amendment No.2) Rules 2009* (S.I. 2009/3390), rules 1(2), **41(b)(ii)**
- F1792** Words in rule 67.3(3)(c)(i) substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **29(b)**; S.I. 2014/954, art. 2(a)
- F1793** Words in rule 67.3(3)(c)(ii) substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **29(b)**; S.I. 2014/954, art. 2(a)

Proceedings under Schedule 1 to the Act

- 67.4.**—(1) Proceedings in the High Court under Schedule 1 to the Act must be brought—
- (a) in the Chancery Division; and

(b) by Part 8 claim form, unless paragraph (4) below applies.

(2) The heading of the claim form must state that the claim relates to a solicitor and is made under Schedule 1 to the Act.

(3) Where proceedings are brought under paragraph 6(4) or 9(8) of Schedule 1 to the Act, the court will give directions and fix a date for the hearing immediately upon issuing the claim form.

(4) If the court has made an order under Schedule 1 to the Act, any subsequent application for an order under that Schedule which has the same parties may be made by a Part 23 application in the same proceedings.

(5) The table below sets out who must be made a defendant to each type of application under Schedule 1.

Defendants to applications under Schedule 1 to the Act

<i>Paragraph of Schedule 1 under which the application is made</i>	<i>Defendant to application</i>
Paragraph 5	<p>if the application relates to money held on behalf of an individual solicitor, the solicitor</p> <p>if the application relates to money held on behalf of a firm, every partner in the firm</p> <p>if the application relates to money held on behalf of a LLP or other corporation, the LLP or other corporation</p>
Paragraph 6(4) or 9(8)	the Law Society
Paragraph 8, 9(4), 9(5) or 9(6)	the person against whom the Law Society is seeking an order
Paragraph 9(10)	the person from whom the Law Society took possession of the documents which it wishes to dispose of or destroy
Paragraph 10	<p>if the application relates to postal packets addressed to an individual solicitor, the solicitor</p> <p>if the application relates to postal packets addressed to a firm, every partner in the firm</p> <p>if the application relates to postal packets addressed to a LLP or other corporation, the LLP or other corporation</p>
Paragraph 11	the trustee whom the Law Society is seeking to replace and, if he is a co-trustee, the other trustees of the trust

(6) At any time after the Law Society has issued an application for an order under paragraph 5 of Schedule 1 to the Act, the court may, on an application by the Society—

(a) make an interim order under that paragraph to have effect until the hearing of the application; and

- (b) order the defendant, if he objects to the order being continued at the hearing, to file and serve written evidence showing cause why the order should not be continued.]

^{F1794}PART 68

References to the European Court

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Textual Amendments

F1794 Pt. 68 revoked (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **14** (with reg. 25) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(h); 2020 c. 1, Sch. 5 para. 1(1))

[^{F1795}PART 69

COURT'S POWER TO APPOINT A RECEIVER

Textual Amendments

F1795 Pt. 69 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 7**

Modifications etc. (not altering text)

C107 Pt. 69 applied (6.4.2011) by [The Family Procedure Rules 2010 \(S.I. 2010/2955\)](#), **rule 33.22** (with rules 2.1, 33.1(1))

Contents of this Part

Scope of this Part	Rule 69.1
Court's power to appoint receiver	Rule 69.2
How to apply for the appointment of a receiver	Rule 69.3
Service of order appointing receiver	Rule 69.4
Security	Rule 69.5
Receiver's application for directions	Rule 69.6
Receiver's remuneration	Rule 69.7
Accounts	Rule 69.8
Non-compliance by receiver	Rule 69.9
Application for discharge of receiver	Rule 69.10
Order discharging or terminating appointment of receiver	Rule 69.11

Scope of this Part

- 69.1.**—(1) This Part contains provisions about the court’s power to appoint a receiver.
 (2) In this Part “receiver” includes a manager.

Court’s power to appoint receiver

- 69.2.**—(1) The court may appoint a receiver—
- (a) before proceedings have started;
 - (b) in existing proceedings; or
 - (c) on or after judgment.
- (2) A receiver must be an individual.
- (3) The court may at any time—
- (a) terminate the appointment of a receiver; and
 - (b) appoint another receiver in his place.
- (^{F1796}Practice Direction 69] describes the powers for the court to appoint a receiver.)

Textual Amendments

F1796 Words in [rule 69.2](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [43\(a\)](#)

How to apply for the appointment of a receiver

- 69.3** An application for the appointment of a receiver—
- (a) may be made without notice; and
 - (b) must be supported by written evidence.

Service of order appointing receiver

- 69.4** An order appointing a receiver must be served by the party who applied for it on—
- (a) the person appointed as receiver;
 - (b) unless the court orders otherwise, every other party to the proceedings; and
 - (c) such other persons as the court may direct.

Security

69.5.—(1) The court may direct that before a receiver begins to act or within a specified time he must either—

- (a) give such security as the court may determine; or
- (b) file and serve on all parties to the proceedings evidence that he already has in force sufficient security,

to cover his liability for his acts and omissions as a receiver.

- (2) The court may terminate the appointment of the receiver if he fails to—
- (a) give the security; or
 - (b) satisfy the court as to the security he has in force,

by the date specified.

Receiver's application for directions

69.6.—(1) The receiver may apply to the court at any time for directions to assist him in carrying out his function as a receiver.

(2) The court, when it gives directions, may also direct the receiver to serve on any person—

- (a) the directions; and
- (b) the application for directions.

(^{F1797}Practice Direction 69] makes provision for the form of applications by, and directions to, a receiver.)

Textual Amendments

F1797Words in [rule 69.6](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **43(a)**

Receiver's remuneration

69.7.—(1) A receiver may only charge for his services if the court—

- (a) so directs; and
- (b) specifies the basis on which the receiver is to be remunerated.

(2) The court may specify—

- (a) who is to be responsible for paying the receiver; and
- (b) the fund or property from which the receiver is to recover his remuneration.

(3) If the court directs that the amount of a receiver's remuneration is to be determined by the court—

- (a) the receiver may not recover any remuneration for his services without a determination by the court; and
- (b) the receiver or any party may apply at any time for such a determination to take place.

(4) Unless the court orders otherwise, in determining the remuneration of a receiver the court shall award such sum as is reasonable and proportionate in all the circumstances and which takes into account—

- (a) the time properly given by him and his staff to the receivership;
- (b) the complexity of the receivership;
- (c) any responsibility of an exceptional kind or degree which falls on the receiver in consequence of the receivership;
- (d) the effectiveness with which the receiver appears to be carrying out, or to have carried out, his duties; and
- (e) the value and nature of the subject matter of the receivership.

(5) The court may refer the determination of a receiver's remuneration to a costs judge.

Accounts

69.8.—(1) The court may order a receiver to prepare and serve accounts.

(^{F1798}Practice Direction 69] contains provisions about directions for the preparation and service of accounts.)

(2) A party served with such accounts may apply for an order permitting him to inspect any document in the possession of the receiver relevant to those accounts.

(3) Any party may, within 14 days of being served with the accounts, serve notice on the receiver—

- (a) specifying any item in the accounts to which he objects;
- (b) giving the reason for such objection; and
- (c) requiring the receiver, within 14 days of receipt of the notice, either—
 - (i) to notify all the parties who were served with the accounts that he accepts the objection; or
 - (ii) if he does not accept the objection, to apply for an examination of the accounts in relation to the contested item.

(4) When the receiver applies for the examination of the accounts he must at the same time file—

- (a) the accounts; and
- (b) a copy of the notice served on him under this rule.

(5) If the receiver fails to comply with paragraph (3)(c) of this rule, any party may apply to the court for an examination of the accounts in relation to the contested item.

(6) At the conclusion of its examination of the accounts the court will certify the result.

(^{F1799}Practice Direction 40A] provides for inquiries into accounts.)

Textual Amendments

F1798 Words in [rule 69.8](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [43\(a\)](#)

F1799 Words in [rule 69.8](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), [rules 1\(2\)](#), [43\(b\)](#)

Non-compliance by receiver

69.9.—(1) If a receiver fails to comply with any rule, practice direction or direction of the court the court may order him to attend a hearing to explain his non-compliance.

(2) At the hearing the court may make any order it considers appropriate, including—

- (a) terminating the appointment of the receiver;
- (b) reducing the receiver's remuneration or disallowing it altogether; and
- (c) ordering the receiver to pay the costs of any party.

(3) Where—

- (a) the court has ordered a receiver to pay a sum of money into court; and
- (b) the receiver has failed to do so,

the court may order him to pay interest on that sum for the time he is in default at such rate as it considers appropriate.

Application for discharge of receiver

69.10.—[

^{F1800}(1) A receiver or any party may apply for the receiver to be discharged on completion of his duties.

[
^{F1801}(2) The application notice must be served on the persons who were required under rule 69.4 to be served with the order appointing the receiver.]

Textual Amendments

F1800 Word in rule 69.10 inserted (30.6.2004) by The Civil Procedure (Amendment) Rules 2004 (S.I. 2004/1306), rules 1(b), **19(a)**

F1801 Rule 69.10(2) inserted (30.6.2004) by The Civil Procedure (Amendment) Rules 2004 (S.I. 2004/1306), rules 1(b), **19(b)**

Order discharging or terminating appointment of receiver

69.11.—(1) An order discharging or terminating the appointment of a receiver may—

- (a) require him to pay into court any money held by him; or
- (b) specify the person to whom he must pay any money or transfer any assets still in his possession; and
- (c) make provision for the discharge or cancellation of any guarantee given by the receiver as security.

(2) The order must be served on the persons who were required under rule 69.4 to be served with the order appointing the receiver.]

[^{F1802}PART 70

GENERAL RULES ABOUT ENFORCEMENT OF JUDGMENTS AND ORDERS

Textual Amendments

F1802 Pt. 70 inserted (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 1** (with savings in rule 24 and S.I. 2001/4015, **rule 43(2)**)

Modifications etc. (not altering text)

C108 Pts. 70-74 applied (with modifications) (30.12.2005) by The Family Procedure (Adoption) Rules 2005 (S.I. 2005/2795), **rule 5(5)**

C109 Pt. 70 applied (with modifications) (1.10.2007) by The Court of Protection Rules 2007 (S.I. 2007/1744), rules 1, **184(a)**

C110 Pt. 70 applied (with modifications) (6.4.2011) by The Family Procedure Rules 2010 (S.I. 2010/2955), **rule 33.2** (with rules 2.1, 33.1(1))

C111 Pt. 70 applied (with modifications) (1.12.2017) by The Court of Protection Rules 2017 (S.I. 2017/1035), **rules 24.2(a)**, 24.6(1)

Contents of this Part

Scope of this Part and interpretation	Rule 70.1
[^{F1803} Application for order	Rule 70.1A]

Methods of enforcing judgments or orders	Rule 70.2
[^{F1804} Court may order act to be done at expense of disobedient party	Rule 70.2A]
Transfer of proceedings for enforcement	Rule 70.3
Enforcement of judgment or order by or against non-party	Rule 70.4
[^{F1805} Enforcement of decisions of bodies other than the High Court and [^{F851} the County Court] and compromises enforceable by enactment	Rule 70.5]
Effect of setting aside judgment or order	Rule 70.6
[^{F1806} Debt respite scheme	Rule 70.7]

Scope of this Part and interpretation

70.1.—(1) This Part contains general rules about enforcement of judgments and orders.

(Rules about specific methods of enforcement are contained in Parts 71 to 73, [^{F1807}81, [^{F1808}83, 84 and 89, and Schedule 2 CCR Order 28])

(2) In this Part and in Parts 71 to 73—

- (a) “judgment creditor” means a person who has obtained or is entitled to enforce a judgment or order;
- (b) “judgment debtor” means a person against whom a judgment or order was given or made;
- (c) “judgment or order” includes an award which the court has—
 - (i) registered for enforcement;
 - (ii) ordered to be enforced; or
 - (iii) given permission to enforce

as if it were a judgment or order of the court, and in relation to such an award, “the court which made the judgment or order” means the court which registered the award or made such an order; and

[“judgment or order” also includes an award enforceable under the Judgments Regulation
^{F1809}(ca) (Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)) as if it were an order or judgment of the court, and in relation to such an award “the court which made the judgment or order” means the county court or the High Court.]

- (d) “judgment or order for the payment of money” includes a judgment or order for the payment of costs, but does not include a judgment or order for the payment of money into court.]

Textual Amendments

F1807Words in rule 70.1 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **30(b)(i)** (with rule 41)

F1808Words in rule 70.1 substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, **12** (with rule 25)

F1809 Rule 70.1(2)(ca) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **16(2)**

[^{F1810}Application for order

70.1A.—(1) In this rule, reference to a fine is to a fine imposed under the County Courts Act 1984.

(2) If a fine is not paid in accordance with the order imposing it, the court officer shall, as soon as reasonably possible, report the matter to a judge.

(3) Where a fine is directed to be paid by instalments, default in the payment of any instalment may be taken as if default had been made in payment of the whole of the fine.

(4) If an order is made for payment of a fine to be enforced by warrant of control, the order shall be treated as an application to the court for the issue of the warrant at the time when the order was made.

(5) If a person pays a fine and later gives evidence to satisfy the court that, if the evidence had been given earlier, no fine or a smaller fine would have been imposed, the court may order the whole or part of the fine to be repaid.]

Textual Amendments

F1810 Rule 70.1A inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **12(2)**

Methods of enforcing judgments or orders

70.2.—(1) [^{F1811}Practice Direction 70A] sets out methods of enforcing judgments or orders for the payment of money.

(2) A judgment creditor may, except where an enactment, rule or practice direction provides otherwise—

- (a) use any method of enforcement which is available; and
- (b) use more than one method of enforcement, either at the same time or one after another.

Textual Amendments

F1811 Words in [rule 70.2\(1\)](#) substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **11(a)**

[^{F1812}Court may order act to be done at expense of disobedient party

70.2A.—(1) In this rule “disobedient party” means a party who has not complied with a mandatory order, an injunction or a judgment or order for the specific performance of a contract.

(2) Subject to paragraph (4), if a mandatory order, an injunction or a judgment or order for the specific performance of a contract is not complied with, the court may direct that the act required to be done may, so far as practicable, be done by another person, being—

- (a) the party by whom the order or judgment was obtained; or
- (b) some other person appointed by the court.

(3) Where paragraph (2) applies—

- (a) the costs to another person of doing the act will be borne by the disobedient party;

- (b) upon the act being done the expenses incurred may be ascertained in such manner as the court directs; and
 - (c) execution may issue against the disobedient party for the amount so ascertained and for costs.
- (4) Paragraph (2) is without prejudice to—
- (a) the court’s powers under section 39 of the Senior Courts Act 1981; and
 - (b) the court’s powers to punish the disobedient party for contempt.]

Textual Amendments

F1812 Rule 70.2A inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **30(c)** (with rule 41)

Transfer of proceedings for enforcement

70.3.—^{F1813}(1) Subject to rule 83.17, a judgment creditor wishing to enforce a High Court judgment or order in the County Court must apply to the High Court for an order transferring the proceedings.]

(2) A practice direction may make provisions about the transfer of proceedings for enforcement.

(^{F1814}Rule 83.19] contains provisions about the transfer of [^{F18}County Court] proceedings to the High Court for enforcement.)

Textual Amendments

F18 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)

F1813 Rule 70.3(1) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **30(d)(i)** (with rule 41)

F1814 Words in rule 70.3 substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **30(d)(ii)** (with rule 41)

Enforcement of judgment or order by or against non-party

70.4. If a judgment or order is given or made in favour of or against a person who is not a party to proceedings, it may be enforced by or against that person by the same methods as if he were a party.

^{F1815}Enforcement of decisions of bodies other than the High Court and [^{F851}the County Court] and compromises enforceable by enactment

70.5.—(1) This rule applies, subject to paragraph (2), where an enactment provides that—

- (a) a decision of a court, tribunal, body or person other than the High Court or [^{F53}the County Court]; or
- (b) a compromise,

may be enforced as if it were a court order or that any sum of money payable under that decision or compromise may be recoverable as if payable under a court order.

(2) This rule does not apply to—

- (a) any judgment to which Part 74 applies;

- (b) arbitration awards;
- (c) any order to which RSC Order 115 applies; or
- (d) proceedings to which Part 75 (traffic enforcement) applies.

(2A) Unless paragraph (3) applies, a party may enforce the decision or compromise by applying for a specific method of enforcement under Parts 71 to 73, [F1816]81, [F1817]83, 84 and 89, and Schedule 2 CCR Order 28]] and must—

- (a) file with the court a copy of the decision or compromise being enforced; and
- (b) provide the court with the information required by [F1818]Practice Direction 70A].

(3) If an enactment provides that a decision or compromise is enforceable or a sum of money is recoverable if a court so orders, an application for such an order must be made in accordance with paragraphs (4) to (7A) of this rule.

(4) The application—

- (a) may, unless paragraph (4A) applies, be made without notice; and
- (b) must be made to the court for the district where the person against whom the order is sought, resides or carries on business, unless [F1819]an enactment, rule or practice direction provides otherwise or] the court otherwise orders.

(4A) Where a compromise requires a person to whom a sum of money is payable under the compromise to do anything in addition to discontinuing or not starting proceedings (“a conditional compromise”), an application under paragraph (4) must be made on notice.

(5) The application notice must—

- (a) be in the form; and
- (b) contain the information

required by [F1820]Practice Direction 70A].

(6) A copy of the decision or compromise must be filed with the application notice.

(7) An application other than in relation to a conditional compromise may be dealt with by a court officer without a hearing.

(7A) Where an application relates to a conditional compromise, the respondent may oppose it by filing a response within 14 days of service of the application notice and if the respondent—

- (a) does not file a response within the time allowed, the court will make the order; or
- (b) files a response within the time allowed, the court will make such order as appears appropriate.

(8) If an enactment provides that a decision or compromise may be enforced in the same manner as an order of the High Court if it is registered, any application to the High Court for registration must be made in accordance with [F1821]Practice Direction 70A].]

Textual Amendments

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

F851 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(iii)**; S.I. 2014/954, art. 2(a)

F1815 Rule 70.5 substituted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008 \(S.I. 2008/3327\)](#), rules 1, **12(b)**

F1816 Words in rule 70.5(2A) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **30(e)(i)** (with rule 41)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F1817** Words in rule 70.5(2A) substituted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **13(a)** (with rule 25)
- F1818** Words in rule 70.5(2A)(b) substituted (1.10.2021) by The Civil Procedure (Amendment No. 4) Rules 2021 (S.I. 2021/855), rules 1(1), **11(b)(i)**
- F1819** Words in rule 70.5(4)(b) inserted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **13(b)** (with rule 26)
- F1820** Words in rule 70.5(5) substituted (1.10.2021) by The Civil Procedure (Amendment No. 4) Rules 2021 (S.I. 2021/855), rules 1(1), **11(b)(ii)**
- F1821** Words in rule 70.5(8) substituted (1.10.2021) by The Civil Procedure (Amendment No. 4) Rules 2021 (S.I. 2021/855), rules 1(1), **11(b)(iii)**

Effect of setting aside judgment or order

70.6 If a judgment or order is set aside, any enforcement of the judgment or order shall cease to have effect unless the court otherwise orders.]

[^{F1822}Debt respite scheme

70.7.—(1) A practice direction may make provision for procedure relating to any debt respite scheme established under section 7 of the Financial Guidance and Claims Act 2018.

(2) The practice direction may modify or disapply any provision of these Rules as appropriate in relation to such a debt respite scheme.]

Textual Amendments

- F1822** Rule 70.7 inserted (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), **16(3)**

[^{F1823}PART 71

ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTORS

Textual Amendments

- F1823** Pt. 71 inserted (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 2** (with savings in rule 24 and S.I. 2001/4015, **rule 43(2)**)

Modifications etc. (not altering text)

- C112** Pt. 71 applied (with modifications) (1.10.2007) by The Court of Protection Rules 2007 (S.I. 2007/1744), rules 1, **184(a)**
- C113** Pt. 71 applied (6.4.2011) by The Family Procedure Rules 2010 (S.I. 2010/2955), **rule 33.23** (with rules 2.1, 33.1(1))
- C114** Pt. 71 applied (with modifications) (22.4.2014) by SI 2010/2955 rule 33.23 (as substituted by The Family Procedure (Amendment No. 2) Rules 2014 (S.I. 2014/667), art. 1, **rule 41** (with art. 45))
- C115** Pt. 71 applied (with modifications) (1.12.2017) by The Court of Protection Rules 2017 (S.I. 2017/1035), **rules 24.2(b)**, 24.6(1)

Contents of this Part

Scope of this Part	Rule 71.1
Order to attend court	Rule 71.2
Service of order	Rule 71.3
Travelling expenses	Rule 71.4
Judgment creditor's affidavit	Rule 71.5
Conduct of the hearing	Rule 71.6
Adjournment of the hearing	Rule 71.7
Failure to comply with order	Rule 71.8

Scope of this Part

71.1 This Part contains rules which provide for a judgment debtor to be required to attend court to provide information, for the purpose of enabling a judgment creditor to enforce a judgment or order against him.

Order to attend court

- 71.2.**—(1) A judgment creditor may apply for an order requiring—
- (a) a judgment debtor; or
 - (b) if a judgment debtor is a company or other corporation, an officer of that body,
- to attend court to provide information about—
- (i) the judgment debtor's means; or
 - (ii) any other matter about which information is needed to enforce a judgment or order.
- (2) An application under paragraph (1)—
- (a) may be made without notice; and
 - ^{F1824}(b) must be issued in the court [^{F1825}or County Court hearing centre] which made the judgment or order which it is sought to enforce, except that—
- (i) if the proceedings have since been transferred to a different court [^{F1826}or hearing centre], it must be issued in that court; or
 - (ii) subject to subparagraph (b)(i), if it is to enforce a judgment made in [^{F1827}the ^{F1828}Civil National Business Centre]], it must be issued in accordance with section 2 of Practice Direction 70.]
- (3) The application notice must—
- (a) be in the form; and
 - (b) contain the information
- required by [^{F1829}Practice Direction 71].
- (4) An application under paragraph (1) may be dealt with by a court officer without a hearing.
 - (5) If the application notice complies with paragraph (3), an order to attend court will be issued in the terms of paragraph (6).
 - (6) A person served with an order issued under this rule must—

- (a) attend court at the time and place specified in the order;
 - (b) when he does so, produce at court documents in his control which are described in the order; and
 - (c) answer on oath such questions as the court may require.
- (7) An order under this rule will contain a notice in the following terms [F1830], or in terms to substantially the same effect]—
- [F1831“If you the within-named [] do not comply with this order you may be held to be in contempt of court and [F1832] punished by a fine, imprisonment, confiscation of assets or other punishment under the law.”].

Textual Amendments

- F1824** Rule 71.2(2)(b) substituted (19.3.2012) by The Civil Procedure (Amendment) Rules 2012 (S.I. 2012/505), rules 1, **3**
- F1825** Words in rule 71.2(2)(b) inserted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **31(a)(i)** (with rule 41(2)-(5)); S.I. 2014/954, art. 2(a)
- F1826** Words in rule 71.2(2)(b)(i) inserted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **31(a)(ii)** (with rule 41(2)-(5)); S.I. 2014/954, art. 2(a)
- F1827** Words in rule 71.2(2)(b)(ii) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **31(a)(iii)** (with rule 41(2)-(5)); S.I. 2014/954, art. 2(a)
- F1828** Words in rule 71.2(2)(b)(ii) substituted (14.8.2023) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(2), **29**
- F1829** Words in rule 71.2(3) substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **45**
- F1830** Words in rule 71.2(7) inserted (1.10.2012) by The Civil Procedure (Amendment No.2) Rules 2012 (S.I. 2012/2208), rules 1, **12(a)(i)** (with rule 20)
- F1831** Words in rule 71.2(7) substituted (1.10.2012) by The Civil Procedure (Amendment No.2) Rules 2012 (S.I. 2012/2208), rules 1, **12(a)(ii)** (with rule 20)
- F1832** Words in rule 71.2(7) substituted (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), **17(1)** (with rule 2)

Modifications etc. (not altering text)

- C116** Rule 71.2(6)(7) applied (6.4.2011) by The Family Procedure Rules 2010 (S.I. 2010/2955), **rule 33.3(3)** (with rules 2.1, 33.1(1))

Service of order

71.3.—(1) An order to attend court must, unless the court otherwise orders, be served personally on the person ordered to attend court not less than 14 days before the hearing.

(2) If the order is to be served by the judgment creditor, he must inform the court not less than 7 days before the date of the hearing if he has been unable to serve it.

Travelling expenses

71.4.—(1) A person ordered to attend court may, within 7 days of being served with the order, ask the judgment creditor to pay him a sum reasonably sufficient to cover his travelling expenses to and from court.

(2) The judgment creditor must pay such a sum if requested.

Judgment creditor's affidavit

- 71.5.**—(1) The judgment creditor must file an affidavit^(GL) or affidavits—
- (a) by the person who served the order (unless it was served by the court) giving details of how and when it was served;
 - (b) stating either that—
 - (i) the person ordered to attend court has not requested payment of his travelling expenses; or
 - (ii) the judgment creditor has paid a sum in accordance with such a request; and
 - (c) stating how much of the judgment debt remains unpaid.
- (2) The judgment creditor must either—
- (a) file the affidavit^(GL) or affidavits not less than 2 days before the hearing; or
 - (b) produce it or them at the hearing.

Conduct of the hearing

- 71.6.**—(1) The person ordered to attend court will be questioned on oath.
- (2) The questioning will be carried out by a court officer unless the court has ordered that the hearing shall be before a judge.
- (3) The judgment creditor or his representative—
- (a) may attend and ask questions where the questioning takes place before a court officer; and
 - (b) must attend and conduct the questioning if the hearing is before a judge.

Adjournment of the hearing

71.7 If the hearing is adjourned, the court will give directions as to the manner in which notice of the new hearing is to be served on the [^{F1833}person ordered to attend court].

Textual Amendments

F1833 Words in rule 71.7 substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), 17(2)

Failure to comply with order

- 71.8.**—(1) If a person against whom an order has been made under rule 71.2—
- (a) fails to attend court;
 - (b) refuses at the hearing to take the oath or to answer any question; or
 - (c) otherwise fails to comply with the order,

the court will refer the matter to a High Court judge or [^{F1834}Circuit Judge].

[^{F1835}(2) That judge may, provided the judgment creditor has complied with rules 71.4 and 71.5, hold the person in contempt of court and make an order punishing them by a fine, imprisonment, confiscation of assets or other punishment under the law.

- (3) If such an order is made, the judge will direct that—
- (a) the order shall be suspended, provided that the person—

- (i) attends court at a time and place specified in the order; and
 - (ii) complies with all the terms of that order and the original order; and
- (b) if the person fails to comply with any term on which the order is suspended, they shall be brought before a judge to consider whether the order should be discharged.]]

Textual Amendments

F1834 Words in rule 71.8(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **31(b)** (with rule 41(2)-(5)); S.I. 2014/954, **art. 2(a)**

F1835 Rule 71.8(2)(3) substituted for rule 71.8(2)-(4) (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021](#) (S.I. 2021/117), rules 1(1), **17(3)** (with rule 2)

[^{F1836}PART 72

THIRD PARTY DEBT ORDERS

Textual Amendments

F1836 Pt. 72 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001](#) (S.I. 2001/2792), rule 1(c), **Sch. 3** (with savings in rule 24 and S.I. 2001/4015, **rule 43(2)**)

Modifications etc. (not altering text)

C117 Pt. 72 applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007](#) (S.I. 2007/1744), rules 1, **184(a)**

C118 Pt. 72 applied (with modifications) (6.4.2011) by [The Family Procedure Rules 2010](#) (S.I. 2010/2955), **rule 33.24** (with rules 2.1, 33.1(1)) (as amended by S.I. 2014/667, rules 1, **423** (with rule 45))

C119 Pt. 72 applied (with modifications) (1.12.2017) by [The Court of Protection Rules 2017](#) (S.I. 2017/1035), **rules 24.2(c)**, 24.6(1)

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Scope of this Part and interpretation

72.1.—(1) This Part contains rules which provide for a judgment creditor to obtain an order for the payment to him of money which a third party who is within the jurisdiction owes to the judgment debtor.

(2) In this Part, “bank or building society” includes any person carrying on a business [^{F1837}in the course of which he lawfully accepts deposits in the United Kingdom].

Textual Amendments

F1837Words in rule 72.1 substituted (25.3.2002) by *The Civil Procedure (Amendment No. 5) Rules 2001* (S.I. 2001/4015), rules 1(c), 32

Third party debt order

72.2.—(1) Upon the application of a judgment creditor, the court may make an order (a “final third party debt order”) requiring a third party to pay to the judgment creditor—

- (a) the amount of any debt due or accruing due to the judgment debtor from the third party; or
- (b) so much of that debt as is sufficient to satisfy the judgment debt and the judgment creditor’s costs of the application.

(2) The court will not make an order under paragraph 1 without first making an order (an “interim third party debt order”) as provided by rule 72.4(2).

(3) In deciding whether money standing to the credit of the judgment debtor in an account to which section 40 of the Supreme Court Act 1981 or section 108 of the County Courts Act 1984 relates may be made the subject of a third party debt order, any condition applying to the account that a receipt for money deposited in the account must be produced before any money is withdrawn will be disregarded.

(Section 40(3) of the Supreme Court Act 1981 and section 108(3) of the County Courts Act 1984 contain a list of other conditions applying to accounts that will also be disregarded.)

Application for third party debt order

72.3.—(1) An application for a third party debt order—

- (a) may be made without notice; and

[^{F1838}(b) must be issued in the court which made the judgment or order which it is sought to enforce, except that—

- (i) if the proceedings have since been transferred to a different court, it must be issued in that court; or
- (ii) subject to subparagraph (b)(i), if it is to enforce a judgment made in [^{F1839}the [^{F1840}Civil National Business Centre]], it must be issued in accordance with section 2 of Practice Direction 70.]

(2) The application notice must—

- (a) (i) be in the form; and
- (ii) contain the information required by [^{F1841}Practice Direction 72]; and
- (b) be verified by a statement of truth.

Textual Amendments

- F1838** Rule 72.3(1)(b) substituted (19.3.2012) by [The Civil Procedure \(Amendment\) Rules 2012](#) (S.I. 2012/505), rules 1, 4
- F1839** Words in rule 72.3(1)(b)(ii) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **32(a)** (with rule 41(2)-(5)); S.I. 2014/954, **art. 2(a)**
- F1840** Words in rule 72.3(1)(b)(ii) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023](#) (S.I. 2023/788), rules 1(2), **30**
- F1841** Words in rule 72.3(2)(a) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **46**

Interim third party debt order

72.4.—(1) An application for a third party debt order will initially be dealt with by a judge without a hearing.

- (2) The judge may make an interim third party debt order—
- (a) fixing a hearing to consider whether to make a final third party debt order; and
 - (b) directing that until that hearing the third party must not make any payment which reduces the amount he owes the judgment debtor to less than the amount specified in the order.
- (3) An interim third party debt order will specify the amount of money which the third party must retain, which will be the total of—
- (a) the amount of money remaining due to the judgment creditor under the judgment or order; and
 - (b) an amount for the judgment creditor’s fixed costs of the application, as specified in [^{F1842}Practice Direction 72].
- (4) An interim third party debt order becomes binding on a third party when it is served on him.
- (5) The date of the hearing to consider the application shall be not less than 28 days after the interim third party debt order is made.

Textual Amendments

- F1842** Words in rule 72.4(3)(b) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **46**

Service of interim order

72.5.—(1) Copies of an interim third party debt order, the application notice and any documents filed in support of it must be served—

- (a) on the third party, not less than 21 days before the date fixed for the hearing; and
 - (b) on the judgment debtor not less than—
 - (i) 7 days after a copy has been served on the third party; and
 - (ii) 7 days before the date fixed for the hearing.
- (2) If the judgment creditor serves the order, he must either—
- (a) file a certificate of service not less than 2 days before the hearing; or
 - (b) produce a certificate of service at the hearing.

Obligations of third parties served with interim order

72.6.—(1) A bank or building society served with an interim third party debt order must carry out a search to identify all accounts held with it by the judgment debtor.

(2) The bank or building society must disclose to the court and the creditor within 7 days of being served with the order, in respect of each account held by the judgment debtor—

- (a) the number of the account;
- (b) whether the account is in credit; and
- (c) if the account is in credit—
 - (i) whether the balance of the account is sufficient to cover the amount specified in the order; ^{F1843} ...
 - (ii) the amount of the balance at the date it was served with the order, if it is less than the amount specified in the order ^{F1844}; and
 - (iii) whether the bank or building society asserts any right to the money in the account, whether pursuant to a right of set-off or otherwise, and if so giving details of the grounds for that assertion.]

(3) If—

- (a) the judgment debtor does not hold an account with the bank or building society; or
- (b) the bank or building society is unable to comply with the order for any other reason (for example, because it has more than one account holder whose details match the information contained in the order, and cannot identify which account the order applies to),

the bank or building society must inform the court and the judgment creditor of that fact within 7 days of being served with the order.

(4) Any third party other than a bank or building society served with an interim third party debt order must notify the court and the judgment creditor in writing within 7 days of being served with the order, if he claims—

- (a) not to owe any money to the judgment debtor; or
- (b) to owe less than the amount specified in the order.

Textual Amendments

F1843 Word in rule 72.6(2)(c)(i) omitted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), [rules 1\(c\)](#), [33\(a\)](#)

F1844 Rule 72.6(2)(c)(iii) and word inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), [rules 1\(c\)](#), [33\(b\)](#)

Arrangements for debtors in hardship

72.7.—(1) If—

- (a) a judgment debtor is an individual;
- (b) he is prevented from withdrawing money from his account with a bank or building society as a result of an interim third party debt order; and
- (c) he or his family is suffering hardship in meeting ordinary living expenses as a result,

the court may, on an application by the judgment debtor, make an order permitting the bank or building society to make a payment or payments out of the account (“a hardship payment order”).

(2) An application for a hardship payment order may be made—

- (a) in High Court proceedings, at the Royal Courts of Justice or to any district registry; and
- (b) in [^{F18}County Court] proceedings, to any [^{F1845}County Court hearing centre].
- (3) A judgment debtor may only apply to one court for a hardship payment order.
- (4) An application notice seeking a hardship payment order must—
 - (a) include detailed evidence explaining why the judgment debtor needs a payment of the amount requested; and
 - (b) be verified by a statement of truth.
- (5) Unless the court orders otherwise, the application notice—
 - (a) must be served on the judgment creditor at least 2 days before the hearing; but
 - (b) does not need to be served on the third party.
- (6) A hardship payment order may—
 - (a) permit the third party to make one or more payments out of the account; and
 - (b) specify to whom the payments may be made.

Textual Amendments

F18 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)

F1845 Words in rule 72.7(2)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **32(b)** (with rule 41(2)-(5)); S.I. 2014/954, art. 2(a)

Further consideration of the application

72.8.—(1) If the judgment debtor or the third party objects to the court making a final third party debt order, he must file and serve written evidence stating the grounds for his objections.

(2) If the judgment debtor or the third party knows or believes that a person other than the judgment debtor has any claim to the money specified in the interim order, he must file and serve written evidence stating his knowledge of that matter.

(3) If—

- (a) the third party has given notice under rule 72.6 that he does not owe any money to the judgment debtor, or that the amount which he owes is less than the amount specified in the interim order; and
- (b) the judgment creditor wishes to dispute this,

the judgment creditor must file and serve written evidence setting out the grounds on which he disputes the third party's case.

(4) Written evidence under paragraphs (1), (2) or (3) must be filed and served on each other party as soon as possible, and in any event not less than 3 days before the hearing.

(5) If the court is notified that some person other than the judgment debtor may have a claim to the money specified in the interim order, it will serve on that person notice of the application and the hearing.

(6) At the hearing the court may—

- (a) make a final third party debt order;
- (b) discharge the interim third party debt order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who has a claim to the money specified in the interim order; or

- (d) direct a trial of any such issues, and if necessary give directions.

Effect of final third party order

72.9.—(1) A final third party debt order shall be enforceable as an order to pay money.

(2) If—

- (a) the third party pays money to the judgment creditor in compliance with a third party debt order; or
(b) the order is enforced against him,

the third party shall, to the extent of the amount paid by him or realised by enforcement against him, be discharged from his debt to the judgment debtor.

(3) Paragraph (2) applies even if the third party debt order, or the original judgment or order against the judgment debtor, is later set aside.

Money in court

72.10.—(1) If money is standing to the credit of the judgment debtor in court—

- (a) the judgment creditor may not apply for a third party debt order in respect of that money; but
(b) he may apply for an order that the money in court, or so much of it as is sufficient to satisfy the judgment or order and the costs of the application, be paid to him.

(2) An application notice seeking an order under this rule must be served on—

- (a) the judgment debtor; and
(b) the Accountant General at the Court Funds Office.

(3) If an application notice has been issued under this rule, the money in court must not be paid out until the application has been disposed of.

Costs

72.11 If the judgment creditor is awarded costs on an application for an order under rule 72.2 or 72.10—

- (a) he shall, unless the court otherwise directs, retain those costs out of the money recovered by him under the order; and
(b) the costs shall be deemed to be paid first out of the money he recovers, in priority to the judgment debt.]

[^{F1846}PART 73

CHARGING ORDERS, STOP ORDERS AND STOP NOTICES

Textual Amendments

F1846Pt. 73 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 4](#) (with savings in [rule 24](#) and [S.I. 2001/4015](#), [rule 43\(2\)](#))

Modifications etc. (not altering text)

- C120** Pt. 73 applied (with modifications) (6.4.2011) by [The Family Procedure Rules 2010 \(S.I. 2010/2955\)](#), [rule 33.25](#) (with [rules 2.1](#), [33.1\(1\)](#)) (as amended (22.4.2014) by [S.I. 2014/667](#), [rules 1](#), [43](#) (with [rule 45](#)))
- C121** Pt. 73 applied (with modifications) (1.12.2017) by [The Court of Protection Rules 2017 \(S.I. 2017/1035\)](#), [rules 24.2\(d\)](#), [24.6\(1\)](#)

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Scope of this Part and interpretation

^{F1850}73.1.—(1) This Part contains rules which provide for a judgment creditor to enforce a judgment by obtaining—

- (a) a charging order (Section I);
- (b) a stop order (Section II); or
- (c) a stop notice (Section III),

over or against the judgment debtor’s interest in an asset.

(2) In this Part—

- (a) “the 1979 Act” means the Charging Orders Act 1979;
- (b) “the 1992 Regulations” means the Council Tax (Administration and Enforcement) Regulations 1992;
- (c) “judgment debtor’s home court” means—
 - (i) if the application for a charging order is proceeding in the County Court—
 - (aa) in the case of an application under the 1992 Regulations, the County Court hearing centre for the district in which the relevant dwelling (as defined in regulation 50(3)(b) of those Regulations) is situated; or
 - (bb) in other cases, the County Court hearing centre for the district in which the judgment debtor resides or carries on business; or
 - (ii) if the application for a charging order is proceeding in the High Court, the district registry for the district in which the judgment debtor resides or carries on business or, where there is no such district registry, the Royal Courts of Justice;

^{F1851}(ca) “final charging order” means an order confirming that a charge imposed by an interim charging order continues;]

- (d) “funds in court” includes securities held in court;
- (e) “interim charging order” means an interim charging order made in accordance with rule 73.4(5), 73.4(6) or 73.6(3);

^{F1852}(ea) “legal adviser” means a court officer assigned to the county court who is—

- (i) a barrister;
- (ii) a solicitor; or
- (iii) a Fellow of the Chartered Institute of Legal Executives,

who may exercise the jurisdiction of the county court with regard to matters set out in this Part to the extent specified in this Part, with the consent of the Designated Civil Judge for Greater Manchester, or their nominee;]

- (f) “securities” means securities of any of the kinds specified in section 2(2)(b) of the 1979 Act.

Textual Amendments
F1850 Rules 73.1-73.10C substituted for rules 73.1-73.10 (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, 14, **Sch. 1** (with rule 24)
F1851 Rule 73.1(2)(ca) inserted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(2)(a)**
F1852 Rule 73.1(2)(ea) inserted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(2)(b)**

SECTION I. CHARGING ORDERS

Scope of this Section

73.2 This Section applies to an application by a judgment creditor for a charging order under—

- (a) section 1 of the 1979 Act; or
- (b) regulation 50 of the 1992 Regulations.

Application for charging order

73.3.—(1) An application for a charging order may be made without notice.

(2) Where an application for a charging order is to be made to the County Court, it must be made to the [^{F1853}Civil National Business Centre] unless the application is for a charging order over an interest in a fund in court.

(3) An application to the County Court for a charging order over an interest in a fund in court must be made to the County Court hearing centre where the order or judgment was made.

(Section 1 of the 1979 Act sets out when applications are to be made to the County Court and when they are to be made to the Family Court or the High Court.)

(4) Subject to paragraphs (2) and (3), a judgment creditor may apply for a single charging order in respect of more than one judgment or order against the same judgment debtor.

(5) The application notice must—

- (a) be in the form and contain the information required by Practice Direction 73; and
- (b) be verified by a statement of truth.

^{F1854}(8)

Textual Amendments
F1853 Words in [rule 73.3\(2\)](#) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(b)**
F1854 Rule 73.3(8) moved to become rule 73.7(8) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **36**

Interim charging order – [F1855 Civil National Business Centre]

73.4.—(1) This rule applies where an application for a charging order is made to the [F1856 Civil National Business Centre].

(2) The application for a charging order will initially be dealt with without a hearing.

(3) Where—

- (a) the application is only for a charging order on the judgment debtor’s interest in land; and
- (b) none of the exceptions listed in paragraph (4) apply,

the application may initially be dealt with by a court officer.

(4) The exceptions referred to are—

- (a) an application under section 2(1)(b)(i) of the 1979 Act;
- (b) an application for a charging order on the interest of a partner in the partnership property under section 23 of the Partnership Act 1890;
- (c) where an instalment order has been made before 1 October 2012;
- (d) where the court officer otherwise considers that the application should be dealt with by a judge.

(5) The court officer may make an interim charging order imposing a charge over the judgment debtor’s interest in the asset to which the application relates.

(6) The judge may make an interim charging order—

- (a) imposing a charge over the judgment debtor’s interest in the asset to which the application relates; and
- (b) if the judge considers it appropriate at that stage, transferring the application to the judgment debtor’s home court for the fixing of a hearing to consider whether to make a final charging order as provided by rule 73.10A(3)(a).

(7) Where a matter has been transferred under paragraph (6), the court must serve notice of the hearing on the judgment creditor and all persons served with the interim charging order under rule 73.7.

Textual Amendments

F1855 Words in rule 73.4 heading substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(c)**

F1856 Words in rule 73.4(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(c)**

Review of a decision made by a court officer

73.5.—(1) A party may request that a decision by a court officer be reconsidered by a District Judge.

(2) A request for reconsideration must be filed within 14 days after the party is served with notice of the decision.

(3) Reconsideration will take place without a hearing.

Interim charging order – venues other than the [F1857 Civil National Business Centre]

73.6.—(1) This rule applies where an application for a charging order is made other than to the [F1858 Civil National Business Centre].

- (2) An application for a charging order will initially be dealt with by a judge without a hearing.
- (3) The judge may make an interim charging order—
 - (a) imposing a charge over the judgment debtor’s interest in the asset to which the application relates; and
 - (b) fixing a hearing to consider whether to make a final charging order as provided by rule 73.10A(3)(a).

Textual Amendments

F1857 Words in rule 73.6 heading substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(d)**

F1858 Words in rule 73.6(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(d)**

Service of interim order

73.7.—(1) Where the interim charging order has been made at the [^{F1859}Civil National Business Centre] and has not been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must be served by the judgment creditor on the persons listed in paragraph (7) within 21 days of the date of the interim charging order.

(2) Where paragraph (1) applies, the judgment creditor must file a certificate of service in relation to each person served together with a statement of the amount due under the judgement or order including any costs and interest, within 28 days of the date of the interim charging order.

(3) Any application for an extension of time for service or filing specified in paragraph (1) or (2)—

- (a) must be made to the [^{F1860}Civil National Business Centre]; and
- (b) will be dealt with without a hearing.

[^{F1861}(Rule 73.10(6B) sets out the powers of a legal adviser to make an order where a judgment creditor has not, on time, filed certificates of service and a statement of the amount due or applied for an extension.)]

^{F1862}(4)

(5) Where the interim charging order has been made at a court other than the [^{F1863}Civil National Business Centre], or where the matter has been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must, not less than 21 days before the hearing, be served by the judgment creditor on the persons listed in paragraph (7).

(6) Where paragraph (5) applies, the judgment creditor must either—

- (a) file a certificate of service in relation to each person served not less than 2 days before the hearing; or
- (b) produce a certificate of service at the hearing.

(7) The persons to be served in accordance with paragraph (1) or (5) are—

- (a) the judgment debtor;
- (b) if the order relates to an interest in land, any co-owner;
- (c) the judgment debtor’s spouse or civil partner (if known);

- (d) such other creditors as are identified in the application notice or as the court directs;
- (e) if the order relates to an interest under a trust, on such of the trustees as the court directs;
- (f) if the interest charged is in securities other than securities held in court, then—
 - (i) in the case of stock for which the Bank of England keeps the register, the Bank of England;
 - (ii) in the case of government stock to which subparagraph (f)(i) does not apply, the keeper of the register;
 - (iii) in the case of stock of any body incorporated within England and Wales, that body;
 - (iv) in the case of stock of any body incorporated outside England and Wales or of any state or territory outside the United Kingdom, which is registered in a register kept in England and Wales, the keeper of that register;
 - (v) in the case of units of any unit trust in respect of which a register of the unit holders is kept in England and Wales, the keeper of that register; and
- (g) if the interest charged is in funds in court, the Accountant General at the Court Funds Office.

[^{F1864}(8) Where paragraph (1) or (5) requires service of the application notice, interim charging order and any documents filed in support of the application on a person who is outside the jurisdiction, the permission of the court is not required for service.]

Textual Amendments

- F1859** Words in rule 73.7(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(e)**
- F1860** Words in rule 73.7(3)(a) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(e)**
- F1861** Words in rule 73.7 inserted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **13(1)(a)**
- F1862** Rule 73.7(4) omitted (1.10.2020) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **13(1)(b)**
- F1863** Words in rule 73.7(5) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(e)**
- F1864** Rule 73.3(8) moved to become rule 73.7(8) (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **36**

Effect of interim order in relation to securities

73.8.—(1) If a judgment debtor disposes of their interest in any securities while they are subject to an interim charging order which has been served on them, that disposition will not, so long as that order remains in force, be valid as against the judgment creditor.

(2) A person served under rule 73.7(7)(f) with an interim charging order relating to securities must not, unless the court gives permission—

- (a) permit any transfer of any of the securities; or
- (b) pay any dividend, interest or redemption payment relating to them.

(3) If a person acts in breach of paragraph (2), that person will be liable to pay to the judgment creditor—

- (a) the value of the securities transferred or the amount of the payment made (as the case may be); or

- (b) if less, the amount necessary to satisfy the debt in relation to which the interim charging order was made.

Effect of interim order in relation to funds in court

73.9 If a judgment debtor disposes of their interest in funds in court while they are subject to an interim charging order which has been served on them and on the Accountant General in accordance with rule 73.7(7), that disposition will not, so long as that order remains in force, be valid as against the judgment creditor.

Further consideration of the application where interim charging order was made at the [F1865 Civil National Business Centre] and has not been transferred under rule 73.4(6) for a hearing

73.10.—(1) This rule applies where the interim charging order was made at the [F1866 Civil National Business Centre] and the matter has not been transferred under rule 73.4(6) for a hearing.

- (2) If any person objects to the court making a final charging order, that person must—
- (a) file; and
 - (b) serve on the judgment creditor,

written evidence stating the grounds of objection, not later than 28 days after service on that person of the application notice and interim order.

(3) If any person files evidence stating grounds of objection to the making of a final charging order, the court must, in accordance with paragraph (4), transfer the application for hearing to the judgment debtor's home court.

(4) Following receipt by the court of one or more objections, the matter must be transferred under paragraph (3)—

- (a) once all persons served under rule 73.7 with a copy of the interim charging order have filed and served an objection; or
- (b) upon expiry of the period allowed under paragraph (2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order,

whichever is the earlier.

(5) Where a matter has been transferred under paragraph (3), the court must serve notice of the hearing on the judgment creditor and all persons served under rule 73.7 with the interim charging order.

(6) Unless the application has been transferred under paragraph (3) for a hearing, the application will be considered by a judge [F1867 or a legal adviser][F1868 after] expiry of the period allowed under paragraph (2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order.

- [F1869 (6A) When considering the application under paragraph (6), a legal adviser may only—
- (a) make a final charging order, if it provides that the charge imposed by the interim charging order is to continue without modification (except for the amount secured);
 - (b) discharge the interim charging order and dismiss the application, if the applicant has requested it; F1870 ...
 - (c) refer the matter to a judge [F1871]; or
 - (d) if paragraph (6B) applies, make an unless order, or refer the matter to a judge, in accordance with that paragraph.]

[^{F1872}(6B) This paragraph applies where the judgment creditor has not complied with rule 73.7(1) or (2) and has not applied for an extension of time within the period specified by those provisions or either of them as appropriate, or has been granted an extension of time but has not met the extended time limit. In those circumstances, a legal adviser must—

- (a) order that unless, by a date specified in the order, the judgment creditor files a certificate of service in relation to each person served (together with a statement of the amount due under the judgment or order including any costs and interest), the application for a charging order is to be dismissed and the interim charging order discharged; or
- (b) refer the matter to a judge to consider whether to dismiss the application and discharge the interim charging order.

(6C) A copy of any order made under paragraph (6B) is to be served by the court on all the parties.

(6D) Decisions of a legal adviser are to be made without a hearing.]

(7) When considering the application (either at a hearing following a transfer under paragraph (3) or under paragraph (6)), the [^{F1873}judge] may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order continues, with or without modification;
- (b) discharge the interim charging order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the court making a final charging order;
- (d) direct a trial of any such issues, and if necessary give directions; or
- (e) make such other order as the court considers appropriate.

(8) If the court makes a final charging order which charges securities, the order must include a stop notice unless the court otherwise orders.

(Section III of this Part contains provisions about stop notices.)

(9) Any order made must be served by the court on all the persons on whom the interim charging order was required to be served.]

Textual Amendments

F1865 Words in rule 73.10 heading substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(f)**

F1866 Words in rule 73.10(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(f)**

F1867 Words in rule 73.10(6) inserted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(3)(a)**

F1868 Word in rule 73.10(6) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **13(2)(a)**

F1869 Rule 73.10(6A)(6B) inserted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(3)(b)**

F1870 Word in rule 73.10(6A) omitted (1.10.2020) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **13(2)(b)(i)**

F1871 Rule 73.10(6A)(d) substituted for full stop (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **13(2)(b)(ii)**

F1872 Rules 73.10(6B)-(6D) substituted for rule 73.10(6B) (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **13(2)(c)**

F1873 Word in rule 73.10(7) substituted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(3)(c)**

[^{F1874}Reconsideration of a decision made by a legal adviser

73.10ZA.—(1) Any interested person may request any decision of a legal adviser to be reconsidered by a District Judge.

(2) A request must be filed within 14 days after the interested person is served with a notice of the decision, or becomes aware of the decision.

(3) The request may include a summary of the issue and an explanation of why the reconsideration is sought.

(4) Reconsideration may take place without a hearing.

(5) When reconsidering the decision of the legal adviser, the District Judge may exercise any of the powers listed in rule 73.10(7).]

Textual Amendments

F1874Rule 73.10ZA inserted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(4)**

Further consideration of the application where interim charging order was made other than at the [^{F1875}Civil National Business Centre], or has been transferred out of that Centre under rule 73.4(6)

73.10A.—(1) This rule applies where an interim charging order was made other than at the [^{F1876}Civil National Business Centre] or has been transferred out of that Centre under rule 73.4(6).

(2) If any person objects to the court making a final charging order, that person must—

- (a) file; and
- (b) serve on the judgment creditor,

written evidence stating the grounds of objection, not less than 7 days before the hearing.

(3) At the hearing the court may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order continues, with or without modification;
- (b) discharge the interim charging order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the court making a final charging order;
- (d) direct a trial of any such issues, and if necessary give directions; or
- (e) make such other order as the court considers appropriate.

(4) If the court makes a final charging order which charges securities other than securities held in court, the order must include a stop notice unless the court otherwise orders.

(Section III of this Part contains provisions about stop notices.)

(5) Any order made at the hearing must be served by the court on all the persons on whom the interim charging order was required to be served.

Textual Amendments

F1875Words in [rule 73.10A](#) heading substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(g)**

F1876 Words in rule 73.10A(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(g)**

Discharge or variation of order

73.10B.—(1) Where the final charging order was made without a hearing under rule ^{F1877}73.10(6A) or] 73.10(7) any application to discharge or vary a charging order must be made to the ^{F1878}Civil National Business Centre].

(2) Upon the filing of an application to discharge or vary a charging order at the ^{F1879}Civil National Business Centre], the application must be transferred for a hearing to the judgment debtor's home court.

(3) Where the final charging order was made at a hearing, any application to discharge or vary a charging order must be made to the court which made the charging order.

(4) The court may direct that—

- (a) any interested person be joined as a party to such an application; or
- (b) the application be served on any such person.

(5) An order discharging or varying a charging order must be served on all the persons on whom the charging order was required to be served.

Textual Amendments

F1877 Words in rule 73.10B(1) inserted (30.3.2020) by [The Civil Procedure \(Amendment\) Rules 2020 \(S.I. 2020/82\)](#), rules 1(2), **9(5)**

F1878 Words in rule 73.10B(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(h)**

F1879 Words in rule 73.10B(2) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(h)**

Enforcement of charging order by sale

73.10C.—(1) Subject to the provisions of any enactment, the court may, upon a claim by a person who has obtained a charging order over an interest in property, order the sale of the property to enforce the charging order.

(2) Where the charging order was made at the ^{F1880}Civil National Business Centre] a claim for an order for sale under this rule must be made to the judgment debtor's home court.

(3) Subject to paragraph (2) a claim for an order for sale under this rule should be made to the court which made the charging order, unless that court does not have jurisdiction to make an order for sale.

(4) The claimant must use the Part 8 procedure.

(5) A copy of the charging order must be filed with the claim form.]

Textual Amendments

F1880 Words in rule 73.10C(2) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **31(i)**

SECTION II—STOP ORDERS

Interpretation

73.11 In this Section, “stop order” means an order of the High Court not to take, in relation to funds in court or securities specified in the order, any of the steps listed in section 5(5) of the 1979 Act.

Application for stop order

- 73.12.**—(1) The High Court may make—
- (a) a stop order relating to funds in court, on the application of any person—
 - (i) who has a mortgage or charge on the interest of any person in the funds; or
 - (ii) to whom that interest has been assigned; or
 - (iii) who is a judgment creditor of the person entitled to that interest; or
 - (b) a stop order relating to securities other than securities held in court, on the application of any person claiming to be beneficially entitled to an interest in the securities.
- (2) An application for a stop order must be made—
- (a) by application notice in existing proceedings; or
 - (b) by Part 8 claim form if there are no existing proceedings in the High Court.
- (3) The application notice or claim form must be served on—
- (a) every person whose interest may be affected by the order applied for; and
 - (b) either—
 - (i) the Accountant General at the Court Funds Office, if the application relates to funds in court; or
 - (ii) the person specified in rule ^{F1881}73.7(7)(f), if the application relates to securities other than securities held in court.

Textual Amendments

F1881 Word in rule 73.12(3)(b)(ii) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, 16 (with rule 24)

Stop order relating to funds in court

73.13 A stop order relating to funds in court shall prohibit the transfer, sale, delivery out, payment or other dealing with—

- (a) the funds or any part of them; or
- (b) any income on the funds.

Stop order relating to securities

73.14.—(1) A stop order relating to securities other than securities held in court may prohibit all or any of the following steps—

- (a) the registration of any transfer of the securities;
- (b) the making of any payment by way of dividend, interest or otherwise in respect of the securities; and

- (c) in the case of units of a unit trust, any acquisition of or other dealing with the units by any person or body exercising functions under the trust.
- (2) The order shall specify—
 - (a) the securities to which it relates;
 - (b) the name in which the securities stand;
 - (c) the steps which may not be taken; and
 - (d) whether the prohibition applies to the securities only or to the dividends or interest as well.

Variation or discharge of order

73.15.—(1) The court may, on the application of any person claiming to have a beneficial interest in the funds or securities to which a stop order relates, make an order discharging or varying the order.

(2) An application notice seeking the variation or discharge of a stop order must be served on the person who obtained the order.

SECTION III—STOP NOTICES

General

73.16 In this Section—

- (a) “stop notice” means a notice issued by the court which requires a person or body not to take, in relation to securities specified in the notice, any of the steps listed in section 5(5) of the 1979 Act, without first giving notice to the person who obtained the notice; and
- (b) “securities” does not include securities held in court.

Request for stop notice

73.17.—(1) The High Court may, on the request of any person claiming to be beneficially entitled to an interest in securities, issue a stop notice.

(A stop notice may also be included in a final charging order, by either the High Court or [^{F53}the County Court], under rule [^{F1882}73.10(8) or 73.10A(4)].)

- (2) A request for a stop notice must be made by filing—
 - (a) a draft stop notice; and
 - (b) written evidence which—
 - (i) identifies the securities in question;
 - (ii) describes the applicant’s interest in the securities; and
 - (iii) gives an address for service for the applicant.

(A sample form of stop notice is annexed to [^{F1883}Practice Direction 73].)

(3) If a court officer considers that the request complies with paragraph (2), he will issue a stop notice.

(4) The applicant must serve copies of the stop notice and his written evidence on the person to whom the stop notice is addressed.

Textual Amendments

- F53** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)
- F1882** Words in [rule 73.17](#) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016](#) (S.I. 2016/234), rules 2, **17** (with [rule 24](#))
- F1883** Words in [rule 73.17](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **47(a)(ii)**

Effect of stop notice

73.18.—(1) A stop notice—

- (a) takes effect when it is served in accordance with [rule 73.17\(4\)](#); and
 - (b) remains in force unless it is withdrawn or discharged in accordance with [rule 73.20](#) or [73.21](#).
- (2) While a stop notice is in force, the person on whom it is served—
- (a) must not—
 - (i) register a transfer of the securities described in the notice; or
 - (ii) take any other step restrained by the notice,
 without first giving 14 days' notice to the person who obtained the stop notice; but
 - (b) must not, by reason only of the notice, refuse to register a transfer or to take any other step, after he has given 14 days' notice under paragraph (2)(a) and that period has expired.

Amendment of stop notice

73.19.—(1) If any securities are incorrectly described in a stop notice which has been obtained and served in accordance with [rule 73.17](#), the applicant may request an amended stop notice in accordance with that rule.

- (2) The amended stop notice takes effect when it is served.

Withdrawal of stop notice

73.20.—(1) A person who has obtained a stop notice may withdraw it by serving a request for its withdrawal on—

- (a) the person or body on whom the stop notice was served; and
- (b) the court which issued the stop notice.

(2) The request must be signed by the person who obtained the stop notice, and his signature must be witnessed by a practising solicitor.

Discharge or variation of stop notice

73.21.—(1) The court may, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a stop notice relates, make an order discharging or varying the notice.

(2) An application to discharge or vary a stop notice must be made to the court which issued the notice.

- (3) The application notice must be served on the person who obtained the stop notice.

[^{F1884}73.22 [^{F1885}Practice Direction 73] makes provision for the procedure to be followed when applying for an order under section 23 of the Partnership Act 1890.]]

Textual Amendments

F1884Rule 73.22 inserted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **10**

F1885Words in rule 73.22 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **47(b)**

[^{F1886}**PART 74**

ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

Textual Amendments

F1886Pt. 74 inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 8**

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Application under Article 14(2)

74.50]

Scope of this Part and interpretation

74.1.—(1) Section I of this Part applies to the enforcement in England and Wales of judgments of foreign courts.

(2) Section II applies to the enforcement in foreign countries of judgments of the High Court and of [F851the County Court].

(3) Section III applies to the enforcement of United Kingdom judgments in other parts of the United Kingdom.

F1893(4)

F1894(4A)

I
F1895(4B) Section VI applies to—

F1896(a)

(b) the enforcement in England and Wales of certified protection measures from Member States of the European Union other than F1897... Denmark.]

(5) In this Part—

(a) “the 1920 Act” means the Administration of Justice Act 1920(11);

(b) “the 1933 Act” means the Foreign Judgments (Reciprocal Enforcement) Act 1933(12);

(c) “the 1982 Act” means the Civil Jurisdiction and Judgments Act 1982(13);

F1898(d)

F1898(e)

F1898(f)

[“the 2005 Hague Convention” means the Convention on Choice of Court Agreements F1899(g) concluded on 30th June 2005 at the Hague.]

F1900 ...

Textual Amendments

F851 Words in Rules substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), 4(a)(iii); S.I. 2014/954, art. 2(a)

F1893 Rule 74.1(4) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 15(3)(a) (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1)

F1894 Rule 74.1(4A) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), 15(3)(a) (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1)

F1895 Rule 74.1(4B) inserted (11.1.2015) by The Civil Procedure (Amendment No. 8) Rules 2014 (S.I. 2014/3299), rules 2(b), 13(b)

(11) 1978 c. 33.

(12) 1981 c. 54. Section 35A was inserted by the Administration of Justice Act 1982 (c. 53), section 15(1), Schedule 1, Part I.

(13) 1984 c. 28. Section 69 was amended by the Courts and Legal Services Act 1990 (c. 41), section 125(3), Schedule 18, paragraph 46.

- F1896** Rule 74.1(4B)(a) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(3)(b)(i)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1897** Words in rule 74.1(4B)(b) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(3)(b)(ii)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1898** Rules 74.1(5)(d)-(f) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(3)(c)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1899** Rule 74.1(5)(g) inserted (1.10.2015) by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015/1644), reg. 1(1), **Sch. para. 6**
- F1900** Words in rule 74.1 omitted (10.1.2015) by virtue of The Civil Procedure (Amendment No. 7) Rules 2014 (S.I. 2014/2948), rules 2, **5(3)(b)** (with rule 6)

I: ENFORCEMENT IN ENGLAND AND WALES OF JUDGMENTS OF FOREIGN COURTS

Interpretation

74.2.—(1) In this Section—

(a) “Contracting State” has the meaning given in section 1(3) of the 1982 Act;

^{F1901}(b)

(c) “judgment” means, subject to any other enactment, any judgment given by a foreign court or tribunal, whatever the judgment may be called, and includes—

(i) a decree;

(ii) an order;

(iii) a decision;

(iv) a writ of execution [^{F1902}or a writ of control]; and

(v) the determination of costs by an officer of the court;

(d) “State of origin”, in relation to any judgment, means the State in which that judgment was given[^{F1903};

[“writ of control” is to be construed in accordance with section 62(4) of the Tribunals, ^{F1904}(e) Courts and Enforcement Act 2007;

(f) “writ of execution” includes—

(i) a writ of possession;

(ii) a writ of delivery;

(iii) a writ of sequestration;

(iv) a writ of fieri facias de bonis ecclesiasticis,

and any further writ in favour of any such writs, but does not include a writ of control.]

^{F1905}(2)

Textual Amendments

- F1901** Rule 74.2(1)(b) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(4)(a)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1902** Words in rule 74.2(1)(c)(iv) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **34(b)(i)** (with rule 41)
- F1903** Rule 74.2(1)(d): semicolon substituted for full stop (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **34(b)(ii)** (with rule 41)
- F1904** Rule 74.2(1)(e)(f) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **34(b)(iii)** (with rule 41)
- F1905** Rule 74.2(2) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(4)(b)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Applications for registration

74.3.—(1) This Section provides rules about applications under—

- (a) section 9 of the 1920 Act, in respect of judgments to which Part II of that Act applies;
- (b) section 2 of the 1933 Act, in respect of judgments to which Part I of that Act applies;

^{F1906}(c) [^{F1907}section] 4B of the 1982 Act; ^{F1908}...

^{F1909}(d)

for the registration of foreign judgments for enforcement in England and Wales.

(2) Applications—

- (a) must be made to the High Court; and
- (b) may be made without notice.

Textual Amendments

- F1906** Rule 74.3(1)(c) substituted (1.10.2015) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) Regulations 2015 \(S.I. 2015/1644\)](#), reg. 1(1), **Sch. para. 7**
- F1907** Word in rule 74.3(1)(c) substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(5)(a)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1908** Word in rule 74.3(1)(c) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(5)(b)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1909** Rule 74.3(1)(d) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(5)(c)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Enforcement under the Judgments Regulation

^{F1910}**74.3A.**

Textual Amendments

F1910 Rule 74.3A omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **15(6)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Evidence in support

74.4.—(1) An application for registration of a judgment under the 1920, 1933 or 1982 Act must be supported by written evidence exhibiting—

- (a) the judgment or a verified or certified or otherwise authenticated copy of it; and
- (b) where the judgment is not in English, a translation of it into English—
 - (i) certified by a notary public or other qualified person; or
 - (ii) accompanied by written evidence confirming that the translation is accurate.
- (2) The written evidence in support of the application must state—
 - (a) the name of the judgment creditor and his address for service within the jurisdiction;
 - (b) the name of the judgment debtor and his address or place of business, if known;
 - (c) the grounds on which the judgment creditor is entitled to enforce the judgment;
 - (d) in the case of a money judgment, the amount in respect of which it remains unsatisfied; and
 - (e) where interest is recoverable on the judgment under the law of the State of origin—
 - (i) the amount of interest which has accrued up to the date of the application, or
 - (ii) the rate of interest, the date from which it is recoverable, and the date on which it ceases to accrue.
- (3) Written evidence in support of an application under the 1920 Act must also state that the judgment is not a judgment—
 - (a) which under section 9 of that Act may not be ordered to be registered; or
 - (b) to which section 5 of the Protection of Trading Interests Act 1980(**15**) applies.
- (4) Written evidence in support of an application under the 1933 Act must also—
 - (a) state that the judgment is a money judgment;
 - (b) confirm that it can be enforced by execution in the State of origin;
 - (c) confirm that the registration could not be set aside under section 4 of that Act;
 - (d) confirm that the judgment is not a judgment to which section 5 of the Protection of Trading Interests Act 1980 applies;
 - (e) where the judgment contains different provisions, some but not all of which can be registered for enforcement, set out those provisions in respect of which it is sought to register the judgment; and
 - (f) be accompanied by any further evidence as to—
 - (i) the enforceability of the judgment in the State of origin, and
 - (ii) the law of that State under which any interest has become due under the judgment, which may be required under the relevant Order in Council extending Part I of the 1933 Act to that State.

- (5) Written evidence in support of an application under the 1982 Act must also exhibit—
 - (a) documents which show that, under the law of the State of origin, the judgment is enforceable on the judgment debtor and has been served;
 - (b) in the case of a judgment in default, a document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document; and
 - (c) where appropriate, a document showing that the judgment creditor is in receipt of legal aid in the State of origin.

[^{F1911}(5A) Written evidence in support of an application under section 4B of the 1982 Act (registration and enforcement of judgments under the 2005 Hague Convention) must also include any other evidence required by Article 13 of the 2005 Hague Convention.]

^{F1912}(6)

Textual Amendments
F1911 Rule 74.4(5A) inserted (1.10.2015) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) Regulations 2015](#) (S.I. 2015/1644), reg. 1(1), **Sch. para. 8**
F1912 Rule 74.4(6) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **15(7)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Procedure for enforcing judgments under the Judgments Regulation

^{F1913}**74.4A.**

Textual Amendments
F1913 Rule 74.4A omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **15(8)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Security for costs

74.5.—(1) Subject to paragraphs (2) and (3), section II of Part 25 applies to an application for security for the costs of—

- (a) the application for registration;
- (b) any proceedings brought to set aside the registration; [^{F1914}and]
- (c) any appeal against the granting of the registration [^{F1915}, ^{F1916} ...]

^{F1917}(d)

as if the judgment creditor were a claimant.

(2) A judgment creditor making an application under the 1982 Act^{F1918}... may not be required to give security solely on the ground that he is resident out of the jurisdiction.

(3) Paragraph (1) does not apply to an application under the 1933 Act where the relevant Order in Council otherwise provides.

Textual Amendments

- F1914** Word in rule 74.5(1)(b) inserted (31.12.2020) by The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(9)(a)(i)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1915** Word in rule 74.5(1)(c) substituted (10.1.2015) by virtue of The Civil Procedure (Amendment No. 7) Rules 2014 (S.I. 2014/2948), rules 2, **5(8)(b)** (with rule 6)
- F1916** Word in rule 74.5(1)(c) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(9)(a)(ii)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1917** Rule 74.5(1)(d) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(9)(a)(iii)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1918** Words in rule 74.5(2) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(9)(b)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Registration orders

74.6.—(1) An order granting permission to register a judgment (“registration order”) must be drawn up by the judgment creditor and served on the judgment debtor—

- (a) by delivering it to ^{F1919}the judgment debtor] personally;
 - ^{F1920}(b) by any of the methods of service permitted under the Companies Act 2006; or]
 - (c) in such other manner as the court may direct.
- (2) Permission is not required to serve a registration order out of the jurisdiction, and rules ^{F1921}6.40, 6.42, 6.43 and 6.46] apply to such an order as they apply to a claim form.
- (3) A registration order must state—
- (a) full particulars of the judgment registered;
 - (b) the name of the judgment creditor and his address for service within the jurisdiction;
 - (c) the right of the judgment debtor—
 - (i) in the case of registration following an application under the 1920 or the 1933 Act, to apply to have the registration set aside;
 - (ii) in the case of registration following an application under the 1982 Act^{F1922} ... ^{F1923} ... to appeal against the registration order;
 - (d) the period within which such an application or appeal may be made; and
 - (e) that no measures of enforcement will be taken before the end of that period, other than measures ordered by the court to preserve the property of the judgment debtor.

Textual Amendments

- F1919** Words in rule 74.6(1)(a) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **37(a)(i)**
- F1920** Rule 74.6(1)(b) substituted (1.10.2009) by The Civil Procedure (Amendment) Rules 2009 (S.I. 2009/2092), rules 1(2), **15(a)**
- F1921** Words in rule 74.6(2) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **37(a)(iii)**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F1922 Words in rule 74.6(3)(c)(ii) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(10)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

F1923 Words in rule 74.6(3)(c)(ii) omitted (10.1.2015) by virtue of [The Civil Procedure \(Amendment No. 7\) Rules 2014 \(S.I. 2014/2948\)](#), rules 2, **5(9)(b)** (with rule 6)

Applications to set aside registration

74.7.—(1) An application to set aside registration under the 1920 or the 1933 Act must be made within the period set out in the registration order.

(2) The court may extend that period; but an application for such an extension must be made before the end of the period as originally fixed or as subsequently extended.

(3) The court hearing the application may order any issue between the judgment creditor and the judgment debtor to be tried.

Refusal of recognition or enforcement under the Judgments Regulation

^{F1924}**74.7A.**

Textual Amendments

F1924 Rule 74.7A omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(11)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Relief against enforcement under the Judgments Regulation

^{F1925}**74.7B.**

Textual Amendments

F1925 Rule 74.7B omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(11)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Suspension of proceedings in which a judgment is invoked under the Judgments Regulation

^{F1926}**74.7C.**

Textual Amendments

F1926 Rule 74.7C omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(11)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Appeals

74.8.—(1) An appeal against the granting or the refusal of registration under the 1982 Act^{F1927} ...
^{F1928} ... must be made in accordance with Part 52, subject to the following provisions of this rule.

- (2) Permission is not required—
 - (a) to appeal; or
 - (b) to put in evidence.
- (3) If—
 - (a) the judgment debtor is not domiciled within a Contracting State ^{F1929} ..., and
 - (b) an application to extend the time for appealing is made within two months of service of the registration order,

the court may extend the period for filing an appellant’s notice against the order granting registration, but not on grounds of distance.

- (4) The appellant’s notice must be served—
 - (a) where the appeal is against the granting of registration, within—
 - (i) one month; or
 - (ii) where service is to be effected on a party not domiciled within the jurisdiction, two months, of service of the registration order;
 - (b) where the appeal is against the refusal of registration, within one month of the decision on the application for registration.

Textual Amendments

- F1927** Words in rule 74.8(1) omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(12)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1928** Words in rule 74.8(1) omitted (10.1.2015) by virtue of [The Civil Procedure \(Amendment No. 7\) Rules 2014 \(S.I. 2014/2948\)](#), rules 2, **5(11)(a)** (with rule 6)
- F1929** Words in rule 74.8(3)(a) omitted (10.1.2015) by virtue of [The Civil Procedure \(Amendment No. 7\) Rules 2014 \(S.I. 2014/2948\)](#), rules 2, **5(11)(b)** (with rule 6)

[^{F1930}Enforcement

- 74.9.—^{F1931}(1)**
- (2) [^{F1932}No] steps may be taken to enforce the judgment—
 - (a) before the end of the period specified in accordance with rule 74.6(3)(d), or that period as extended by the court; or
 - (b) where there is an application under rule 74.7 or an appeal under rule 74.3, until the application or appeal has been determined.
 - (3) Any party wishing to enforce a judgment ^{F1933}... must file evidence of the service on the judgment debtor of—
 - (a) the registration order; and
 - (b) any other relevant order of the court.
 - (4) Nothing in this rule prevents the court from making orders to preserve the property of the judgment debtor pending final determination of any issue relating to the enforcement of the judgment.]

Textual Amendments

- F1930** Rule 74.9 substituted (10.1.2015) by The Civil Procedure (Amendment No. 7) Rules 2014 (S.I. 2014/2948), rules 2, **5(12)** (with rule 6)
- F1931** Rule 74.9(1) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(13)(a)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1932** Word in rule 74.9(2) substituted (31.12.2020) by The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(13)(b)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1933** Words in rule 74.9(3) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(13)(c)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Recognition

^{F1934}**74.10.**—(1) Registration of a judgment serves as a decision that the judgment is recognised for the purposes of ^{F1935}...^{F1936} the 2005 Hague Convention^{F1937}....

(2) An application for recognition of a judgment is governed by the same rules as an application for registration of a judgment under ^{F1938}...^{F1939} the 2005 Hague Convention^{F1937}..., except that rule 74.4(5)(a) and (c) does not apply.]

Textual Amendments

- F1934** Rule 74.10(1)(2) substituted (1.1.2010) by The Civil Jurisdiction and Judgments Regulations 2009 (S.I. 2009/3131), regs. 1(1), **42** (with reg. 48)
- F1935** Words in rule 74.10(1) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(14)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1936** Words in rule 74.10(1) substituted (1.10.2015) by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015/1644), reg. 1(1), **Sch. para. 9(2)**
- F1937** Words in rule 74.10(1)(2) omitted (10.1.2015) by virtue of The Civil Procedure (Amendment No. 7) Rules 2014 (S.I. 2014/2948), rules 2, **5(13)(b)** (with rule 6)
- F1938** Words in rule 74.10(2) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(14)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1939** Words in rule 74.10(2) substituted (1.10.2015) by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015/1644), reg. 1(1), **Sch. para. 9(3)**

Authentic instruments and court settlements

^{F1940}**74.11** The rules governing the registration of judgments under the 1982 Act ^{F1941}... apply as appropriate and with any necessary modifications for the enforcement [^{F1942}of court settlements which are subject to article 12 of the 2005 Hague Convention.]]

Textual Amendments

- F1940** Rule 74.11 substituted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009](#) (S.I. 2009/3131), regs. 1(1), **43** (with reg. 48)
- F1941** Words in rule 74.11 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **15(15)(a)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1942** Words in rule 74.11 substituted (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **15(15)(b)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Adaptation of certain orders in foreign judgments subject to the Judgments Regulation

^{F1943}**74.11A.**

Textual Amendments

- F1943** Rule 74.11A omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/521), regs. 1(1), **15(16)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

II: ENFORCEMENT IN FOREIGN COUNTRIES OF JUDGMENTS OF THE HIGH COURT AND [^{F1944}THE COUNTY COURT]

Textual Amendments

- F1944** Words in [Pt. 74 Section 2](#) heading substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(3), **34(b)(iv)** (with rule 41)

Application for a certified copy of a judgment

- 74.12.**—(1) This Section applies to applications—
- (a) to the High Court under section 10 of the 1920 Act;
 - (b) to the High Court or to [^{F53}the County Court] under section 10 of the 1933 Act; [^{F1945}or]
 - (c) to the High Court or to [^{F53}the County Court] under section 12 of the 1982 Act;^{F1946}...
 - ^{F1947}(d)

[^{F1948}(2) A judgment creditor who wishes to enforce in a foreign country a judgment obtained in the High Court or in the [^{F1949}County Court must apply for a certified copy of the judgment.]

(3) The application may be made without notice.]

Textual Amendments

- F53** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

- F1945** Word in rule 74.12(1)(b) inserted (31.12.2020) by The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(17)(a)(i)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1946** Word in rule 74.12(1)(c) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(17)(a)(ii)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1947** Rule 74.12(1)(d) omitted (31.12.2020) by virtue of The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(17)(a)(iii)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1948** Rule 74.12(2) substituted (10.1.2015) by The Civil Procedure (Amendment No. 7) Rules 2014 (S.I. 2014/2948), rules 2, **5(16)(b)** (with rule 6)
- F1949** Words in rule 74.12(2) substituted (31.12.2020) by The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(17)(b)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Evidence in support

- 74.13.**—(1) The application must be supported by written evidence exhibiting copies of—
- (a) the claim form in the proceedings in which judgment was given;
 - (b) evidence that it was served on the defendant;
 - (c) the statements of case; and
 - (d) where relevant, a document showing that for those proceedings the applicant was [^{F1950}a person to whom legal aid, as defined in rule 44.1, was provided].
- (2) The written evidence must—
- (a) identify the grounds on which the judgment was obtained;
 - (b) state whether the defendant objected to the jurisdiction and, if he did, the grounds of his objection;
 - (c) show that the judgment—
 - (i) has been served in accordance with Part 6 and rule 40.4, and
 - (ii) is not subject to a stay of execution;
 - (d) state—
 - (i) the date on which the time for appealing expired or will expire;
 - (ii) whether an appeal notice has been filed;
 - (iii) the status of any application for permission to appeal; and
 - (iv) whether an appeal is pending;
 - (e) state whether the judgment provides for the payment of a sum of money, and if so, the amount in respect of which it remains unsatisfied;
 - (f) state whether interest is recoverable on the judgment, and if so, either—
 - (i) the amount of interest which has accrued up to the date of the application, or
 - (ii) the rate of interest, the date from which it is recoverable, and the date on which it ceases to accrue.

Textual Amendments

F1950 Words in rule 74.13(1)(d) substituted (1.4.2013) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential, Transitional and Saving Provisions\) Regulations 2013 \(S.I. 2013/534\)](#), reg. 1, **Sch. para. 13(b)** (with reg. 14(2))

**III: ENFORCEMENT OF UNITED KINGDOM JUDGMENTS
IN OTHER PARTS OF THE UNITED KINGDOM**

Interpretation

74.14 In this Section—

- (a) “money provision” means a provision for the payment of one or more sums of money in a judgment whose enforcement is governed by section 18 of, and Schedule 6 to, the 1982 Act; and
- (b) “non-money provision” means a provision for any relief or remedy not requiring payment of a sum of money in a judgment whose enforcement is governed by section 18 of, and Schedule 7 to, the 1982 Act.

Registration of money judgments in the High Court

74.15.—(1) This rule applies to applications to the High Court under paragraph 5 of Schedule 6 to the 1982 Act for the registration of a certificate for the enforcement of the money provisions of a judgment—

- (a) which has been given by a court in another part of the United Kingdom, and
- (b) to which section 18 of that Act applies.

(2) The certificate must within six months of the date of its issue be filed in the Central Office of the [^{F1951}Senior Courts], together with a copy certified by written evidence to be a true copy.

Textual Amendments

F1951 Words in rule 74.15(2) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **15(b)**

Registration of non-money judgments in the High Court

74.16.—(1) This rule applies to applications to the High Court under paragraph 5 of Schedule 7 to the 1982 Act for the registration for enforcement of the non-money provisions of a judgment—

- (a) which has been given by a court in another part of the United Kingdom, and
 - (b) to which section 18 of that Act applies.
- (2) An application under paragraph (1) may be made without notice.
- (3) An application under paragraph (1) must be accompanied—
- (a) by a certified copy of the judgment issued under Schedule 7 to the 1982 Act; and
 - (b) by a certificate, issued not more than six months before the date of the application, stating that the conditions set out in paragraph 3 of Schedule 7 are satisfied in relation to the judgment.

(4) Rule 74.6 applies to judgments registered under Schedule 7 to the 1982 Act as it applies to judgments registered under section 4 of that Act.

(5) Rule 74.7 applies to applications to set aside the registration of a judgment under paragraph 9 of Schedule 7 to the 1982 Act as it applies to applications to set aside registrations under the 1920 and 1933 Acts.

Certificates of High Court and [^{F18}County Court] money judgments

74.17.—(1) This rule applies to applications under paragraph 2 of Schedule 6 to the 1982 Act for a certificate to enable the money provisions of a judgment of the High Court or of [^{F53}the County Court] to be enforced in another part of the United Kingdom.

(2) The judgment creditor may apply for a certificate by filing at the court where the judgment was given or has been entered written evidence stating—

- (a) the name and address of the judgment creditor and, if known, of the judgment debtor;
- (b) the sums payable and unsatisfied under the money provisions of the judgment;
- (c) where interest is recoverable on the judgment, either—
 - (i) the amount of interest which has accrued up to the date of the application, or
 - (ii) the rate of interest, the date from which it is recoverable, and the date on which it ceases to accrue;
- (d) that the judgment is not stayed;
- (e) the date on which the time for appealing expired or will expire;
- (f) whether an appeal notice has been filed;
- (g) the status of any application for permission to appeal; and
- (h) whether an appeal is pending.

Textual Amendments

F18 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)

F53 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

Certified copies of High Court and [^{F18}County Court] non-money judgments

74.18.—(1) This rule applies to applications under paragraph 2 of Schedule 7 to the 1982 Act for a certified copy of a judgment of the High Court or of [^{F53}the County Court] to which section 18 of the Act applies and which contains non-money provisions for enforcement in another part of the United Kingdom.

(2) An application under paragraph (1) may be made without notice.

(3) The applicant may apply for a certified copy of a judgment by filing at the court where the judgment was given or has been entered written evidence stating—

- (a) full particulars of the judgment;
- (b) the name and address of the judgment creditor and, if known, of the judgment debtor;
- (c) that the judgment is not stayed;
- (d) the date on which the time for appealing expired or will expire;

- (e) whether an appeal notice has been filed;
- (f) the status of any application for permission to appeal; and
- (g) whether an appeal is pending.

Textual Amendments

- F18** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)
- F53** Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

F1952 **IV: ENFORCEMENT IN ENGLAND AND WALES
OF EUROPEAN COMMUNITY JUDGMENTS**

Textual Amendments

- F1952Pt. 74** Section 4 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(18)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Interpretation

*F1952***74.19**

Application for registration of a Community judgment

*F1952***74.20**

Evidence in support

*F1952***74.21**

Registration orders

*F1952***74.22**

Application to vary or cancel registration

*F1952***74.23**

Enforcement

*F1952***74.24**

Application for registration of suspension order

*F1952***74.25**

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Registration and enforcement of a Euratom inspection order

^{F1952}74.26

^{F1953}V EUROPEAN ENFORCEMENT ORDERS

Textual Amendments

F1953Pt. 74 Section 5 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(19)** (with regs. 26, 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Interpretation

^{F1953}74.27

Certification of Judgments of the Courts of England and Wales

^{F1953}74.28

Applications for a certificate of lack or limitation of enforceability

^{F1953}74.29

Applications for rectification or withdrawal

^{F1953}74.30

Enforcement of European Enforcement Orders in England and Wales

^{F1953}74.31

Refusal of Enforcement

^{F1953}74.32

[^{F1954}Stay of or limitation on enforcement]

^{F1953}74.33

Textual Amendments

F1954Rule 74.33 heading substituted (12.12.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(4), **37(d)(i)**

f^{F1955} VI Recognition and enforcement of protection measures

Textual Amendments

F1955 Pt. 74 Section 6 inserted (11.1.2015) by *The Civil Procedure (Amendment No. 8) Rules 2014* (S.I. 2014/3299), rules 2(b), **13(c)**

Interpretation

74.34. In this Section—

- ^{F1956}(a)
- ^{F1957}(b)
- (c) “Article 11 notice” means the notification required by Article 11 of the Protection Measures Regulation;
- ^{F1958}(d)
- (e) “incoming protection measure” means a protection measure that has been ordered in a Member State of the European Union other than the United Kingdom or Denmark;
- ^{F1959}(f)
- (g) “person causing the risk” has the meaning given to it in the Protection Measures Regulation;
- (h) “protected person” has the meaning given to it in the Protection Measures Regulation;
- (i) “protection measure” has the meaning given to it in the Protection Measures Regulation;
- (j) “Protection Measures Regulation” means Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12th June 2013 on mutual recognition of protection measures in civil matters.

Textual Amendments

- F1956** Rule 74.34(a) omitted (31.12.2020) by virtue of *The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/521), regs. 1(1), **15(20)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1957** Rule 74.34(b) omitted (31.12.2020) by virtue of *The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/521), regs. 1(1), **15(20)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1958** Rule 74.34(d) omitted (31.12.2020) by virtue of *The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/521), regs. 1(1), **15(20)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))
- F1959** Rule 74.34(f) omitted (31.12.2020) by virtue of *The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019* (S.I. 2019/521), regs. 1(1), **15(20)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Procedure for applications in this Section

74.35. Subject to the rules in this Section, applications under the Protection Measures Regulation to the County Court or to the High Court must be made in accordance with Part 23.

^{F1960} ...

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F1960Rule 74.36 cross-heading omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\)](#) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(21)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Application for an Article 5 certificate

F196174.36.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\)](#) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

The court to which an application for an Article 5 certificate must be made

F196174.37.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\)](#) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

When a request for a translation of an Article 5 certificate may be made

F196174.38.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\)](#) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

The court to which a request for a translation of an Article 5 certificate must be made

F196174.39.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\)](#) (EU Exit) Regulations 2019 (S.I. 2019/521), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Service requirements under Article 6

^{F1961}74.40.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Notification of the certificate under Article 8

^{F1961}74.41.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Rectification of an Article 5 certificate

^{F1961}74.42.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

Withdrawal of an Article 5 certificate

^{F1961}74.43.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

When an application for an Article 14 certificate may be made

^{F1961}74.44.

Textual Amendments

F1961Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

The court to which an application for an Article 14 certificate must be made

^{F1961}74.45.

Textual Amendments

^{F1961}Rules 74.36-74.45 omitted (31.12.2020) by virtue of [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **15(22)** (with regs. 26, 27) (as amended by S.I. 2020/1493, regs. 1(1), 9(2)(i)(j)(4)(5); 2020 c. 1, Sch. 5 para. 1(1))

INCOMING PROTECTION MEASURES

Application for adjustment under Article 11

74.46. A protected person may apply to the court under Article 11 of the Protection Measures Regulation to adjust the factual elements of an incoming protection measure.

Notification of the adjustment under Article 11

74.47.—(1) Subject to paragraph (2), Article 11 notice must be given to the person causing the risk by serving it in accordance with Section III of Part 6 and the rules in that Section apply to service of the notice as they apply to any other document to be served.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, Article 11 notice must be given by sending it by registered letter with acknowledgment of receipt or other confirmation of delivery or equivalent to the last known place of residence of that person.

Enforcement of an incoming protection measure

74.48. ^{F1962}... Part 81 applies to applications in relation to a breach of an incoming protection measure as if the incoming protection measure had been ordered by the County Court.

Textual Amendments

^{F1962}Words in [rule 74.48](#) omitted (6.4.2021) by virtue of [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **18** (with [rule 2](#))

Application for refusal of recognition or enforcement under Article 13

74.49. A person causing the risk may apply to the court under Article 13 of the Protection Measures Regulation for refusal of recognition or enforcement of an incoming protection measure.

Application under Article 14(2)

74.50.—(1) This rule applies where an Article 14 certificate has been issued in a Member State of the European Union other than the United Kingdom or Denmark.

(2) A protected person or person causing the risk may apply to the court to stay, suspend or withdraw the effects of recognition or, where applicable, the enforcement of the protection measure.

(3) An application under this rule must include a copy of the Article 14 certificate issued in the other Member State.

(4) On an application under this rule, the court must make such orders or give such directions as may be necessary to give effect to the Article 14 certificate.]]

[^{F1963}PART 75 TRAFFIC ENFORCEMENT

Textual Amendments

F1963Pt. 75 inserted (1.10.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(a), [Sch. 9](#)

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Scope and interpretation

75.1.—(1) [^{F1966}Practice Direction 75]—

- (a) sets out the proceedings to which this Part applies; and
- (b) may apply this Part with modifications in relation to any particular category of those proceedings.

[^{F1967}([^{F1968}Rule 21.1(1)(c)(i)] provides that Part 21 (children and protected parties) does not apply to proceedings under this Part where one of the parties is a child.)]

(2) In this Part—

- (a) “the Centre” means the Traffic Enforcement Centre established under the direction of the Lord Chancellor;

[“enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12 to the ^{F1969}(a1) Tribunals, Courts and Enforcement Act 2007;

- (a2) “local authority warrant of control” means a warrant of control issued by a local authority under article 5 of the 1993 Order;]

- (b) “no relevant return to the warrant” means that—

- (i) the [^{F1970}enforcement agent] has been unable to seize goods because [^{F1971}the [^{F1970}enforcement agent]] has been denied access to premises occupied by the defendant or because the goods have been removed from those premises;
- (ii) any goods seized under a [^{F1972}local authority warrant of control] are insufficient to satisfy the debt and the cost of execution; or
- (iii) the goods are insufficient to cover the cost of their removal and sale^{[^{F1973}];}
- (c) “the 1993 Order” means the Enforcement of Road Traffic Debts Order 1993;
- (d) “relevant period”, in relation to any particular case, means—
 - (i) the period allowed for serving a statutory declaration [^{F1974}or witness statement] under any enactment which applies to that case; or
 - (ii) where an enactment permits the court to extend that period, the period as extended;
- (e) “specified debts” means the debts specified in article 2 of the 1993 Order or treated as so specified by any other enactment; and
- (f) “the authority”, “notice of the amount due”, “order” and “the respondent” have the meaning given by [^{F1975}Practice Direction 75].

Textual Amendments

- F1966** Words in rule 75.1(1) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **49(a)**
- F1967** Words in rule 75.1(1) inserted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(a)(ii)**
- F1968** Words in rule 75.1(1) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(b)(i)** (with rule 41)
- F1969** Rule 75.1(2)(a1)(a2) inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(b)(ii)** (with rule 41)
- F1970** Words in rule 75.1(2)(b)(i) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(b)(iii)(aa)** (with rule 41)
- F1971** Word in rule 75.1(2)(b)(i) substituted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(a)(iii)**
- F1972** Words in rule 75.1(2)(b)(ii) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(b)(iii)(bb)** (with rule 41)
- F1973** Rule 75.1(2)(b)(iii): semicolon substituted for full stop (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(a)(iv)**
- F1974** Words in rule 75.1(2)(d)(i) inserted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(a)(v)**
- F1975** Words in rule 75.1(2)(f) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **49(b)**

The Centre

- 75.2.**—(1) Proceedings to which this Part applies must be started in the Centre.
- (2) For any purpose connected with the exercise of the Centre’s functions—
- ^{[^{F1976}(a)} the Centre is deemed to be an office of the County Court; and]
 - (b) any officer of the Centre, in exercising its functions, is deemed to act as an officer of [^{F1977}the County Court].

Textual Amendments

F1976Rule 75.2(2)(a) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **35(c)(i)**; S.I. 2014/954, art. 2(a)

F1977Words in rule 75.2(2)(b) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), rules 2(1), **35(c)(ii)**; S.I. 2014/954, art. 2(a)

Request

75.3.—(1) The authority must file a request in the appropriate form scheduling the amount claimed to be due.

(2) The authority must, in that request or in another manner approved by the court officer—

(a) certify—

- (i) that 14 days have elapsed since service of the notice of the amount due;
- (ii) the date of such service;
- (iii) the number of the notice of the amount due; and
- (iv) that the amount due remains unpaid;

(b) specify the grounds (whether by reference to the appropriate code or otherwise), as stated in the notice, on which the authority claims to be entitled to claim that amount; and

(c) state—

- (i) the name, title and address of the respondent;
- (ii) the registration number of the vehicle concerned;
- (iii) the authority’s address for service;
- (iv) the court fee; and
- (v) such other matters as required by ^{F1978}Practice Direction 75].

(3) On receipt of a request that meets the requirements of paragraphs (1) and (2), the court officer will order that the amount due may be recovered as if it were payable under a ^{F1979}County Court] order by ^{F1980}registering] the request and returning it to the authority.

^{F1981}(4) On receipt of a registered request the authority may draw up the order and must—

(a) insert in the order the date by which the respondent must either—

- (i) comply with the order; or
- (ii) file a statutory declaration or witness statement; and

(b) attach to the order a form of statutory declaration or witness statement for the respondent’s use.]

^{F1982}(5) The authority must serve in accordance with Part 6 the order (and the form of statutory declaration or witness statement) on the respondent within 15 days of the date on which the request is registered by the court.]

^{F1983}(6)

Textual Amendments

F1978Words in rule 75.3(2)(c)(v) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), rules 1(2), **49(b)**

- F1979** Words in rule 75.3(3) substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **35(d)**; S.I. 2014/954, art. 2(a)
- F1980** Word in rule 75.3(3) substituted (31.3.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(a), **9(c)(ii)**
- F1981** Rule 75.3(4) substituted (31.3.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(a), **9(c)(iii)** (with rule 13)
- F1982** Rule 75.3(5) substituted (31.3.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(a), **9(c)(iv)** (with rule 13)
- F1983** Rule 75.3(6) revoked (31.3.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(a), **9(c)(v)** (with rule 13)

Electronic delivery of documents

75.4.—(1) Where the authority is required to file any document other than the request, that requirement is satisfied if the information which would be contained in the document is delivered in computer-readable form.

(2) For the purposes of paragraph (1), information which would be contained in a document relating to one case may be combined with information of the same nature relating to another case.

(3) Where a document is required to be produced, that requirement will be satisfied if a copy of the document is produced from computer records.

^{F1984}Functions of court officer

75.5 [^{F1985}Practice Direction 75] sets out the circumstances in which a court officer may exercise the functions of the court.]

Textual Amendments

- F1984** Rule 75.5 substituted (6.4.2009) by The Civil Procedure (Amendment No.3) Rules 2008 (S.I. 2008/3327), rules 1, **13(b)**
- F1985** Words in rule 75.5 substituted (6.4.2010) by The Civil Procedure (Amendment No.2) Rules 2009 (S.I. 2009/3390), rules 1(2), **49(a)**

^{F1986}Review of decision of court officer

75.5A.—(1) Any party may request any decision of a court officer to be reviewed by a [^{F35}District Judge].

(2) Such a request must be made within 14 days of service of the decision.

(3) Unless—

- (a) the party requesting the review requests an oral hearing; or
- (b) the court orders an oral hearing,

a request for a review under paragraph (2) will be dealt with without an oral hearing.]

Textual Amendments

- F35** Words in Rules substituted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), **4(a)(iv)**; S.I. 2014/954, art. 2(a)

F1986Rule 75.5A inserted (6.4.2009) by The Civil Procedure (Amendment No.3) Rules 2008 (S.I. 2008/3327), rules 1, **13(c)**

Enforcement of orders

75.6 Subject to the 1993 Order and this rule the following rules apply to the enforcement of specified debts—

- (a) Parts 70 to 73;
- ^{F1987}(b)
- [^{F1988}(c) rule 83.2;]
- [rule 83.4; and]
- ^{F1989}(ca)
- [^{F1990}(d) Part 89.]
- ^{F1991}...

Textual Amendments

- F1987**Rule 75.6(b) omitted (6.4.2014) by virtue of The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(3), **35(e)(i)** (with rule 41)
- F1988**Words in rule 75.6(c) substituted (6.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rule 2(3), **35(e)(ii)** (with rule 41)
- F1989**Rule 75.6(ca) inserted (6.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(3), **35(e)(iii)** (with rule 41)
- F1990**Rule 75.6(d) substituted (6.4.2016) by The Civil Procedure (Amendment) Rules 2016 (S.I. 2016/234), rules 2, **18** (with rule 25)
- F1991**Words in rule 75.6 omitted (6.4.2014) by virtue of The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(3), **35(e)(iv)** (with rule 41)

[^{F1992}Local authority warrant of control]

75.7.—(1) An authority seeking the issue of a [^{F1993}local authority warrant of control] must file a request—

- (a) certifying the amount remaining due under the order;
- (b) specifying the date of service of the order on the respondent; and
- (c) certifying that the relevant period has elapsed.
- (2) The court will seal the request and return it to the authority.
- (3) Within 7 days of the sealing of the request the authority must prepare the warrant in the appropriate form.
- (4) No payment under a warrant will be made to the court.
- ^{F1994}(5)
- ^{F1994}(6)

[^{F1995}(7) Where the address of the respondent has changed since the issue of the warrant, the authority may request the reissue of the warrant by filing a request—

- (a) specifying the new address of the respondent;

- (b) providing evidence that the new address for the respondent does relate to the respondent named in the order and against whom enforcement is sought; and
 - (c) certifying that the amount due under the order remains unpaid.
- (8) Where the court is satisfied that the new address of the respondent given in the request for the reissue of the warrant relates to the respondent named in the order, it will seal the request and return it to the authority.
- (9) The authority must prepare the reissued warrant in the appropriate form within 7 days of the sealing of the request to reissue.
- (10) A reissued warrant will only be valid for the remainder of the 12 month period beginning with the date it was originally issued.]

Textual Amendments

- F1992** Words in rule 75.7 heading substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(f)(i)** (with rule 41)
- F1993** Words in rule 75.7(1) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(f)(i)** (with rule 41)
- F1994** Rule 75.7(5)(6) omitted (6.4.2014) by virtue of [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(f)(ii)** (with rule 41)
- F1995** Rules 75.7(7)-(10) inserted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008 \(S.I. 2008/3327\)](#), rules 1, **13(d)(ii)**

Revocation of order

75.8 Where, in accordance with any enactment, an order is deemed to have been revoked following the filing of a statutory declaration [^{F1996}or a witness statement]—

- (a) the court will serve a copy of the statutory declaration [^{F1997}or witness statement] on the authority;
- (b) any execution issued on the order will cease to have effect; and
- (c) if appropriate, the authority must inform any [^{F1998}enforcement agent] instructed to levy execution of the withdrawal of the warrant as soon as possible.

Textual Amendments

- F1996** Words in rule 75.8 inserted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(f)(i)**
- F1997** Words in rule 75.8(a) inserted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(f)(ii)**
- F1998** Words in rule 75.8(c) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(g)** (with rule 41)

Transfer for enforcement

75.9 [^{F1999}Where the] authority requests the transfer of proceedings to [^{F2000}a County Court hearing centre] for enforcement, the request must—

- (a) where the authority has not attempted to enforce by execution, give the reason why no such attempt was made;
- (b) certify that there has been no relevant return to the [^{F2001}local authority warrant of control];

- (c) specify the date of service of the order on the respondent; and
- (d) certify that the relevant period has elapsed.

Textual Amendments

- F1999** Words in rule 75.9 substituted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(g)**
- F2000** Words in rule 75.9 substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **35(h)(i)**; [S.I. 2014/954](#), art. 2(a)
- F2001** Words in rule 75.9(b) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(h)(ii)** (with rule 41)

Further information required

75.10 An application for—

- (a) an attachment of earnings order;
- (b) an order to obtain information from a debtor;
- (c) a third party debt order; or
- (d) a charging order,

must, in addition to the requirements of [^{F2002}Parts 71, 72, 73 or 89]—

- (i) where the authority has not attempted to enforce by execution, give the [^{F2003}reason why] no such attempt was made;
- (ii) certify that there has been no relevant return to the [^{F2004}local authority warrant of control];
- (iii) specify the date of service of the order on the respondent; and
- (iv) certify that the relevant period has elapsed.

Textual Amendments

- F2002** Words in rule 75.10 substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, **19** (with rule 25)
- F2003** Words in rule 75.10(i) substituted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(h)**
- F2004** Words in rule 75.10(d)(ii) substituted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(3), **35(i)** (with rule 41)

Combining requests

75.11 [^{F2005}Where] the court officer allows, [^{F2006}the] authority may combine information relating to different orders against the same [^{F2007}respondent] in any request or application made under rules 75.9 or 75.10.]

Textual Amendments

- F2005** Word in rule 75.11 substituted (31.3.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(a), **9(i)(i)**

F2006 Word in rule 75.11 substituted (31.3.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(a), **9(i)(ii)**

F2007 Word in rule 75.11 substituted (31.3.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(a), **9(i)(iii)**

[^{F2008}PART 76

PROCEEDINGS UNDER THE PREVENTION OF TERRORISM ACT 2005

Textual Amendments

F2008 Pt. 76 inserted (14.3.2005) by The Civil Procedure (Amendment No. 2) Rules 2005 (S.I. 2005/656), rule 1, **Sch.**

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SECTION 1

Application of this Part

Scope and interpretation

76.1.—(1) This Part contains rules about—

- (a) control order proceedings in the High Court; and
- (b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

(2) In the case of proceedings brought by virtue of section 11(2) of the Act, the rules in this Part shall apply with any modification which the court considers necessary.

(3) In this Part—

- (a) “the Act” means the Prevention of Terrorism Act 2005;
- (b) “closed material” means any relevant material that the Secretary of State objects to disclosing to a relevant party;
- (c) “control order proceedings” has the same meaning as in section 11(6) of the Act;
- (d) “controlled person”, has the same meaning as in section 15(1) of the Act;
- (e) “legal representative” is to be construed in accordance with paragraph 11 of the Schedule to the Act;
- (f) “open material” means any relevant material that the Secretary of State does not object to disclosing to a relevant party;
- ^{F2009}(g)
- (h) “relevant material” has the same meaning as in paragraph 4(5) of the Schedule to the Act;
- (i) “relevant party” has the same meaning as in paragraph 11 of the Schedule to the Act;
- (j) “special advocate” means a person appointed under paragraph 7 of the Schedule to the Act.

(4) For the purposes of this Part, disclosure is contrary to the public interest if it is made contrary to the interests of national security, the international relations of the United Kingdom, the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.

Textual Amendments
F2009Rule 76.1(3)(g) omitted (6.4.2008) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2007](#) (S.I. 2007/3543), rules 1(b), **10(a)**

Modification to the overriding objective

76.2.—(1) Where this Part applies, the overriding objective in Part 1, and so far as relevant any other rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The court must ensure that information is not disclosed contrary to the public interest.

(3) Subject to paragraph (2), the court must satisfy itself that the material available to it enables it properly to determine proceedings.

SECTION 2

Applications to the High Court relating to derogating control orders

Scope of this section

76.3.—(1) This section of this Part contains rules about applications relating to derogating control orders.

(2) Part 23 does not apply to an application made under this section of this Part.

Applications for the making of a derogating control order

76.4. An application for the making of a derogating control order under section 4(1) of the Act must be made by the Secretary of State by filing with the court—

- (a) a statement of reasons to support the application for—

- (i) making such an order, and
- (ii) imposing each of the obligations to be imposed by that order;
- (b) all relevant material;
- (c) any written submissions; and
- (d) a draft of the order sought.

Directions for a full hearing on notice

76.5.—(1) When the court makes a derogating control order under section 4(3) of the Act it must—

- (a) immediately fix a date, time and place for a further hearing at which the controlled person, his legal representative and a special advocate (if one has been appointed) can be present; and
 - (b) unless the court otherwise directs, that date must be no later than 7 days from the date that the order is made.
- (2) At the hearing referred to in paragraph (1)(a) the court must give directions—
- (a) for the holding of a full hearing under section 4(1)(b) of the Act to determine whether to confirm the control order (with or without modifications) or to revoke it; and
 - (b) specifying the date and time by which the parties and special advocate must file and serve any written evidence or written submissions in accordance with rule 76.30.

(3) When giving directions under paragraph (2), the court must have regard to the need to expedite the full hearing.

Applications on notice

76.6.—(1) An application under section 4(9) for the renewal, or under section 7(4) of the Act, for the revocation of a control order or for the modification of obligations imposed by such an order, must be made in accordance with this rule.

- (2) An application by the Secretary of State must be made by—
- (a) filing with the court—
 - (i) a statement of reasons to support the application,
 - (ii) all relevant material,
 - (iii) any written submissions, and
 - (iv) a draft of the order sought; and
 - (b) serving on the controlled person or his legal representative any open material.
- (3) An application by the controlled person must be made by filing with the court and serving on the Secretary of State—
- (a) a statement of reasons to support the application;
 - (b) any written evidence upon which he relies;
 - (c) any written submissions; and
 - (d) where appropriate, a draft of the order sought.
- (4) If the controlled person wishes to oppose an application made under this rule, he must as soon as practicable file with the court, and serve on the Secretary of State, any written evidence and any written submissions upon which he relies.

(5) If the Secretary of State wishes to oppose an application made under this rule, he must as soon as practicable—

- (a) file with the court—
 - (i) all relevant material, and
 - (ii) any written submissions; and
- (b) serve on the controlled person any open material.

(Attention is drawn to rule 76.18 relating to the address for issuing proceedings in the High Court. Rules 76.28 and 76.29 will apply where any closed material is filed by the Secretary of State).

SECTION 3

Permission applications, references and appeals to the High Court relating to non-derogating control orders

Scope of this section

76.7. This section of this Part contains rules about—

- (a) applications under section 3(1)(a) of the Act (application for permission to make a non-derogating control order);
- (b) references under section 3(3) of the Act (reference of a non-derogating control order made without permission); and
- (c) appeals to the High Court under section 10 of the Act (appeals relating to non-derogating control orders).

Application for permission to make non-derogating control order

76.8. An application under section 3(1)(a) for permission to make a non-derogating control order must be made by the Secretary of State by filing with the court—

- (a) a statement of reasons to support the application;
- (b) all relevant material;
- (c) any written submissions; and
- (d) the proposed control order.

References under section 3(3) of the Act

76.9.—(1) This rule applies where the Secretary of State makes a reference under section 3(3) of the Act (reference of a non-derogating control order).

(2) The Secretary of State must promptly file with the court—

- (a) a statement of the reasons for—
 - (i) making the control order,
 - (ii) imposing the obligations imposed by that order;
- (b) all relevant material; and
- (c) any written submissions.

Directions for hearing on application for permission or on a reference

76.10.—(1) This rule applies where the court gives directions under section 3(2)(c) or (6)(b) or (c) of the Act.

(2) The court must immediately—

(a) fix a date, time and place for a further hearing at which the controlled person, his legal representative and a special advocate (if one has been appointed) can be present; and

[^{F2010}(b) unless the court otherwise directs—

(i) in the case of directions given under section 3(2)(c), that date must be no later than 7 days from the date on which the notice of the terms of the control order is delivered to the controlled person in accordance with section 7(8) of the Act; or

(ii) in the case of directions given under section 3(6)(b) or (c), that date must be 7 days from the date on which the court’s determination on the reference is made.]

(3) At the hearing referred to in paragraph (2), the court must give directions—

(a) for a hearing under section 3(10); and

(b) specifying the date and time by which the parties and special advocate must file and serve any written evidence or written submissions in accordance with rule 76.30.

(4) When giving directions under paragraph (3), the court must have regard to the need to expedite that hearing.

(Rules 76.28 and 76.29 will apply where any closed material is filed by the Secretary of State).

Textual Amendments

F2010 Rule 76.10(2)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **16(a)**

Appeals under section 10 of the Act

76.11. This rule and rules 76.12 to 76.15 apply to an appeal under section 10 of the Act (appeals relating to a non-derogating control order).

Modification of Part 52 (appeals)

76.12.—(1) Part 52 (appeals) applies to an appeal under section 10 of the Act, subject to—

(a) rule 76.2;

(b) the rules in section 5 of this Part; and

(c) the modifications set out in paragraphs (2) and (3) of this rule.

(2) The following rules do not apply to appeals under section 10 of the Act—

(a) [^{F2011}rules 52.3, 52.4 and 52.6] (permission);

(b) [^{F2012}52.12] (appellant’s notice);

(c) [^{F2013}52.13] (respondent’s notice); and

(d) rule [^{F2014}52.21] (hearing of appeals).

(3) Rule 52.2 (all parties to comply with [^{F2015}Practice Directions 52A to 52E] apply), but the parties shall not be required to comply with [^{F2016}paragraphs 5.1 to 5.3 of Practice Direction 52A and paragraphs 6.3 to 6.6 of Practice Direction 52B].

Textual Amendments

- F2011** Words in rule 76.12(2)(a) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **13(1)(a)**
- F2012** Word in rule 76.12(2)(b) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **13(1)(b)**
- F2013** Word in rule 76.12(2)(c) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **13(1)(c)**
- F2014** Word in rule 76.12(2)(d) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **13(1)(d)**
- F2015** Words in rule 76.12(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **13(a)(i)**
- F2016** Words in rule 76.12(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **13(a)(ii)**

Notice of appeal

- 76.13.**—(1) The controlled person must give notice of appeal by—
- (a) filing it with the court; and
 - (b) serving a copy of the notice and any accompanying documents on the Secretary of State.
- (2) The notice of appeal must—
- (a) set out the grounds of the appeal; and
 - (b) state the name and address of-
 - (i) the controlled person, and
 - (ii) any legal representative of that person.
- (3) A notice of appeal may include an application for an order under rule 76.19 requiring anonymity.
- (4) The notice of appeal must be filed with—
- (a) a copy of the order that is the subject of the appeal;
 - (b) a copy of the Secretary of State’s decision on an application for the revocation of the control order, or for the modification of an obligation imposed by such an order.

(Attention is drawn to rule 76.18 relating to the address for issuing proceedings in the High Court).

Time limit for appealing

- 76.14.**—(1) Subject to paragraph (2), the controlled person must give notice of appeal no later than 28 days after receiving ^{F2017}...—
- (a) the [^{F2018}notice setting out the terms of the order, renewal or modification that is the subject of the appeal]; or
 - (b) [^{F2019}notice of] the decision by the Secretary of State on an application for the revocation of the control order, or for the modification of an obligation imposed by such an order.
- (2) In a case where the Secretary of State has failed to determine an application for the revocation of the control order, or for the modification of an obligation imposed by such an order, the controlled person must file the notice of appeal—
- (a) no earlier than 28 days; and

(b) no later than 42 days;
after the date the application was made.

Textual Amendments

F2017 Words in rule 76.14(1) omitted (6.4.2008) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(b)(i)**

F2018 Words in rule 76.14(1)(a) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(b)(ii)**

F2019 Words in rule 76.14(1)(b) inserted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(b)(iii)**

Secretary of State’s reply

76.15. If the Secretary of State wishes to oppose an appeal made under section 10 of the Act, he must no later than 14 days after he is served with the notice of appeal—

- (a) file with the court—
 - (i) all relevant material, and
 - (ii) any written submissions; and
- (b) serve on the controlled person any open material.

SECTION 4

Appeals to the Court of Appeal

Modification of Part 52 (appeals)

76.16.—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court in control order proceedings, subject to—

- (a) rule 76.2;
 - (b) the rules in section 5 of this Part; and
 - (c) paragraphs (2) and (3) of this rule.
- (2) The following rules do not apply to appeals to the Court of Appeal—
- (a) rule [F2020]52.12] (appellant’s notice); and
 - (b) rule [F2021]52.13] (respondent’s notice); but

the provisions of rules 76.13 and 76.15 shall apply with appropriate modifications.

(3) Rule 52.2 (all parties to comply with [F2022]Practice Directions 52A to 52E) apply], but the parties shall not be required to comply with [F2023]paragraphs 6.3 to 6.6 of Practice Direction 52B and paragraph 28 of Practice Direction 52C].

Textual Amendments

F2020 Word in rule 76.16(2)(a) substituted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **13(2)(a)**

F2021 Word in rule 76.16(2)(b) substituted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **13(2)(b)**

F2022 Words in rule 76.16(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **13(b)(i)**

F2023 Words in rule 76.16(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **13(b)(ii)**

SECTION 5

General provisions

Scope of this section

76.17. This section of this Part applies to—

- (a) control order proceedings in the High Court; and
- (b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

Address for issuing proceedings in the High Court

76.18. Any control order proceedings must be issued at the Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London, WC2A 2LL.

Applications for anonymity

76.19.—(1) The controlled person or the Secretary of State may apply for an order requiring the anonymity of the controlled person.

(2) An application under paragraph (1) may be made at any time, irrespective of whether any control order proceedings have been commenced.

(3) An application may be made without notice to the other party.

[^{F2024}(4) References in this rule—

- (a) to an order requiring anonymity for the controlled person are to be construed in accordance with paragraph 5(3) of the Schedule to the Act; and
- (b) to the controlled person, in relation to a time before the control order has been made, are to be construed in accordance with paragraph 5(4) of the Schedule to the Act.]

Textual Amendments

F2024 [Rule 76.19\(4\)](#) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **16(b)**

Notification of hearing

76.20. Unless the court orders otherwise, it must serve notice of the date, time and place fixed for any hearing on—

- (a) every party, whether or not entitled to attend that hearing; and
- (b) if one has been appointed for the purposes of the hearing, the special advocate or those instructing him.

Hearings

76.21.—(1) The following proceedings must be determined at a hearing—

- (a) a hearing pursuant to directions given under section 4(1)(b) of the Act (derogating control orders);
 - (b) a hearing pursuant to directions given under sections 3(2)(c) or (6)(b) or (c) of the Act (non-derogating control orders);
 - (c) an appeal under section 10 of the Act (appeal relating to a non-derogating control order);
 - (d) an appeal to the Court of Appeal from an order of the High Court made in any of the above proceedings; and
 - (e) a hearing under rule 76.29(2) (consideration of Secretary of State's objection).
- (2) Paragraph (1)(c) and (d) do not apply where—
- (a) the appeal is withdrawn by the controlled person;
 - (b) the Secretary of State consents to the appeal being allowed; or
 - (c) the controlled person is outside the United Kingdom or it is impracticable to give him notice of a hearing and, in either case, he is unrepresented.

Hearings in private

76.22.—(1) If the court considers it necessary for any relevant party and his legal representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, it must—

- (a) direct accordingly; and
 - (b) conduct the hearing, or that part of it from which the relevant party and his legal representative are excluded, in private.
- (2) The court may conduct a hearing or part of a hearing in private for any other good reason.

Appointment of a special advocate

76.23.—(1) Subject to paragraph (2), the Secretary of State must immediately give notice of the proceedings to the [^{F2025}Attorney General] upon—

- (a) making an application under section 4(1) of the Act (relating to a derogating control order);
- (b) making an application under section 3(1)(a) of the Act (application for permission to make a non-derogating control order);
- (c) making a reference under section 3(3) of the Act (reference of a non-derogating control order made without permission); or
- (d) being served with a copy of any application, claim, or notice of appeal in proceedings to which this Part applies.

(2) Paragraph (1) applies unless—

- (a) the Secretary of State does not intend to—
 - (i) oppose the appeal or application; or
 - (ii) withhold closed material from a relevant party; or
- (b) a special advocate has already been appointed to represent the interests of the relevant party in the proceedings and that special advocate is not prevented from communicating with that party by virtue of rule 76.25.

(3) Where notice is given to the [^{F2026}Attorney General] under paragraph (1), the [^{F2026}Attorney General] may appoint a special advocate to represent the interests of the relevant party in the proceedings.

(4) Where any proceedings to which this Part apply are pending but no special advocate has been appointed, a relevant party or the Secretary of State may request the [F2027 Attorney General] to appoint a special advocate.

Textual Amendments

F2025 Words in rule 76.23(1) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(c)(i)**

F2026 Words in rule 76.23(3) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(c)(ii)**

F2027 Words in rule 76.23(4) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(c)(iii)**

Functions of special advocate

76.24. The functions of a special advocate are to represent the interests of a relevant party by—

- (a) making submissions to the court at any hearings from which the relevant party and his legal representatives are excluded;
- (b) [F2028 adducing evidence and] cross-examining witnesses at any such hearings; and
- (c) making written submissions to the court.

Textual Amendments

F2028 Words in rule 76.24(b) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **16(c)**

Special advocate: communicating about proceedings

76.25.—(1) The special advocate may communicate with the relevant party or his legal representative at any time before the Secretary of State serves closed material on him.

(2) After the Secretary of State serves closed material on the special advocate, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (3) or a direction of the court pursuant to a request under paragraph (4).

(3) The special advocate may, without directions from the court, communicate about the proceedings with—

- (a) the court;
- (b) the Secretary of State, or any person acting for him;
- (c) the [F2029 Attorney General], or any person acting for him; or
- (d) any other person, except for the relevant party or his legal representative, with whom it is necessary for administrative purposes for him to communicate about matters not connected with the substance of the proceedings.

(4) The special advocate may request directions from the court authorising him to communicate with the relevant party or his legal representative or with any other person.

(5) Where the special advocate makes a request for directions under paragraph (4)—

- (a) the court must notify the Secretary of State of the request; and

- (b) the Secretary of State must, within a period specified by the court, file with the court and serve on the special advocate notice of any objection which he has to the proposed communication, or to the form in which it is proposed to be made.
- (6) Paragraph (2) does not prohibit the relevant party from communicating with the special advocate after the Secretary of State has served material on him as mentioned in paragraph (1), but—
 - (a) the relevant party may only communicate with the special advocate through a legal representative in writing; and
 - (b) the special advocate must not reply to the communication other than in accordance with directions of the court, except that he may without such directions send a written acknowledgment of receipt to the legal representative of the relevant party.

Textual Amendments

F2029 Words in [rule 76.25\(3\)\(c\)](#) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), [rules 1\(b\)](#), [10\(d\)](#)

Modification of the general rules of evidence and disclosure

76.26.—(1) Part 31 (disclosure and inspection of documents), Part 32 (evidence) and Part 33 (miscellaneous rules about evidence) do not apply to any proceedings to which this Part applies.

(2) Subject to the other rules in this Part, the evidence of a witness may be given either—

- (a) orally, before the court; or
- (b) in writing, in which case it shall be given in such manner and at such time as the court directs.

(3) The court may also receive evidence in documentary or any other form.

(4) The court may receive evidence that would not, but for this rule, be admissible in a court of law.

(5) Every party shall be entitled to adduce evidence and to cross-examine witnesses during any part of a hearing from which he and his legal representative are not excluded.

F2030 (5A) A special advocate shall be entitled to adduce evidence and to cross-examine witnesses.]

(6) The court may require a witness to give evidence on oath.

Textual Amendments

F2030 [Rule 76.26\(5A\)](#) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), [rules 1\(2\)](#), [16\(d\)](#)

Filing and service of relevant material

76.27. The Secretary of State is required to make a reasonable search for relevant material and to file and serve that material in accordance with the rules in this Part.

Closed material

76.28.—(1) The Secretary of State—

- (a) must apply to the court for permission to withhold closed material from a relevant party or his legal representative in accordance with this rule; and
 - (b) may not rely on closed material at a hearing on notice unless a special advocate has been appointed to represent the interests of the relevant party.
- (2) The Secretary of State must file with the court and serve, at such time as the court directs, on the special advocate—
- (a) the closed material;
 - (b) a statement of his reasons for withholding that material from the relevant party; and
 - (c) if he considers it possible to summarise that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the relevant party.
- (3) The Secretary of State may at any time amend or supplement material filed under this rule, but only with—
- (a) the agreement of the special advocate; or
 - (b) the permission of the court.

Consideration of Secretary of State's objection

- 76.29.**—(1) This rule applies where the Secretary of State has—
- (a) objected under rule 76.25(5)(b) to a proposed communication by the special advocate [F²⁰³¹ or to the form in which it is proposed to be made]; or
 - (b) applied under rule 76.28 for permission to withhold closed material.
- (2) The court must fix a hearing for the Secretary of State and the special advocate to make oral representations, unless—
- (a) the special advocate gives notice to the court that he does not challenge the objection or application;
 - (b) the court has previously considered—
 - (i) an objection under rule 76.25(5)(b) [F²⁰³² to the same or substantially the same communication], or
 - (ii) an application under rule 76.28(1) for permission to withhold the same or substantially the same material, and
 is satisfied that it would be just to uphold that objection or to give permission without a hearing; or
 - (c) the Secretary of State and the special advocate consent to the court deciding the issue without a hearing.
- (3) If the special advocate does not challenge the objection or the application, he must give notice of that fact to the court and the Secretary of State within 14 days, or such other period as the court may direct, after the Secretary of State serves on him a notice under rule 76.25(5)(b) or material under rule 76.28(2).
- (4) Where the court fixes a hearing under this rule, the Secretary of State and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must—
- (a) list the items or issues in dispute;
 - (b) give brief reasons for their contentions on each; and
 - (c) set out any proposals for the court to resolve the issues in contention.

(5) A hearing under this rule shall take place in the absence of the relevant party and his legal representative.

(6) Where the court gives permission to the Secretary of State to withhold closed material, the court must—

- (a) consider whether to direct the Secretary of State to serve a summary of that material on the relevant party or his legal representative; but
- (b) ensure that no such summary contains information or other material the disclosure of which would be contrary to the public interest.

(7) Where the court has not given permission to the Secretary of State to withhold closed material from, or has directed the Secretary of State to serve a summary of that material on, a relevant party or his legal representative—

- (a) the Secretary of State shall not be required to serve that material or summary; but
- (b) if he does not do so, at a hearing on notice the court may—
 - (i) if it considers that the material or anything that is required to be summarised might be of assistance to the relevant party in relation to a matter under consideration by the court, direct that the matter be withdrawn from its consideration, and
 - (ii) in any other case, direct that the Secretary of State shall not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.

(8) The court must give permission to the Secretary of State to withhold closed material where it considers that the disclosure of that material would be contrary to the public interest.

Textual Amendments

F2031 Words in [rule 76.29\(1\)\(a\)](#) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), [rules 2, 5](#)

F2032 Words in [rule 76.29\(2\)\(b\)\(i\)](#) inserted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), [rules 1\(b\), 10\(e\)](#)

Order of filing and serving material and written submissions

76.30. Subject to any directions given by the court, the parties must file and serve any material and written submissions, and the special advocate must file and serve any written submissions, in the following order—

- (a) the Secretary of State must file with the court all relevant material;
- (b) the Secretary of State must serve on—
 - (i) the relevant party or his legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing him, any open material;
- (c) the relevant party must file with the court and serve on the Secretary of State and special advocate (if one is appointed) or those instructing him any written evidence which he wishes the court to take into account at the hearing;
- (d) the Secretary of State must file with the court any further relevant material;
- (e) the Secretary of State must serve on—
 - (i) the relevant party or his legal representative, and
 - (ii) the special advocate (as soon as one is appointed) or those instructing him,

any open material filed with the court under paragraph (d);

- (f) the Secretary of State must serve on the special advocate (if one has been appointed) any closed material;
- (g) the parties and the special advocate (if one has been appointed) must file and serve any written submissions as directed by the court.

(Rules 76.28 and 76.29 will apply where any closed material is filed by the Secretary of State).

Failure to comply with directions

76.31.—(1) Where a party or the special advocate fails to comply with a direction of the court, the court may serve on him a notice which states—

- (a) the respect in which he has failed to comply with the direction;
- (b) a time limit for complying with the direction; and
- (c) that the court may proceed to determine the proceedings before it, on the material available to it, if the party or the special advocate fails to comply with the relevant direction within the time specified.

(2) Where a party or special advocate fails to comply with such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

76.32.—(1) When the court gives judgment in any proceedings to which this Part applies, it may withhold any or part of its reasons if and to the extent that it is not possible to give reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the court does not include the full reasons for its decision, the court must serve on the Secretary of State and the special advocate a separate written judgment including those reasons.

Application by Secretary of State for reconsideration of decision

76.33.—(1) This rule applies where the court proposes, in any proceedings to which this Part applies, to serve notice on a relevant party of any—

- (a) order or direction made or given in the absence of the Secretary of State; or
- (b) any judgment.

(2) Before the court serves any such notice on the relevant party, it must first serve notice on the Secretary of State of its intention to do so.

(3) The Secretary of State may, within 5 days of being served with notice under paragraph (2), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if he considers that—

- (a) his compliance with the order or direction; or
- (b) the notification to the relevant party of any matter contained in the judgment, order or direction;

would cause information to be disclosed contrary to the public interest.

[^{F2033}(4) Where the Secretary of State makes an application under paragraph (3), he must at the same time serve on the special advocate, if one has been appointed—

- (a) a copy of the application; and
- (b) a copy of the notice served on the Secretary of State pursuant to paragraph (2).]

(5) Rule 76.29 (except for paragraphs (6) and (7)) shall, if a special advocate has been appointed, apply with any necessary modifications to the consideration of an application under paragraph (3) of this rule.

(6) The court must not serve notice on the relevant party as mentioned in paragraph (1) before the time for the Secretary of State to make an application under paragraph (3) has expired.

Textual Amendments

F2033 Rule 76.33(4) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **10(f)**

Supply of court documents

76.34. Unless the court otherwise directs, [^{F2034}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] not apply to any proceedings to which this Part applies.]

Textual Amendments

F2034 Words in [rule 76.34](#) substituted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **11**

[^{F2035}**PART 77**

PROVISIONS IN SUPPORT OF CRIMINAL JUSTICE

Textual Amendments

F2035 Pt. 77 inserted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rule 1(b), **Sch.**

Contents of this Part

[^{F2036}Scope of this Part Rule 77.1

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PREVENTION ORDERS**

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[^{F2037}SECTION 2 – APPLICATION TO QUASH AN ACQUITTAL

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Hearing to determine the application to quash an acquittal	Rule 77.15]

[^{F2038}Scope of this Part

77.1. This Part contains rules about—

- (a) in Section 1, applications for a serious crime prevention order under section 8 of the Serious Crime Act 2007 and related applications under sections 9, 17 and 18 of that Act; and
- (b) in Section 2, applications under section 54(3) of the Criminal Procedure and Investigations Act 1996 for an order quashing an acquittal.]

Textual Amendments

F2038Rule 77.1 substituted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **10(b)**

[^{F2039}SECTION 1 – SERIOUS CRIME PREVENTION ORDERS]

Textual Amendments

F2039Pt. 77 Section 1 heading inserted (1.10.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **10(b)**

[^{F2040}Interpretation

77.1A. In this Section—

- (a) “the 2007 Act” means the Serious Crime Act 2007; and

- (b) “SCPO” means a serious crime prevention order under section 1 or section 9 of the 2007 Act.]

Textual Amendments

F2040 Rule 77.1A inserted (1.10.2010) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rules 1(2), **10(b)**

Application for a SCPO

77.2. An application under section 8 of the 2007 Act for a SCPO must be started in accordance with Part 8 as modified by [^{F2041}Practice Direction 77].

Textual Amendments

F2041 Words in [rule 77.2](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **51(a)**

Applications by third parties to make representations and applications to vary or discharge a SCPO made by the High Court

77.3. An application under—
(a) section 9 of the 2007 Act; or
(b) section 17 or 18 of the 2007 Act to vary or discharge a SCPO made by the High Court, must be made in accordance with Part 23 as modified by [^{F2042}Practice Direction 77].

Textual Amendments

F2042 Words in [rule 77.3](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **51(a)**

Application to vary or discharge a SCPO made by the Crown Court

77.4. An application under section 17 or 18 of the 2007 Act to vary or discharge a SCPO made by the Crown Court must be started in accordance with Part 8.

Where to make an application

77.5. Applications under this Part must be made to the [^{F2043}King’s] Bench Division of the High Court in one of the courts set out in [^{F2044}Practice Direction 77].

Textual Amendments

F2043 Word in [rule 77.5](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **37**

F2044 Words in [rule 77.5](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **51(b)**

^{F2045}SECTION 2 APPLICATION TO QUASH AN ACQUITTAL

Textual Amendments

F2045Pt. 77 Section 2 inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010 \(S.I. 2010/1953\)](#), rule 1(2), **Sch. 4**

Scope and interpretation

77.6.—(1) This Section contains rules about applications to quash an acquittal under section 54(3) of the Criminal Procedure and Investigations Act 1996 and applies in relation to acquittals in respect of offences alleged to have been committed on or after 15th April 1997.

(2) An application made under this Section may be made only by the individual or body which acted as prosecutor in the proceedings which led to the acquittal.

(3) In this Section—

- (a) “the 1996 Act” means the Criminal Procedure and Investigations Act 1996;
- (b) “acquitted person” means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the 1996 Act, and “acquittal” means the acquittal of that person of that offence;
- (c) “magistrates’ court” has the same meaning as in section 148 of the Magistrates’ Courts Act 1980; and
- (d) “record of court proceedings” means—
 - (i) where the proceedings took place in the Crown Court, a transcript of the evidence; or
 - (ii) where the proceedings took place in a magistrates’ court, a transcript of the evidence if there is one and if not a note of the evidence made by the justices’ [^{F2046}legal adviser],

in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(b) of the 1996 Act or, as the case may be, the proceedings which led to the acquittal.

Textual Amendments

F2046Words in [rule 77.6\(3\)\(d\)\(ii\)](#) substituted (6.4.2020) by [The Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(Consequential, Transitional and Saving Provision\) Regulations 2020 \(S.I. 2020/100\)](#), reg. 1(2), **Sch. para. 5(4)** (with reg. 4)

^{F2047}Time limit for making the application

77.7. An application for an order quashing an acquittal under section 54(3) of the 1996 Act must be made no later than 28 days after the issue of the certificate to which section 54(2) of that Act refers.]

Textual Amendments

F2047[Rule 77.7](#) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **14**

Where to make the application

77.8.—(1) The jurisdiction of the High Court under section 54(3) of the 1996 Act may be exercised by a Divisional Court or a single judge of the High Court.

(2) The application must be made to the Administrative Court which will direct whether the application should be dealt with by a Divisional Court or a single judge of the High Court.

How to make the application

77.9.—(1) The application must be made by filing a claim form pursuant to Part 8.

(2) The claimant must file with the claim form—

- (a) a witness statement which deals with the conditions in section 55(1), (2) and (4) of the 1996 Act and which exhibits any relevant documents (which may include a copy of any record of court proceedings); and
- (b) a copy of the certification under section 54(2) of the 1996 Act.

Notice to defendant (acquitted person)

77.10.—(1) Within 7 days of the claim form being issued by the court, the claimant must serve on the defendant (the acquitted person) a copy of the claim form and the documents which accompanied it.

(2) The documents referred to in paragraph (1) must be accompanied by a notice informing the defendant that—

- (a) the result of the application may be the making of an order by the High Court quashing the acquittal; and
- (b) the defendant must, if wishing to respond to the application, file—
 - (i) within 14 days of service of the claim form an acknowledgment of service; and
 - (ii) within 28 days of service of the claim form any witness statement on which the defendant wishes to rely.

(3) The claimant must file as soon as practicable after service of the notice on the defendant a certificate of service together with a copy of the notice.

Response to the application

77.11.—(1) The defendant must, if wishing to respond to the application, file—

- (a) an acknowledgment of service within 14 days of service of the claim form under rule 77.10; and
- (b) a witness statement which—
 - (i) deals with the conditions in section 55(1), (2) and (4) of the 1996 Act; and
 - (ii) exhibits any relevant documents (which may include a copy of any record of court proceedings),

within 28 days of service of the claim form under rule 77.10.

(2) The defendant must serve the documents in paragraph (1) on the claimant within 7 days of filing them with the court.

(3) Rule 8.5(3) does not apply.

Further evidence

77.12.—(1) The claimant may, not later than 10 days after the expiry of the period allowed in rule 77.11(1), apply without notice for permission to file further evidence.

(2) Any order granting permission to file further evidence will specify the period within which that further evidence is to be filed.

(3) The claimant must serve a copy of the further evidence on the defendant within 4 days of filing that further evidence.

(4) Rule 8.5(5) and 8.5(6) do not apply.

Determination of the application to quash an acquittal (general provisions)

77.13.—(1) The application to quash an acquittal will be determined without a hearing unless the court, of its own initiative or on the application by a party, orders otherwise.

(2) The determination of the application to quash an acquittal will not be made, and any hearing of the application (if ordered) will not take place, before the expiry of—

(a) 10 days after the expiry of the period allowed under rule 77.11(1); or

(b) 10 days after the expiry of the period allowed by any order made under rule 77.12(2).

(3) The court will serve notice of any order made on the application to quash an acquittal on the parties and where the court before which the acquittal or conviction occurred was—

(a) a magistrates' court, on the designated officer; or

(b) the Crown Court, on the appropriate officer of the Crown Court sitting at the place where the acquittal or conviction occurred.

Application for a hearing to determine the application to quash an acquittal

77.14.—(1) An application for a hearing under rule 77.13(1) must—

(a) be made no later than 7 days after the expiry of the period allowed—

(i) under rule 77.11(1); or

(ii) by any order made under rule 77.12(2); and

(b) state whether a hearing is requested in order for a witness for the other party to attend to be cross-examined^(GL) and, if so, the reasons for wishing the witness to attend.

(2) The party applying for a hearing must—

(a) serve a copy of the application notice on the other party within 4 days of filing it with the court; and

(b) file a certificate of service.

(3) The party served with an application for a hearing must file any representations within 5 days of service of the application notice.

(4) Subject to paragraph (5), the court will not determine an application for a hearing unless a certificate of service has been filed pursuant to sub-paragraph (2)(b) and—

(a) representations have been filed under paragraph (3); or

(b) the period for filing representations under paragraph (3) has expired.

(5) Where—

(a) no certificate of service has been filed; and

(b) no representations under paragraph (3) have been received after the expiry of 7 days from the date of filing the application,

the court may dismiss the application for a hearing.

Hearing to determine the application to quash an acquittal

77.15. Where a hearing is ordered, the court—

- (a) may order a witness to attend to be cross-examined^(GL)—
 - (i) of its own initiative; or
 - (ii) on a without notice application by a party; and
- (b) will serve a notice on all parties setting out—
 - (i) the date, time and place of the hearing; and
 - (ii) the details of any witness ordered to attend for cross-examination^(GL).]]

^{F2048}PART 78

EUROPEAN ... PROCEDURES

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Textual Amendments

F2048Pt. 78 revoked (31.12.2020) by [The Civil Procedure Rules 1998 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/521\)](#), regs. 1(1), **16** (with reg. 27) (as amended by [S.I. 2020/1493](#), regs. 1(1), 9(2)(j) (5); 2020 c. 1, Sch. 5 para. 1(1))

[^{F2049}PART 79

[^{F2050}PROCEEDINGS UNDER THE COUNTER-TERRORISM ACT 2008, PART 1 OF THE TERRORIST ASSET-FREEZING ETC. ACT 2010 AND PART 1 OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018]

Textual Amendments

F2049Pt. 79 inserted (4.12.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2008 \(S.I. 2008/3085\)](#), rule 1, **Sch.**

F2050Pt. 79 heading substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(3)(a)**

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SECTION 1

[^{F2064}GENERAL PROVISIONS]

Textual Amendments

F2064Pt. 79 Section 1 heading substituted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(b)**

[^{F2065}Scope and interpretation of this Part

79.1.—(1) This Part contains rules about—

- (a) in Section 1, interpretation and modification of the overriding objective;
- (b) in Section 2, financial restrictions proceedings under the Counter-Terrorism Act 2008 and the Terrorist Asset-Freezing etc Act 2010 [^{F2066}], and sanctions proceedings under the Sanctions and Anti-Money Laundering Act 2018];
- (c) in Section 3, appeals relating to designations under the Terrorist Asset-Freezing etc Act 2010;
- (d) in Section 4, general provisions applicable to proceedings within Sections 2 and 3; and
- (e) in Section 5, applications for a notification order under Schedule 4 to the Counter-Terrorism Act 2008.]

(2) In this Part—

- (a) “the [^{F2067}2008] Act” means the Counter-Terrorism Act 2008;

- [the 2010 Act” means the Terrorist Asset-Freezing etc. Act 2010;]
- ^{F2068}(aa)
- [“the 2018 Act” means the Sanctions and Anti-Money Laundering Act 2018;
- ^{F2069}(ab)
- (ac) “appropriate Minister” means—
- (i) in relation to a challenge to a decision of the Secretary of State, the Secretary of State;
- (ii) in relation to a challenge to a decision of the Treasury, the Treasury;]
- (b) “financial restrictions decision” means a decision to which section 63(1) of the [^{F2070}2008 Act or section 27 of the 2010] Act applies;
- [“sanctions decision” means a decision to which section 38 of the 2018 Act (court review
- ^{F2071}(ba) of decisions) applies;]
- (c) “financial restrictions proceedings” [^{F2072}means—
- (i) financial restrictions proceedings within the meaning of section 65 of the 2008 Act; and
- (ii) proceedings in the High Court on an application under section 27 of the 2010 Act, or on a claim arising from any matter to which such an application relates];
- [“sanctions proceedings” means proceedings—
- ^{F2073}(cza) (i) on an application under section 38 of the 2018 Act, or
- (ii) on a claim arising from any matter to which such an application relates;]
- [“designation” means a designation in accordance with Chapter 1 of Part 1 of the 2010 Act.]
- ^{F2074}(ca)
- (d) “closed material” means—
- (i) material, evidence or submissions to the court upon which [^{F2075}the appropriate Minister wishes] to rely in proceedings;
- (ii) material which adversely affects [^{F2076}the appropriate Minister’s] case or supports another party’s case; or
- (iii) information which [^{F2077}the appropriate Minister is] required to file pursuant to an order under rule 79.11(7),
- but which [^{F2078}the appropriate Minister objects] to disclosing to another party and that party’s legal representative;
- (e) “legal representative” in relation to a party to proceedings other than [^{F2079}the appropriate Minister] does not include a special advocate;
- (f) “material” means anything in which information of any description is recorded;
- (g) “party” includes [^{F2080}the appropriate Minister] unless otherwise stated or unless the context otherwise requires;
- (h) “special advocate” means a person appointed under section 68 of the [^{F2081}2008 Act (including that section as applied by section 28(4) of the 2010 Act [^{F2082}and section 40(1) of the 2018 Act]); and
- (i) “specially represented party” means a party, other than [^{F2083}the appropriate Minister], whose interests a special advocate represents.

Textual Amendments

- F2065** Rule 79.1(1) and heading substituted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(c)**
- F2066** Words in rule 79.1(1)(b) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(a)**
- F2067** Word in rule 79.1(2)(a) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 5(b)**
- F2068** Rule 79.1(2)(aa) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 5(c)**
- F2069** Rule 79.1(2)(ab)(ac) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(i)**
- F2070** Words in rule 79.1(2)(b) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 5(d)**
- F2071** Rule 79.1(2)(ba) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(ii)**
- F2072** Words in rule 79.1(2)(c) substituted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 5(e)**
- F2073** Rule 79.1(2)(cza) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(iii)**
- F2074** Rule 79.1(2)(ca) inserted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(d)**
- F2075** Words in rule 79.1(2)(d)(i) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(iv)(aa)**
- F2076** Words in rule 79.1(2)(d)(ii) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(iv)(bb)**
- F2077** Words in rule 79.1(2)(d)(iii) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(iv)(cc)**
- F2078** Words in rule 79.1(2)(d) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(iv)(dd)**
- F2079** Words in rule 79.1(2)(e) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(v)**
- F2080** Words in rule 79.1(2)(g) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(v)**
- F2081** Words in rule 79.1(2)(h) substituted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), **Sch. 1 para. 5(f)**
- F2082** Words in rule 79.1(2)(h) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(vi)**
- F2083** Words in rule 79.1(2)(i) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(b)(vii)**

Modification to the overriding objective

79.2.—(1) Where this Part applies, the overriding objective in Part 1, and so far as relevant any other rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The court will ensure that information is not disclosed contrary to the public interest.

(3) Without prejudice to paragraph (2), the court will satisfy itself that the material available to it enables it properly to determine the proceedings.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

SECTION 2

[^{F2084}APPLICATION TO SET ASIDE FINANCIAL RESTRICTIONS DECISIONS UNDER THE 2008 ACT OR THE 2010 ACT AND SANCTIONS DECISIONS UNDER THE 2018 ACT.]

Textual Amendments

F2084Pt. 79 heading substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(4)(c)**

Scope of this Section

79.3. This Section applies to an application to set aside a financial restrictions decision [^{F2085}under section 63(2) of the 2008 Act or section 27(2) of the 2010 Act][^{F2086}or a sanctions decision under section 38(2) of the 2018 Act].

Textual Amendments

F2085Words in [rule 79.3](#) inserted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(f)**

F2086Words in [rule 79.3](#) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(5)**

^{F2087} ...

^{F2087}**79.4.**

Textual Amendments

F2087[Rule 79.4 and heading](#) omitted (24.12.2010) by virtue of [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(g)**

Applications (general) and modification of Part 8

79.5.—(1) An application to set aside a financial restrictions decision [^{F2088}or sanctions decision] must be made pursuant to Part 8, as modified by this Part, and subject to paragraph (2).

- (2) The following rules do not apply to an application under this Section—
 - (a) rule 8.1(3);
 - (b) rule 8.2A (issue of claim form without naming defendants);
 - (c) rule 8.4 (consequence of not filing an acknowledgment of service);
 - (d) rule 8.5 (filing and serving written evidence);
 - (e) rule 8.6 (evidence – general); and
 - (f) rule 8.8 (defendant objects to use of Part 8).

Textual Amendments

F2088 Words in rule 79.5(1) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(6)**

Application to set aside

79.6.—(1) An application to set aside a financial restrictions decision [^{F2089}or sanctions decision] must be started by a claim form.

(2) The claim form must set out—

- (a) the details of the financial restrictions decision [^{F2090}or sanctions decision];
- (b) details of how the claimant is affected by the financial restrictions decision [^{F2091}or sanctions decision]; and
- (c) the grounds on which the claimant seeks to set aside the decision.

(3) The claimant must file with the claim form—

- (a) a copy of—
 - (i) the written notice of the relevant financial restrictions decision [^{F2092}or sanctions decision] made by [^{F2093}the appropriate Minister]; or
 - (ii) where relevant, any direction, order or licence made under Schedule 7 to the [^{F2094}2008] Act or any freezing order made under Part 2 of the Anti-terrorism, Crime and Security Act 2001; and
- (b) any evidence, including witness statements, on which the claimant relies at that stage.

Textual Amendments

F2089 Words in rule 79.6(1) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(7)(a)**

F2090 Words in rule 79.6(2)(a) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(7)(a)**

F2091 Words in rule 79.6(2)(b) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(7)(a)**

F2092 Words in rule 79.6(3)(a)(i) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(7)(b)(i)**

F2093 Words in rule 79.6(3)(a)(i) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(7)(b)(ii)**

F2094 Word in rule 79.6(3)(a)(ii) inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010](#) (c. 38), s. 55(1), **Sch. 1 para. 5(g)**

Fixing of directions hearing date

79.7.—(1) When the court issues the claim form it will fix a date for a directions hearing.

(2) Unless the court directs otherwise, the directions hearing will be not less than 14 days but not more than 28 days after the date of issue of the claim form.

Service of the claim form and accompanying documents

79.8. The court will—

- (a) serve on [^{F2095}the appropriate Minister] and any special advocate (if one has been appointed)—
 - (i) the claim form; and
 - (ii) the documents specified in rule 79.6(3); and
- (b) send to all parties and any special advocate a notice of the directions hearing date (where such date is not endorsed on the claim form).

Textual Amendments

F2095 Words in rule 79.8 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(8)**

Acknowledgment of service

79.9. Where a special advocate has been appointed, [^{F2096}the appropriate Minister] must serve on that special advocate a copy of the acknowledgment of service filed under rule 8.3.

Textual Amendments

F2096 Words in rule 79.9 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(8)**

Directions hearing

- 79.10.** At the directions hearing the court may give case management directions, in particular—
- (a) for the holding of a further hearing to determine the application;
 - (b) fixing a date, time and place for the further hearing at which the parties, their legal representatives (if any) and any special advocate can be present; and
 - (c) as to the order in which, and the time within which, the following are to be filed and served—
 - (i) any response to the application to be filed and served by [^{F2097}the appropriate Minister] under rule 79.11(1), (2) and (4);
 - (ii) any application to be made under rule 79.11(5);
 - (iii) any information to be filed and served by [^{F2097}the appropriate Minister] pursuant to an order under rule 79.11(7);
 - (iv) any evidence to be filed and served by the claimant under rule 79.12(1);
 - (v) any evidence to be filed and served by [^{F2097}the appropriate Minister] under rule 79.12(2);
 - (vi) any application by [^{F2097}the appropriate Minister] under rule 79.11(3), 79.11(8) or 79.12(3); and
 - (vii) any further evidence, including witness statements, written submissions or skeleton arguments, to be filed and served by the parties and any special advocate.

Textual Amendments

F2097 Words in rule 79.10 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(8)**

Response by ^{F2098}the appropriate Minister]

79.11.—(1) Where [^{F2098}the appropriate Minister][^{F2099}intends] to oppose the application to set aside the financial restrictions decision [^{F2100}or sanctions decision], [^{F2101}the appropriate Minister must] file with the court —

- (a) the grounds for contesting the application; and
- (b) any relevant evidence of which [^{F2102}the appropriate Minister is] aware at that stage.

(2) Unless [^{F2098}the appropriate Minister][^{F2103}objects] to the grounds and evidence in paragraph (1) being disclosed to the claimant and the claimant’s legal representative, [^{F2098}the appropriate Minister] must serve a copy of the grounds and evidence on the claimant at the same time as filing the grounds.

(3) Where [^{F2098}the appropriate Minister][^{F2104}objects] to the grounds and evidence in paragraph (1) being disclosed to the claimant and the claimant’s legal representative, [^{F2098}the appropriate Minister] must make an application in accordance with rule 79.25.

(4) Where a special advocate has been appointed, [^{F2098}the appropriate Minister] must serve on that special advocate a copy of the grounds and evidence filed under paragraph (1).

(5) The claimant and any special advocate may apply to the court for an order directing [^{F2098}the appropriate Minister] to file and serve further information about [^{F2105}the appropriate Minister’s] grounds filed under paragraph (1)(a).

(6) The application under paragraph (5) must set out—

- (a) what information is sought; and
- (b) why the information sought is necessary for the determination of the application to set aside the financial restrictions decision [^{F2106}or sanctions decision].

(7) The court may make an order on an application under paragraph (5) where it considers that the information sought is—

- (a) necessary for the determination of the application to set aside the financial restrictions decision [^{F2107}or sanctions decision]; and
- (b) may be provided without disproportionate cost, time or effort.

(8) Where [^{F2098}the appropriate Minister][^{F2108}objects] to serving on the claimant and the claimant’s legal representative the information sought under paragraph (5), [^{F2098}the appropriate Minister] must make an application in accordance with rule 79.25.

Textual Amendments

F2098 Words in rule 79.11 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(9)(a)**

F2099 Word in rule 79.11(1) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(9)(b)(i)**

F2100 Words in rule 79.11(1) inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(9)(b)(ii)**

- F2101** Words in rule 79.11(1) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(b)(iii)**
- F2102** Words in rule 79.11(1) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(b)(iv)**
- F2103** Word in rule 79.11(2) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(c)**
- F2104** Word in rule 79.11(3) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(c)**
- F2105** Words in rule 79.11(5) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(d)**
- F2106** Words in rule 79.11(6)(b) inserted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(e)**
- F2107** Words in rule 79.11(7)(a) inserted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(e)**
- F2108** Word in rule 79.11(8) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(9)(f)**

Filing and service of evidence

79.12.—(1) Where the claimant wishes to rely on evidence in support of the application to set aside the financial restrictions decision [^{F2109}or sanctions decision] and—

- (a) such evidence was not filed with the court with the claim form; or
- (b) such evidence was filed with the court with the claim form but the claimant wishes to rely on further evidence,

the claimant must file and serve that evidence, including any witness statement, on [^{F2110}the appropriate Minister] and any special advocate.

(2) Where the claimant serves evidence in support of the application, [^{F2110}the appropriate Minister] must file and serve, subject to paragraph (3), any further evidence, including any witness statement, on the claimant and any special advocate.

(3) Where [^{F2110}the appropriate Minister][^{F2111}seeks] to withhold disclosure of any closed material from the claimant and the claimant's legal representative, [^{F2110}the appropriate Minister] must make an application in accordance with rule 79.25.

(4) [^{F2110}the appropriate Minister] must serve any closed material upon the special advocate.

(5) The parties and, where relevant, any special advocate must file and serve any further evidence, including witness statements, written submissions or skeleton arguments as directed by the court.

Textual Amendments

- F2109** Words in rule 79.12(1) inserted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(10)(b)**
- F2110** Words in rule 79.12 substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(10)(a)**
- F2111** Word in rule 79.12(3) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(10)(c)**

Modification of Part 52 (appeals)

79.13. Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court in financial restrictions proceedings [^{F2112}and sanctions proceedings], subject to—

- (a) rule 79.2; and
- (b) Section 4 of this Part.

Textual Amendments

F2112 Words in rule 79.13 inserted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(11)**

Service of appellant's notice on special advocate

79.14. The appellant must serve a copy of the appellant's notice on any special advocate.

^{F2113} ^{F2114} SECTION 3

APPEALS IN RELATION TO DESIGNATIONS UNDER THE 2010 ACT

Textual Amendments

F2113 Original Pt. 79 Section 3 heading omitted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010](#) (S.I. 2010/3038), rules 1(2), **3(h)**

F2114 Pt. 79 Section 3 inserted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010](#) (S.I. 2010/3038), rules 1(2), **3(i)**

Scope of this Section

79.14A. This section applies to an appeal under section 26 of the 2010 Act (appeals to the court in relation to designations) in relation to designations and variations, revocation and renewal, of those designations.

Modification of Part 52 (appeals)

79.14B.—(1) Part 52 (appeals) applies to an appeal under section 26 of the 2010 Act subject to—

- (a) rule 79.2;
- (b) Section 4 of this Part; and
- (c) the modifications set out in paragraph (2).

(2) Rule 52.2 (parties to comply with [^{F2115}Practice Directions 52A to 52E) apply], but the parties are not required to comply with [^{F2116}paragraphs 5.1 to 5.3 of Practice Direction 52A and paragraphs 6.3 to 6.6 of Practice Direction 52B].

Textual Amendments

F2115 Words in rule 79.14B(2) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012](#) (S.I. 2012/2208), rules 1, **14(a)**

F2116 Words in rule 79.14B(2) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012](#) (S.I. 2012/2208), rules 1, **14(b)**

Appellant's notice

79.14C.—(1) The appellant's notice must set out the details of—

- (a) the interim or final designation;
- (b) how the appellant is affected by the interim or final designation; and
- (c) the grounds of the appeal.

(2) The appellant must file and serve the following documents with the appellant's notice—

- (a) a copy of the written notice of the interim or final designation; and
- (b) any evidence, including witness statements in support of the [^{F2117}appeal].

(Practice Direction 52 contains details about the filing and service of the appellant's notice for statutory appeals.)

Textual Amendments

F2117 Word in [rule 79.14C\(2\)\(b\)](#) substituted (1.9.2011) by [The Civil Procedure \(Amendment No.2\) Rules 2011 \(S.I. 2011/1979\)](#), [rules 1\(2\)](#), [5\(a\)](#)

Appeals to the Court of Appeal

79.14D.—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court under this Section subject to—

- (a) rule 79.2;
- (b) Section 4 of this Part; and
- (c) paragraph (2) of this rule.

(2) The appellant must serve a copy of the appellant's notice on any special advocate.]

SECTION 4

GENERAL PROVISIONS [^{F2118}APPLICABLE TO SECTIONS 2 AND 3 OF THIS PART]

Textual Amendments

F2118 Words in [Pt. 79 Section 4 heading](#) inserted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), [rules 1\(2\)](#), [3\(j\)](#)

Scope of this Section

79.15. This Section applies to all proceedings specified [^{F2119}in Sections 2 and 3 of this Part].

Textual Amendments

F2119 Words in [rule 79.15](#) substituted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), [rules 1\(2\)](#), [3\(k\)](#)

^{F2120}Where to make an application

79.15A. An application under Section 2 and an appeal under Section 3 of this Part must be started and heard in the Administrative Court.]

Textual Amendments

F2120Rule 79.15A inserted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(l)**

Notification of hearing

79.16. Unless the court orders otherwise, the court will serve any notice of the date, time and place fixed for a hearing on—

- (a) every party, whether or not a party is entitled to attend that hearing; and
- (b) if one has been appointed for the purposes of the proceedings, the special advocate or those instructing the special advocate.

Hearings

79.17.—(1) All proceedings to which ^{F2121}Section 2 or 3 of] this Part applies must be determined at a hearing except where—

- (a) the claimant withdraws the claim or application;
- (b) ^{F2122}the appropriate Minister]^{F2123}consents] to the claim or application being allowed;
- (c) the appellant withdraws the appeal against a decision of ^{F2124}^{F2122}the appropriate Minister] or] the High Court;
- (d) the respondent to the appeal consents to the appeal being allowed; or
- (e) the parties agree to a determination without a hearing.

(2) Where the court considers it necessary for a party other than ^{F2122}the appropriate Minister] and that party's legal representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, the court will—

- (a) direct accordingly; and
- (b) conduct the hearing, or that part of it from which the party and that party's legal representative are excluded, in private but attended by a special advocate to represent the interests of the excluded party.

Textual Amendments

F2121Words in [rule 79.17\(1\)](#) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(d)**

F2122Words in [rule 79.17](#) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(12)(a)**

F2123Word in [rule 79.17\(1\)\(b\)](#) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(12)(b)**

F2124Words in [rule 79.17\(1\)\(c\)](#) inserted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(m)**

Appointment of a special advocate

79.18.—(1) Subject to paragraph (2), [^{F2125}the appropriate Minister] must immediately give notice of the proceedings to the Attorney General—

- (a) upon being served with any claim form, application notice or appeal notice; or
- (b) where [^{F2125}the appropriate Minister][^{F2126}intends] to file an appeal notice,

in proceedings to which [^{F2127}Section 2 or 3 of] this Part applies.

(2) Paragraph (1) applies unless—

- (a) [^{F2125}the appropriate Minister][^{F2128}does] not intend to—
 - (i) oppose the claim, application or appeal; or
 - (ii) apply for permission to withhold closed material from a party and that party’s legal representative; or
- (b) a special advocate has already been appointed to represent the interests of a party other than [^{F2125}the appropriate Minister] and that special advocate is not prevented from communicating with that party by virtue of rule 79.20.

(3) Where any proceedings to which [^{F2129}Section 2 or 3 of] this Part applies are pending but no special advocate has been appointed, any party may request the Attorney General to appoint a special advocate.

Textual Amendments

F2125 Words in rule 79.18 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(13)(a)**

F2126 Word in rule 79.18(1)(b) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(13)(b)**

F2127 Words in rule 79.18(1) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **18(e)(i)**

F2128 Word in rule 79.18(2)(a) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(13)(c)**

F2129 Words in rule 79.18(3) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **18(e)(ii)**

Function of a special advocate

79.19. The function of a special advocate is to represent the interests of a party other than [^{F2130}the appropriate Minister] by, for example—

- (a) making submissions to the court at any hearing from which the party and that party’s legal representative are excluded;
- (b) adducing evidence and cross-examining witnesses at such a hearing;
- (c) making applications to the court or seeking directions from the court where necessary; and
- (d) making written submissions to the court.

Textual Amendments

F2130 Words in rule 79.19 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019](#) (S.I. 2019/147), rules 1, **3(14)**

Special advocate: communicating about proceedings

79.20.—(1) The special advocate may communicate with the specially represented party or that party’s legal representative at any time before [F2131the appropriate Minister][F2132serves] closed material on the special advocate.

(2) After [F2131the appropriate Minister][F2133serves] closed material on the special advocate, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (3) or a direction of the court pursuant to a request under paragraph (4).

(3) The special advocate may, without directions from the court, communicate about the proceedings with—

- (a) the court;
- (b) [F2131the appropriate Minister] and any persons acting for [F2134the appropriate Minister];
- (c) the Attorney General and any persons acting for the Attorney General; and
- (d) any other person, except for—
 - (i) the specially represented party and that party’s legal representative; and
 - (ii) any other party to the proceedings (other than [F2131the appropriate Minister]) and that party’s legal representative,

with whom it is necessary for administrative purposes for the special advocate to communicate about matters not connected with the substance of the proceedings.

(4) The special advocate may request directions from the court authorising the special advocate to communicate with the specially represented party or that party’s legal representative or with any other person.

(5) Where the special advocate makes a request for directions under paragraph (4)—

- (a) the court will notify [F2131the appropriate Minister] of the request; and
- (b) [F2131the appropriate Minister] must, within a period specified by the court, file and serve on the special advocate notice of any objection which [F2135the appropriate Minister has] to the proposed communication, or to the form in which it is proposed to be made.

(6) Paragraph (2) does not prohibit the specially represented party from communicating with the special advocate after [F2131the appropriate Minister][F2136has] served closed material on the special advocate as mentioned in paragraph (1), but—

- (a) that party may only communicate with the special advocate through a legal representative in writing; and
- (b) the special advocate must not reply to the communication other than in accordance with directions given by the court, except that the special advocate may without such directions send a written acknowledgment of receipt to the specially represented party’s legal representative.

Textual Amendments

F2131 Words in rule 79.20 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(15)(a)**

F2132 Word in rule 79.20(1) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(15)(b)**

F2133 Word in rule 79.20(2) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(15)(b)**

- F2134** Words in rule 79.20(3)(b) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(15)(c)**
- F2135** Words in rule 79.20(5)(b) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(15)(d)**
- F2136** Word in rule 79.20(6) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(15)(e)**

Consideration of ^{F2137}the appropriate Minister's] objection

79.21.—(1) Where [^{F2138}the appropriate Minister][^{F2139}objects] under rule 79.20(5)(b) to a proposed communication by the special advocate [^{F2140}or to the form in which it is proposed to be made] the court will fix a hearing for [^{F2138}the appropriate Minister] and the special advocate to make oral representations, unless—

- (a) the special advocate gives notice to the court that the special advocate does not challenge the objection;
- (b) the court —
 - (i) has previously considered an objection under rule 79.20(5)(b) to the same or substantially the same communication; and
 - (ii) is satisfied that it would be just to uphold or dismiss that objection without a hearing; or
- (c) [^{F2138}the appropriate Minister] and the special advocate consent to the court deciding the issue without a hearing.

(2) If the special advocate does not challenge the objection, the special advocate must give notice of that fact to the court and to [^{F2138}the appropriate Minister] —

- (a) within 14 days after [^{F2138}the appropriate Minister][^{F2141}serves] on the special advocate a notice under rule 79.20(5)(b); or
- (b) within such other period as the court may direct.

(3) Where the court fixes a hearing under paragraph (1)—

- (a) the special advocate may file with the court and serve on [^{F2138}the appropriate Minister] a reply to [^{F2142}the appropriate Minister's] objection;
- (b) [^{F2138}the appropriate Minister] may file with the court and serve on the special advocate a response to the special advocate's reply; and
- (c) [^{F2138}the appropriate Minister] and the special advocate must file with the court at least 7 days before the hearing a schedule identifying the issues which cannot be agreed between them and which must—
 - (i) give brief reasons for their contentions on each issue in dispute; and
 - (ii) set out any proposals for the court to resolve the issues in dispute.

(4) A hearing under this rule must take place in the absence of the specially represented party and that party's legal representative.

Textual Amendments

- F2137** Words in rule 79.21 heading substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(16)(a)**
- F2138** Words in rule 79.21 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(16)(b)**

- F2139** Word in rule 79.21(1) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(16)(c)**
- F2140** Words in rule 79.21(1) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, **6**
- F2141** Word in rule 79.21(2)(a) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(16)(d)**
- F2142** Words in rule 79.21(3)(a) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(16)(e)**

Modification of the general rules of evidence and disclosure

79.22.—(1) Part 31 (disclosure and inspection of documents), Part 32 (evidence) and Part 33 (miscellaneous rules about evidence) do not apply to any proceedings to which [^{F2143}Section 2 or 3 of] this Part applies.

(2) Subject to the other rules in [^{F2144}Section 2, 3 and this Section of] this Part and to any directions of the court, the evidence of a witness may be given either—

- (a) orally before the court; or
- (b) in a witness statement.

(3) The court may also receive evidence in documentary or any other form.

(4) A party is entitled to adduce evidence and to cross-examine witnesses during any part of a hearing from which a party and that party’s legal representative are not excluded.

[^{F2145}(4A) A special advocate is entitled to adduce evidence and to cross-examine witnesses.]

(5) The court may require a witness to give evidence on oath or by affirmation.

Textual Amendments

- F2143** Words in rule 79.22(1) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(f)(i)**
- F2144** Words in rule 79.22(2) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(f)(ii)**
- F2145** Rule 79.22(4A) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(f)(iii)**

Search for, filing of and service of material

79.23.—(1) A party (the disclosing party) must—

- (a) make a reasonable search for material relevant to the matters under consideration in the proceedings to which [^{F2146}Section 2 or 3 of] this Part applies; and
- (b) file and serve on the other party and any special advocate material other than closed material—
 - (i) on which the disclosing party relies;
 - (ii) which adversely affects the disclosing party’s case; [^{F2147}or]
 - ^{F2148}(iii)
 - (iv) which supports the other party’s case.

^{F2149}(1A)

(2) The factors relevant in deciding the reasonableness of a search under paragraph (1)(a) include—

- (a) the amount of material involved;
- (b) the nature and complexity of the proceedings;
- (c) whether the material is in the control of the party making the search;
- (d) the ease and expense of retrieval of any material; and
- (e) the significance of any material which is likely to be located during the search.

(3) The duty to search for, file and serve material under paragraph (1) continues until the proceedings to which [^{F2150}Section 2 or 3 of] this Part applies have been determined.

(4) Where material, other than closed material, to which the duty under paragraph (1) extends comes to a party's attention before the proceedings to which [^{F2151}Section 2 or 3 of] this Part applies have been determined, that party must immediately—

- (a) file it with the court;
- (b) serve it on the other party; and
- (c) serve it on any special advocate.

Textual Amendments

F2146 Words in rule 79.23(1)(a) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(g)(i)**

F2147 Word in rule 79.23(1)(b)(ii) inserted (1.10.2011) by [The Civil Procedure \(Amendment No.2\) Rules 2011 \(S.I. 2011/1979\)](#), rules 1(3), **5(b)(i)**

F2148 Rule 79.23(1)(b)(iii) omitted (1.10.2011) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2011 \(S.I. 2011/1979\)](#), rules 1(3), **5(b)(ii)**

F2149 Rule 79.23(1A) omitted (1.10.2011) by virtue of [The Civil Procedure \(Amendment No.2\) Rules 2011 \(S.I. 2011/1979\)](#), rules 1(3), **5(e)**

F2150 Words in rule 79.23(3) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(g)(ii)**

F2151 Words in rule 79.23(4) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009 \(S.I. 2009/2092\)](#), rules 1(2), **18(g)(iii)**

Redacted material

79.24. Where [^{F2152}the appropriate Minister][^{F2153}erves] on another party any evidence (including a witness statement) or material which has been redacted on grounds other than those of legal professional privilege, [^{F2152}the appropriate Minister] must—

- (a) notify the party that the evidence or material has been redacted and on what grounds it has been redacted;
- (b) file the evidence or material with the court in an unredacted form together with an explanation of the redaction.

Textual Amendments

F2152 Words in rule 79.24 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(17)(a)**

F2153 Word in rule 79.24 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(17)(b)**

Application to withhold closed material

- 79.25.**—(1) [^{F2154}The appropriate Minister]—
- (a) must apply to the court for permission to withhold closed material from another party and that party’s legal representative in accordance with this rule; and
 - (b) may not rely on closed material at a hearing unless a special advocate has been appointed and attends the hearing to represent the interests of that party.
- (2) [^{F2154}The appropriate Minister] must file with the court and serve, at such time as the court directs, on the special advocate—
- (a) the closed material;
 - (b) a statement of the reasons for withholding that material from the specially represented party; and
 - (c) if [^{F2154}the appropriate Minister][^{F2155}considers] it possible to summarise that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the specially represented party or that party’s legal representative.
- (3) Where [^{F2154}the appropriate Minister][^{F2156}serves] on the special advocate any closed material which has been redacted on grounds other than those of legal professional privilege—
- (a) [^{F2154}the appropriate Minister] must file with the court the material in an unredacted form together with an explanation of the redactions; and
 - (b) the court will give a direction to [^{F2154}the appropriate Minister] as to what may be redacted and what, if any, must be served on the special advocate in an [^{F2157}unredacted] form.
- (4) [^{F2154}The appropriate Minister] may at any time amend or supplement material filed under this rule, but only with—
- (a) the agreement of the special advocate; or
 - (b) the permission of the court.

Textual Amendments

F2154 Words in rule 79.25 substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(18)(a)**

F2155 Word in rule 79.25(2)(c) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(18)(b)**

F2156 Word in rule 79.25(3) substituted (1.3.2019) by [The Civil Procedure \(Amendment\) \(EU Exit\) Rules 2019 \(S.I. 2019/147\)](#), rules 1, **3(18)(c)**

F2157 Word in rule 79.25(3)(b) substituted (24.12.2010) by [The Civil Procedure \(Amendment No.4\) Rules 2010 \(S.I. 2010/3038\)](#), rules 1(2), **3(o)**

Consideration of [^{F2158}the appropriate Minister’s] application

79.26.—(1) Where [^{F2159}the appropriate Minister][^{F2160}applies] in accordance with rule 79.25 for permission to withhold closed material the court will fix a hearing for [^{F2159}the appropriate Minister] and the special advocate to make oral representations, unless—

- (a) the special advocate gives notice to the court that the special advocate does not challenge the application;
- (b) the court—

- (i) has previously considered an application for permission to withhold the same or substantially the same material; and
 - (ii) is satisfied that it would be just to give permission without a hearing; or
 - (c) [F2159the appropriate Minister] and the special advocate consent to the court deciding the issue without a hearing.
- (2) If the special advocate does not challenge the application, the special advocate must give notice of that fact to the court and to [F2159the appropriate Minister]—
- (a) within 14 days after [F2159the appropriate Minister][F2161serves] on the special advocate the material under rule 79.25(2); or
 - (b) within such other period as the court may direct.
- (3) Where the court fixes a hearing under paragraph (1)—
- (a) the special advocate may file with the court and serve on [F2159the appropriate Minister] a reply to [F2162the appropriate Minister’s] application;
 - (b) [F2159the appropriate Minister] may file with the court and serve on the special advocate a response to the special advocate’s reply; and
 - (c) [F2159the appropriate Minister] and the special advocate must file with the court at least 7 days before the hearing a schedule identifying the issues which cannot be agreed between them and which must—
 - (i) give brief reasons for their contentions on each issue in dispute; and
 - (ii) set out any proposals for the court to resolve the issues in dispute.
- (4) A hearing under this rule must take place in the absence of the specially represented party and that party’s legal representative.
- (5) The court will give permission to [F2159the appropriate Minister] to withhold closed material where it considers that disclosure of that material would be contrary to the public interest.
- (6) Where the court gives permission to [F2159the appropriate Minister] to withhold closed material, the court will—
- (a) consider whether to direct [F2159the appropriate Minister] to serve a summary of that material on the specially represented party or that party’s legal representative; but
 - (b) ensure that such a summary does not contain material, the disclosure of which would be contrary to the public interest.
- (7) Where the court does not give permission to [F2159the appropriate Minister] to withhold closed material from, or directs [F2159the appropriate Minister] to serve a summary of that material on, the specially represented party or that party’s legal representative—
- (a) [F2159the appropriate Minister][F2163is] not required to serve that material or summary; but
 - (b) if [F2164the appropriate Minister does] not do so, at a hearing on notice, the court may—
 - (i) where it considers that the material or anything that is required to be summarised might adversely affect [F2165the appropriate Minister’s] case or supports the case of the specially represented party, direct that [F2159the appropriate Minister] must not rely on such material in [F2166the appropriate Minister’s] case, or must make such concessions or take such other steps, as the court may specify; or
 - (ii) in any other case, direct that [F2159the appropriate Minister][F2167does] not rely on the material or (as the case may be) on that which is required to be summarised.

Textual Amendments

- F2158** Words in rule 79.26 heading substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(a)**
- F2159** Words in rule 79.26 substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(b)**
- F2160** Word in rule 79.26(1) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(c)**
- F2161** Word in rule 79.26(2)(a) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(d)**
- F2162** Words in rule 79.26(3)(a) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(e)**
- F2163** Word in rule 79.26(7)(a) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(f)(i)**
- F2164** Words in rule 79.26(7)(b) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(f)(ii)(aa)**
- F2165** Words in rule 79.26(7)(b) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(f)(ii)(bb)**
- F2166** Words in rule 79.26(7)(b) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(f)(ii)(cc)**
- F2167** Word in rule 79.26(7)(b) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(19)(f)(ii)(dd)**

Failure to comply with directions

79.27.—(1) Where a party or special advocate fails to comply with a direction of the court, the court may serve on that party or the special advocate a notice which states—

- (a) the respect in which that party or special advocate has failed to comply with the direction;
- (b) a time limit for complying with the direction; and
- (c) that the court may proceed to determine the proceedings before it, on the material available to it, if the party or special advocate fails to comply with the relevant direction within the time specified.

(2) Where a party or special advocate fails to comply with such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

79.28.—(1) When the court gives judgment in any proceedings to which [^{F2168}Section 2 or 3 of] this Part applies, it may withhold all or some of its reasons if and to the extent that it is not possible to give reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the court does not include the full reasons for its decision, the court will serve on [^{F2169}the appropriate Minister] and the special advocate a separate written judgment including those reasons.

(3) Where the court serves a separate written judgment under paragraph (2), the special advocate may apply to the court to amend that judgment and the judgment under paragraph (1) on the grounds that the separate written judgment under paragraph (2) contains material not in the judgment under paragraph (1) the disclosure of which would not be contrary to the public interest.

(4) The special advocate must serve a copy of the application under paragraph (3) on [^{F2169}the appropriate Minister].

(5) The court will give the special advocate and [F2169the appropriate Minister] an opportunity to file written submissions and may determine the application with or without a hearing.

Textual Amendments

F2168 Words in rule 79.28(1) inserted (1.10.2009) by The Civil Procedure (Amendment) Rules 2009 (S.I. 2009/2092), rules 1(2), **18(h)**

F2169 Words in rule 79.28 substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(20)**

Application by [F2170appropriate Minister] for reconsideration of order, direction or judgment

79.29.—(1) This rule applies where the court proposes, in any proceedings to which [F2171Section 2 or 3 of] this Part applies, to serve on a party other than [F2172the appropriate Minister] —

- (a) notice of any order or direction made or given in the absence of [F2172the appropriate Minister]; or
- (b) any written judgment.

(2) Before the court serves any such notice or judgment on a party other than [F2172the appropriate Minister], it will first serve notice on [F2172the appropriate Minister] of its intention to do so.

(3) [F2172the appropriate Minister] may, within 5 days of being served with notice under paragraph (2), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if [F2173the appropriate Minister considers]—

- (a) [F2174the appropriate Minister's] compliance with the order or direction; or
- (b) the notification to another party of any matter contained in the judgment, order or direction, would cause information to be disclosed contrary to the public interest.

(4) Where [F2172the appropriate Minister][F2175makes] an application under paragraph (3), [F2176the appropriate Minister] must at the same time serve on a special advocate, if one has been appointed—

- (a) a copy of the application;
- (b) a copy of the relevant document referred to in paragraph (1)(a) or (b); and
- (c) a copy of the notice served on [F2172the appropriate Minister] pursuant to paragraph (2).

(5) If a special advocate has been appointed, rule 79.26 (except for paragraphs (6) and (7)) will apply with any necessary modifications to the consideration of an application under paragraph (3) of this rule.

(6) The court will not serve notice on a party other than [F2172the appropriate Minister] as mentioned in paragraph (1) before the time for [F2172the appropriate Minister] to make an application under paragraph (3) has expired.

Textual Amendments

F2170 Words in rule 79.29 heading substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(21)(a)**

F2171 Words in rule 79.29(1) inserted (1.10.2009) by The Civil Procedure (Amendment) Rules 2009 (S.I. 2009/2092), rules 1(2), **18(i)**

F2172 Words in rule 79.29 substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(21)(b)**

- F2173** Words in rule 79.29(3) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(21)(c)(i)**
- F2174** Words in rule 79.29(3) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(21)(c)(ii)**
- F2175** Word in rule 79.29(4) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(21)(d)(i)**
- F2176** Words in rule 79.29(4) substituted (1.3.2019) by The Civil Procedure (Amendment) (EU Exit) Rules 2019 (S.I. 2019/147), rules 1, **3(21)(d)(ii)**

Supply of court documents

79.30. Unless the court directs otherwise, 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 not apply to any proceedings to which [^{F2177}Section 2 or 3 of] this Part applies or to any document relating to such proceedings.]

Textual Amendments

- F2177** Words in rule 79.30 inserted (1.10.2009) by The Civil Procedure (Amendment) Rules 2009 (S.I. 2009/2092), rules 1(2), **18(j)**

^{F2178}SECTION 5

NOTIFICATION ORDERS

Textual Amendments

- F2178** Pt. 79 Section 5 inserted (1.10.2009) by The Civil Procedure (Amendment) Rules 2009 (S.I. 2009/2092), rules 1(2), **18(k)**

Applications for a notification order

79.31.—(1) An application for a notification order under Schedule 4 to the [^{F2179}2008] Act must be made in accordance with Part 8.

(2) Where the defendant wishes to serve a notice under paragraph 2(4) of Schedule 4 to the [^{F2180}2008] Act, the defendant must file and serve the notice with an acknowledgment of service not more than 14 days after service of the claim form.]

Textual Amendments

- F2179** Word in rule 79.31(1) inserted (17.12.2010) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), s. 55(1), **Sch. 1 para. 5(h)**
- F2180** Word in rule 79.31(2) inserted (17.12.2010) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), s. 55(1), **Sch. 1 para. 5(i)**

[^{F2181}Part 80

Proceedings under the Terrorism Prevention and Investigation Measures Act 2011 [^{F2182}and Part 2 of the National Security Act 2023]

Textual Amendments

F2181 Pt. 80 inserted (15.12.2011) by [The Civil Procedure \(Amendment No. 3\) Rules 2011 \(S.I. 2011/2970\)](#), rule 1, Sch.

F2182 Words in Pt. 80 heading inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, 4

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SECTION 1

Application of this Part

Scope and interpretation

80.1.—(1) This Part contains rules about—

- (a) TPIM proceedings [^{F2185}and relevant proceedings] in the High Court, and
- (b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

(2) In the case of proceedings brought by virtue of section 17(2) of the [^{F2186}TPIM Act or section 53(2) of the National Security Act], the rules in this Part shall apply with any modification the court considers necessary.

(3) In this Part—

- (a) “[^{F2187}the TPIM Act]” means the Terrorism, Prevention and Investigation Measures Act 2011 [^{F2188}and “the National Security Act” means the National Security Act 2023];
- (b) “closed material” means any relevant material that the Secretary of State objects to disclosing to a relevant party on the grounds that it is contrary to the public interest;
- (c) “extension notice” means a notice issued under section 5(2) of the [^{F2189}TPIM Act], extending a TPIM notice [^{F2190}, or (as the case may be) section 41(2) of the National Security Act extending a Part 2 notice];

- (d) “legal representative” is to be construed in accordance with paragraph 4(4)(b) of Schedule 4 to the [F2191]TPIM Act or (as the case may be) of Schedule 10 to the National Security Act];
- (e) “measures” means terrorism prevention and investigation measures (which has the same meaning as in section 2 of the [F2192]TPIM Act) or (as the case may be) prevention and investigation measures (which has the same meaning as in section 39(2) of the National Security Act)];
- (f) “open material” means any relevant material that the Secretary of State does not object to disclosing to a relevant party on the grounds that it is contrary to the public interest;
- [“Part 2 notice” has the same meaning as in section 39(1) of the National Security Act;
- F2193 (fa)
- (fb) “Part 2 subject” means an individual on whom the Secretary of State has imposed, or is proposing to impose, measures by means of a Part 2 notice;]
- (g) “relevant material” means the material described in paragraph 3(1)(a) to (c) of Schedule 4 to the [F2194]TPIM Act or (as the case may be) of Schedule 10 to the National Security Act];
- (h) “relevant party” means any party to the proceedings other than the Secretary of State;
- [“relevant proceedings” has the same meaning as in section 62(1) of the National Security Act;]
- F2195 (ha)
- (i) “revival notice” means a notice issued under section 13(6) of the [F2196]TPIM] Act, reviving a TPIM notice [F2197], or (as the case may be) under section 49(6) of the National Security Act, reviving a Part 2 notice];
- (j) “special advocate” means a person appointed under paragraph 10(1) of Schedule 4 to the [F2198]TPIM Act or of Schedule 10 to the National Security Act];
- (k) “TPIM notice” has the same meaning as in section 2(1) of the [F2199]TPIM] Act;
- (l) “TPIM proceedings” has the same meaning as in section 30(1) of the [F2200]TPIM] Act;
- (m) “TPIM subject” means an individual on whom the Secretary of State has imposed, or is proposing to impose, measures by means of a TPIM notice;
- (n) “variation notice” means a notice issued under section 12(1)(c) of the [F2201]TPIM] Act, varying the TPIM notice without the individual’s consent [F2202], or (as the case may be) under section 48(1)(c) of the National Security Act, varying the Part 2 notice without the individual’s consent].

(4) For the purposes of this Part, disclosure is contrary to the public interest if it is made contrary to the interests of national security, the international relations of the United Kingdom or the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.

Textual Amendments

F2185 Words in rule 80.1(1)(a) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(a)**

F2186 Words in rule 80.1(2) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(b)**

F2187 Words in rule 80.1(3)(a) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(i)(aa)**

F2188 Words in rule 80.1(3)(a) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(i)(bb)**

- F2189** Words in rule 80.1(3)(c) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(ii)(aa)**
- F2190** Words in rule 80.1(3)(c) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(ii)(bb)**
- F2191** Words in rule 80.1(3)(d) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(iii)**
- F2192** Words in rule 80.1(3)(e) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(iv)**
- F2193** Rule 80.1(3)(fa)(fb) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(v)**
- F2194** Words in rule 80.1(3)(g) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(vi)**
- F2195** Rule 80.1(3)(ha) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(vii)**
- F2196** Word in rule 80.1(3)(i) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(viii)(aa)**
- F2197** Words in rule 80.1(3)(i) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(viii)(bb)**
- F2198** Words in rule 80.1(3)(j) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(ix)**
- F2199** Word in rule 80.1(3)(k) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(x)**
- F2200** Word in rule 80.1(3)(l) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(x)**
- F2201** Word in rule 80.1(3)(n) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(xi)(aa)**
- F2202** Words in rule 80.1(3)(n) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **6(c)(xi)(bb)**

Modification to the overriding objective

80.2.—(1) Where this Part applies, the overriding objective in Part 1, and so far as relevant any other rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The court must ensure that information is not disclosed contrary to the public interest.

(3) Subject to paragraph (2), the court must satisfy itself that the material available to it enables it properly to determine proceedings.

SECTION 2

Permission Applications, References and Appeals to the High Court Relating to TPIM Notices [F2203 and Part 2 Notices]

Textual Amendments

- F2203** Words in Pt. 80 Section 2 heading inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, 7

Scope of this section

80.3. This section contains rules about—

- (a) applications under section 6(1)(b) of the [F2204TPIM Act or section 42(1)(b) of the National Security Act] (application for permission to impose measures);
- (b) references under paragraph 3(1) of Schedule 2 to the [F2205TPIM Act or of Schedule 8 to the National Security Act] (reference of the imposition of measures imposed without permission); and
- (c) appeals to the High Court under section 16 of the [F2206TPIM] Act (appeals relating to a TPIM notice) [F2207or section 52 of the National Security Act (appeals relating to a Part 2 notice)].

Textual Amendments

F2204 Words in rule 80.3(a) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **8(a)**

F2205 Words in rule 80.3(b) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **8(b)**

F2206 Word in rule 80.3(c) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **8(c)(i)**

F2207 Words in rule 80.3(c) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **8(c)(ii)**

Application for permission to impose measures

80.4. An application under section 6(1)(b) of the [F2208TPIM Act or section 42(1)(b) of the National Security Act] for permission to impose measures must be made by the Secretary of State filing with the court—

- (a) a statement of reasons to support the application;
- (b) any relevant material of which the Secretary of State is aware at that stage;
- (c) any written submissions; and
- (d) the proposed TPIM [F2209or Part 2]notice.

Textual Amendments

F2208 Words in rule 80.4 substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **9(a)**

F2209 Words in rule 80.4(d) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **9(b)**

Reference of measures imposed without permission

80.5. A reference under paragraph 3(1) of Schedule 2 to the [F2210TPIM Act or of Schedule 8 to the National Security Act] of the imposition of measures imposed without permission is made by the Secretary of State filing with the court—

- (a) a statement of reasons for imposing measures and for imposing the measures specified in the TPIM notice [F2211or Part 2 notice];
- (b) any relevant material of which the Secretary of State is aware at that stage;
- (c) any written submissions; and
- (d) the TPIM notice [F2212or Part 2 notice].

Textual Amendments

- F2210** Words in rule 80.5 substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 10\(a\)](#)
- F2211** Words in rule 80.5(a) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 10\(b\)](#)
- F2212** Words in rule 80.5(d) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 10\(c\)](#)

Directions for hearing on an application for permission or on a reference

80.6.—^{F2213}(1) If the court gives permission on an application under section 6(1)(b) of the TPIM Act or section 42(1)(b) of the National Security Act, or confirms a TPIM notice on a reference under paragraph 3(1) of Schedule 2 to the TPIM Act or a Part 2 notice on a reference under paragraph 3(1) of Schedule 8 to the National Security Act, the court must give directions for a directions hearing at which the TPIM subject or Part 2 subject, the TPIM subject’s or Part 2 subject’s legal representative, the special advocate (if one has been appointed) and the Secretary of State’s legal representative may be present.

(2) In a case where permission is given (following an application under section 6(1)(b) of the TPIM Act or section 42(1)(b) of the National Security Act), the date to be fixed for the directions hearing must, unless the court otherwise directs, be no later than 7 days after the date on which the TPIM notice is served on the TPIM subject or the Part 2 notice is served on the Part 2 subject.

(3) In a case where the TPIM notice or Part 2 notice is confirmed (following a reference under paragraph 3(1) of Schedule 2 to the TPIM Act or paragraph 3(1) of Schedule 8 to the National Security Act), the date to be fixed for the directions hearing must, unless the court otherwise directs, be no later than 7 days after the date on which the court confirms the TPIM notice or Part 2 notice.]

(4) At the directions hearing, the court must give directions—

- (a) for a review hearing under section 9(1) of the ^{F2214}TPIM Act or (as the case may be) section 45(1) of the National Security Act]; and
- (b) specifying a date and time by which the parties and special advocate must file and serve any written evidence or written submissions in accordance with rule 80.26.

(5) When giving directions under paragraph (4), the court must have regard to the need to expedite the review hearing.

(Rules 80.24 and 80.25 will apply where any closed material is filed by the Secretary of State).

Textual Amendments

- F2213** Rules 80.6(1)-(3) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 11\(a\)](#)
- F2214** Words in rule 80.6(4)(a) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 11\(b\)](#)

Appeals under section 16 of the ^{F2215}TPIM Act or section 52 of the National Security Act]

80.7. Rules 80.8 to 80.11 apply to an appeal under section 16 of the Act (appeals relating to a TPIM notice) ^{F2216}or section 52 of the National Security Act (appeals relating to a Part 2 notice)].

Textual Amendments

- F2215** Words in rule 80.7 heading substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **12(a)**
- F2216** Words in rule 80.7 inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **12(b)**

Modification of Part 52 (appeals)

80.8.—(1) Part 52 (appeals) applies to an appeal under section 16 of the [^{F2217}TPIM Act or section 52 of the National Security Act], subject to—

- (a) rule 80.2;
- (b) the rules in section 4 of this Part; and
- (c) paragraphs (2) and (3).

(2) The following rules do not apply to appeals under section 16 of the [^{F2218}TPIM Act or section 52 of the National Security Act]—

- (a) [^{F2219}rules 52.3, 52.4 and 52.6] (permission);
- (b) rule [^{F2220}52.12] (appellant’s notice);
- (c) rule [^{F2221}52.13] (respondent’s notice); and
- (d) rule [^{F2222}52.21] (hearing of appeals).

(3) Rule 52.2 (all parties to comply with [^{F2223}Practice Directions 52A to 52E) apply], but the parties shall not be required to comply with [^{F2224}paragraphs 5.1 to 5.3 of Practice Direction 52A and paragraphs 6.3 to 6.6 of Practice Direction 52B].

Textual Amendments

- F2217** Words in rule 80.8(1) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **13(a)**
- F2218** Words in rule 80.8(2) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **13(b)**
- F2219** Words in rule 80.8(2)(a) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **14(1)(a)**
- F2220** Word in rule 80.8(2)(b) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **14(1)(b)**
- F2221** Word in rule 80.8(2)(c) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **14(1)(c)**
- F2222** Word in rule 80.8(2)(d) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **14(1)(d)**
- F2223** Words in rule 80.8(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **15(a)(i)**
- F2224** Words in rule 80.8(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **15(a)(ii)**

Notice of appeal

80.9.—(1) The TPIM[^{F2225}or Part 2] subject must give notice of appeal by—

- (a) filing a notice of appeal with the court; and

- (b) serving a copy of that notice and any accompanying documents on the Secretary of State.
- (2) The notice of appeal must—
- (a) set out the grounds of the appeal; and
 - (b) state the name and address of—
 - (i) the TPIM^[F2226] or Part 2] subject, and
 - (ii) the TPIM^[F2226] or Part 2] subject’s legal representative (if any).
- (3) A notice of appeal may include an application under rule 80.15 for an order requiring anonymity for the TPIM^[F2227] or Part 2] subject.
- (4) The notice of appeal must be filed with a copy of the TPIM^[F2228] or Part 2] notice imposing measures on the TPIM^[F2228] or Part 2] subject and (as relevant)—
- (a) a copy of the extension notice, revival notice or variation notice that is the subject of the appeal;
 - (b) a copy of the application to the Secretary of State—
 - (i) for permission in connection with a measure specified in the TPIM^[F2228] or Part 2] notice,
 - (ii) for the revocation of the TPIM^[F2228] or Part 2] notice, or
 - (iii) for the variation of a measure specified in the TPIM^[F2228] or Part 2] notice;
 - (c) a copy of the Secretary of State’s decision on such an application.
- (Attention is drawn to rule 80.14(1) relating to the address for issuing proceedings in the High Court).

Textual Amendments

F2225 Words in rule 80.9(1) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **14(a)**

F2226 Words in rule 80.9(2) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **14(b)**

F2227 Words in rule 80.9(3) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **14(c)**

F2228 Words in rule 80.9(4) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **14(d)**

Time limit for appealing

80.10.—(1) Subject to paragraph (2), the TPIM^[F2229] or Part 2] subject must give notice of appeal no later than 28 days after receiving—

- (a) the extension notice, revival notice or variation notice that is the subject of the appeal; or
- (b) notice of the Secretary of State’s decision on an application for permission in connection with a measure specified in the TPIM^[F2229] or Part 2] notice, for the revocation of the TPIM^[F2229] or Part 2] notice or for the variation of a measure specified in the TPIM^[F2229] or Part 2] notice.

(2) In a case where the Secretary of State has failed to determine an application for permission in connection with a measure specified in the TPIM^[F2230] or Part 2] notice, for the revocation of the TPIM^[F2230] or Part 2] notice or for the variation of a measure specified in the TPIM^[F2230] or Part 2] notice, the TPIM^[F2230] or Part 2] subject must file the notice of appeal—

- (a) no earlier than 28 days, and
- (b) no later than 42 days,

after the date on which the Secretary of State received the application.

Textual Amendments

F2229 Words in rule 80.10(1) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **15(a)**

F2230 Words in rule 80.10(2) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **15(b)**

Secretary of State’s reply

80.11. If the Secretary of State wishes to oppose an appeal, the Secretary of State must, no later than 14 days after being served with the notice of appeal—

- (a) file with the court—
 - (i) any relevant material of which the Secretary of State is aware at that stage; and
 - (ii) any written submissions; and
- (b) serve on the TPIM^[F2231] or Part 2] subject any open material.

Textual Amendments

F2231 Words in rule 80.11(b) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **16**

SECTION 3

Appeals to the Court of Appeal

Modification of Part 52 (appeals)

80.12.—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court in TPIM proceedings ^[F2232] or relevant proceedings], subject to—

- (a) rule 80.2;
 - (b) the rules in section 4 of this Part; and
 - (c) paragraphs (2) and (3).
- (2) The following rules do not apply to appeals to the Court of Appeal—
- (a) rule ^[F2233]52.12(1) (appellant’s notice); and
 - (b) rule ^[F2234]52.13] (respondent’s notice), but

the provisions of rules 80.9 and 80.11 shall apply with appropriate modifications.

(3) Rule 52.2 (all parties to comply with ^[F2235]Practice Directions 52A to 52E) apply], but the parties shall not be required to comply with ^[F2236]paragraphs 6.3 to 6.6 of Practice Direction 52B and paragraph 28 of Practice Direction 52C].

Textual Amendments

- F2232** Words in rule 80.12(1) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **17**
- F2233** Word in rule 80.12(2)(a) substituted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **14(2)(a)**
- F2234** Word in rule 80.12(2)(b) substituted (3.10.2016) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **14(2)(b)**
- F2235** Words in rule 80.12(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **15(b)(i)**
- F2236** Words in rule 80.12(3) substituted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **15(b)(ii)**

SECTION 4

General Provisions

Scope of this section

- 80.13.** This section applies to—
- TPIM proceedings [^{F2237}or relevant proceedings] in the High Court; and
 - appeals to the Court of Appeal against an order of the High Court in such proceedings.

Textual Amendments

- F2237** Words in rule 80.13(a) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **18**

Address for filing proceedings

- 80.14.**—(1) Any TPIM proceedings [^{F2238}or relevant proceedings] must be filed at the Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London, WC2A 2LL.
- (2) Any appeals to the Court of Appeal against an order of the High Court in such proceedings must be filed at the Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London, WC2A 2LL.

Textual Amendments

- F2238** Words in rule 80.14(1) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **19**

Applications for anonymity

- 80.15.**—(1) The TPIM [^{F2239}or Part 2] subject or the Secretary of State may apply for an order requiring anonymity for the TPIM [^{F2239}or Part 2] subject.
- (2) An application under paragraph (1) may be made at any time, irrespective of whether any TPIM proceedings [^{F2240}or relevant proceedings] have been commenced.
- (3) An application may be made without notice to the other party.

(4) The reference in this rule to an order requiring anonymity for the TPIM^[F2241] or Part 2] subject is to be construed in accordance with paragraph 6(3) of Schedule 4 to the ^[F2242]TPIM Act or of Schedule 10 to the National Security Act.]

Textual Amendments

F2239 Words in rule 80.15(1) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **20(a)**

F2240 Words in rule 80.15(2) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **20(b)**

F2241 Words in rule 80.15(4) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **20(c)(i)**

F2242 Words in rule 80.15(4) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\)](#), rules 1, **20(c)(ii)**

Notification of hearing

80.16. Unless the court directs otherwise, it will serve notice of the date, time and place fixed for any hearing on—

- (a) every party, whether or not entitled to attend that hearing; and
- (b) if one has been appointed for the purposes of the hearing, the special advocate or those instructing the special advocate.

Hearings

80.17.—(1) The following proceedings must be determined at a hearing—

- (a) a review hearing under section 9(1) of the ^[F2243]TPIM Act or section 45(1) of the National Security Act] (review hearing);
- (b) an appeal under section 16 of the ^[F2244]TPIM] Act (appeals relating to a TPIM notice) ^[F2245]or section 52 of the National Security Act (appeals relating to a Part 2 notice)];
- (c) an appeal to the Court of Appeal from an order of the High Court made in the proceedings mentioned in sub-paragraph (a) or (b) above; and
- (d) a hearing under rule 80.25(2) (consideration of the Secretary of State’s objection or application).

(2) Paragraph (1)(a) does not apply where the court discontinues the review hearing in accordance with section 9(3) of the ^[F2246]TPIM Act or section 45(3) of the National Security Act].

(3) Paragraph (1)(b) does not apply where—

- (a) the appeal is withdrawn by the TPIM^[F2247] or Part 2] subject;
- (b) the Secretary of State consents to the appeal being allowed; or
- (c) the TPIM^[F2247] or Part 2] subject is outside the United Kingdom or it is impracticable to give the TPIM^[F2247] or Part 2] subject notice of a hearing and, in either case, the TPIM^[F2247] or Part 2] subject is unrepresented.

(4) Paragraph (1)(c) does not apply where—

- (a) the Court of Appeal grants a request by the appellant to dismiss the appeal;
- (b) the Court of Appeal allows the appeal with consent; or
- (c) the Court of Appeal strikes out the appeal.

Textual Amendments

- F2243** Words in rule 80.17(1)(a) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 21\(a\)\(i\)](#)
- F2244** Word in rule 80.17(1)(b) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 21\(a\)\(ii\)\(aa\)](#)
- F2245** Words in rule 80.17(1)(b) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 21\(a\)\(ii\)\(bb\)](#)
- F2246** Words in rule 80.17(2) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 21\(b\)](#)
- F2247** Words in rule 80.17(3) inserted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 21\(c\)](#)

Hearings in private

80.18.—(1) If the court considers it necessary for any relevant party and any relevant party’s legal representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, it must—

- (a) direct accordingly; and
 - (b) conduct the hearing, or that part of it from which the relevant party and the relevant party’s legal representative are excluded, in private.
- (2) The court may conduct a hearing or part of a hearing in private for any other good reason.

Appointment of a special advocate

80.19.—(1) Subject to paragraph (2), the Secretary of State must immediately give notice of the proceedings to the Attorney General (who, under paragraph 10(1) of [^{F2248}Schedule 4 to the TPIM Act and of Schedule 10 to the National Security Act], has the power to appoint a special advocate) on—

- (a) making an application under [^{F2249}section 6(1)(b) of the TPIM Act or section 42(1)(b) of the National Security Act] (application for permission to impose measures);
 - (b) making a reference under paragraph 3(1) of [^{F2250}Schedule 2 to the TPIM Act or paragraph 3(1) of Schedule 8 to the National Security Act] (reference of the imposition of measures imposed without permission); or
 - (c) being served with a copy of any application, claim or notice of appeal in proceedings to which this Part applies.
- (2) Paragraph (1) applies unless—
- (a) the Secretary of State does not intend to—
 - (i) oppose the application, claim or appeal; or
 - (ii) withhold closed material from a relevant party; or
 - (b) a special advocate has already been appointed to represent the interests of the relevant party in the proceedings and that special advocate is not prevented from communicating with that party by virtue of rule 80.21.

(3) Where any proceedings to which this Part applies are pending but no special advocate has been appointed, a relevant party or the Secretary of State may request the Attorney General appoints a special advocate.

Textual Amendments

- F2248** Words in rule 80.19(1) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 22\(a\)](#)
- F2249** Words in rule 80.19(1)(a) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 22\(b\)](#)
- F2250** Words in rule 80.19(1)(b) substituted (20.12.2023) by [The Civil Procedure \(Amendment No. 4\) Rules 2023 \(S.I. 2023/1397\), rules 1, 22\(c\)](#)

Functions of a special advocate

- 80.20.** The functions of a special advocate are to represent the interests of a relevant party by—
- (a) making submissions to the court at any hearing or part of a hearing from which the relevant party and the relevant party’s legal representative are excluded;
 - (b) adducing evidence and cross-examining witnesses at any such hearing or part of a hearing; and
 - (c) making written submissions to the court.

Special advocate: communicating about proceedings

80.21.—(1) The special advocate may communicate with the relevant party or the relevant party’s legal representative at any time before the Secretary of State serves closed material on the special advocate.

(2) After the Secretary of State serves closed material on the special advocate, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (3) or (6)(b) or with a direction of the court pursuant to a request under paragraph (4).

(3) The special advocate may, without directions from the court, communicate about the proceedings with—

- (a) the court;
- (b) the Secretary of State or any person acting for the Secretary of State;
- (c) the Attorney General or any person acting for the Attorney General; or
- (d) any other person, except the relevant party or the relevant party’s legal representative, with whom it is necessary for administrative purposes for the special advocate to communicate about matters not connected with the substance of the proceedings.

(4) The special advocate may request directions from the court authorising him or her to communicate with the relevant party or the relevant party’s legal representative or with any other person.

(5) Where the special advocate makes a request for directions under paragraph (4)—

- (a) the court must notify the Secretary of State of the request; and
- (b) the Secretary of State must, within a period specified by the court, file with the court and serve on the special advocate notice of any objection which the Secretary of State has to the proposed communication, or to the form in which it is proposed to be made.

(6) Paragraph (2) does not prohibit the relevant party from communicating with the special advocate after the Secretary of State has served closed material on the special advocate, but—

- (a) the relevant party may only communicate with the special advocate through the relevant party’s legal representative in writing; and

- (b) the special advocate must not reply to the communication other than in accordance with directions of the court, except that the special advocate may without such directions send a written acknowledgment of receipt to the relevant party's legal representative.

Modification of the general rules of evidence and disclosure

80.22.—(1) Part 31 (disclosure and inspection of documents), Part 32 (evidence) and Part 33 (miscellaneous rules about evidence) do not apply to any proceedings to which this Part applies.

(2) Subject to the other rules in this Part, the evidence of a witness may be given either—

- (a) orally before the court; or
- (b) in writing, in which case it shall be given in such manner and at such time as the court directs.

(3) The court may also receive evidence in documentary or any other form.

(4) The court may receive evidence that would not, but for this rule, be admissible in a court of law.

(5) Every party shall be entitled to adduce evidence and to cross-examine witnesses during any hearing or part of a hearing from which that party and that party's legal representative are not excluded.

(6) A special advocate shall be entitled to adduce evidence and to cross-examine witnesses.

(7) The court may require a witness to give evidence on oath.

Filing and service of relevant material

80.23.—(1) The Secretary of State is required to make a reasonable search for relevant material and to file and serve that material in accordance with the rules in this Part.

(2) The duty to search for, file and serve material under paragraph (1) continues until the proceedings in question have been determined.

Closed material

80.24.—(1) The Secretary of State—

- (a) must apply to the court for permission to withhold closed material from a relevant party or the relevant party's legal representative in accordance with this rule; and
- (b) may not rely on closed material at a hearing on notice unless a special advocate has been appointed to represent the interests of the relevant party.

(2) The Secretary of State must file with the court and, at such time as the court directs, serve on the special advocate—

- (a) the closed material;
- (b) a statement of the Secretary of State's reasons for withholding that material from the relevant party; and
- (c) if the Secretary of State considers it possible to provide a summary of that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the relevant party.

(3) The Secretary of State may at any time amend or supplement material filed under this rule, but only with—

- (a) the agreement of the special advocate; or
- (b) the permission of the court.

Consideration of the Secretary of State's objection or application

- 80.25.**—(1) This rule applies where the Secretary of State has—
- (a) objected under rule 80.21(5)(b) to a proposed communication by the special advocate [F²²⁵¹ or to the form in which it is proposed to be made]; or
 - (b) applied under rule 80.24 for permission to withhold closed material.
- (2) The court must fix a hearing for the Secretary of State and the special advocate to make oral representations, unless—
- (a) the special advocate gives notice to the court that he or she does not challenge the objection or application;
 - (b) the court has previously considered—
 - (i) an objection under rule 80.21(5)(b) to the same or substantially the same communication; or
 - (ii) an application under rule 80.24(1) for permission to withhold the same or substantially the same material, andis satisfied that it would be just to uphold that objection or to give permission without a hearing; or
 - (c) the Secretary of State and the special advocate consent to the court deciding the issue without a hearing.
- (3) If the special advocate does not challenge the objection or the application, he or she must give notice of that fact to the court and the Secretary of State no later than the end of 14 days after the date the Secretary of State serves on the special advocate the notice under rule 80.21(5)(b) or the material under rule 80.24(2), or such other period as the court may direct.
- (4) Where the court fixes a hearing under this rule, the Secretary of State and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must also—
- (a) give brief reasons for their contentions in relation to each issue; and
 - (b) set out any proposals for the court to resolve those issues.
- (5) A hearing under this rule shall take place in the absence of the relevant party and the relevant party's legal representative.
- (6) Where the court gives permission to the Secretary of State to withhold closed material, the court must—
- (a) consider whether to direct the Secretary of State to serve a summary of that material on the relevant party and the relevant party's legal representative; but
 - (b) ensure that no such summary contains information or other material the disclosure of which would be contrary to the public interest.
- (7) Where the court has not given permission to the Secretary of State to withhold closed material from, or has directed the Secretary of State to serve a summary of that material on, the relevant party and the relevant party's legal representative—
- (a) the Secretary of State shall not be required to serve that material or summary; but
 - (b) if the Secretary of State does not do so, at a hearing on notice the court may—
 - (i) if it considers that the material or anything that is required to be summarised might be of assistance to the relevant party in relation to a matter under consideration by the court, direct that the matter is withdrawn from its consideration or that the Secretary of State makes such concessions or takes such other steps as the court specifies; and

(ii) in any other case, direct that the Secretary of State shall not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.

(8) The court must give permission to the Secretary of State to withhold closed material where it considers that the disclosure of that material would be contrary to the public interest.

Textual Amendments

F2251 Words in rule 80.25(1)(a) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, 7

Order of filing and serving material and written submissions

80.26. Subject to any directions given by the court, the parties must file and serve any material and written submissions, and the special advocate must file and serve any written submissions, in the following order—

- (a) the Secretary of State must file with the court any relevant material of which the Secretary of State is aware;
- (b) the Secretary of State must serve on—
 - (i) the relevant party or the relevant party’s legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing the special advocate,any open material;
- (c) the relevant party must file with the court and serve on the Secretary of State and special advocate (if one is appointed) or those instructing the special advocate any written evidence which the relevant party wishes the court to take into account at the hearing;
- (d) the Secretary of State must file with the court any further relevant material;
- (e) the Secretary of State must serve on—
 - (i) the relevant party or the relevant party’s legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing the special advocate,any open material filed with the court under paragraph (d);
- (f) the Secretary of State must serve on the special advocate (if one has been appointed) any closed material;
- (g) the parties and the special advocate (if one has been appointed) must file and serve any written submissions as directed by the court.

(Rules 80.24 and 80.25 will apply where any closed material is filed by the Secretary of State).

Failure to comply with directions

80.27.—(1) Where a party or the special advocate fails to comply with a direction of the court, the court may serve on that person a notice which states—

- (a) the respect in which that person has failed to comply with the direction;
- (b) a time limit for complying with the direction; and
- (c) that the court may proceed to determine the proceedings before it, on the material available to it, if the party or special advocate fails to comply with the direction within the time specified.

(2) Where a party or special advocate fails to comply with such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

80.28.—(1) When the court gives judgment in any proceedings to which this Part applies, it may withhold any or part of its reasons if and to the extent that it is not possible to give those reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the court does not include the full reasons for its decision, the court must serve on the Secretary of State and the special advocate a separate written judgment including those reasons.

Application by the Secretary of State for reconsideration of decision

80.29.—(1) If the court proposes, in any proceedings to which this Part applies, to serve notice on a relevant party of any—

- (a) order or direction made or given in the absence of the Secretary of State; or
- (b) any judgment,

then before the court serves any such notice on the relevant party, it must first serve notice on the Secretary of State of its intention to do so.

(2) The Secretary of State may, within 5 days of being served with notice under paragraph (1), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Secretary of State considers that—

- (a) the Secretary of State's compliance with the order or direction; or
- (b) the notification to the relevant party of any matter contained in the judgment, order or direction;

would cause information to be disclosed contrary to the public interest.

(3) Where the Secretary of State makes an application under paragraph (2), the Secretary of State must at the same time serve on the special advocate, if one has been appointed—

- (a) a copy of the application; and
- (b) a copy of the notice served on the Secretary of State pursuant to paragraph (1).

(4) Rule 80.25 (except for paragraphs (6) and (7)) shall, if a special advocate has been appointed, apply with any necessary modifications to the consideration of an application under paragraph (2) of this rule.

(5) The court must not serve notice on the relevant party as mentioned in paragraph (1) before the time for the Secretary of State to make an application under paragraph (2) has expired.

Supply of court documents

80.30. Unless the court otherwise directs, rule 5.4 (Register of Claims), rule 5.4B (Supply of documents from court records – a party) and rule 5.4C (Supply of court documents – a non-party) do not apply to any proceedings to which this Part applies.]

[^{F2252}PART 81

APPLICATIONS AND PROCEEDINGS IN RELATION TO CONTEMPT OF COURT

Textual Amendments

F2252Pt. 81 substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rule 1(1), [Sch.](#)

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Rule 81.10	Applications to discharge committal orders

Scope

81.1.—(1) This Part sets out the procedure to be followed in proceedings for contempt of court (“contempt proceedings”).

(2) This Part does not alter the scope and extent of the jurisdiction of courts determining contempt proceedings, whether inherent, statutory or at common law.

(3) This Part has effect subject to and to the extent that it is consistent with the substantive law of contempt of court.

Interpretation

81.2. In this Part—

“claimant” means a person making a contempt application;

“contempt application” means an application to the court for an order determining contempt proceedings;

“defendant” means the person against whom the application is made;

“order of committal” means the imposition of a sentence of imprisonment (whether immediate or suspended) for contempt of court;

[^{F2253}A “penal notice” is a prominent notice added to the front of an order by or at the request of a party warning] that if the person against whom the order is made (and, in the case of a corporate body, a director or officer of that body) disobeys the court’s order, the person (or

director or officer) may be held in contempt of court and punished by a fine, imprisonment, confiscation of assets or other punishment under the law.

Textual Amendments

F2253 Words in rule 81.2 substituted (6.4.2024) by The Civil Procedure (Amendment) Rules 2024 (S.I. 2024/106), rules 1(1), **11(1)**

How to make a contempt application

81.3.—(1) A contempt application made in existing High Court or county court proceedings is made by an application under Part 23 in those proceedings, whether or not the application is made against a party to those proceedings.

(2) If the application is made in the High Court, it shall be determined by a High Court judge of the Division in which the case is proceeding. If it is made in the county court, it shall be determined by a Circuit Judge sitting in the county court [^{F2254}, unless under a rule or practice direction it may be determined by a District Judge].

(3) A contempt application in relation to alleged interference with the due administration of justice, otherwise than in existing High Court or county court proceedings, is made by an application to the High Court under Part 8.

(4) Where an application under Part 8 is made under paragraph (3), the rules in Part 8 apply except as modified by this Part and the defendant is not required to acknowledge service of the application.

(5) Permission to make a contempt application is required where the application is made in relation to—

- (a) interference with the due administration of justice, except in relation to existing High Court or county court proceedings;
- (b) an allegation of knowingly making a false statement in any affidavit, affirmation or other document verified by a statement of truth or in a disclosure statement.

(6) If permission to make the application is needed, the application for permission shall be included in the contempt application, which will proceed to a full hearing only if permission is granted.

(7) If permission is needed and the application relates to High Court proceedings, the question of permission shall be determined by a single judge of the Division in which the case is proceeding. If permission is granted the contempt application shall be determined by a single judge or Divisional Court of that Division.

(8) If permission is needed and the application does not relate to existing court proceedings or relates to criminal or county court proceedings or to proceedings in the Civil Division of the Court of Appeal, the question of permission shall be determined by a single judge of the [^{F2255} [^{F2256}King's] Bench Division]. If permission is granted, the contempt application shall be determined by [^{F2257}a single judge of the [^{F2256}King's] Bench Division or] a Divisional Court.

Textual Amendments

F2254 Words in rule 81.3(2) inserted (27.11.2020) by The Civil Procedure (Amendment No. 6) Rules 2020 (S.I. 2020/1228), rules 1(1), **3(a)**

F2255 Words in rule 81.3(8) substituted (27.11.2020) by The Civil Procedure (Amendment No. 6) Rules 2020 (S.I. 2020/1228), rules 1(1), **3(b)(i)**

F2256 Word in rule 81.3(8) substituted (6.4.2023) by The Civil Procedure (Amendment) Rules 2023 (S.I. 2023/105), rules 1(1), **38**

F2257 Words in rule 81.3(8) inserted (27.11.2020) by The Civil Procedure (Amendment No. 6) Rules 2020 (S.I. 2020/1228), rules 1(1), **3(b)(ii)**

Requirements of a contempt application

81.4.—(1) Unless and to the extent that the court directs otherwise, every contempt application must be supported by written evidence given by affidavit or affirmation.

(2) A contempt application must include statements of all the following, unless (in the case of (b) to (g)) wholly inapplicable—

- (a) the nature of the alleged contempt (for example, breach of an order or undertaking or contempt in the face of the court);
- (b) the date and terms of any order allegedly breached or disobeyed;
- (c) confirmation that any such order was personally served, and the date it was served, unless the court or the parties dispensed with personal service;
- (d) if the court dispensed with personal service, the terms and date of the court's order dispensing with personal service;
- (e) [^{F2258}whether a penal notice had been added to the front of] any order allegedly breached or disobeyed ^{F2259} ...;
- (f) the date and terms of any undertaking allegedly breached;
- (g) confirmation of the claimant's belief that the person who gave any undertaking understood its terms and the consequences of failure to comply with it;
- (h) a brief summary of the facts alleged to constitute the contempt, set out numerically in chronological order;
- (i) that the defendant has the right to be legally represented in the contempt proceedings;
- (j) that the defendant is entitled to a reasonable opportunity to obtain legal representation and to apply for legal aid which may be available without any means test;
- (k) that the defendant may be entitled to the services of an interpreter;
- (l) that the defendant is entitled to a reasonable time to prepare for the hearing;
- (m) that the defendant is entitled but not obliged to give written and oral evidence in their defence;
- (n) that the defendant has the right to remain silent and to decline to answer any question the answer to which may incriminate the defendant;
- (o) that the court may proceed in the defendant's absence if they do not attend but (whether or not they attend) will only find the defendant in contempt if satisfied beyond reasonable doubt of the facts constituting contempt and that they do constitute contempt;
- (p) that if the court is satisfied that the defendant has committed a contempt, the court may punish the defendant by a fine, imprisonment, confiscation of assets or other punishment under the law;
- (q) that if the defendant admits the contempt and wishes to apologise to the court, that is likely to reduce the seriousness of any punishment by the court;
- (r) that the court's findings will be provided in writing as soon as practicable after the hearing; and

- (s) that the court will sit in public, unless and to the extent that the court orders otherwise, and that its findings will be made public.

Textual Amendments

F2258 Words in rule 81.4(2)(e) substituted (6.4.2024) by [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **11(2)(a)**

F2259 Words in rule 81.4(2)(e) omitted (6.4.2024) by virtue of [The Civil Procedure \(Amendment\) Rules 2024 \(S.I. 2024/106\)](#), rules 1(1), **11(2)(b)**

Service of a contempt application

81.5.—(1) Unless the court directs otherwise in accordance with Part 6 and except as provided in paragraph (2), a contempt application and evidence in support must be served on the defendant personally.

(2) Where a legal representative for the defendant is on the record in the proceedings in which, or in connection with which, an alleged contempt is committed—

- (a) the contempt application and evidence in support may be served on the representative for the defendant unless the representative objects in writing within seven days of receipt of the application and evidence in support;
- (b) if the representative does not object in writing, they must at once provide to the defendant a copy of the contempt application and the evidence supporting it and take all reasonable steps to ensure the defendant understands them;
- (c) if the representative objects in writing, the issue of service shall be referred to a judge of the court dealing with the contempt application; and the judge shall consider written representations from the parties and determine the issue on the papers, without (unless the judge directs otherwise) an oral hearing.

Cases where no application is made

81.6.—(1) If the court considers that a contempt of court (including a contempt in the face of the court) may have been committed, the court on its own initiative shall consider whether to proceed against the defendant in contempt proceedings.

(2) Where the court does so, any other party in the proceedings may be required by the court to give such assistance to the court as is proportionate and reasonable, having regard to the resources available to that party.

(3) If the court proceeds of its own initiative, it shall issue a summons to the defendant which includes the matters set out in rule 81.4(2)(a)-(s) (in so far as applicable) and requires the defendant to attend court for directions to be given.

(4) A summons issued under this rule shall be served on the defendant personally and on any other party, unless the court directs otherwise. If rule 81.5(2) applies, the procedure there set out shall be followed unless the court directs otherwise.

Directions for hearing of contempt proceedings

81.7.—(1) The court shall give such directions as it thinks fit for the hearing and determination of contempt proceedings, including directions for the attendance of witnesses and oral evidence, as it considers appropriate.

(2) The court may issue a bench warrant to secure the attendance of the defendant at a directions hearing or at the substantive hearing.

(3) The court may not give any direction compelling the defendant to give evidence either orally or in writing.

Hearings and judgments in contempt proceedings

81.8.—(1) In accordance with rule 39.2, all hearings of contempt proceedings shall, irrespective of the parties' consent, be listed and heard in public unless the court otherwise directs.

(2) Advocates and the judge shall appear robed in all hearings of contempt proceedings, whether or not the court sits in public.

(3) Before deciding to sit in private for all or part of the hearing, the court shall notify the national print and broadcast media, via the Press Association.

(4) The court shall consider any submissions from the parties or media organisations before deciding whether and if so to what extent the hearing should be in private.

(5) If the court decides to sit in private it shall, before doing so, sit in public to give a reasoned public judgment setting out why it is doing so.

(6) At the conclusion of the hearing, whether or not held in private, the court shall sit in public to give a reasoned public judgment stating its findings and any punishment.

(7) The court shall inform the defendant of the right to appeal without permission, the time limit for appealing and the court before which any appeal must be brought.

(8) The court shall be responsible for ensuring that [^{F2260}where a sentence of imprisonment (immediate or suspended) is passed in contempt proceedings under this Part, that judgment is] transcribed and published on the website of the judiciary of England and Wales.

Textual Amendments

F2260 Words in rule 81.8(8) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), 31

Powers of the court in contempt proceedings

81.9.—(1) If the court finds the defendant in contempt of court, the court may impose a period of imprisonment (an order of committal), a fine, confiscation of assets or other punishment permitted under the law.

(2) Execution of an order of committal requires issue of a warrant of committal. An order of committal and a warrant of committal have immediate effect unless and to the extent that the court decides to suspend execution of the order or warrant.

(3) An order or warrant of committal must be personally served on the defendant unless the court directs otherwise.

(4) To the extent that the substantive law permits, a court may attach a power of arrest to a committal order.

(5) An order or warrant of committal may not be enforced more than two years after the date it was made unless the court directs otherwise.

Applications to discharge committal orders

81.10.—(1) A defendant against whom a committal order has been made may apply to discharge it.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) Any such application shall be made by an application notice under Part 23 in the contempt proceedings.

(3) The court hearing such an application shall consider all the circumstances and make such order under the law as it thinks fit.]

[^{F2261}PART 82

CLOSED MATERIAL PROCEDURE

Textual Amendments

F2261Pt. 82 inserted (27.6.2013) by [The Civil Procedure \(Amendment No. 5\) Rules 2013 \(S.I. 2013/1571\)](#), rule 1, [Sch.](#)

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SECTION I

Application of this Part

Scope and interpretation

82.1.—(1) This Part contains rules—

(a) about—

- (i) applications under sections 6(2), 7(4) and 18(1) of the Justice and Security Act 2013;
- (ii) closed material applications in section 6 proceedings;
- (iii) section 6 proceedings; and

(b) about appeals to the Court of Appeal where there have been proceedings on or in relation to any matter within sub-paragraph (a) in the High Court.

(2) Subject to paragraph (3), in this Part—

(a) “the Act” means the Justice and Security Act 2013;

(b) “closed material application” means an application of the kind mentioned in section 8(1) (a) of the Act;

(c) “legal representative” is to be construed in accordance with section 14(1) of the Act;

(d) “relevant person” is to be construed in accordance with section 14(1) of the Act;

[“Secretary of State” is to be construed in accordance with section 14(1) of the Act;]
^{F2262}(da)

(e) “section 6 proceedings” is to be construed in accordance with section 14(1) of the Act;

(f) “sensitive material” has the meaning given by section 6(11) of the Act;

(g) “special advocate” means a person appointed under section 9(1) of the Act;

(h) “specially represented party” means a party whose interests a special advocate represents;

(3) In relation to proceedings arising by virtue of section 18 of the Act (review of certification)—

(a) a reference to the relevant person is to be read as a reference to the Secretary of State; and

(b) a reference to the interests of national security includes a reference to the interests of the international relations of the United Kingdom.

Textual Amendments

F2262Rule 82.1(2)(da) inserted (3.5.2023) by [The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions \(National Security and Investment Act 2021 etc\) Order 2023 \(S.I. 2023/424\)](#), art. 1(2), [Sch. para. 33](#) (with art. 17)

Modification to the overriding objective

82.2.—(1) Where any of the rules in this Part applies, the overriding objective in Part 1, and so far as possible any other rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The court must ensure that information is not disclosed in a way which would be damaging to the interests of national security.

(3) Subject to paragraph (2), the court must satisfy itself that the material available to it enables it properly to determine proceedings.

Rules to apply subject to this Part

82.3.—(1) Subject to paragraph (2), in relation to proceedings to which this Part applies, these Rules apply subject to the rules in this Part.

(2) Part 31 (disclosure and inspection of documents) applies to proceedings to which this Part applies, subject only to rule 82.2 and the court’s permission for material not to be disclosed otherwise than to—

- (a) the court;
- (b) any person appointed as a special advocate; and
- (c) where the Secretary of State is not the relevant person but is a party to the proceedings, the Secretary of State.

SECTION II

General provisions

Scope of this Section

82.4. This Section applies, except where otherwise indicated, to the proceedings mentioned in rule 82.1.

Case management

82.5. Proceedings to which this Section applies are to be treated as allocated (or, as the case may be, re-allocated) to the multi-track.

Hearings in private

82.6.—(1) If the court considers it necessary for any party and that party’s legal representative to be excluded from any hearing or part of a hearing in order to secure that information is not disclosed where disclosure would be damaging to the interests of national security, it must—

- (a) direct accordingly; and
 - (b) conduct the hearing, or that part of it from which that party and that party’s legal representative are excluded, in private but attended by a special advocate to represent the interests of the excluded party.
- (2) The court may conduct a hearing or part of a hearing in private for any other good reason.

Notification of hearings

82.7. Unless the court directs otherwise, it must serve notice of the date, time and place fixed for any hearing on—

- (a) every party, whether or not entitled to attend that hearing; and
- (b) the special advocate or those instructing the special advocate.

Proceedings which must be determined at a hearing

82.8. The following proceedings must, unless the court directs otherwise, be determined at a hearing—

- (a) an application by the Secretary of State under section 6(2) of the Act for a declaration;
- (b) a closed material application;

- (c) a review of the court's own motion under section 7 of a declaration made under section 6 of the Act;
- (d) a formal review under section 7(3) of the Act of a declaration made under section 6 of the Act;
- (e) an application under section 7 of the Act for revocation of a declaration made under section 6 of the Act;
- (f) an application under section 18(1) of the Act to have a certificate issued under section 17(3) (e) of the Act set aside;
- (g) an appeal to the Court of Appeal from a decision or order of the High Court made in any of the proceedings mentioned in paragraphs (a) to (f) above.

Appointment of a special advocate

82.9.—(1) Subject to paragraphs (2) and (3), where—

- (a) the Secretary of State decides to make an application under section 6(2) of the Act for a declaration; or
- (b) the Secretary of State receives written notice under rule 82.21 (notification of intention to make application for a declaration) that a party other than the Secretary of State intends to make such an application; or
- (c) the Secretary of State receives written notice under rule 82.31 (review of certification) of an application under section 18(1) of the Act to have a certificate issued under section 17(3) (e) of the Act set aside,

the Secretary of State must immediately give notice of the proceedings to the Attorney General (who, under section 9(1) of the Act, has the power to appoint a special advocate).

(2) Paragraph (1) applies unless a special advocate has already been appointed to represent the interests of the specially represented party in the proceedings and that special advocate is not prevented from communicating with that party by virtue of rule 82.11 (special advocate: communicating about proceedings).

(3) Paragraph (1) applies whether the proceedings are in the High Court or the Court of Appeal.

(4) Where any proceedings to which this Section applies are pending but no special advocate has been appointed, any party or the Secretary of State may request that the Attorney General appoint a special advocate.

Functions of a special advocate

82.10. The functions of a special advocate are to represent the interests of a specially represented party by—

- (a) making submissions to the court at any hearing or part of a hearing from which the specially represented party and the specially represented party's legal representatives are excluded;
- (b) adducing evidence and cross-examining witnesses at any such hearing or part of a hearing;
- (c) making applications to the court or seeking directions from the court where necessary; and
- (d) making written submissions to the court.

Special advocate: communicating about proceedings

82.11.—(1) The special advocate may communicate with the specially represented party or the specially represented party’s legal representative at any time before a relevant person serves sensitive material on the special advocate.

(2) After the relevant person serves sensitive material on the special advocate, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (3) or (6)(b) or with a direction of the court pursuant to a request under paragraph (4).

(3) The special advocate may, without directions from the court, communicate about the proceedings with—

- (a) the court;
- (b) the relevant person (where this is not the Secretary of State);
- (c) the Secretary of State or any person acting for the Secretary of State;
- (d) the Attorney General or any person acting for the Attorney General; or
- (e) any other person, except the specially represented party or the specially represented party’s legal representative, with whom it is necessary for administrative purposes for the special advocate to communicate about matters not connected with the substance of the proceedings.

(4) The special advocate may request directions from the court authorising the special advocate to communicate with the specially represented party or the specially represented party’s legal representative or with any other person.

(5) Where the special advocate makes a request for directions under paragraph (4)—

- (a) the court must notify the relevant person, and (where the relevant person is not the Secretary of State) the Secretary of State, of the request and of the content of the proposed communication and the form in which it is proposed to be made; and
- (b) the relevant person or the Secretary of State or each of them (where each wishes to object) must, within a period specified by the court, file with the court and serve on the special advocate notice of any objection which the relevant person or the Secretary of State has to the proposed communication or to the form in which it is proposed to be made.

(6) Paragraph (2) does not prohibit the specially represented party from communicating with the special advocate after the relevant person has served material on the special advocate, but—

- (a) the specially represented party may only communicate with the special advocate in writing through the specially represented party’s legal representative; and
- (b) the special advocate must not reply to the communication other than in accordance with directions of the court, except that the special advocate may without such directions send a written acknowledgment of receipt to the specially represented party’s legal representative.

Evidence in proceedings to which this Part applies

82.12.—(1) Subject to the other rules in this Part, the evidence of a witness may be given either—

- (a) orally before the court; or
- (b) in writing, in which case it must be given in such manner and at such time as the court directs.

(2) The court may also receive evidence in documentary or any other form.

(3) The court may receive evidence that would not, but for this rule, be admissible in a court of law.

(4) Every party is entitled to adduce evidence and to cross-examine witnesses during any hearing or part of a hearing from which that party and that party's legal representatives are not excluded.

(5) A special advocate is entitled to adduce evidence and to cross-examine a witness only during a hearing or part of a hearing from which the specially represented party and the specially represented party's legal representatives are excluded.

(6) The court may require a witness to give evidence on oath.

Sensitive material

82.13.—(1) The relevant person—

- (a) must apply to the court for permission to withhold sensitive material from a specially represented party or the specially represented party's legal representative in accordance with this rule; and
- (b) may not rely on sensitive material at a hearing on notice unless a special advocate has been appointed to represent the interests of the specially represented party.

(2) The relevant person must file with the court and, at such time as the court directs, serve on the special advocate—

- (a) the sensitive material; and
- (b) a statement of the relevant person's reasons for withholding that material from the specially represented party and the specially represented party's legal representatives.

(3) The relevant person may at any time amend or supplement material filed under this rule, but only with—

- (a) the agreement of the special advocate; or
- (b) the permission of the court.

Consideration of closed material application or of objection to special advocate's communication

82.14.—(1) This rule applies where the relevant person or, as the case may be, the Secretary of State has—

- (a) applied under rule 82.13 (sensitive material) for permission to withhold sensitive material; or
- (b) objected under rule 82.11(5)(b) (special advocate: communicating about proceedings) to a proposed communication by the special advocate [^{F2263}or to the form in which it is proposed to be made].

(2) The court must fix a hearing for the relevant party, the Secretary of State and the special advocate to make oral representations, unless—

- (a) the special advocate gives notice that he or she does not challenge the application or objection;
- (b) the court has previously, in determining the application under section 6(2) of the Act for a declaration, found that the first condition in section 6 of the Act is met in relation to the same or substantially the same material and is satisfied that it would be just to give permission without a hearing;
- (c) the court has previously considered—
 - (i) an application under rule 82.13(1) for permission to withhold the same or substantially the same material; or

- (ii) an objection under rule 82.11(5)(b) to the same or substantially the same proposed communication; and
 - is satisfied that it would be just to give permission or uphold the objection without a hearing; or
 - (d) the relevant person, the Secretary of State and the special advocate consent to the court deciding the application or objection without a hearing.
- (3) If the special advocate does not challenge the application or the objection, he or she must give notice of that fact to the court, the relevant person and the Secretary of State no later than the end of—
- (a) 14 days after the date on which the relevant person or the Secretary of State serves on the special advocate the notice under rule 82.11(5)(b) or the material under rule 82.13(2), or
 - (b) such other period as the court may direct.
- (4) Where the court fixes a hearing under this rule, the relevant person, the Secretary of State and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must also—
- (a) give brief reasons for their contentions in relation to each issue; and
 - (b) set out any proposals for the court to resolve those issues.
- (5) A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.
- (6) Where the court has, in determining an application under section 6(2) of the Act for a declaration, found that the first condition in section 6 of the Act is met in relation to any material, it may give permission to withhold that material without a hearing in relation to that material, whether or not a hearing is required in relation to any other material.
- (7) Where the court gives permission to the relevant person to withhold sensitive material, the court—
- (a) must consider whether to direct the relevant person to serve a summary of that material on the specially represented party and the specially represented party's legal representative; but
 - (b) must ensure that any such summary does not contain material the disclosure of which would be damaging to the interests of national security.
- (8) If the court is satisfied that—
- (a) the relevant person does not intend to rely on sensitive material, and
 - (b) that material does not adversely affect the relevant person's case or support the case of another party to the proceedings,
- the court may direct that the relevant person must not rely in the proceedings on that material, without the court first requiring the relevant person to serve a summary of that material on the specially represented party and the specially represented party's legal representative.
- (9) Where the court has not given permission to the relevant person to withhold sensitive material from, or has directed the relevant person to serve a summary of that material on, the specially represented party and the specially represented party's legal representative—
- (a) the relevant person shall not be required to serve that material or summary; but
 - (b) if the relevant person does not do so, at a hearing on notice the court may—
 - (i) if it considers that the material or anything that is required to be summarised might adversely affect the relevant person's case or support the case of another party to the proceedings, direct that the relevant person is not to rely on such points in the

relevant person's case, or that the relevant person makes such concessions or takes such other steps as the court may direct; and

- (ii) in any other case, direct that the relevant person must not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.

(10) The court must give permission to the relevant person to withhold sensitive material where it considers that disclosure of that material would be damaging to the interests of national security.

Textual Amendments

F2263 Words in rule 82.14(1)(b) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, 8

Failure to comply with directions

82.15.—(1) Where a party or the special advocate fails to comply with a direction of the court, the court may serve on that person a notice which states—

- (a) the respect in which that person has failed to comply with the direction;
- (b) a time limit for complying with the direction; and
- (c) that the court may proceed to determine the proceedings before it on the material before it if that person fails to comply with the direction within that time limit.

(2) Where a party or the special advocate fails to comply with the direction after such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

82.16.—(1) Where the court gives judgment in any proceedings to which this Section applies, it may withhold any, or any part, of its reasons if and to the extent that it is not possible to give those reasons without disclosing information the disclosure of which would be damaging to the interests of national security.

(2) Where the judgment of the court does not include the full reasons for its decision, the court must serve on the relevant person, the Secretary of State (where not the relevant person) and the special advocate a separate written judgment giving those reasons.

Application by the Secretary of State or relevant person for reconsideration of decision

82.17.—(1) If the court proposes, in any proceedings to which this Section applies, to serve on a specially represented party—

- (a) notice of any order or direction made or given in the absence of the Secretary of State or, if the relevant person is not the Secretary of State, the absence of the relevant person; or
- (b) any written judgment;

then before the court serves any such notice or judgment on the specially represented party, it must first serve notice on the Secretary of State and, if the relevant person is not the Secretary of State, on the relevant person, of its intention to do so.

(2) The Secretary of State or relevant person may, within 5 days of being served with notice under paragraph (1), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Secretary of State or relevant person considers that—

- (a) the Secretary of State or relevant person's compliance with the order or direction; or

- (b) the notification to the specially represented party of any matter contained in the judgment, order or direction,

would cause information to be disclosed where such disclosure would be damaging to the interests of national security.

(3) Where the Secretary of State or relevant person makes an application under paragraph (2), the Secretary of State or relevant person must at the same time serve on the special advocate—

- (a) a copy of the application; and
- (b) a copy of the notice served on the Secretary of State or relevant person pursuant to paragraph (1).

(4) Rule 82.14 (consideration of closed material application or of objection to special advocate’s communication), except for paragraphs (6) to (8) of that rule, applies with any necessary modifications to the consideration of an application under paragraph (2) of this rule.

(5) The court must not serve notice or a written judgment on the specially represented party as mentioned in paragraph (1) before the time for the Secretary of State or relevant person to make an application under paragraph (2) has expired.

Supply of court documents

82.18. Unless the court otherwise directs, rule 5.4 (Register of Claims), rule 5.4B (supply of documents from court records – a party) and rule 5.4C (supply of court documents – a non-party) do not apply to any proceedings to which this Section applies.

SECTION III

Applications under section 6(2) of the Act

Scope of this Section

82.19. This Section contains rules about applications under section 6(2) of the Act (application for a declaration that the proceedings are proceedings in which a closed material application may be made).

Possible application for declaration under section 6(2) of the Act by Secretary of State: notification to Secretary of State if not a party

82.20.—(1) This rule applies where the Secretary of State is not a party to relevant civil proceedings but—

- (a) it appears to—
 - (i) a party to those proceedings; or
 - (ii) the court,that the party may be required to disclose material the disclosure of which would be damaging to the interests of national security, and
- (b) either—
 - (i) the party does not intend to make an application under section 6(2) of the Act for a declaration; or
 - (ii) the court does not consider it appropriate to make such a declaration of its own motion.

(2) Where this rule applies by virtue of paragraph (1)(a)(i) and (b)(i)—

- (a) the party must—
 - (i) notify the Secretary of State and the court in writing; and
 - (ii) not disclose the material in question unless and to the extent that the court directs; and
- (b) the court must on receiving notification give such directions as appear necessary pending the Secretary of State’s response.
- (3) Where this rule applies by virtue of paragraph (1)(a)(ii) and (b)(ii), the court must—
 - (a) direct the party in question not to disclose the material in question unless and to the extent the court directs otherwise;
 - (b) notify the Secretary of State in writing; and
 - (c) give such directions as appear necessary pending the Secretary of State’s response.
- (4) Within 14 days of being notified in accordance with paragraph (2) or (3), the Secretary of State must respond in writing to the court—
 - (a) confirming that the Secretary of State intends to apply under section 6(2) of the Act for a declaration;
 - (b) confirming that the Secretary of State does not intend to apply for such a declaration; or
 - (c) requesting further time to consider whether to apply for such a declaration.
- (5) The court—
 - (a) may stay the proceedings either on application by a party or of its own motion where the Secretary of State has been notified under paragraph (2) or (3); and
 - (b) must stay the proceedings where the Secretary of State responds in accordance with paragraph (4)(a) or (c).
- (6) Any stay may be subject to conditions, including a condition that the application must be made, or confirmation given that no application will be made, within a time specified by the court.

Notification of intention to make application for a declaration

82.21.—(1) Any person who intends to make an application under section 6(2) of the Act for a declaration—

- (a) must, at least 14 days before making the application, serve written notice of that intention on the court and on every other party to the relevant civil proceedings and (if the Secretary of State is not a party) on the Secretary of State;
- (b) may at any time apply to the court for the relevant civil proceedings to which the declaration would relate to be stayed pending—
 - (i) the application; or
 - (ii) the person’s consideration of whether to make an application.

(2) The court may stay the relevant civil proceedings to which the declaration would relate on an application under paragraph (1)(b) or of its own motion.

(3) Any stay may be subject to conditions, including a condition that the application must be made, or confirmation given that no application will be made, within a time specified by the court.

Application for a declaration

82.22.—(1) An application under section 6(2) of the Act for a declaration must be made by the applicant filing with the court—

- (a) a statement of reasons to support the application and any additional written submissions;

- (b) material in relation to which the court is asked to find that the first condition in section 6 of the Act is met;
- (c) the details of any special advocate already appointed under rule 82.9 (appointment of a special advocate).

(2) Where the applicant is the Secretary of State, the statement of reasons required by paragraph (1)(a) must include the Secretary of State's reasons for not making, or not advising another person to make, a claim for public interest immunity in relation to the material on which the application would be based.

Directions for hearing of an application

82.23.—(1) When a party to relevant civil proceedings or (if the Secretary of State is not a party) the Secretary of State makes an application under section 6(2) of the Act for a declaration, the court must serve notice of the application on—

- (a) all other parties and (if the Secretary of State is neither a party nor the applicant) the Secretary of State;
- (b) the legal representatives of all other parties and (where relevant) the Secretary of State; and
- (c) the special advocate,

and must give directions for a directions hearing unless it considers that the application can be determined on the papers, in which case it must give directions as it considers appropriate.

(2) Any directions hearing shall take place in the absence of the specially represented party and the specially represented party's legal representative.

(3) At the directions hearing the court must give directions—

- (a) for the hearing of the application; and
- (b) specifying a date and time by which the parties and the special advocate must file and serve any written evidence or written submissions.

(3) The hearing of the application shall take place in the absence of the specially represented party and the specially represented party's legal representative.

Notification by applicant following hearing of application

82.24.—(1) When the court has determined an application made under section 6(2) of the Act, the applicant must within 7 days of that determination serve written notice of the outcome of the application on every other party to the proceedings and (if the Secretary of State is not a party) on the Secretary of State.

(2) The notice must be limited to stating whether the application was granted or refused.

Secretary of State to be joined where declaration made

82.25. If the court makes a declaration under section 6 of the Act and the Secretary of State is not already a party to the proceedings in relation to which the declaration is made, the court must order the Secretary of State to be joined as a party to those proceedings, unless the Secretary of State does not wish to be joined and notifies the court in writing accordingly.

Directions following declaration

82.26.—(1) If the court makes a declaration under section 6 of the Act, it must give directions for the further management of the case, or for a directions hearing, or for both.

(2) The court must, either when giving directions under paragraph (1) or at the directions hearing (if it directs such a hearing), give directions—

- (a) for a hearing of a closed material application; and
- (b) specifying a date and time by which the parties and special advocate must file and serve any written evidence or written submissions,

unless it considers that the application can be determined on the papers, in which case it must give directions as it considers appropriate.

(3) Directions given under this rule may include directions for—

- (a) the filing by any party of—
 - (i) a statement of case; or
 - (ii) an amended statement of case; and
- (b) a hearing of a closed material application in relation to such a statement of case.

SECTION IV

Review and revocation of declarations made under section 6 of the Act

Scope of this Section

82.27. This Section contains rules about—

- (a) revocation—
 - (i) of the court’s own motion; or
 - (ii) on application,
 of a declaration made under section 6 of the Act; and
- (b) the court’s formal review of such a declaration.

Possible revocation of declaration: court’s own motion

82.28.—(1) This rule applies if the court at any time considers that a declaration made under section 6 of the Act may no longer be in the interests of the fair and effective administration of justice in the proceedings.

(2) The court must in writing—

- (a) notify the parties (and the Secretary of State if not a party) and the special advocate that it is considering whether to revoke the declaration; and
- (b) invite them to make submissions.

(3) Each party (and the Secretary of State if not a party) and the special advocate must within 28 days of the date of notification under paragraph (2) file a response either—

- (a) containing written submissions supporting or opposing revocation of the declaration and giving reasons; or
- (b) confirming that the party (or the Secretary of State, or the special advocate, as appropriate) does not wish to make any submissions.

(4) The court may, on receipt of the responses under paragraph (3), either—

- (a) give directions—
 - (i) for a hearing to determine whether the declaration should be revoked; and

- (ii) specifying a date and time by which the parties (and Secretary of State if not a party) and special advocate must file and serve any written evidence or written submissions;
- or

- (b) determine the issue without a hearing.

(5) A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.

Application for revocation of declaration

82.29.—(1) An application under section 7(4)(a) of the Act for revocation of a declaration made under section 6 of the Act must be made by the applicant filing with the court—

- (a) a statement of reasons to support the application; and
- (b) any written submissions.

(2) When such an application has been made, the court must serve notice of the application on—

- (a) all other parties and (if the Secretary of State is neither a party nor the applicant) the Secretary of State;
- (b) the legal representatives of those parties and (where relevant) the Secretary of State; and
- (c) the special advocate,

and must give directions for a hearing unless it considers that the application can be determined on the papers, in which case it may give directions as it considers appropriate.

(3) Each party (and the Secretary of State if neither a party nor the applicant) and the special advocate must within 28 days of the date of notification under paragraph (2) file a response either—

- (a) containing written submissions supporting or opposing revocation of the declaration and giving reasons; or
- (b) confirming that the party (or the Secretary of State, or the special advocate, as appropriate) does not wish to make any submissions.

(4) The court must, after receipt of the responses under paragraph (3), either—

- (a) give directions—
 - (i) for a hearing to determine whether the declaration should be revoked; and
 - (ii) specifying a date and time by which the parties (and Secretary of State if not a party) and special advocate must file and serve any written evidence or written submissions;
- or

- (b) determine the issue without a hearing.

(5) A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.

Review of declaration: formal review

82.30.—(1) Once the pre-trial disclosure exercise in proceedings where there has been a declaration under section 6 of the Act has been completed, the court must review whether the declaration continues to be in the interests of the fair and effective administration of justice in the proceedings.

(2) If the court considers that the declaration may no longer be in the interests of the fair and effective administration of justice in the proceedings, it must proceed in accordance with paragraphs (2) to (5) of rule 82.28.

(3) If the court considers that the declaration continues to be in the interests of the fair and effective administration of justice in the proceedings, it may so declare without a hearing.

(4) For the purposes of section 7(3) of the Act and this rule, the pre-trial disclosure exercise in the proceedings is to be considered to have been completed—

- (a) where the claim is one to which rule 31.5(2) does not apply, when disclosure equivalent to standard disclosure has been completed in accordance with this Part;
- (b) where the claim is one to which rule 31.5(2) applies, when disclosure equivalent to that directed under rule 31.5(7) and (8) has been completed in accordance with this Part.

SECTION V

Review, under section 18 of the Act, of a certificate under section 17(3)(e) of the Act

Review of certification

82.31.—(1) An application under section 18(1) of the Act to have a certificate issued under section 17(3)(e) of the Act set aside must be made by the applicant filing with the court—

- (a) a statement of reasons to support the application; and
- (b) any written submissions.

(2) The court with which the documents in paragraph (1)(a) and (b) must be filed is—

- (a) the High Court, if the court seised of the proceedings in relation to which the certificate was issued is the High Court or [^{F18}County Court] ; or
- (b) the Court of Appeal, if the court seised of the proceedings in relation to which the certificate was issued is the Court of Appeal.

(3) When such an application has been made, the court must serve notice of the application on the Secretary of State and the Secretary of State’s legal representative, and on the special advocate when a special advocate has been appointed pursuant to rule 82.9.

(4) The Secretary of State must, within 28 days of the date of notification under paragraph (3), file, and serve upon the special advocate, a response either—

- (a) containing written submissions opposing the setting aside of the certificate and giving reasons; or
- (b) confirming that the Secretary of State does not oppose the setting aside of the certificate.

(5) The special advocate must within 28 days of being served under paragraph (4) file, and serve on the Secretary of State, a response either—

- (a) containing written submissions supporting the setting aside of the certificate and giving reasons; or
- (b) confirming that the special advocate does not wish to make any submissions.

(6) The court must, after receipt of the responses under paragraphs (4) and (5), either—

- (a) give directions—
 - (i) for a hearing to determine whether the certificate should be revoked; and
 - (ii) specifying a date and time by which the parties (and the Secretary of State if not a party) and special advocate must file and serve any written evidence or written submissions; or
- (b) determine the issue without a hearing.

(7) A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party’s legal representative.

Textual Amendments

F18 Words in Rules substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(ii)**; S.I. 2014/954, art. 2(a)

SECTION VI

Appeals to the Court of Appeal

Modification of Part 52 (appeals)

- 82.32.**—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal—
- (a) against an order of the High Court on or in relation to an application under section 6(2), 7(4) or 18(1) of the Act, or section 6 proceedings;
 - (b) where the order under appeal was not made on or in relation to a matter within sub-paragraph (a) but the appeal proceedings involve such a matter or are section 6 proceedings.
- (2) Paragraph (1) is subject to—
- (a) rule 82.2;
 - (b) Section 2 of this Part; and
 - (c) paragraph (3) of this rule.
- (3) The appellant must serve a copy of the appellant’s notice on any special advocate.]

[^{F2264}**PART 83**

Writs and Warrants – General Provisions

Textual Amendments

F2264Pt. 83 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), **Sch.** (with rule 41)

Modifications etc. (not altering text)

C122 Pt. 83 applied (with modifications) (1.12.2017) by [The Court of Protection Rules 2017 \(S.I. 2017/1035\)](#), rules **24.2(e)**, 24.6(1)

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F2265	F2265
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83.26	Warrants of possession
83.27	Saving for enforcement by [^{F2267} contempt proceedings]
83.28	Suspension of part warrant
83.29	Concurrent warrants

SECTION I

Scope and Interpretation

Scope and interpretation

83.1.—(1) This Part contains general rules about writs and warrants as follows—

- (a) Section II relates to writs and warrants;
- (b) Section III relates to writs only; and
- (c) Section IV relates to warrants only.

(2) In this Part—

- (a) “the Act” means the Tribunals, Courts and Enforcement Act 2007;
- (b) “the creditor” means a person who has obtained or who is entitled to enforce a judgment or order;
- (c) “the debtor” means a person against whom a judgment or order was given or made;
- (d) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12;
- (e) “enforcement officer” means an individual who is authorised to act as an enforcement officer under Schedule 7 to the Courts Act 2003;
- (f) “relevant enforcement officer” means—
 - (i) in relation to a writ of execution or a writ of control which is directed to a single enforcement officer, that officer; and
 - (ii) in relation to a writ of execution or writ of control which is directed to two or more enforcement officers, the officer to whom the writ is allocated;
- (g) “Schedule 12” means Schedule 12 to the Act;
- (h) “TCG procedure” means the procedure in Schedule 12 to take control of goods and sell them to recover a sum in accordance with that Schedule and regulations made under it;
- (i) “TCG Regulations” means the Taking Control of Goods Regulations 2013;
- (j) “warrant of control” is to be construed in accordance with section 62(4) of the Act;
- (k) “writ of control” is to be construed in accordance with section 62(4) of the Act;
- (l) “writ of execution” includes—
 - (i) a writ of possession;
 - (ii) a writ of delivery;
 - (iii) a writ of sequestration;
 - (iv) a writ of fieri facias de bonis ecclesiasticis,
 and any further writ in aid of any such writs, but does not include a writ of control.

[^{F2268}(3) This Part does not apply where an application is made seeking confiscation of assets as a punishment for contempt of court. Any such application must be made under Part 81 and not under this Part.]

Textual Amendments

F2268Rule 83.1(3) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **19(2)** (with rule 2)

SECTION II

Writs and Warrants

Writs and warrants of control, writs of execution, warrants of delivery and warrants of possession – permission to issue certain writs or warrants

83.2.—(1) This rule applies to—

- (a) writs and warrants of control;
- (b) writs of execution;
- (c) warrants of delivery;
- (d) warrants of possession.

(2) A writ or warrant to which this rule applies is referred to in this rule as a “relevant writ or warrant”.

(3) A relevant writ or warrant must not be issued without the permission of the court where—

- (a) six years or more have elapsed since the date of the judgment or order;
- (b) any change has taken place, whether by death or otherwise, in the parties—
 - (i) entitled to enforce the judgment or order; or
 - (ii) liable to have it enforced against them;
- (c) the judgment or order is against the assets of a deceased person coming into the hands of that person’s executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;
- (d) any goods to be seized under a relevant writ or warrant are in the hands of a receiver appointed by a court or sequestrator;
- (e) under the judgment or order, any person is entitled to a remedy subject to the fulfilment of any condition, and it is alleged that the condition has been fulfilled [^{F2269}(other than where non-compliance with the terms of suspension of enforcement of the judgment or order is the failure to pay money)]; ^{F2270} ...
- (f) the permission sought is for a writ of control or writ of execution, and that writ is to be in aid of another writ of control or execution [^{F2271}; or
- (g) an application is made for a writ of sequestration.

(Rule 83.14A makes provision for applications for permission to issue a writ of sequestration.)]

(4) An application for permission may be made in accordance with Part 23 and must—

- (a) identify the judgment or order to which the application relates;

- (b) if the judgment or order is for the payment of money, state the amount originally due and, if different, the amount due at the date the application notice is filed;
 - (c) where the case falls within paragraph (3)(a), state the reasons for the delay in enforcing the judgment or order;
 - (d) where the case falls within paragraph (3)(b), state the change which has taken place in the parties entitled or liable to execution since the date of the judgment or order;
 - (e) where the case falls within paragraph (3)(c) or (d), state that a demand to satisfy the judgment or order was made on the person liable to satisfy it and that that person has refused or failed to do so;
 - (f) give such other information as is necessary to satisfy the court that the applicant is entitled to proceed to execution on the judgment or order, and that the person against whom it is sought to issue execution is liable to execution on it.
- (5) An application for permission may be made without notice being served on any other party unless the court directs otherwise.
- (6) If because of one event, an applicant seeks permission under paragraph (3)(b) to enforce more than one judgment or order, the applicant need only make one application for permission.
- (7) Where paragraph (6) applies—
- (a) a schedule must be attached to the application for permission, specifying all the judgments or orders in respect of which the application for permission is made; and
 - (b) if the application notice is directed to be served on any person, it need set out only such part of the application as affects that person.
- ^{F2272}(7A) Where—
- (a) the court grants permission, under this rule or otherwise, for the issue of a writ of execution or writ of control (“the permission order”); and
 - (b) the writ is not issued within one year after the date of the permission order,
- the permission order will cease to have effect.
- (7B) Where a permission order has ceased to have effect, the court may grant a fresh permission order.]
- (8) Paragraph (3) is without prejudice to section 2 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 and any enactment, rule or direction by virtue of which a person is required to obtain the permission of the court for the issue of a warrant or to proceed to execution or otherwise to the enforcement of a judgment or order.

Textual Amendments

- F2269** Words in rule 83.2(3)(e) inserted (1.10.2018) by [The Civil Procedure \(Amendment No. 3\) Rules 2018](#) (S.I. 2018/975), rules 1(1), **8**
- F2270** Word in rule 83.2(3)(e) omitted (6.4.2021) by virtue of [The Civil Procedure \(Amendment\) Rules 2021](#) (S.I. 2021/117), rules 1(1), **19(3)** (with rule 2)
- F2271** Rule 83.2(3)(g) substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021](#) (S.I. 2021/117), rules 1(1), **19(4)** (with rule 2)
- F2272** Rule 83.2(7A)(7B) inserted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014](#) (S.I. 2014/867), rules 1, **17** (with rule 25)

Application for permission to issue a writ of sequestration

^{F2273}**83.2A.**

Textual Amendments
F2273Rule 83.2A revoked (6.4.2021) by The Civil Procedure (Amendment) Rules 2021 (S.I. 2021/117), rules 1(1), **19(5)** (with rule 2)

Writs and warrants other than those conferring a power to use the TCG procedure – duration and priority

83.3.—(1) This rule applies to—

- (a) writs of execution;
- (b) warrants of possession; and
- (c) warrants of delivery,

other than writs of execution or warrants that confer a power to use the TCG procedure.

(2) A writ or warrant to which this rule applies is referred to in this rule as a “relevant writ or warrant”, “relevant writ” or “relevant warrant” as appropriate.

(3) Subject to paragraph (4), for the purposes of execution, a writ or warrant will be valid for the period of 12 months beginning with the date of its issue.

(4) The court may extend the relevant writ or warrant from time to time for a period of 12 months at any one time.

(5) If the application is made before the expiry of the period of 12 months, the period of extension will begin on the day after the expiry.

(6) If the application is made after the expiry of the period of 12 months, any period of extension will begin on any day after the expiry that the court may allow.

(7) Before a relevant writ that has been extended is executed—

- (a) the court will seal the writ; or
- (b) the applicant for the extension order must serve a notice sealed as described in subparagraph (a) on the relevant enforcement officer informing that officer of the making of the extension order and the date of that order.

(8) In relation to a relevant warrant, the court will endorse the warrant with a note of the renewal or extension.

(9) Irrespective of whether it has been extended under paragraph (4)—

- (a) the priority of a relevant writ will be determined by reference to the time it is originally received by the person who is under a duty to endorse it; and
- (b) the priority of a relevant warrant will be determined by reference to the date on which it was originally issued.

(10) The production of the following will be evidence that the relevant writ or warrant has been extended—

- (a) the writ sealed in accordance with paragraph (7)(a);
- (b) the notice sealed in accordance with paragraph (7)(b);
- (c) the warrant endorsed in accordance with paragraph (8).

(11) If, during the validity of a relevant writ, a person makes an application under Part 85 in relation to an execution under that writ, the validity of the writ will be extended until the expiry of 12 months from the conclusion of the proceedings under Part 85.

Writs and warrants conferring a power to use the TCG procedure – duration and priority

83.4.—(1) This rule applies to—

- (a) a writ of control;
- (b) a warrant of control; and
- (c) any other writ or warrant that confers power to use the TCG procedure.

(2) A writ or warrant to which this rule applies is referred to in this rule as a “relevant writ or warrant”, “relevant writ” or “relevant warrant” as appropriate.

(3) A relevant writ or warrant will be valid for the period in which an enforcement agent may take control of the goods in question, as specified in regulation 9(1) of the TCG Regulations.

(4) If a period in which to take control of goods is extended by the court under regulation 9(3) of the TCG Regulations, the validity of the relevant writ or warrant will be extended for the same period.

(Rule 84.5 contains provisions about applications to the court requesting a time extension.)

(5) Irrespective of whether it has been extended under regulation 9(3) of the TCG Regulations—

- (a) the priority of a relevant writ will be determined by reference to the time it is originally received by the person who is under a duty to endorse it; and
- (b) the priority of a relevant warrant will be determined by reference to the date on which it was originally issued.

(6) The production of—

- (a) the extension order granted under regulation 9(3) of the TCG Regulations, or a copy of it; or
- (b) the relevant writ or warrant endorsed in accordance with rule 84.5(3)(b), or a copy of it,

will be evidence that the writ or warrant has been extended.

(7) If, during the validity of a relevant writ or warrant, a person makes an application under Part 85 in relation to goods taken into control under that writ or warrant, the validity of the writ or warrant will be extended until the expiry of 12 months from the conclusion of the proceedings under Part 85.

Writs and warrants – separate enforcement of costs

83.5.—(1) Where—

- (a) judgment is given or an order made for—
 - (i) payment of a sum otherwise than by instalments (“the sum”); and
 - (ii) costs to be assessed; and
- (b) default is made in payment of the sum before the costs have been assessed,

a writ of control or warrant of control (as appropriate) may be issued for the recovery of the sum.

(2) If—

- (a) paragraph (1) applies;
- (b) a writ or warrant is issued for the recovery of the sum;
- (c) the costs are assessed; and
- (d) default is made in payment of the costs,

a separate writ of control or warrant of control may be issued for the recovery of the costs.

(3) A party entitled to enforce a judgment or order of the High Court for—

- (a) the delivery of any property, other than money; or
- (b) possession of any property,

may issue a separate writ of control to enforce payment of any damages or costs awarded to that party by that judgment or order.

(4) A party entitled to enforce a judgment or order of the County Court by warrant of delivery may issue a separate warrant of control to enforce payment of any damages or costs awarded to that party by that judgment or order.

^{F2274} **Writs and warrants – levying execution on certain days**

83.6.—(1) This rule applies to writs and warrants other than—

- (a) writs of control;
- (b) warrants of control; and
- (c) writs or warrants in relation to an Admiralty claim in rem.

(2) Where a writ or warrant is not a writ of control or warrant of control but nevertheless confers the power to use the TCG procedure, this rule applies to the parts of the writ or warrant that do not confer the power to use the TCG Procedure.

(3) Unless the court orders otherwise, a writ or warrant to enforce a judgment or order must not be executed on a Sunday, Good Friday or Christmas Day.]

Textual Amendments

F2274 Rule 83.6 substituted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **13(a)**

Writs of control and warrants – power to stay execution or grant other relief

83.7.—(1) At the time that a judgment or order for payment of money is made or granted, or at any time thereafter, the debtor or other party liable to execution of a writ of control or a warrant may apply to the court for a stay of execution.

(2) The power of the court to stay execution of a warrant of control may be exercised by a District Judge, or a court officer where paragraph (10) applies, and the power of the court to stay execution of any other warrant or of a writ of control may be exercised by a Master or District Judge.

(3) Where the application for a stay of execution is made on the grounds of the applicant’s inability to pay, the witness statement required by paragraph (6)(b) must disclose the debtor’s means.

(4) If the court is satisfied that—

- (a) there are special circumstances which render it inexpedient to enforce the judgment or order; or
- (b) the applicant is unable from any reason to pay the money,

then, notwithstanding anything in paragraph (5) or (6), the court may by order stay the execution of the judgment or order, either absolutely or for such period and subject to such conditions as the court thinks fit.

(5) An application under this rule, if not made at the time the judgment is given or order made—

- (a) must be made in accordance with Part 23, as modified by paragraphs (6) to (14); and

- (b) may be made even if the party liable to execution did not acknowledge service of the claim form or serve a defence or take any previous part in the proceedings.
- (6) The grounds on which an application under this rule is made must—
 - (a) be set out in the application notice; and
 - (b) be supported by a witness statement made by or on behalf of the applicant substantiating the grounds.
- (7) Paragraphs (8) to (15) apply to applications in the County Court.
- (8) Where the debtor makes an application in the County Court, the court will—
 - (a) send the creditor a copy of the debtor’s application (and statement of means); and
 - (b) require the creditor to notify the court in writing whether or not the creditor objects to the application, within 14 days of service of the notification, giving reasons for any objection the creditor may have to the granting of the application.
- (9) If the creditor does not notify the court of any objection within the time stated, the court officer may make an order suspending the warrant on terms of payment.
- (10) Upon receipt of a notice by the creditor under paragraph (8)(b), the court officer may, if the creditor agrees, or objects only to the terms offered, determine the date and rate of payment and make an order suspending the warrant on terms of payment.
- (11) Any party affected by an order made under paragraph (10) may, within 14 days of service of the order on that party and giving reasons, apply on notice for the order to be reconsidered.
- (12) If a party applies for the order to be reconsidered, the court will—
 - (a) fix a day for the hearing of the application before the District Judge; and
 - (b) give to the creditor and the debtor not less than 8 days’ notice of the day so fixed.
- (13) On hearing an application under paragraph (11), the District Judge may confirm the order or set it aside and make such new order as the court thinks fit.
- (14) Where the creditor states in the notice under paragraph (8)(b) that the creditor wishes the enforcement agent to proceed to execute the warrant, the court will—
 - (a) fix a day for a hearing before the District Judge of the debtor’s application; and
 - (b) give to the creditor and to the debtor not less than 2 days’ notice of the day so fixed.
- (15) Where an order is made by the District Judge suspending a warrant of execution, the debtor may be ordered to pay the costs of the warrant and any fees or expenses incurred before its suspension and the order may authorise the sale of a sufficient portion of any goods seized to cover such costs, fees and expenses and the expenses of sale.

Writs and warrants – information about execution of the writ or warrant

83.8.—(1) If the creditor or debtor serves notice on the enforcement agent or enforcement officer requiring reasonable information about the execution of a writ or warrant, the enforcement agent or enforcement officer must send such information to the creditor or debtor within 7 days of service of the notice.

(2) If the enforcement agent or enforcement officer fails to comply with the notice, the party who served the notice may apply to the court for an order directing the enforcement agent or enforcement officer to comply with the notice.

[^{F2275} Notice of execution of writs and warrants of possession

83.8A.—(1) This rule applies to—

- (a) writs of possession; and
- (b) warrants of possession,

other than writs and warrants excluded by paragraph (6).

[^{F2276}(2) Subject to paragraph (5)—

- (a) a notice of eviction must be delivered to the premises not less than 14 days before the writ or warrant is executed; but
- (b) if full execution of the writ or warrant has not taken place on the day specified in a notice of eviction delivered pursuant to sub-paragraph (a) relating to the writ or warrant, a further notice of eviction must be delivered to the premises not less than 7 days before the writ or warrant is or is further executed.]

(3) The notice of eviction referred to in paragraph (2) must—

- (a) be addressed to—
 - (i) all persons against whom the possession order was made; and
 - (ii) “any other occupiers”; and
- (b) be in the form prescribed by Practice Direction 83.

(4) The notice of eviction must be delivered by—

- (a) inserting it through the letter box in a sealed transparent envelope; or
- (b) if that is not practicable—
 - (i) attaching a copy to the main door or some other part of the land so that it is clearly visible; or
 - (ii) if that is not practicable, placing stakes in the land in places where they are clearly visible and attaching to each stake a copy of the notice in a sealed transparent envelope.

(5) The court may—

- (a) dispense with the requirement to deliver a notice of eviction; or
- (b) extend or shorten the time by which a notice of eviction must be delivered,

but may not exercise its powers under sub-paragraph (b) so as to postpone the date of execution of any writ or warrant of possession beyond the last date permitted for that purpose by or under any enactment.

(6) This rule does not apply to writs or warrants of possession to enforce possession orders against trespassers, other than possession orders against persons who entered or remained on the premises with the consent of a person who, at the time consent was given, had an immediate right to possession of the premises.]

Textual Amendments

F2275Rule 83.8A inserted (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(1)** (as amended by [S.I. 2020/889](#), **rule 3(a)**)

F2276Rule 83.8A(2) substituted (7.8.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(2), **12**

SECTION III

Writs

Issue of writs of execution and writs of control

83.9.—(1) In this rule “the appropriate office” means—

- (a) where the proceedings in which execution is to issue are in a District Registry, that Registry;
- (b) where the proceedings are in the Principal Registry of the Family Division, that Registry;
- (c) where the proceedings are Admiralty proceedings or commercial proceedings which are not in a District Registry, the Admiralty and Commercial Registry;
- [where the proceedings are in the Chancery Division, Chancery Chambers;]

^{F2277}(ca)

(d) in any other case, the Central Office of the Senior Courts.

(2) Issue of a writ of execution or control takes place on its being sealed by a court officer of the appropriate office.

(3) Before a writ is issued a request for its issue must be filed.

(4) The request must be signed—

- (a) by the person entitled to execution, if acting in person; or
- (b) by or on behalf of the solicitor of the person entitled to execution.

(5) [^{F2278}Subject to paragraph (5A), the] writ will not be sealed unless at the time it is presented for sealing—

(a) the person presenting the writ produces—

- (i) the judgment or order on which the writ is to issue, or an office copy of it;
- (ii) where permission was required for the writ to be issued, the order granting such permission or evidence of the granting of it;
- (iii) where judgment on failure to acknowledge service has been entered against a State, as defined in section 14 of the State Immunity Act 1978, evidence that the State has been served in accordance with rule 40.10 and that the judgment has taken effect; and

(b) the court officer authorised to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act under the judgment or order has expired.

[^{F2279}(5A) Where a request is made for a writ of possession to enforce a notice under section 33D of the Immigration Act 2014 (termination of agreement where all occupiers disqualified), a copy of that notice must be filed with the request instead of the judgment or order required by paragraph (5)(a)(i).]

(6) Every writ of execution or control will bear the date of the day on which it is issued.

Textual Amendments

F2277Rule 83.9(1)(ca) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **13(b)**

F2278Words in rule 83.9(5) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **11(1)(a)**

F2279 Rule 83.9(5A) inserted (1.10.2017) by The Civil Procedure (Amendment No. 2) Rules 2017 (S.I. 2017/889), rules 1(1), **11(1)(b)**

Writs of control and writs of delivery – description of parties

83.10.—(1) This rule applies where the name or address of the creditor or debtor as given in the request for the issue of the following differs from that person’s name or address in the judgment or order sought to be enforced—

- (a) a writ of control;
- (b) writ of delivery.

(2) If the creditor files a witness statement that satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the creditor or the debtor will be described in the writ as “CD of [name and address as given in the request] suing [or sued] as AD of [name and address in the judgment or order]”.

Writs relating to ecclesiastical property

83.11.—(1) In this rule, “a writ relating to ecclesiastical property” means—

- (a) a writ of fieri facias de bonis ecclesiasticis; or
- (b) a writ of sequestrari de bonis ecclesiasticis.

(2) This rule applies where it appears upon the return of any writ of control that the person against whom the writ was issued—

- (a) has no goods or chattels in the district of the relevant enforcement officer; but
- (b) is the incumbent of a benefice named in the return.

(3) After the writ and return have been filed, the party by whom the writ of control was issued may issue a writ relating to ecclesiastical property.

(4) Any such writ must be directed and delivered to the bishop of the diocese within which that benefice is, to be executed by that bishop.

(5) The only fees allowed to the bishop or diocesan officer for the execution of the writ are those authorised by or under any enactment, including any measure of the General Synod.

Writs other than those conferring a power to use the TCG procedure – order for sale otherwise than by auction

83.12.—(1) This rule applies in relation to writs that do not confer a power to use the TCG procedure.

(2) A court order under paragraph 10 of Schedule 7 to the Courts Act 2003 that a sale of goods seized under an execution may be made otherwise than by public auction may be made on the application of—

- (a) the person at whose instance the writ of execution under which the sale is to be made was issued;
- (b) the person against whom that writ was issued (in this rule referred to as “the judgment debtor”); or
- (c) if the writ was directed to one or more enforcement officers, the relevant enforcement officer.

(3) Such an application must be made in accordance with Part 23.

(4) Where the applicant for an order under this rule is not the enforcement officer, the enforcement officer must, on the demand of the applicant, send to the applicant a list, stating—

- (a) whether the enforcement officer has notice of the issue of another writ or writs of execution against the goods of the judgment debtor; and
- (b) so far as is known to the enforcement officer, the name and address of every creditor who has obtained the issue of another such writ of execution.

(5) Where the enforcement officer is the applicant, the enforcement officer must prepare such a list.

(6) Not less than 3 days before the hearing, the applicant must serve the application notice on each of the other persons by whom the application might have been made and on every person named in the list prepared under paragraph (4) or (5).

(7) Service of the application notice on a person named in the list prepared under paragraph (4) or (5) is notice to that person for the purpose of paragraph 10(3) of Schedule 7 to the Courts Act 2003.

(8) The applicant must produce the list prepared under paragraph (4) or (5) to the court on the hearing of the application.

(9) Every person on whom the application notice was served may attend and be heard on the hearing of the application.

Enforcement in the High Court of a judgment or order for possession of land

83.13.—(1) A judgment or order for the giving of possession of land may be enforced in the High Court by one or more of the following means—

- (a) writ of possession;

[^{F2280}(b) proceedings for contempt of court under Part 81;]

[^{F2281}(c) where no such proceedings are brought, by a writ of sequestration.]

[^{F2282}(2) No writ of possession to enforce a notice under section 33D of the Immigration Act 2014 may be issued without the permission of the court.

(3) No writ of possession against a trespasser may be issued after the expiry of 3 months from the date of the order without the permission of the court.

(4) Unless the court otherwise directs, an application for permission under paragraph (3) may be made without notice to any other party.

[^{F2283}(4A) The court's permission to issue a writ of restitution in aid of a writ of possession is required whether or not permission was required for the writ of possession.]

- (5) An application for a writ of possession may be made without notice.

(6) The person applying for a writ of possession must file a certificate that the land which is the subject of the judgment or order has not been vacated.

(7) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(8) In a case to which paragraph (7) applies or where an order for possession has been suspended on terms as to payment of a sum of money by instalments, the person applying for a writ of possession must certify—

- (a) the amount of money remaining due under the judgment or order; and
- (b) that the whole or part of any instalment due remains unpaid.]

Textual Amendments

- F2280** Rule 83.13(1)(b) substituted (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(2)(a)(i)** (as amended by S.I. 2020/889, **rule 3(a)**)
- F2281** Rule 83.13(1)(c) substituted (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(2)(a)(ii)** (as amended by S.I. 2020/889, **rule 3(a)**)
- F2282** Rule 83.13(2)-(8) substituted for rule 83.13(2)-(9) (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(2)(b)** (as amended by S.I. 2020/889, **rule 3(a)**)
- F2283** Rule 83.13(4A) inserted (27.11.2020) by [The Civil Procedure \(Amendment No. 6\) Rules 2020 \(S.I. 2020/1228\)](#), rules 1(1), 4

Enforcement in the High Court of a judgment or order for delivery of goods

83.14.—(1) A judgment or order for the delivery of any goods which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the goods may be enforced in the High Court by one or more of the following means—

- (a) writ of delivery to recover the goods without alternative provision for recovery of the assessed value of those goods (“writ of specific delivery”);

[^{F2284}(b) proceedings for contempt of court under Part 81;]

[^{F2285}(c) where no such proceedings are brought, by a writ of sequestration.]

(2) A judgment or order for the delivery of any goods or payment of their assessed value may be enforced by one or more of the following means—

- (a) writ of delivery to recover the goods or their assessed value;

- (b) by order of the court, writ of specific delivery;

[^{F2286}(c) proceedings for contempt of court under Part 81;]

(3) An application for an order under paragraph (2)(b) must be made in accordance with Part 23, and must be served on the defendant against whom the judgment or order sought to be enforced was given or made.

(4) A writ of specific delivery, and a writ of delivery to recover any goods or their assessed value, may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(5) A judgment or order for the payment of the assessed value of any goods may be enforced by the same means as any other judgment or order for the payment of money.

- (6) This rule applies to writs in aid of writs of delivery.

Textual Amendments

- F2284** Rule 83.14(1)(b) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **16(3)(a)(i)**
- F2285** Rule 83.14(1)(c) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **16(3)(a)(ii)**
- F2286** Rule 83.14(2)(c) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **16(3)(b)**

[^{F2287}Application for permission to issue writ of sequestration

83.14A.—(1) An application for permission to issue a writ of sequestration must be made—

- (a) to a judge of the Division of the High Court in which the case is proceeding or, in any other case, to a judge of the [^{F2288}King's] Bench Division;
 - (b) by filing an application notice under Part 23.
- (2) The application notice must set out the grounds of the application and must be supported by evidence.
- (3) The supporting evidence must be by affidavit or affirmation unless and to the extent that the court directs otherwise.
- (4) The application must be served personally on the other party or parties unless the court directs otherwise in accordance with Part 6.]

Textual Amendments

F2287Rule 83.14A inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **19(6)** (with rule 2)

F2288Word in rule 83.14A(1)(a) substituted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **39**

SECTION IV

Warrants

Application for warrant of control or warrant of delivery

83.15.—(1) In this rule, “instalment order” means an order for payment of a sum of money by instalments.

- (2) This rule applies in relation to—
 - (a) warrants of control; and
 - (b) warrants of delivery.
- (3) A creditor may apply for a warrant to be issued by filing a request.
- (4) A request for a warrant of control or delivery—
 - (a) may be made without notice; and
 - (b) must be made to—
 - (i) the County Court hearing centre where the judgment or order which it is sought to enforce was made; or
 - (ii) the County Court hearing centre to which the proceedings have since been transferred.
- (5) Subject to paragraph (4)(b)(ii), a request for a warrant of control to enforce a judgment or order made at the [^{F2289}Civil National Business Centre] must be made to that office.
- (6) In the request, the creditor must certify—
 - (a) the amount remaining due under the judgment or order; and
 - (b) where the order made is an instalment order—
 - (i) that the whole or part of any instalment due remains unpaid; and
 - (ii) the amount for which the warrant is to be issued.
- (7) The court officer may discharge the functions of the District Judge under section 85(2) of the County Courts Act 1984 of issuing a warrant.

(8) Unless an instalment order has been made and paragraphs (9) and (10) apply, any warrant issued must be issued for the whole of the sum of money and costs remaining unpaid, and may not be issued for part of the sum.

(9) Where the court has made an instalment order and default has been made in payment of an instalment, then subject to paragraph (10), a warrant of control may be issued for—

- (a) the whole of the sum of money and costs then remaining unpaid; or
- (b) for such part of the sum as the creditor may request, which must not be less than the greater of—
 - (i) £50; or
 - (ii) the amount of one monthly instalment or, as the case may be, four weekly instalments.

(10) Where an instalment order has been made, no warrant will be issued unless at the time when it is issued—

- (a) the whole or part of an instalment which has already become due remains unpaid; and
- (b) any warrant previously issued for part of the sum of money and costs has expired, been satisfied or abandoned.

Textual Amendments

F2289 Words in rule 83.15(5) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **32**

Warrant of control or warrant of delivery – opposition by debtor and debtor’s request for transfer

83.16. The court may, on an application by a debtor who wishes to oppose a request for a warrant of control or warrant of delivery, transfer it to the County Court hearing centre serving the address where the debtor resides or carries on business, or to another court.

Warrant of control or warrant of delivery – execution of High Court judgment

83.17.—(1) Where it is desired to enforce by warrant of control or warrant of delivery—

- (a) a judgment or order of the High Court; or
- (b) a judgment, order, decree or award which is or has become enforceable as if it were a judgment of the High Court,

the request referred to in rule 83.15(3) may be filed in the County Court hearing centre which serves the address where execution is to be levied.

(2) Subject to paragraph (3), any restriction imposed by these rules on the issue of execution will apply as if the judgment, order, decree or award were a judgment or order of the County Court.

(3) Permission to issue execution will not be required if permission has already been given by the High Court.

(4) Notice of the issue of the warrant will be sent by the County Court to the High Court.

Warrants of control and warrants of delivery – description of parties

83.18.—(1) This rule applies where the name or address of the creditor or debtor as given in the request for the issue of the following differs from that person’s name or address in the judgment or order sought to be enforced—

- (a) a warrant of control;
- (b) a warrant of delivery.

(2) If the creditor files a witness statement that satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the creditor or the debtor will be described in the warrant as “CD of [name and address as given in the request] suing [or sued] as AD of [name and address in the judgment or order]”.

Creditor’s request for transfer to the High Court for enforcement

83.19.—(1) This rule applies where the creditor makes a request for a certificate of judgment under rule 40.14A(1) for the purpose of enforcing the judgment or order in the High Court—

- (a) by execution against goods; or
- (b) where the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers.

(2) The grant of a certificate by the court will take effect as an order to transfer the proceedings to the High Court and the transfer will have effect on the grant of that certificate.

(3) On the transfer of proceedings in accordance with paragraph (2), the County Court will—

- (a) give notice to the debtor or the person against whom the possession order was made that the proceedings have been transferred; and
- (b) make an entry of the fact of transfer in the court records.

(4) In a case where a request for a certificate of judgment is made under rule 40.14A(1) for the purpose of enforcing a judgment or order in the High Court and any of the following proceedings are pending, the request for the certificate will not be dealt with until those proceedings are determined—

- (a) an application for a variation in the date or rate of payment of money due under a judgment or order;
- (b) an application [^{F2290}to set aside or vary the judgment];
- (c) a request for an administration order; or
- (d) an application for a stay of execution under section 88 of the County Courts Act 1984.

Textual Amendments

F2290 Words in rule 83.19(4)(b) substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **19(7)**

Warrants of control – bankruptcy or winding up of debtor

83.20.—(1) This rule applies where the enforcement agent responsible for the execution of a warrant of control is required by any provision of the Insolvency Act 1986 or any other enactment relating to insolvency to retain the proceeds of sale of goods sold under the warrant or money paid in order to avoid a sale.

(2) The enforcement agent will, as soon as practicable after the sale or the receipt of the money, send notice to the creditor and the court.

(3) Where the enforcement agent responsible for the execution of a warrant—

- (a) receives notice that—
 - (i) a bankruptcy order has been made against the debtor; or
 - (ii) if the debtor is a company—

- (aa) a provisional liquidator has been appointed; or
 - (bb) an order has been made or a resolution passed for the winding up of the company;
 - (b) withdraws from possession of goods seized; or
 - (c) pays over to—
 - (i) the official receiver or trustee in bankruptcy; or
 - (ii) if the debtor is a company, the liquidator,
 the proceeds of sale of goods sold under the warrant or money paid in order to avoid a sale or seized or received in part satisfaction of the warrant,
- the enforcement agent must send notice to the creditor and the court.

Warrants where the debtor is a farmer

83.21.—(1) This rule applies if—

- (a) any of the following warrants has been issued—
 - (i) a warrant of control;
 - (ii) any other warrant conferring the power to use the TCG procedure; or
 - (iii) a warrant of delivery; and
- (b) the enforcement agent has reason to believe that the debtor is a farmer.

(2) If requested to do so by the court or enforcement agent, the creditor must provide the court or enforcement agent with an official certificate, dated not more than three days beforehand, of the result of a search at the Land Registry as to the existence of any charge registered against the debtor under the Agricultural Credits Act 1928.

(3) If the creditor fails to provide the official certificate referred to in paragraph (2) within 7 days of receipt of the request, the court, of its own motion or on the application of the enforcement agent, may order the creditor to provide the certificate.

Warrants – withdrawal and suspension of warrant at creditor’s request

83.22.—(1) This rule applies if any of the following warrants has been issued—

- (a) a warrant of control;
- (b) any other warrant conferring the power to use the TCG procedure; or
- (c) a warrant of delivery.

(2) Where a creditor requests the court to withdraw the warrant, subject to the following paragraphs of this rule—

- (a) the creditor will be treated as having abandoned the goods; and
- (b) the court will mark the warrant as withdrawn by request of the creditor.

(3) Where the request is made in consequence of an application having been made under Part 85, the enforcement power ceases to be exercisable in respect of the goods claimed.

(4) If the court is requested by the creditor to suspend the warrant because of an arrangement with the debtor, the court will mark the warrant as suspended by request of the creditor and the creditor may subsequently apply to the court for it to be re-issued.

(5) Nothing in this rule will prejudice any right of the creditor to apply for the issue of a fresh warrant or will authorise the re-issue of a warrant which has been withdrawn or has expired or has been superseded by the issue of a fresh warrant.

Warrants of delivery

83.23.—(1) In this rule “warrant of specific delivery” means a warrant to recover goods without alternative provision for recovery of their value.

(2) Except where an act or rule provides otherwise, a judgment or order for the delivery of any goods will be enforceable by warrant of delivery in accordance with this rule.

(3) If the judgment or order does not give the person against whom it was given or made the alternative of paying the value of the goods, it may be enforced by a warrant of specific delivery.

(4) If the judgment or order is for the delivery of the goods or payment of their value, it may be enforced by a warrant of delivery to recover the goods or their value.

(5) Where a warrant of delivery is issued, the creditor will be entitled, by the same or a separate warrant, to execution against the debtor’s goods for any money payable under the judgment or order which is to be enforced by the warrant of delivery.

(6) Where—

(a) a judgment or order is given or made for the delivery of goods or payment of their value; and

(b) a warrant is issued to recover the goods or their value,

money paid into court under the warrant will be appropriated first to any sum of money and costs awarded.

Warrants of delivery other than those conferring a power to use the TCG procedure – notice and inventory requirements

83.24.—(1) This rule applies where—

(a) a warrant of delivery has been issued for the whole or part of a sum of money and costs; and

(b) the warrant does not confer power to use the TCG procedure.

(2) Unless the court orders otherwise, the enforcement agent—

(a) must serve the debtor with a notice warning of the warrant; and

(b) must not levy the warrant until at least 7 days after service of the notice.

(3) Upon levying execution of the warrant, the enforcement agent must leave notice of the warrant at the place where it has been executed.

(4) If the enforcement agent removes the goods, the enforcement agent must deliver or send to the debtor an inventory of the goods removed sufficient for the debtor to identify the goods.

(5) The inventory must be delivered or sent to the debtor within 7 days of the goods being seized by—

(a) delivery to the debtor personally;

(b) sending the inventory by post to the debtor’s place of residence; or

(c) where the debtor’s place of residence is not known, by leaving the inventory for, or sending it to, the debtor at the place from which the goods were removed.

(6) If the enforcement agent fails to supply an inventory in accordance with this rule, the debtor may make an application to the court using the procedure in Part 23, for an order requiring the enforcement agent to do so.

Warrants of delivery conferring a power to use the TCG procedure – notice of enforcement and inventory requirements

83.25.—(1) Where a warrant of delivery confers the power to use the TCG procedure, this rule applies in relation to the parts of the warrant that do not confer that power.

(2) Subject to paragraph (4), the enforcement agent must send a warning notice to the person against whom the warrant is issued not less than 7 clear days before the enforcement agent executes the warrant.

(3) Where the period referred to in paragraph (2) includes a Sunday, bank holiday, Good Friday or Christmas Day, that day does not count in calculating that period.

(4) The court may order that a specified shorter period of notice be given to the debtor.

(5) The enforcement agent may apply for the order by way of application under Part 23 and may make the application as part of an application under rule 84.4.

(6) Upon executing the warrant, the enforcement agent must give to the debtor or leave for the debtor at the place where the warrant is being executed, notice about the execution.

(7) As soon as reasonably practicable, and in any event within 7 days of execution of the warrant, the enforcement agent must provide the debtor with a written inventory of goods taken with a description of the goods to enable the debtor to identify the goods correctly.

(8) If the enforcement agent fails to provide—

(a) notice of execution under paragraph (6); or

(b) an inventory under paragraph (7) within 7 days of execution,

the debtor may make an application to the court under Part 23 for an order requiring the enforcement agent to supply the notice or inventory as appropriate.

(Regulations 6 and 30 to 33 of the TCG Regulations contain notice and inventory requirements that apply in relation to the use of the TCG procedure.)

Warrants of possession

83.26.—(1) A judgment or order for the recovery of land will be enforceable by warrant of possession.

(2) An application for a warrant of possession—

(a) may be made without notice; and

(b) must be made to—

(i) the County Court hearing centre where the judgment or order which it is sought to enforce was made; or

(ii) the County Court hearing centre to which the proceedings have since been transferred.

(3) The court may, on an application by a debtor who wishes to oppose an application for a warrant of possession, transfer it to the County Court hearing centre serving the address where the debtor resides or carries on business, or to another court.

(4) Without prejudice to paragraph (7), the person applying for a warrant of possession must file a certificate that the land which is subject of the judgment or order has not been vacated.

(5) When applying for a warrant of possession of a dwelling-house subject to a mortgage, the claimant must certify that notice has been given in accordance with the Dwelling Houses (Execution of Possession Orders by Mortgagees) Regulations 2010.

(6) Where a warrant of possession is issued, the creditor will be entitled, by the same or a separate warrant, to execution against the debtor's goods for any money payable under the judgment or order which is to be enforced by the warrant of possession.

(7) In a case to which paragraph (6) applies or where an order for possession has been suspended on terms as to payment of a sum of money by instalments, the creditor must in the request certify—

- (a) the amount of money remaining due under the judgment or order; and
- (b) that the whole or part of any instalment due remains unpaid.

(8) A warrant of restitution may be issued, with the permission of the court, in aid of any warrant of possession.

(9) An application for permission under paragraph (8) may be made without notice being served on any other party and must be supported by evidence of—

- (a) wrongful re-entry into possession following the execution of the warrant of possession; and
- (b) such further facts as would, in the High Court, enable the creditor to have a writ of restitution issued.

(10) A warrant of possession to enforce an order for possession in a possession claim against a trespasser under Part 55 (“a warrant of possession against a trespasser”) may be issued at any time after the date on which possession is ordered to be given.

(11) No warrant of possession against a trespasser may be issued after the expiry of 3 months from the date of the order without the permission of the court.

(12) Unless the court otherwise directs, an application for permission under paragraph (11) may be made without notice to any other party.

[^{F2291} **Saving for enforcement by contempt proceedings**

83.27. Nothing in rules 83.23 and 83.26 prejudices any right to bring contempt proceedings under Part 81.]

Textual Amendments

F2291 Rule 83.27 substituted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **19(8)** (with rule 2)

Suspension of part warrant

83.28.—(1) This rule applies where a warrant issued for part of a sum of money and costs payable under a judgment or order is suspended on payment of instalments.

(2) Unless the court otherwise directs, the judgment or order will be treated as suspended on those terms as respects the whole of the sum of money and costs then remaining unpaid.

Concurrent warrants

83.29. Two or more warrants of control may be issued concurrently for execution by two or more different enforcement agents, but—

- (a) no more may be levied under all the warrants together than is authorised to be levied under one of them; and
- (b) unless the court orders otherwise, the costs of more than one warrant will not be allowed against the debtor.]

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

[^{F2292}PART 84

ENFORCEMENT BY TAKING CONTROL OF GOODS

Textual Amendments

F2292 Pt. 84 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), [Sch.](#) (with [rule 41](#))

Modifications etc. (not altering text)

C123 Pt. 84 applied (with modifications) (1.12.2017) by [The Court of Protection Rules 2017 \(S.I. 2017/1035\)](#), [rules 24.2\(f\)](#), [24.6\(1\)](#)

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84.15	Application where there is a dispute regarding a co-owner’s share of proceeds

84.16	Disputes about the amount of fees or disbursements recoverable under the Fees Regulations

SECTION I

Scope and Interpretation

Scope

84.1. This Part contains rules in relation to enforcement by taking control of goods using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.

Interpretation

84.2. In this Part—

- (a) “the Act” means the Tribunals Courts and Enforcement Act 2007;
- (b) “Schedule 12” means Schedule 12 to the Act;
- (c) “creditor” has the meaning given in paragraph 1(6) of Schedule 12;
- (d) “co-owner” has the meaning given in paragraph 3(1) of Schedule 12;
- (e) “debtor” has the meaning given in paragraph 1(5) of Schedule 12;
- (f) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12;
- (g) “Fees Regulations” means the Taking Control of Goods (Fees) Regulations 2014;
- (h) “TCG Regulations” means the Taking Control of Goods Regulations 2013;
- (i) “writ of control” and “warrant of control” are to be construed in accordance with section 62(4) of the Act.

SECTION II

Where and How to make Applications

Where and how to make applications

84.3.—(1) This rule sets out where and how applications referred to in this Part must be made.

(2) Applications referred to in this Part must be made in accordance with the procedure in Part 23 as modified by this Part.

(3) Where there are no pre-existing proceedings, an application referred to in this Part must be made to the County Court.

(4) Where there are pre-existing proceedings, the application must be made to the High Court or the County Court in accordance with rule 23.2.

SECTION III

Taking Control of Goods

Notice of enforcement prior to taking control of goods – application for notice period of less than the minimum period

84.4.—(1) This rule applies where a person seeks an order under regulation 6(3) of the TCG Regulations that a shorter notice period than the minimum period for taking control of goods set out in regulation 6(1) of those Regulations be given to the debtor.

- (2) The person may make an application for the order.
- (3) The application—
 - (a) may be made without notice; and
 - (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved or otherwise disposed of, in order to avoid the enforcement agent taking control of the goods.

Application to extend the period in which to take control of goods

84.5.—(1) An application under regulation 9(4) of the TCG Regulations (application to extend the period in which to take control of goods) must be accompanied by—

- (a) a witness statement made by the person making the application that no previous application under regulation 9(4) has been made to extend that period; and
 - (b) the applicant's grounds for not taking control of goods of the debtor during the period specified in regulation 9(1).
- (2) If—
- (a) the application is made before the expiry of the period specified in regulation 9(1); and
 - (b) the court orders the period of extension,

the period of extension will start on the day after the expiry of the period specified in regulation 9(1), or on such later day as the court may order.

- (3) If the court orders the period of extension—
 - (a) the applicant must serve a copy of the extension order on the debtor, and on the creditor, enforcement agent or enforcement officer as appropriate; and
 - (b) if the goods are to be taken into control by virtue of a warrant or writ of control, or of any other writ or warrant conferring the power to use the procedure in Schedule 12, the court will endorse on the warrant or writ a note of the extension.

Application to take control of goods during prohibited hours

84.6. An application by the enforcement agent under regulation 13(2)(a) of the TCG Regulations for an order allowing goods to be taken into control during hours prohibited by regulation 13(1) of those Regulations—

- (a) may be made without notice; and
- (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved or otherwise disposed of, in order to avoid the enforcement agent taking control of the goods.

Application to enter, re-enter or remain on premises otherwise than during permitted hours

84.7. An application by the enforcement agent under regulation 22(5) of the TCG Regulations for an order allowing the enforcement agent to enter, re-enter or remain on premises at times other than those permitted by regulation 22(2), (3) or (4) of those Regulations—

- (a) may be made without notice; and
- (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved or otherwise disposed of, in order to avoid the enforcement agent taking control of the goods.

Notice of intention to re-enter premises – application for notice period of less than the minimum period

84.8.—(1) This rule applies where a person seeks an order under regulation 25(3) of the TCG Regulations that a shorter notice period than the minimum period for re-entering premises set out in regulation 25(1) of those Regulations be given to the debtor.

- (2) The person may make an application for the order.
- (3) The application—
 - (a) may be made without notice; and
 - (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved to be disposed of, in order to avoid the enforcement agent inspecting or removing the goods.

Application for a warrant to enter premises – conditions to be satisfied before a warrant may be issued

84.9.—(1) This rule applies to an application by an enforcement agent for—

- (a) the issue of a warrant under paragraph 15(1) of Schedule 12;
- (b) the issue of a warrant under paragraph 20(2) of Schedule 12 allowing the use of reasonable force to enter premises; or
- (c) the inclusion in a warrant power under paragraph 21(2) of Schedule 12 to use reasonable force to enter premises.

(2) Where the application is for the issue of a warrant under paragraph 15(1) of Schedule 12, the enforcement agent must provide the court with sufficient evidence and information to satisfy the court that the conditions in paragraph 15(2) of Schedule 12 are met.

(3) Where the application is for the issue of a warrant under paragraph 20(2) or 21(2) of Schedule 12, the enforcement agent must provide the court with sufficient evidence and information to satisfy the court that the conditions set out in regulation 28(2) of the TCG Regulations have been met.

Application for a warrant allowing reasonable force in relation to goods on the highway – conditions to be satisfied before a warrant may be issued

84.10.—(1) This rule applies to an application by an enforcement agent for the issue of a warrant under paragraph 31(1) of Schedule 12 allowing the use of reasonable force in relation to goods on the highway.

(2) The enforcement agent must provide the court with sufficient evidence and information to satisfy the court that the conditions set out in regulation 29(2) of the TCG Regulations have been met.

Application for sale otherwise than by public auction

84.11.—(1) This rule applies to an application by an enforcement agent for an order for sale otherwise than by public auction under paragraph 41(2) of Schedule 12 (“alternative sale application”).

(2) Where the enforcement agent has made a statement to the court under paragraph 41(4) of Schedule 12 (reason to believe that an enforcement power has become exercisable by another creditor against the debtor or co-owner), the alternative sale application must be accompanied by—

- (a) a list of the name and address of every other creditor that the enforcement agent has reason to believe has an exercisable enforcement power against the debtor or co-owner and a explanation of why the enforcement agent has such a belief; and
- (b) a copy of the notice of application required by paragraph 41(5) of Schedule 12 and proof that the notice has been served on such other creditors not less than 4 days before the day fixed for the hearing of the application.

(3) Every person to whom notice of the application was given may attend and be heard on the hearing of the application.

Application in relation to disposal of abandoned goods

84.12.—(1) This rule applies to an application by the enforcement agent under regulation 47(5) of the TCG Regulations for an order for the disposal of goods abandoned by the debtor.

(2) If the enforcement agent applies for an order for disposal by way of donation to a charitable organisation or destruction of goods, the enforcement agent must explain in the application why the enforcement agent does not wish the goods to be made available for a further period of collection.

Application by the debtor for a remedy in relation to goods taken into control

84.13.—(1) This rule applies where the debtor wishes to bring proceedings under paragraph 66 of Schedule 12 for—

- (a) breach of a provision of Schedule 12; or
 - (b) enforcement action taken under a defective instrument.
- (2) The debtor may bring proceedings by way of an application.
- (3) The application must be accompanied by evidence of how—
- (a) the provisions of Schedule 12 are alleged to have been breached; or
 - (b) the instrument is alleged to be defective.

Application by the enforcement agent for exceptional disbursements

84.14.—(1) This rule applies to an application by an enforcement agent for exceptional disbursements under regulation 10 of the Fees Regulations.

(2) The application must be accompanied by—

- (a) evidence of the creditor’s consent to the application; and
- (b) evidence that the disbursements to which the application relate are necessary for effective enforcement of the sum to be recovered, having regard to all the circumstances including—
 - (i) the amount of the sum to be recovered; and
 - (ii) the nature and value of the goods which have been taken into control, or which it is sought to take into control.

(3) Where the application is made before the goods are taken into control, it may be made without notice.

Application where there is a dispute regarding a co-owner's share of proceeds

84.15.—(1) This rule applies to an application under regulation 15 of the Fees Regulations to determine the amount of the proceeds payable to a co-owner.

(2) The applicant must file with the application—

- (a) evidence of the enforcement power;
- (b) a copy of the itemised list of goods sold or otherwise disposed of required by regulation 14(1)(a) of the Fees Regulations;
- (c) a copy of the statement of the sum received in relation to each item required by regulation 14(1)(b)(i) of the Fees Regulations;
- (d) a copy of the statement of the proceeds required by regulation 14(1)(b)(ii) of the Fees Regulations;
- (e) a copy of the statement of the application of the proceeds required by regulation 14(1)(b)(iii) of the Fees Regulations;
- (f) evidence that the share of proceeds paid to the co-owner was not proportionate to the co-owner's interest in the goods sold.

(3) The applicant must serve a copy of the application notice in accordance with table 1.

Table 1

Applicant	Those to be served with a copy of the application notice
Co-owner	Any other co-owners; creditor; debtor; enforcement agent
Creditor	Co-owners; debtor; enforcement agent
Debtor	Co-owners; creditor; enforcement agent
Enforcement agent	Co-owners; creditor; debtor

Disputes about the amount of fees or disbursements recoverable under the Fees Regulations

84.16.—(1) This rule applies where—

- (a) there is a dispute about the amount of fees or disbursements, other than exceptional disbursements, recoverable under the Fees Regulations; and
- (b) a party wishes the court to assess the amounts recoverable under regulation 16 of the Fees Regulations.

(2) A party may make an application to the court to assess the amounts.

(3) The application must be accompanied by—

- (a) evidence of the amount of fees or disbursements in dispute;
- (b) evidence that the fees or disbursements in dispute were not applicable, as the debt had been settled before the stage where it would have been necessary to incur those fees or expenses;
- (c) evidence that, because the enforcement agent was instructed to use the TCG procedure in relation to the same debtor but in respect of more than one enforcement power where the enforcement powers could reasonably be exercised at the same time, regulation 11 of the Fees Regulations should have been applied;

- (d) evidence that the fee due and any disbursements for the enforcement stage, first enforcement stage, or first and second enforcement stage, as appropriate, are not recoverable under regulation 12 of the Fees Regulations; or
- (e) where the dispute concerns the amount of the percentage fee, calculated in accordance with regulation 7 of the Fees Regulations, evidence of the amount of the sum to be recovered.

[^{F2293}SECTION IV

Proceedings in relation to certificates under section 64 of the 2007 Act

Textual Amendments

F2293 Pt. 84 Section 4 inserted (6.4.2014) by [The Civil Procedure \(Amendment No.2\) Rules 2014 \(S.I. 2014/482\)](#), rules 2, 4, **Sch.** (with rule 5)

Interpretation

84.17. In this Section—

- (a) “Certification Regulations” means the Certification of Enforcement Agents Regulations 2014;
- (b) “applicant”, “certificate”, “certificated person” and “complainant” have the meanings given in regulation 2 of the Certification Regulations.

Application for issue of a certificate under section 64 of the 2007 Act

84.18.—(1) This rule applies to an application for the issue of a certificate under section 64 of the 2007 Act.

(2) The application must be made to the [^{F2294}Civil National Business Centre], using the [^{F2295}approved form].

(3) The application must specify one of the County Court hearing centres listed in Practice Direction 84 as the centre at which the application is to be heard.

(4) The application must, in addition to the matters specified in rule 23.6, provide evidence that the applicant fulfils the requirements of regulation 3(b) of the Certification Regulations, and in particular—

- (a) the application must be accompanied by the documents specified in Practice Direction 84; and
- (b) the additional documents specified in Practice Direction 84 must be produced to the court on the day of the hearing.

(5) If any reasons have been submitted to the court in response to the notice of the application required by regulation 4(5) of the Certification Regulations, a copy of those reasons must be sent to the applicant at least 7 days before the hearing, and the applicant may respond both in writing and at the hearing.

(6) The applicant must also file such further evidence as the court may direct.

(7) The applicant must attend for examination on the day of the hearing.

(8) Rules 23.2, 23.4, 23.7, 23.8, 23.9 and 23.10 do not apply to an application to which this rule applies.

Textual Amendments

F2294 Words in rule 84.18(2) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **33**

F2295 Words in rule 84.18(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **32(a)**

Issue of replacement certificates and surrender of certificates

84.19.—(1) Where changes are required to be notified and the certificate produced under regulation 8 of the Certification Regulations, the changes must be notified to, and the certificate produced at, the County Court hearing centre at which the certificate was issued.

(2) Where a certificate is required to be surrendered under regulation 12 of the Certification Regulations, the certificate must be surrendered to the County Court hearing centre at which the certificate was issued.

Complaints as to fitness to hold a certificate

84.20.—(1) This rule applies to a complaint under regulation 9(1) of the Certification Regulations.

(2) The complaint must be submitted to the County Court hearing centre at which the certificate was issued, using the [^{F2296}approved form].

(3) A copy of the complaint must be sent to the applicant at least 14 days before the hearing, and the applicant may respond both in writing and at the hearing.

(4) The complainant is not liable for any costs incurred by the certificated person in responding to the complaint, unless paragraph (5) applies.

(5) The court may order the complainant to pay such costs as it considers reasonable if it is satisfied that the complaint—

- (a) discloses no reasonable grounds for considering that the certificated person is not a fit person to hold a certificate; and
- (b) amounts to an abuse of the court's process.]]

Textual Amendments

F2296 Words in rule 84.20(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **32(b)**

[^{F2297}PART 85

Claims on Controlled Goods and Executed Goods

Textual Amendments

F2297 Pt. 85 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), **Sch.** (with rule 41)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

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SECTION I

Scope and Interpretation

Scope

85.1.—(1) This Part contains rules about claims on controlled goods and executed goods as follows—

- (a) Section II sets out the mode of application for claims under this Part;

- (b) Section III relates to the procedure for making claims to controlled goods;
 - (c) Section IV relates to the procedure for making claims against executed goods;
 - (d) Section V relates to the procedure for a debtor making a claim to exempt goods;
 - (e) Section VI relates to the powers of the court hearing any application under this Part.
- (2) The rules in this Part apply where—
- (a) a person makes an application to the court claiming that goods of which control has been taken belong to that person and not to the debtor;
 - (b) a person makes an application to the court claiming that goods, money or chattels taken or intended to be taken under a writ of execution or the proceeds or value of such goods or chattels belong to that person and not to the debtor; and
 - (c) a debtor, whose goods have been made subject to an enforcement power under an enactment, writ or warrant of control or have been taken or are intended to be taken under a writ of execution, claims that such goods or any of them are exempt goods.

Interpretation

85.2.—(1) In this Part—

- (a) “the Act” means the Tribunals, Courts and Enforcement Act 2007;
- (b) “claim to controlled goods” is a claim made under paragraph 60(1) of Schedule 12;
- (c) “a claim to exempt goods” means a claim by a debtor whose goods have been subject to an enforcement power under an enactment, writ or warrant of control or the right to execute conferred by a writ of execution, that such goods are exempt goods;
- (d) “claimant to controlled goods” means any person making a claim to controlled goods;
- (e) “claimant to executed goods” means any person making a claim to executed goods;
- (f) “the court” has the meaning given in paragraph 60(8) of Schedule 12, in respect of a claim to controlled goods;
- (g) “debtor’s home court” means the Central Office or District Registry of the High Court or the County Court hearing centre serving the address where the debtor resides or carries on business;
- (h) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12;
- (i) “enforcement officer” means an individual who is authorised to act as an enforcement officer under the Courts Act 2003;
- (j) “executed goods” means goods subject to a writ of execution;
- (k) “exempt goods” —
 - (i) in respect of controlled goods has the meaning given in paragraph 3(1) of Schedule 12 and defined in regulations 4 and 5 of the TCG Regulations; and
 - (ii) in respect of executed goods has the meaning given in paragraph 9(3) of Schedule 7 to the Courts Act 2003;
- (l) “goods subject to enforcement” refers to either controlled goods or executed goods;
- (m) “relevant enforcement officer” means—
 - (i) in relation to a writ of execution which is directed to a single enforcement officer, that officer; and
 - (ii) in relation to a writ of execution which is directed to two or more enforcement officers, the officer to whom the writ is allocated;
- (n) “required payments” has the meaning given in paragraph 60(4) of Schedule 12;

- (o) “Schedule 12” means Schedule 12 to the Act;
- (p) “TCG Regulations” means the Taking Control of Goods Regulations 2013;
- (q) “warrant of control” is to be construed in accordance with section 62(4) of the Act;
- (r) “writ of control” is to be construed in accordance with section 62(4) of the Act;
- (s) “writ of execution” includes—
 - (i) a writ of possession;
 - (ii) a writ of delivery;
 - (iii) a writ of sequestration;
 - (iv) writs relating to ecclesiastical property, namely—
 - (aa) a writ of fieri facias de bonis ecclesiasticis;
 - (bb) a writ of sequestrari de bonis ecclesiasticis,
 and any further writ in aid of any such writs, but does not include a writ of control;
- (t) the following words or phrases have the meaning given in paragraph 1 of Schedule 12, in respect of a claim to controlled goods—
 - (i) “creditor”;
 - (ii) “debt”;
 - (iii) “debtor”;
 - (iv) “enforcement power”;
- (u) the following words or phrases have the meaning given in paragraph 3(1) of Schedule 12—
 - (i) “control”;
 - (ii) “controlled goods”;
 - (iii) “co-owner”;
 - (iv) “disposal”;
 - (v) “interest”;
 - (vi) “money”;
 - (vi) “premises”;
 - (vii) “securities”.

SECTION II

Mode of Application for Claims under this Part

Mode of application for claims under this Part

85.3. Any claim under this Part must be made by an application in accordance with Part 23.

SECTION III

Procedure for making a claim to controlled goods

Procedure for making a claim to controlled goods

85.4.—(1) Any person making a claim under paragraph 60(1) of Schedule 12 must, as soon as practicable but in any event within 7 days of the goods being removed under the exercise of an

enforcement power, give notice in writing of their claim to the enforcement agent who has taken control of the goods (“the notice of claim to controlled goods”) and must include in such notice—

- (a) their full name and address, and confirmation that such address is their address for service;
- (b) a list of all those goods in respect of which they make such a claim; and
- (c) the grounds of their claim in respect of each item.

(2) On receipt of a notice of claim to controlled goods which complies with paragraph (1) the enforcement agent must within 3 days give notice of such claim to—

- (a) the creditor; and
- (b) any other person making a claim to the controlled goods under paragraph (1) (“any other claimant to the controlled goods”);

(3) The creditor, and any other claimant to the controlled goods, must, within 7 days after receiving the notice of claim to controlled goods, give notice in writing to the enforcement agent informing them whether the claim to controlled goods is admitted or disputed in whole or in part.

(4) The enforcement agent must notify the claimant to the controlled goods in writing within 3 days of receiving the notice in paragraph (3) whether the claim to controlled goods is admitted or disputed in whole or in part.

(5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to controlled goods is not liable to the enforcement agent for any fees and expenses incurred by the enforcement agent after receipt of that notice by the enforcement agent.

(6) If an enforcement agent receives a notice from a creditor under paragraph (3) admitting a claim to controlled goods the following applies—

- (a) the enforcement power ceases to be exercisable in respect of such controlled goods; and
- (b) as soon as reasonably practicable the enforcement agent must make the goods available for collection by the claimant to controlled goods if they have been removed from where they were found.

(7) Where the creditor, or any other claimant to controlled goods to whom a notice of claim to controlled goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement agent may seek—

- (a) the directions of the court by way of an application; and
- (b) an order preventing the bringing of any claim against them for, or in respect of, their having taken control of any of the goods or having failed so to do.

Procedure for making a claim to controlled goods where the claim is disputed

85.5.—(1) Where a creditor, or any other claimant to controlled goods to whom a notice of claim to controlled goods was given, gives notice under rule 85.4(3) that the claim to controlled goods, or any part of it, is disputed, and wishes to maintain their claim to the controlled goods, the following procedure will apply.

(2) The claimant to controlled goods must make an application which must be supported by—

- (a) a witness statement—
 - (i) specifying any money;
 - (ii) describing any goods claimed; and
 - (iii) setting out the grounds upon which their claim to the controlled goods is based; and
- (b) copies of any supporting documents that will assist the court to determine the claim.

(3) In the High Court the claimant to controlled goods must serve the application notice and supporting witness statements and exhibits on—

- (a) the creditor;
 - (b) any other claimant to controlled goods of whom the claimant to controlled goods is aware; and
 - (c) the enforcement agent.
- (4) In the County Court when the application is made the claimant to controlled goods must provide to the court the addresses for service of—
- (a) the creditor;
 - (b) any other claimant to controlled goods of whom the claimant to controlled goods is aware; and
 - (c) the enforcement agent,
- ("the respondents"), and the court will serve the application notice and any supporting witness statement and exhibits on the respondents.
- (5) An application under paragraph (2) must be made to the court which issued the writ or warrant conferring power to take control of the controlled goods, or, if the power was conferred under an enactment, to the debtor's home court.
- (6) The claimant to controlled goods must make the required payments on issue of the application in accordance with paragraph 60(4)(a) of Schedule 12, unless such claimant seeks a direction from the court that the required payment be a proportion of the value of the goods, in which case they must seek such a direction immediately after issue of the application, on notice to the creditor and to the enforcement agent.
- (7) The application notice will be referred to a Master or District Judge.
- (8) On receipt of an application for a claim to controlled goods, the Master or District Judge may—
- (a) give directions for further evidence from any party;
 - (b) list a hearing to give directions;
 - (c) list a hearing of the application;
 - (d) determine the amount of the required payments, make directions or list a hearing to determine any issue relating to the amount of the required payments or the value of the controlled goods;
 - (e) stay, or dismiss, the application if the required payments have not been made;
 - (f) make directions for the retention, sale or disposal of the controlled goods;
 - (g) give directions for determination of any issue raised by a claim to controlled goods.

SECTION IV

Procedure for making a Claim against Executed Goods

Procedure for making a claim against executed goods

85.6.—(1) A claimant to executed goods must, as soon as practicable but in any event within 7 days of the goods being removed by the enforcement officer, give notice in writing of their claim to the relevant enforcement officer ("the notice of claim to executed goods") and must include in such notice—

- (a) their full name and address, and confirmation that such address is their address for service;
- (b) a list of all those goods in respect of which they make such a claim; and
- (c) the grounds of their claim in respect of each item.

(2) On receipt of a notice of claim to executed goods which complies with paragraph (1) the enforcement officer must within 3 days give notice of such claim to—

- (a) the creditor; and
- (b) any other person making a claim to the executed goods under paragraph (1) (“any other claimant to the executed goods”).

(3) The creditor, and any other claimant to executed goods, must, within 7 days after receiving the notice of claim to the executed goods, give notice in writing to the enforcement officer informing them whether the claim to the executed goods is admitted or disputed in whole or in part.

(4) The enforcement officer must notify the claimant to executed goods in writing within 3 days of receiving the notice in paragraph (3) whether the claim to executed goods is admitted or disputed in whole or in part.

(5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to executed goods is not liable to the enforcement officer for any fees and expenses incurred by the enforcement officer after receipt of that notice by the enforcement officer.

(6) If an enforcement officer receives a notice from a creditor under paragraph (3) admitting a claim to executed goods the following applies—

- (a) the writ of execution ceases to be exercisable in respect of such executed goods; and
- (b) as soon as reasonably practicable the enforcement officer must make the goods available for collection by the claimant to executed goods if the enforcement officer has removed the goods from where they were found.

(7) Where the creditor, or any other claimant to executed goods to whom a notice of claim to executed goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement officer may seek—

- (a) the directions of the court by way of an application; and
- (b) an order preventing the bringing of any claim against them for, or in respect of, the seizure of the executed goods or their having failed so to do.

(8) An application under paragraph (7) must be made to the court which issued the writ of execution.

Procedure for making a claim to executed goods where the claim is disputed

85.7.—(1) Where a creditor, or any other claimant to executed goods to whom a notice of claim to executed goods was given, gives notice under rule 85.6(3) that the claim to executed goods, or any part of it, is disputed, and wishes to maintain their claim, the following procedure will apply.

(2) The claimant to executed goods must make an application by application notice which must be supported by—

- (a) a witness statement—
 - (i) specifying any money;
 - (ii) describing any goods claimed; and
 - (iii) setting out the grounds upon which the claim to the executed goods is based; and
- (b) copies of any supporting documents that will assist the court to determine the claim.

(3) The claimant to executed goods must serve the application notice and supporting witness statements and exhibits on—

- (a) the creditor;
- (b) any other claimant to the executed goods of whom they are aware; and
- (c) the relevant enforcement officer.

(4) An application under paragraph (2) must be made to the court which issued the writ of execution.

(5) The application notice will be referred to a Master or District Judge of a District Registry.

(6) On receipt of an application for a claim to executed goods, the Master or District Judge may—

- (a) give directions for further evidence from any party;
- (b) list a hearing to give directions;
- (c) list a hearing of the application;
- (d) make directions for the retention, sale or disposal of the executed goods; and
- (e) give directions for determination of any issue raised by a claim to executed goods.

(Rule 83.3(11) provides that the validity of a writ of execution is automatically extended following an application under paragraph (2) until 12 months from the conclusion of the application proceedings.)

SECTION V

Procedure for a Debtor making a Claim to Exempt Goods

Procedure for a debtor making a claim to exempt goods

85.8.—(1) A debtor making a claim to exempt goods must, as soon as practicable and in any event within 7 days of the removal of the goods, give notice in writing of the claim to exempt goods (“notice of claim to exempt goods”) to the enforcement agent who has taken control of the goods or relevant enforcement officer and must include in such notice—

- (a) their full name and address and that address is their address for service;
- (b) a list of all those goods in respect of which they make such a claim; and
- (c) the grounds of the claim in respect of each item.

(2) On receipt of a notice of claim to exempt goods, the enforcement agent or relevant enforcement officer must within 3 days give notice of such claim to—

- (a) the creditor; and
- (b) any other person making a claim under rule 85.4 or 85.6 to the goods subject to enforcement (“any other claimant to the goods subject to enforcement”).

(3) The creditor, and any other claimant to the goods subject to enforcement, must, within 7 days after receiving the notice of claim to exempt goods, give notice in writing to the enforcement agent or relevant enforcement officer informing them whether the claim to exempt goods is admitted or disputed in whole or in part.

(4) The enforcement agent or relevant enforcement officer must notify the debtor in writing within 3 days of receiving the notice in paragraph (3) whether the claim to exempt goods is admitted or disputed in whole or in part.

(5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to controlled goods or to executed goods is not liable to the enforcement agent or officer for any fees and expenses incurred by the enforcement agent or officer after receipt of that notice by the enforcement agent or officer.

(6) If an enforcement agent or relevant enforcement officer receives a notice from a creditor and from any other claimant to the goods subject to enforcement under paragraph (3) admitting a claim to exempt goods the following applies—

- (a) the enforcement power ceases to be exercisable, and the right to execute conferred by any writ of execution ceases to have effect, in respect of such exempt goods;
- (b) as soon as reasonably practicable the enforcement agent or relevant enforcement officer must make the goods available for collection by the debtor if the enforcement agent or officer has removed them from where they were found.

(7) Where the creditor, or any other claimant to the goods subject to enforcement to whom notice of claim to exempt goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement agent or relevant enforcement officer may seek—

- (a) the directions of the court by way of an application; and
- (b) an order preventing the bringing of any claim against them for, or in respect of, their having taken control of or seized by execution any of the goods or their having failed to do so.

(8) An application under paragraph (7) must be made to the court which issued the writ or warrant conferring power to take control of controlled goods, or the writ of execution or, if the power to take control of controlled goods was conferred under an enactment, to the County Court hearing centre which is the debtor's home court.

Procedure for making a claim to exempt goods where the claim is disputed

85.9.—(1) Where a creditor, or any other claimant to goods subject to enforcement to whom notice of a claim to exempt goods was given, gives notice under rule 85.8 that the claim to exempt goods, or any part of it, is disputed, and wishes to maintain their claim on the goods subject to enforcement, the following procedure will apply.

(2) The debtor must make an application within 7 days of receiving the notice under rule 85.8(3) which must be supported by—

- (a) a witness statement—
 - (i) describing any goods to which a claim to exempt goods is made; and
 - (ii) setting out the grounds upon which such claim is based; and
- (b) copies of any supporting documents that will assist the court to determine such claim.

(3) In the High Court the debtor must serve the application notice and supporting witness statements and exhibits on—

- (a) the creditor;
- (b) any other claimant to the goods subject to enforcement of whom they are aware; and
- (c) the enforcement agent or relevant enforcement officer.

(4) In the County Court the debtor must provide to the court when the application is made the addresses for service of—

- (a) the creditor;
- (b) any other claimant to controlled goods of whom the debtor is aware; and
- (c) the enforcement agent,

("the respondents"), and the court will serve the application notice and supporting witness statements and exhibits on the respondents.

(5) An application under paragraph (2) must be made to the court which issued the writ or warrant conferring power to take control of controlled goods or the writ of execution or if the power to take control of controlled goods was conferred under an enactment, to the debtor's home court.

(6) The application notice will be referred to a Master or District Judge.

(7) On receipt of an application for a claim to exempt goods, the Master or District Judge may—

- (a) give directions for further evidence;
- (b) list a hearing to give directions;
- (c) list a hearing of the application;
- (d) make directions for the retention, sale or disposal of the goods subject to the claim to exempt goods;
- (e) give directions for determination of any issue raised by the exempt goods claim.

SECTION VI

Powers of the Court hearing any application under this Part

Directions and determination of claims

85.10.—(1) At any hearing of any application under this Part the court may—

- (a) determine an application summarily; or
- (b) give directions for the determination of any issue raised by such application;
- (c) order that any issue between any parties to a claim to goods subject to enforcement be stated and tried, and give all necessary directions for trial;
- (d) give directions for the purpose of determining the amount of the required payments or any underpayment of the required payments pursuant to paragraph 60(5) of Schedule 12 and regulation 49 of the TCG Regulations;
- (e) summarily determine the amount of the required payments or any underpayment of the required payments pursuant to paragraph 60(5) of Schedule 12 and regulation 49 of the TCG Regulations;
- (f) make directions for the retention, sale or disposal of goods subject to enforcement and for the payment of any proceeds of sale; or
- (g) make any order that the court considers appropriate.

(2) Where a claimant to goods subject to enforcement or a debtor making a claim to exempt goods does not appear at any hearing listed on the application or, having appeared, fails or refuses to comply with an order made in the proceedings, the court may make an order declaring such claimant, or the debtor, and all persons claiming under them, for ever barred from prosecuting their claim against the creditor or any other claimant to the goods subject to enforcement, but such an order will not affect the rights of any other claimants to the goods subject to enforcement as between themselves.

(3) Where a claimant to goods subject to enforcement alleges that they are entitled, under a bill of sale or otherwise, to the controlled goods or to the executed goods by way of security for debt, the court may order those goods or any part thereof to be sold and may direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

(4) Nothing in this rule limits the court's case management powers to make any other directions permissible under these Rules.

Trial of issue

85.11.—(1) Part 39 will, with the necessary modifications, apply to the trial of an issue in an application under this Part as it applies to the trial of a claim.

(2) The court by which an issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the application.

(3) Practice Direction 2B applies to the trial of an issue in an application under this Part.

Costs

85.12.—(1) The court may in or for the purposes of any application under this Part make such order as to costs as it thinks just.

(2) Where a claimant to goods subject to enforcement or a debtor in a claim to exempt goods fails to appear at a hearing, the court may direct that the enforcement agent’s or officer’s costs and creditor’s costs will be assessed by a Master, District Judge, Costs judge or Costs officer.

(3) In a claim to controlled goods a debtor may request the court to assess the costs incurred by an enforcement agent, in which case the court will apply the Taking Control of Goods (Fees) Regulations 2014 to such assessment.

(4) In a claim to executed goods a debtor may request the court to assess the costs incurred by an enforcement officer, in which case the court will apply Schedule 3 of the High Court Enforcement Officers Regulations 2004 to such assessment, save in relation to the costs of execution of writs of sequestration and writs relating to ecclesiastical property.]

[^{F2298}PART 86

Stakeholder Claims and Applications

Textual Amendments

F2298Pt. 86 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), [Sch.](#) (with rule 41)

Contents of this Part

86.1	Scope of this Part and interpretation
86.2	Stakeholder application
86.3	Powers of the court hearing a stakeholder application
86.4	Trial of issue
86.5	Costs

Scope of this Part and interpretation

86.1.—(1) This Part contains rules which apply where—

- (a) a person is under a liability in respect of a debt or in respect of any money, goods or chattels; and
- (b) competing claims are made or expected to be made against that person in respect of that debt or money or for those goods or chattels by two or more persons.

(2) In this Part—

- (a) “stakeholder” means any person to whom paragraph (1) applies;
- (b) “stakeholder application” means an application made under rule 86.2(1).

Stakeholder application

86.2.—(1) A stakeholder may make an application to the court for a direction as to whom the stakeholder should—

- (a) pay a debt or money; or
- (b) give any goods or chattels.

(2) Such application must be made to the court in which an existing claim is pending against the stakeholder, or, if no claim is pending, to the court in which the stakeholder might be sued.

(3) A stakeholder application must be made by Part 8 claim form unless made in an existing claim, in which case it must be made by application notice in accordance with Part 23.

(4) A claim form or application notice under this rule must be supported by a witness statement stating that the stakeholder—

- (a) claims no interest in the subject-matter in dispute other than for charges or costs;
- (b) does not collude with any of the claimants to that subject-matter; and
- (c) is willing to pay or transfer that subject-matter into court or to dispose of it as the court may direct.

(5) The stakeholder must serve the claim form or application notice on all other persons who, so far as they are aware, asserts a claim to the subject matter of the stakeholder application.

(6) A respondent who is served with a claim form or application notice under this rule must within 14 days file at court and serve on the stakeholder a witness statement specifying any money and describing any goods and chattels claimed and setting out the grounds upon which such claim is based.

(7) The claim form or application notice will be referred to a Master or a District Judge.

Powers of court hearing a stakeholder application

86.3.—(1) At any hearing in a stakeholder application, the court may—

- (a) order that any stakeholder or any claimant to the subject matter of the application be made a defendant in any claim pending with respect to the subject-matter in dispute;
- (b) order that an issue between all parties be stated and tried and may direct which of the parties is to be claimant and which defendant, and give all necessary directions for trial;
- (c) determine the stakeholder application summarily;
- (d) give directions for the determination of the application summarily or of any issue on the application; or
- (e) give directions for the retention, sale or disposal of the subject matter of the application, and for the payment of any proceeds of sale.

(2) Nothing in this rule limits the court's case management powers to make any other directions permissible under these Rules.

Trial of issue

86.4.—(1) Part 39 will, with the necessary modifications, apply to the trial of a preliminary issue directed to be tried in a stakeholder application as it applies to the trial of a claim.

(2) The court by which an issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the stakeholder application.

Costs

86.5.—(1) The court may in or for the purposes of any stakeholder application make such order as to costs or any other matter as it thinks just.

(2) Where a respondent fails to appear at the hearing, the court may direct that the stakeholder's costs shall be summarily assessed.]

[^{F2299}PART 87

APPLICATIONS FOR WRIT OF HABEAS CORPUS

Textual Amendments

F2299Pt. 87 inserted (6.4.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rule 2(c), [Sch. 2](#)

Contents of this Part

<i>Title</i>	<i>Rule number</i>
SECTION 1 – SCOPE AND INTERPRETATION	
Scope and interpretation of this Part	Rule 87.1
SECTION 2 – APPLICATIONS TO THE HIGH COURT FOR A WRIT OF HABEAS CORPUS FOR RELEASE	
How to make the application for the writ of habeas corpus for release	Rule 87.2
Initial consideration of the application by a judge	Rule 87.3
Initial consideration of the application on paper	Rule 87.4
Consideration of the application at a hearing	Rule 87.5
Order for release: sufficient authority to release detained person	Rule 87.6
Applications involving protected parties	Rule 87.7
Form and directions as to the return to the writ	Rule 87.8
Service of the writ	Rule 87.9
Return to the writ	Rule 87.10
Procedure at hearing of the writ	Rule 87.11
SECTION 3 – WRIT OF HABEAS CORPUS TO GIVE EVIDENCE OR TO ANSWER A CHARGE	
Writ of habeas corpus to give evidence or answer a charge	Rule 87.12

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Title

Rule number

SECTION 1

SCOPE AND INTERPRETATION

Scope and interpretation of this Part

87.1 This Part contains rules about applications to the court as follows —

- (a) Section 2 relates to applications for a writ of habeas corpus for release; and
- (b) Section 3 relates to applications for a writ of habeas corpus to give evidence or a writ of habeas corpus to answer a charge.

(The Family Procedure Rules 2010 contain rules about applications for a writ of habeas corpus for release in relation to a minor.)

(2) In Sections 2 and 3—

- (a) “judge” means a judge of the High Court; and
- (b) “court” means the High Court,

unless otherwise specified.

SECTION 2

APPLICATIONS TO THE HIGH COURT FOR A WRIT OF HABEAS CORPUS FOR RELEASE

How to make the application for a writ of habeas corpus for release

87.2.—(1) The applicant must make the application by filing—

- (a) a claim form under Part 8; and
- (b) a witness statement or affidavit.

(2) The witness statement or affidavit must—

- (a) state that the application is made at the instance of the person being detained;
- (b) set out the nature of the detention; and
- (c) subject to paragraph (3), be made by the detained person.

(3) If the detained person is unable to make the witness statement or affidavit, the witness statement or affidavit—

- (a) may be made by some other person on behalf of the detained person; and
- (b) must state the reason why the detained person is unable to make the witness statement or affidavit.

(4) The claim form must be filed in the Administrative Court.

(5) The application may be made without notice.

(6) In cases of urgency, the judge—

- (a) may dispense with the requirement that a claim form must be filed; and
- (b) must give directions for the conduct of the application.

Initial consideration of the application by a single judge

- 87.3.**—(1) A judge may consider an application under rule 87.2 initially on paper.
- (2) If an application has not been considered initially on paper, it must be considered—
- (a) by a judge sitting in court, unless rule 87.7 applies; or
 - (b) if no judge is sitting in court, by a judge otherwise than in court.

Initial consideration of the application on paper

- 87.4.**—(1) Where the judge considers the application under rule 87.2 on paper, the judge may—
- (a) make an order for the issue of the writ;
 - (b) adjourn the application to a hearing;
 - (c) direct that the application be considered by a Divisional Court of the [^{F2300}King’s] Bench Division;
 - (d) direct that the application continues as an application for permission to apply for judicial review;
 - (e) give such other directions for resolution of the application as may be appropriate; or
 - (f) dismiss the application.
- (2) Where the judge dismisses a paper application, the applicant may request the decision to be reconsidered at a hearing.
- (3) A request under paragraph (2) must be filed within 7 days after service of the order dismissing the application.
- (4) The applicant and the respondent must be given at least 2 days’ notice of the hearing date.

Textual Amendments

F2300 Word in rule 87.4(1)(c) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), **40(1)**

Consideration of the application at a hearing

- 87.5.** Where the judge considers the application under rule 87.2 at a hearing, including a hearing ordered under rule 87.4(1)(b) or a hearing requested under rule 87.4(2), the judge may—
- (a) make an order for the issue of the writ;
 - (b) adjourn the application to a further hearing;
 - (c) direct that the application be considered by a Divisional Court of the [^{F2301}King’s] Bench Division;
 - (d) direct that the application continues as an application for permission to apply for judicial review;
 - (e) give such other directions for resolution of the application as may be appropriate;
 - (f) dismiss the application; or
 - (g) order that the detained person must be released.

Textual Amendments

F2301 Word in [rule 87.5\(c\)](#) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [40\(2\)](#)

Order for release: sufficient authority to release detained person

87.6. An order made under [rule 87.5\(g\)](#) is sufficient authorisation for a governor of a prison, police officer or other person to release the detained person.

Applications involving protected parties

87.7. Any application made on behalf of a protected party must initially be considered by a judge otherwise than in court.

Form and directions as to the return to the writ

87.8.—(1) A writ of habeas corpus for release must be in Practice Form No. 89 ^{F2302}....

(2) A court or judge issuing a writ of habeas corpus for release must give directions as to the court or judge before whom, and the date on which, the writ is returnable.

Textual Amendments

F2302 Words in [rule 87.8\(1\)](#) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), [rules 1\(1\)](#), [33\(a\)](#)

Service of the writ

87.9.—(1) Subject to paragraphs (2) and (3), the applicant must serve the writ of habeas corpus for release personally on the respondent.

(2) If it is not practicable to serve the writ personally, or if the respondent is the governor of a prison or other public official, the applicant must serve the writ by leaving it with an employee or agent of the respondent at the place where the detained person is being held.

(3) If there is more than one respondent named in the writ, the original writ must be served according to this rule on the first-named respondent, and copies must be served on the other respondents.

(4) The court must notify all parties—

- (a) of the court or judge before whom, and the date on which, the writ is to be returned to the court; and
- (b) that in default of obedience, proceedings for committal of the party disobeying may be taken.

Return to the writ

87.10.—(1) The return to a writ of habeas corpus for release must—

- (a) be indorsed on or annexed to the writ; and
- (b) state all the causes of the detention of the detained person.

(2) The return may be amended, or another return substituted for it, by permission of the court or judge before whom the writ is returnable.

(3) The return must be filed and served upon the applicant in accordance with the directions of the court issuing the writ.

Procedure at hearing of the writ

87.11. At the hearing of the writ an application may be made—

- (a) to discharge or remand the detained person; or
- (b) to amend or quash the return.

SECTION 3

WRIT OF HABEAS CORPUS TO GIVE EVIDENCE OR TO ANSWER A CHARGE

Writ of habeas corpus to give evidence or to answer a charge

87.12.—(1) An application for a writ of habeas corpus to give evidence or a writ of habeas corpus to answer a charge must be made to a judge and be supported by a witness statement or affidavit.

(2) A writ of habeas corpus to give evidence must be in Practice Form No. 91 ^{F2303}

(3) A writ of habeas corpus to answer a charge must be in Practice Form No. 92 ^{F2304}

(4) An application for an order to bring up a prisoner otherwise than by writ of habeas corpus, to give evidence in any criminal or civil proceedings before any court, tribunal or judge, must be—

- (a) made to a judge or, in the case of an application for an order under section 57 of the County Courts Act 1984, a judge of the County Court; and
- (b) supported by a witness statement or affidavit.]

Textual Amendments

F2303 Words in [rule 87.12\(2\)](#) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), [rules 1\(1\)](#), [33\(b\)](#)

F2304 Words in [rule 87.12\(3\)](#) omitted (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), [rules 1\(1\)](#), [33\(b\)](#)

^{F2305} PART 88

PROCEEDINGS UNDER THE COUNTER-TERRORISM AND SECURITY ACT 2015

Textual Amendments

F2305 Pt. 88 inserted (27.2.2015) by [The Civil Procedure \(Amendment\) Rules 2015 \(S.I. 2015/406\)](#), [rule 1](#), [Sch.](#)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

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SECTION I

Application of this Part

Scope and interpretation

88.1.—(1) This Part contains rules about—

- (a) TEO proceedings in the High Court; and
- (b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

(2) In this Part—

- (a) “the Act” means the Counter-Terrorism and Security Act 2015;
- (b) “closed material” means any relevant material that the Secretary of State objects to disclosing to a relevant party on the grounds that disclosure is contrary to the public interest;
- (c) “legal representative” is to be construed in accordance with paragraph 4(4)(b) of Schedule 3 to the Act;
- (d) “TEO” means a temporary exclusion order (which has the same meaning as in section 2 of the Act);
- (e) “open material” means any relevant material that the Secretary of State does not object to disclosing to a relevant party on the grounds that disclosure is contrary to the public interest;
- (f) “relevant material” means the material described in paragraph 3(1)(a) to (c) of Schedule 3 to the Act;
- (g) “relevant party” means any party to the proceedings other than the Secretary of State;
- (h) “special advocate” means a person appointed under paragraph 10(1) of Schedule 3 to the Act;
- (i) “TEO proceedings” has the same meaning as in paragraph 1 of Schedule 3 to the Act;

(j) “TEO subject” means an individual on whom the Secretary of State has imposed, or is proposing to impose, a TEO.

(3) For the purposes of this Part, disclosure is contrary to the public interest if it is made contrary to the interests of national security, the international relations of the United Kingdom or the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.

Modification to the overriding objective

88.2.—(1) Where any of the rules in this Part applies, the overriding objective in Part 1, and so far as possible any other rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The court must ensure that information is not disclosed [^{F2306}contrary to the public interest].

(3) Subject to paragraph (2), the court must satisfy itself that the material available to it enables it properly to determine proceedings.

Textual Amendments

F2306 Words in [rule 88.2\(2\)](#) substituted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), [rules 2, 9\(a\)](#)

SECTION II

Permission applications, reviews and references to the High Court relating to temporary exclusion orders

Scope of this Section

88.3. This Section contains rules about—

- (a) applications under section 3(1)(b) of the Act (application for permission to impose a TEO);
- (b) references under paragraph 3(1) of Schedule 2 to the Act (reference of the imposition of measures imposed without permission); and
- (c) applications to the High Court under section 11 of the Act (applications to the court to review decisions of the Secretary of State relating to a TEO).

Application for permission to impose a TEO

88.4. An application under section 3(1)(b) of the Act for permission to impose a TEO must be made by the Secretary of State filing with the court—

- (a) a statement of reasons to support the application;
- (b) any relevant material of which the Secretary of State is aware at that stage; and
- (c) any written submissions.

Reference of TEO imposed without permission

88.5. A reference under paragraph 3(1) of Schedule 2 to the Act of the imposition of a TEO imposed without permission must be made by the Secretary of State filing with the court—

- (a) a statement of reasons for imposing the TEO;
- (b) any relevant material of which the Secretary of State is aware at that stage; and

- (c) any written submissions.

Application for review under section 11 of the Act

88.6. Rules 88.7 to 88.14 apply to a review under section 11 of the Act.

Applications (general) and modification of Part 8

88.7.—(1) An application to the court to review a decision under section 11 of the Act (“a review application”) must be made pursuant to Part 8, as modified by this Part, and subject to paragraph (2).

- (2) The following rules do not apply to a review application—
 - (a) rule 8.1(3) (court may order claim to continue as if claimant had not used Part 8 procedure);
 - (b) rule 8.2A (issue of claim form without naming defendants);
 - (c) rule 8.4 (consequence of not filing an acknowledgment of service);
 - (d) rule 8.5 (filing and serving written evidence);
 - (e) rule 8.6 (evidence – general); and
 - (f) rule 8.8 (defendant objects to use of Part 8).

Review application

88.8.—(1) A review application must be started by a claim form.

- (2) The claim form must set out—
 - (a) the details of the decision which it is sought to review;
 - (b) details of how the TEO subject is affected by the TEO; and
 - (c) the grounds on which the TEO subject seeks to review the decision.
- (3) The TEO subject must file with the claim form—
 - (a) a copy of—
 - (i) the written notice under section 4 of the Act of the imposition of the TEO; or
 - (ii) where relevant, any notice under section 9 of the Act imposing any or all of the permitted conditions; and
 - (b) any evidence, including witness statements, on which the TEO subject relies at that stage.

Fixing of directions hearing date

88.9.—(1) When the court issues the claim form it [^{F2307}must] fix a date for a directions hearing.

(2) Unless the court directs otherwise, the directions hearing will be not less than 14 days but not more than 28 days after the date of issue of the claim form.

Textual Amendments

F2307Word in [rule 88.9\(1\)](#) substituted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), [rules 2, 9\(b\)](#)

Service of the claim form and accompanying documents

88.10. The court must—

- (a) serve on the Secretary of State and any special advocate (if one has been appointed)—

- (i) the claim form; and
 - (ii) the documents specified in rule 88.8(3); and
- (b) send to all parties and to any special advocate a notice of the directions hearing date (where such date is not endorsed on the claim form).

Acknowledgment of service

88.11. Where a special advocate has been appointed, the Secretary of State must serve on that special advocate a copy of the acknowledgment of service filed under rule 8.3.

Directions hearing

- 88.12.** At the directions hearing the court may give case management directions, in particular—
- (a) for the holding of a further hearing to determine the application;
 - (b) fixing a date, time and place for the further hearing at which the parties, their legal representatives (if any) and any special advocate can be present; and
 - (c) as to the order in which, and the time within which, the following are to be filed and served—
 - (i) any response to the application to be filed and served by the Secretary of State under rule 88.13(1), (2) and (4);
 - (ii) any application to be made under rule 88.13(5);
 - (iii) any information to be filed and served by the Secretary of State pursuant to an order under rule 88.13(7);
 - (iv) any evidence to be filed and served by the TEO subject under rule 88.14(1);
 - (v) any evidence to be filed and served by the Secretary of State under rule 88.14(2);
 - (vi) any application by the Secretary of State under rule 88.13(3), 88.13(8) or 88.14(3); and
 - (vii) any further evidence, including witness statements, written submissions or skeleton arguments, to be filed and served by the parties and any special advocate.

Response by the Secretary of State

88.13.—(1) Where the Secretary of State intends to oppose the exercise of any of the court's powers under section 11(3) or (5) of the Act, the Secretary of State must file with the court—

- (a) the grounds for opposing the exercise of those powers; and
- (b) any relevant evidence of which the Secretary of State is aware at that stage.

(2) Unless the Secretary of State objects to the grounds and evidence referred to in paragraph (1) being disclosed to the TEO subject and the TEO subject's legal representative, the Secretary of State must serve a copy of the grounds and evidence on the TEO subject at the same time as filing them.

(3) Where the Secretary of State objects to the grounds and evidence referred to in paragraph (1) being disclosed to the TEO subject and the TEO subject's legal representative, the Secretary of State must make an application in accordance with rule 88.27.

(4) Where a special advocate has been appointed, the Secretary of State must serve on the special advocate a copy of the grounds and evidence filed under paragraph (1).

(5) The TEO subject and any special advocate may apply to the court for an order directing the Secretary of State to file and serve further information about the Secretary of State's grounds filed under paragraph (1)(a).

- (6) An application under paragraph (5) must set out—
- (a) what information is sought; and
 - (b) why the information sought is necessary for the determination of the review application.
- (7) The court may make an order on an application under paragraph (5) where it considers that the information sought—
- (a) is necessary for the determination of the review application; and
 - (b) may be provided without disproportionate cost, time or effort.
- (8) Where the Secretary of State objects to serving on the TEO subject and the TEO subject's legal representative the information sought under paragraph (5), the Secretary of State must make an application in accordance with rule 88.27.

Filing and service of evidence

88.14.—(1) Where the TEO subject wishes to rely on evidence in support of the review application and—

- (a) such evidence was not filed with the court with the claim form; or
- (b) such evidence was filed with the court with the claim form but the TEO subject wishes to rely on further evidence,

the TEO subject must file and serve that evidence, including any witness statement, on the Secretary of State and any special advocate.

(2) Where the TEO subject serves evidence in support of the application, the Secretary of State must file and serve, subject to paragraph (3), any further evidence, including any witness statement, on the TEO subject and any special advocate.

(3) Where the Secretary of State wishes to withhold disclosure of any closed material from the TEO subject and the TEO subject's legal representative, the Secretary of State must make an application in accordance with rule 88.27.

(4) The Secretary of State must serve any closed material on the special advocate.

(5) The parties and, where relevant, any special advocate must file and serve any further evidence, including witness statements, written submissions or skeleton arguments, as directed by the court.

SECTION III

Appeals to the Court of Appeal

Modification of Part 52 (appeals)

88.15.—(1) Part 52 (appeals) applies to an appeal to the Court of Appeal against an order of the High Court in TEO proceedings subject to—

- (a) rule 88.2;
- (b) the rules in Section IV of this Part; and
- (c) paragraphs (2) and (3) of this rule.

(2) The following rules do not apply to appeals to the Court of Appeal—

- (a) rule [F2308]52.12(1) (appellant's notice); and
- (b) rule [F2309]52.13 (respondent's notice).

(3) Rule 52.2 (all parties to comply with Practice Directions 52A to 52E) applies, but the parties are not required to comply with paragraphs 3(3), 7.2 and 27 of Practice Direction 52C.

Textual Amendments

F2308 Word in rule 88.15(2)(a) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **15(a)**

F2309 Word in rule 88.15(2)(b) substituted (3.10.2016) by [The Civil Procedure \(Amendment No. 3\) Rules 2016 \(S.I. 2016/788\)](#), rules 2, **15(b)**

SECTION IV*General provisions***Scope of this Section**

88.16. This Section applies to

- (a) TEO proceedings in the High Court; and
- (b) appeals to the Court of Appeal against an order of the High Court in such proceedings.

Address for filing proceedings

88.17.—(1) Any TEO proceedings must be filed at the Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London WC2A 2LL.

(2) Any appeals to the Court of Appeal against an order of the High Court in TEO proceedings must be filed at the Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL.

Applications for anonymity

88.18.—(1) The TEO subject or the Secretary of State may apply for an order requiring anonymity for the TEO subject.

(2) An application under paragraph (1) may be made at any time, irrespective of whether any TEO proceedings have been commenced.

(3) An application may be made without notice to the other party.

(4) The reference in this rule to an order requiring anonymity for the TEO subject is to be construed in accordance with paragraph 6(3) of Schedule 3 to the Act.

Notification of hearings

88.19. Unless the court directs otherwise, it must serve notice of the date, time and place fixed for any hearing on—

- (a) every party, whether or not entitled to attend that hearing; and
- (b) if one has been appointed for the purposes of the hearing, the special advocate or those instructing the special advocate.

Proceedings which must be determined at a hearing

88.20.—(1) The following proceedings must be determined at a hearing—

- (a) a review application under section 11 of the Act (review of decisions relating to temporary exclusion orders);

- (b) an appeal to the Court of Appeal from a decision or order of the High Court made in the proceedings mentioned in sub-paragraph (a) above; and
 - (c) a hearing under rule 88.28(2) (consideration of the Secretary of State's objection or application).
- (2) Paragraph (1)(b) does not apply where—
- (a) the appeal is withdrawn by the appellant;
 - (b) the Court of Appeal allows the appeal with consent; or
 - (c) the Court of Appeal strikes out the appeal.

Hearings in private

88.21.—(1) If the court considers it necessary for any party and that party's legal representative to be excluded from any hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, it must—

- (a) direct accordingly; and
 - (b) conduct the hearing, or that part of it from which that party and that party's legal representative are excluded, in private but attended by a special advocate to represent the interests of the excluded party.
- (2) The court may conduct a hearing or part of a hearing in private for any other good reason.

Appointment of a special advocate

88.22.—(1) Subject to paragraph (2), the Secretary of State must immediately give notice of the proceedings to the Attorney General (who, under paragraph 10(1) of Schedule 3 to the Act, has the power to appoint a special advocate), on—

- (a) making an application under section 3(1)(b) of the Act (application for permission to impose a TEO);
- (b) making a reference under paragraph 3(1) of Schedule 2 to the Act (reference of urgent TEO imposed without permission); or
- (c) being served with a copy of any applications, claim or notice of appeal in proceedings to which this Part applies.

- (2) Paragraph (1) applies unless—
- (a) the Secretary of State does not intend to—
 - (i) oppose the application, claim or appeal; or
 - (ii) withhold closed material from a relevant party; or
 - (b) a special advocate has already been appointed to represent the interests of the relevant party in the proceedings and that special advocate is not prevented from communicating with that party by virtue of rule 88.24 (special advocate: communicating about proceedings).

(3) Where any proceedings to which this Section applies are pending but no special advocate has been appointed, a relevant party or the Secretary of State may request that the Attorney General appoint a special advocate.

Functions of a special advocate

- 88.23.** The functions of a special advocate are to represent the interests of a relevant party by—
- (a) making submissions to the court at any hearing or part of a hearing from which the relevant party and the relevant party's legal representative are excluded;

- (b) adducing evidence and cross-examining witnesses at any such hearing or part of a hearing;
- (c) making applications to the court or seeking directions from the court where necessary; and
- (d) making written submissions to the court.

Special advocate: communicating about proceedings

88.24.—(1) The special advocate may communicate with the relevant party or the relevant party’s legal representative at any time before the Secretary of State serves closed material on the special advocate.

(2) After the [^{F2310}Secretary of State] serves closed material on the special advocate, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (3) or (6)(b) or with a direction of the court pursuant to a request under paragraph (4).

(3) The special advocate may, without directions from the court, communicate about the proceedings with—

- (a) the court;
- (b) the Secretary of State or any person acting for the Secretary of State;
- (c) the Attorney General or any person acting for the Attorney General; or
- (d) any other person, except the relevant party or the relevant party’s legal representative, with whom it is necessary for administrative purposes for the special advocate to communicate about matters not connected with the substance of the proceedings.

(4) The special advocate may request directions from the court authorising the special advocate to communicate with the relevant party or the relevant party’s legal representative or with any other person.

(5) Where the special advocate makes a request for directions under paragraph (4)—

- (a) the court must notify the Secretary of State of the request and of the content of the proposed communication and the form in which it is proposed to be made; and
- (b) the Secretary of State must, within a period specified by the court, file with the court and serve on the special advocate notice of any objection which the Secretary of State has to the proposed communication or to the form in which it is proposed to be made.

(6) Paragraph (2) does not prohibit the relevant party from communicating with the special advocate after the Secretary of State has served material on the special advocate, but—

- (a) the relevant party may only communicate with the special advocate in writing through the relevant party’s legal representative; and
- (b) the special advocate must not reply to the communication other than in accordance with directions of the court, except that the special advocate may without such directions send a written acknowledgment of receipt to the relevant party’s legal representative.

Textual Amendments

F2310 Words in [rule 88.24\(2\)](#) substituted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), [rules 2, 9\(c\)](#)

Modification of the general rules of evidence and disclosure

88.25.—(1) Part 31 (disclosure and inspection of documents), Part 32 (evidence) and Part 33 (miscellaneous rules about evidence) do not apply to any proceedings to which this Part applies.

- (2) Subject to the other rules in this Part, the evidence of a witness may be given either—
 - (a) orally before the court; or
 - (b) in writing, in which case it must be given in such manner and at such time as the court directs.
- (3) The court may also receive evidence in documentary or any other form.
- (4) The court may receive evidence that would not, but for this rule, be admissible in a court of law.
- (5) Every party is entitled to adduce evidence and to cross-examine witnesses during any hearing or part of a hearing from which that party and that party’s legal representatives are not excluded.
- (6) A special advocate is entitled to adduce evidence and to cross-examine a witness only during a hearing or part of a hearing from which the relevant party and the relevant party’s legal representatives are excluded.
- (7) The court may require a witness to give evidence on oath.

Filing and service of relevant material

88.26. The Secretary of State must—

- (a) make a reasonable search for relevant material; and
- (b) file and serve that material in accordance with the rules in this Part.

Closed material

88.27.—(1) The Secretary of State—

- (a) must apply to the court for permission to withhold closed material from a relevant party or the relevant party’s legal representative in accordance with this rule; and
- (b) may not rely on closed material at a hearing on notice unless a special advocate has been appointed to represent the interests of the relevant party.

(2) The Secretary of State must file with the court and, at such time as the court directs, serve on the special advocate—

- (a) the closed material;
- (b) a statement of the Secretary of State’s reasons for withholding that material from the relevant party and the relevant party’s legal representatives; and
- (c) if the Secretary of State considers it possible to provide a summary of that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the relevant party.

(3) The Secretary of State may at any time amend or supplement material filed under this rule, but only with—

- (a) the agreement of the special advocate; or
- (b) the permission of the court.

Consideration of the Secretary of State’s objection or application

88.28.—(1) This rule applies where the Secretary of State has—

- (a) objected under rule 88.24(5)(b) (special advocate: communicating about proceedings) to a proposed communication by the special advocate [^{F2311} or to the form in which it is proposed to be made]; or
- (b) applied under rule 88.27 (closed material) for permission to withhold closed material.

- (2) The court must fix a hearing for the Secretary of State and the special advocate to make oral representations, unless—
- (a) the special advocate gives notice that he or she does not challenge the application or objection;
 - (b) the court has previously considered—
 - (i) an objection under rule 88.24(5)(b) to the same or substantially the same proposed communication; or
 - (ii) an application under rule 88.27(1) for permission to withhold the same or substantially the same material; andis satisfied that it would be just to give permission or uphold the objection without a hearing; or
 - (c) the Secretary of State and the special advocate consent to the court deciding the objection or application without a hearing.
- (3) If the special advocate does not challenge the objection or the application, he or she must give notice of that fact to the court and the Secretary of State no later than the end of—
- (a) 14 days after the date on which ^{F2312}... the Secretary of State serves on the special advocate the notice under rule 88.24(5)(b) or the material under rule 88.27(2); or
 - (b) such other period as the court may direct.
- (4) Where the court fixes a hearing under this rule, the Secretary of State and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must also—
- (a) give brief reasons for their contentions in relation to each issue; and
 - (b) set out any proposals for the court to resolve those issues.
- (5) A hearing under this rule shall take place in the absence of the relevant party and the relevant party's legal representative.
- (6) Where the court gives permission to the Secretary of State to withhold sensitive material, the court must—
- (a) consider whether to direct the [^{F2313}Secretary of State] to serve a summary of that material on the relevant party and the relevant party's legal representative; but
 - (b) ensure that any such summary does not contain material the disclosure of which would be contrary to the public interest.
- (7) Where the court has not given permission to the Secretary of State to withhold sensitive material from, or has directed the Secretary of State to serve a summary of that material on, the relevant party and the relevant party's legal representative—
- (a) the Secretary of State shall not be required to serve that material or summary; but
 - (b) if the Secretary of State does not do so, at a hearing on notice the court may—
 - (i) if it considers that the material or anything that is required to be summarised might be of assistance to the relevant party in relation to a matter under consideration by the court, direct that the matter is withdrawn from its consideration or that the Secretary of State makes such concessions or takes such other steps as the court may direct; and
 - (ii) in any other case, direct that the Secretary of State must not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.
- (8) The court must give permission to the Secretary of State to withhold sensitive material where it considers that disclosure of that material would be contrary to the public interest.

Textual Amendments

- F2311** Words in rule 88.28(1)(a) inserted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, **9(d)(i)**
- F2312** Words in rule 88.28(3)(a) omitted (17.4.2015) by virtue of [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, **9(d)(ii)**
- F2313** Words in rule 88.28(6)(a) substituted (17.4.2015) by [The Civil Procedure \(Amendment No. 3\) Rules 2015 \(S.I. 2015/877\)](#), rules 2, **9(d)(iii)**

Order of filing and serving material and written submissions

88.29. Subject to any directions given by the court, the parties must file and serve any material and written submissions, and the special advocate must file and serve any written submissions, in the following order—

- (a) the Secretary of State must file with the court any relevant material of which the Secretary of State is aware;
- (b) the Secretary of State must serve on—
 - (i) the relevant party or the relevant party’s legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing the special advocate,any open material;
- (c) the relevant party must file with the court and serve on the Secretary of State and special advocate (if one is appointed) or those instructing the special advocate any written evidence which the relevant party wishes the court to take into account at the hearing;
- (d) the Secretary of State must file with the court any further relevant material;
- (e) the Secretary of State must serve on—
 - (i) the relevant party or the relevant party’s legal representative; and
 - (ii) the special advocate (as soon as one is appointed) or those instructing the special advocate,any open material filed with the court under sub-paragraph (d);
- (f) the Secretary of State must serve on the special advocate (if one has been appointed) any closed material;
- (g) the parties and the special advocate (if one has been appointed) must file and serve any written submissions as directed by the court.

(Rules 88.27 and 88.28 will apply where any closed material is filed by the Secretary of State.)

Failure to comply with directions

88.30.—(1) Where a party or the special advocate fails to comply with a direction of the court, the court may serve on that person a notice which states—

- (a) the respect in which that person has failed to comply with the direction;
- (b) a time limit for complying with the direction; and
- (c) that the court may proceed to determine the proceedings before it on the material before it if that person fails to comply with the direction within that time limit.

(2) Where a party or the special advocate fails to comply with the direction after such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

88.31.—(1) Where the court gives judgment in any proceedings to which this Part applies, it may withhold any, or any part, of its reasons if and to the extent that it is not possible to give those reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the court does not include the full reasons for its decision, the court must serve on the Secretary of State and the special advocate a separate written judgment giving those reasons.

Application by the Secretary of State for reconsideration of decision

88.32.—(1) If the court proposes, in any proceedings to which this Part applies, to serve on a relevant party—

- (a) notice of any order or direction made or given in the absence of the Secretary of State; or
- (b) any written judgment;

then before the court serves any such notice or judgment on the relevant party, it must first serve notice on the Secretary of State of its intention to do so.

(2) The Secretary of State may, within 5 days of being served with notice under paragraph (1), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Secretary of State considers that—

- (a) the Secretary of State's compliance with the order or direction; or
- (b) the notification to the relevant party of any matter contained in the judgment, order or direction,

would cause information to be disclosed contrary to the public interest.

(3) Where the Secretary of State makes an application under paragraph (2), the Secretary of State must at the same time serve on the special advocate (if one has been appointed)—

- (a) a copy of the application; and
- (b) a copy of the notice served on the Secretary of State pursuant to paragraph (1).

(4) Rule 88.28 (consideration of Secretary of State's objection or application), except for paragraphs (6) and (7) of that rule, applies where a special advocate has been appointed and with any necessary modifications to the consideration of an application under paragraph (2) of this rule.

(5) The court must not serve notice or a written judgment on the relevant party as mentioned in paragraph (1) before the time for the Secretary of State or relevant person to make an application under paragraph (2) has expired.

Supply of court documents

88.33. Unless the court otherwise directs, rule 5.4 (Register of Claims), rule 5.4B (supply of documents from court records – a party) and rule 5.4C (supply of court documents – a non-party) do not apply to any proceedings to which this Part applies.]

[^{F2314}PART 89

ATTACHMENT OF EARNINGS

Textual Amendments

F2314Pt. 89 inserted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, 20, [Sch. 2](#) (with rule 25)

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SECTION 1 - GENERAL

[^{F2316}Scope and] Interpretation

89.1.—[

^{F2317}(1) Part 81 does not apply to proceedings under this Part.]

[
^{F2318}(2)] In this Part—

- (a) “the 1971 Act” means the Attachment of Earnings Act 1971 and unless the context otherwise requires or this Part otherwise provides, expressions used in that Act have the same meanings as in that Act;
- (b) “creditor” means the person who has obtained or is entitled to enforce a judgment or order;
- (c) “debtor” means the person against whom a judgment or order was given or made;
- (d) “debtor’s employer” means any person appearing to be the debtor’s employer;
- (e) “debtor’s home court” means the County Court hearing centre for the district in which the debtor resides or carries on business.

Textual Amendments

F2316 Words in rule 89.1 heading inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **20(2)** (with rule 2)

F2317 Rule 89.1(1) inserted (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **20(4)** (with rule 2)

F2318 Words in rule 89.1 renumbered as rule 89.1(2) (6.4.2021) by [The Civil Procedure \(Amendment\) Rules 2021 \(S.I. 2021/117\)](#), rules 1(1), **20(3)** (with rule 2)

Search of court records

89.2. If requested to do so by any person having a judgment or order against a debtor, the court officer must –

- (a) cause a search to be made in the court records to determine whether there is an attachment of earnings order in force in relation to that debtor; and
- issue a certificate of the result of the search.

SECTION 2 – APPLICATIONS FOR ATTACHMENT OF EARNINGS ORDERS

Where to make applications

89.3. An application to the County Court for an attachment of earnings order must be made to the [^{F2319}Civil National Business Centre].

Textual Amendments

F2319 Words in rule 89.3 substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023](#) (S.I. 2023/788), rules 1(2), 34(a)

Mode of applying

89.4.—(1) An application for an attachment of earnings order must include a certificate of the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid.

(2) Where an attachment of earnings order is sought to enforce an order of a magistrates' court, the applicant must also file with the application—

- (a) a certified copy of the order; and
- (b) a witness statement verifying the amount due under the order or, if payments under the order are required to be made to the designated officer for the magistrates' court, a certificate by that designated officer to the same effect.

Service and reply

89.5.—(1) Notice of the application together with Form N56 (“the reply form”), must be served on the debtor by the court.

(2) The notice of application must include an instruction to the debtor to complete and file the reply form within 8 days after service, and that instruction constitutes a requirement under section 14(4) of the 1971 Act.

(3) Within 8 days after service of the documents listed in paragraph (1), the debtor must file a completed reply form.

(4) On receipt of a reply from the debtor, the court officer must send a copy of the reply to the creditor.

(5) No proceedings may be brought for an alleged offence under section 23(2)(c) or (f) of the 1971 Act in relation to the requirement to reply, unless—

- (a) the notice of application and reply form have been served personally on the debtor; or
- (b) the court is satisfied that the notice and reply form came to the debtor's knowledge in sufficient time for the debtor to comply with the requirement; and
- (c) by the end of the time for filing the reply, the debtor has not paid to the creditor the money remaining due under the judgment or order.

(6) If the debtor pays the money remaining due under the judgment or order, the creditor must inform the court officer that the payment has been made.

Notice to debtor's employer

89.6.—(1) Without prejudice to the power conferred by section 14(1) of the 1971 Act, the court officer may at any stage of the proceedings, send to the debtor's employer a notice requesting them to give to the court a statement of the debtor's earnings.

(2) The statement of debtor's earnings must—

- (a) state the debtor's earnings;
- (b) state the debtor's anticipated earnings;
- (c) include such particulars as requested in the notice from the court; and

(d) be given to the court within such period as is specified in the notice.

Attachment of earnings order

89.7.—(1) If the court officer—

- (a) receives the debtor’s reply form; and
- (b) has sufficient information to make an attachment of earnings order,

the court officer may make such an order.

(2) The court must send a copy of any attachment of earnings order made to the parties and to the debtor’s employer.

(3) Where an order is made under paragraph (1), the creditor or the debtor may, within 14 days of service of the order and giving reasons, apply on notice for the order to be re-considered.

(4) Following receipt of an application in accordance with paragraph (3), the court officer must transfer the application to the debtor’s home court for the hearing of the application.

(5) The creditor and the debtor must be given not less than 2 days’ notice of any hearing fixed pursuant to paragraph (4).

(6) On hearing an application under paragraph (3), the District Judge may confirm the order or set it aside and make such new order as the District Judge thinks fit.

(7) Where an order is not made under paragraph (1), the court officer must refer the application to the District Judge who may—

- (a) determine the application without a hearing; or
- (b) transfer the application to the debtor’s home court for hearing.

(8) The creditor and the debtor must be given not less than 8 days’ notice of any hearing fixed pursuant to paragraph (7)(b).

(9) Where an order is made under paragraph (7)(a), the creditor or the debtor may, within 14 days of service of the order and giving reasons, apply on notice for the order to be re-considered.

(10) Following receipt of a notice in accordance with paragraph (9), the court officer must transfer the application to the debtor’s home court for hearing.

(11) The creditor and the debtor must be given not less than 2 days’ notice of any hearing fixed pursuant to paragraph (10).

(12) On hearing an application under paragraph (10), the District Judge may confirm the order or set it aside and make such new order as the District Judge thinks fit.

(13) If the creditor does not appear at the hearing of the application under paragraph (7)(b) the court may proceed to hear the application and to make an order in the creditor’s absence if—

- (a) the court has received a witness statement from the creditor; or
- (b) the creditor requests the court in writing to proceed in any event.

(14) No attachment of earnings order may be made to secure the payment of a judgment debt if—

- (a) the debt is of less than £50; or
- (b) the amount remaining payable under a judgment is less than £50.

Failure by debtor

89.8.—(1) In this rule, “statement of means” means a statement given under section 14(1) of the 1971 Act.

(2) If the debtor has failed to comply with rule 89.5(3) or to make payment to the creditor, the court officer may issue an order under section 14(1) of the 1971 Act which must, in addition to meeting the requirements of rule 89.16(1), direct that any payments made thereafter must be paid into the court and not direct to the creditor.

- (3) If the person served with an order made under paragraph (2) fails—
- (a) to obey the order;
 - (b) to file a statement of means; or
 - (c) to make payment,

the court officer must transfer the application to the debtor's home court.

(4) Upon receipt of an application transferred under paragraph (3), the court officer must issue a notice calling on the debtor to show good reason why they should not be imprisoned.

(5) Any notice under paragraph (4) must be served on the debtor personally not less than 5 days before the hearing.

Suspended committal order

89.9.—(1) If the debtor fails to attend at an adjourned hearing of an application for an attachment of earnings order and a committal order is made, the court making the committal order may also order that its execution will be suspended for such period or on such terms or conditions as it may specify.

(2) Unless the court otherwise directs, the creditor must serve on the debtor a copy of any order made under paragraph (1).

(3) Where a committal order is suspended under paragraph (1) and the debtor fails to attend at the time and place specified in the committal order, a certificate to that effect given by the court officer is sufficient authority for the issue of a warrant of committal.

(4) If execution of a committal order is suspended under paragraph (1), the debtor may apply for a further suspension.

(5) The debtor may apply for a further suspension by attending at, or writing to, the court office and explaining why they have been unable to comply with the terms of the original suspension.

(6) If the debtor applies for a further suspension in accordance with paragraph (5), the court must—

- (a) fix a date for the hearing of the application by the judge; and
- (b) give the debtor and creditor at least 3 days' notice of the hearing.

(7) The District Judge may suspend execution of the committal order pending the hearing of the application under paragraph (5).

Costs

89.10.—(1) Where costs are allowed to the creditor on an application for an attachment of earnings order, there may be allowed—

- (a) a charge of a legal representative for attending the hearing and, if the court so directs, for serving the application; and
- (b) the court fee on the issue of the application.

(2) For the purpose of paragraph (1)(a) a legal representative who has prepared on behalf of the creditor a witness statement or request under rule 89.7(13) is treated as having attended the hearing.

(3) The costs may be fixed and allowed without detailed assessment under Part 47.

Contents and service of order

89.11.—(1) An attachment of earnings order must contain such of the following information about the debtor as is known to the court—

- (a) the debtor's full name and address;
- (b) the debtor's place of work; and
- (c) the nature of the debtor's work and the debtor's works number, if any,

and that information will be the prescribed particulars for the purposes of section 6(3) of the 1971 Act.

(2) An attachment of earnings order and any order varying or discharging such an order must be served on the parties and the debtor's employer.

(3) Where—

- (a) the order is directed to a corporation; and
- (b) that corporation has requested that the court serve on the corporation documents relating to the debtor or to the class of persons to whom they belong at a particular address,

service may be effected on the corporation at that address, if the District Judge thinks fit.

(4) Where an attachment of earnings order is made to enforce a judgment or order of the High Court or a magistrates' court, a copy of the attachment of earnings order and of any order discharging it must be sent by the court officer of the County Court to the court officer of the High Court, or, as the case may be, the designated officer for the magistrates' court.

Application to determine whether particular payments are earnings

89.12.—(1) An application to the court under section 16 of the Act of 1971 to determine whether payments to the debtor of a particular class or description are earnings for the purpose of an attachment of earnings order must be made to the debtor's home court.

(2) Upon receipt of an application under paragraph (1), the court officer must—

- (a) fix a date and time for the hearing of the application; and
- (b) give notice of the hearing to the persons mentioned in section 16(2)(a), (b) and (c) of the 1971 Act.

Notice of order having ceased to have effect

89.13. Where an attachment of earnings order ceases to have effect under section 8(4) of the 1971 Act, the court officer of the court or centre in which the matter is proceeding must give notice to the person to whom the order was directed that the order has ceased to have effect.

Variation and discharge by court of own initiative

89.14.—(1) Subject to paragraph (11), the powers conferred by section 9(1) of the 1971 Act may be exercised by the court of its own initiative in the circumstances mentioned in the following paragraphs.

(2) Where it appears to the court that a person served with an attachment of earnings order directed to that person does not have the debtor in their employment, the court may discharge the order.

(3) Where an attachment of earnings order which has lapsed under section 9(4) of the 1971 Act is again directed to a person who appears to the court to have the debtor in their employment, the court may make such consequential variations in the order as it thinks fit.

(4) Paragraph (5) applies where—

- (a) the court makes an attachment of earnings order (“the first order”); and
 - (b) the court makes or is notified of the making of another attachment of earnings order (“the second order”)—
 - (i) which is against the same debtor; and
 - (ii) which is not to secure the payment of a judgment debt or payments under an administration order.
- (5) The court may discharge or vary the first order, having regard to the priority accorded to the second order by paragraph 8 of Schedule 3 of the 1971 Act.
- (6) Paragraph (7) applies where the court makes an attachment of earnings order and then makes—
- (a) an administration order; or
 - (b) an order under section 4(1)(b) of the 1971 Act.
- (7) The court may—
- (a) discharge the attachment of earnings order; or
 - (b) if it exercised the power conferred by section 5(3) of the 1971 Act, vary the order as it thinks fit.
- (8) On making a consolidated attachment order the court may discharge any earlier attachment of earnings order made to secure the payment of a judgment debt by the same debtor.
- (9) Where it appears to the court that a bankruptcy order has been made against a person in respect of whom an attachment of earnings order is in force to secure the payment of a judgment debt, the court may discharge the attachment of earnings order.
- (10) Where an attachment of earnings order has been made to secure the payment of a judgment debt and the court grants permission to issue execution for the recovery of the debt, the court may discharge the order.
- (11) Before varying or discharging an attachment of earnings order of its own initiative under this rule, the court must, unless it thinks it unnecessary in the circumstances to do so, give the debtor and the person on whose application the order was made an opportunity of being heard on the question whether the order should be varied or discharged, and for that purpose the court officer may transfer the application to the debtor’s home court.
- (12) Upon transfer of the application under paragraph (11) the court officer must give the debtor and the person on whose application the order was made notice of the date, time and place fixed for the hearing.

Transfer of attachment order

89.15.—(1) This rule applies where the question of making a consolidated attachment order is being considered at one County Court hearing centre, but the relevant attachment of earnings order was originally made at another County Court hearing centre, or was made at the [F2320Civil National Business Centre].

(2) The court officer may transfer the attachment proceedings in which the attachment of earnings order was made to the County Court hearing centre where the question of making a consolidated attachment order is being considered.

(3) Without prejudice to paragraph (2), the Judge or District Judge may transfer the attachment proceedings to a different County Court hearing centre if that judge considered that the attachment proceedings could more conveniently proceed at that different centre.

Textual Amendments

F2320 Words in rule 89.15(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **34(b)**

Exercise of power to obtain statement of earnings etc.

89.16.—(1) An order under section 14(1) of the 1971 Act must—

- (a) be indorsed with or incorporate a notice warning the person to whom it is directed of the consequences of disobedience to the order; and
- (b) be served on them personally.

[^{F2321}(2) If a person has failed to comply with an order under section 14(1) of the 1971 Act but can demonstrate any reason why they should not be (or should not have been) fined for failure to comply with the order, the court may direct that any information required by the order be provided by witness statement, affidavit or otherwise.]

Textual Amendments

F2321 Rule 89.16(2) substituted (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **17(1)**

Offences

89.17.—(1) Paragraph (2) applies where—

- (a) it is alleged that a person has committed any offence mentioned in section 23(2)(a), (b), (d), (e) or (f) of the Act of 1971 in relation to proceedings in, or to an attachment of earnings order made by, the County Court; and
- (b) the alleged offender is not being proceeded against summarily.

(2) The District Judge may issue a notice to the alleged offender to show cause why that alleged offender should not be punished for the alleged offence.

(3) The notice must be served on the alleged offender personally not less than 14 days before the hearing.

[^{F2322}(4) In paragraphs (5) to (8), reference to a fine is to a fine imposed as the result of an offence under section 23(2) of the 1971 Act.

(5) If a fine is not paid in accordance with the order imposing it, the court officer shall, as soon as reasonably possible, report the matter to a judge.

(6) Where a fine is directed to be paid by instalments, default in the payment of any instalment may be taken as if default had been made in payment of the whole of the fine.

(7) If an order is made for payment of a fine to be enforced by warrant of control, the order shall be treated as an application to the court for the issue of the warrant at the time when the order was made.

(8) If a person pays a fine and later gives evidence to satisfy the court that, if the evidence had been given earlier, no fine or a smaller fine would have been imposed, the court may order the whole or part of the fine to be repaid.]

Textual Amendments

F2322Rule 89.17(4)-(8) substituted for rule 89.17(4) (1.10.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(1), **17(2)**

SECTION 3 - CONSOLIDATED ATTACHMENT ORDERS

Cases in which consolidated attachment order may be made

89.18. Subject to the provisions of rules 89.19 to 89.21, the court may make a consolidated attachment order where—

- (a) two or more attachment of earnings orders are in force to secure the payment of judgment debts by the same debtor; or
- (b) on an application for an attachment of earnings order to secure the payment of a judgment debt, or for a consolidated attachment order to secure the payment of two or more judgment debts, it appears to the court that an attachment of earnings order is already in force to secure the payment of a judgment debt by the same debtor.

Application for consolidated attachment order

89.19.—(1) In this rule, “a party affected by the application” means—

- (a) where the application is made by the debtor, the creditor in the proceedings in which the application is made and any other creditor who has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor;
 - (b) where the application is made by the creditor, the debtor and every person who, to the knowledge of the applicant, has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor.
- (2) An application for a consolidated attachment order may be made—
- (a) by the debtor in respect of whom the order is sought; or
 - (b) by any person who has obtained or is entitled to apply for an attachment of earnings order to secure the payment of a judgment debt by that debtor.
- (3) An application under paragraph (2) may be made in the proceedings in which any attachment of earnings order is in force and rules 89.3, 89.4 and 89.5 do not apply.
- (4) Where an attachment of earnings order has been made—
- (a) at the [^{F2323}Civil National Business Centre] an application under paragraph (2) must be made to the debtor’s home court;
 - (b) at a County Court hearing centre, an application under paragraph (2) must be made to that hearing centre.
- (5) An application under paragraph (2)(b) must—
- (a) include a certificate as to the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid; and
 - (b) be supported by a statement of truth.
- (6) Where an application for a consolidated attachment order is made, the court officer must—
- (a) notify any party who may be affected by the application of its terms; and

(b) require them to notify the court in writing, within 14 days of service of notification upon them, giving their reasons for any objection they may have to the granting of the application.

(7) If notice of any objection is not given within the time stated, the court officer must make a consolidated attachment order.

(8) If any party objects to the making of a consolidated attachment order, the court officer must refer the application to the District Judge who may grant the application after considering the objection made and the reasons given.

(9) A person to whom two or more attachment of earnings orders are directed to secure the payment of judgment debts by the same debtor may request the court in writing to make a consolidated attachment order to secure the payment of those debts.

(10) On receipt by the court of a request under paragraph (9), paragraphs (1) and (6) to (8) apply, with the necessary modifications, as if the request were an application by the creditor.

Textual Amendments

F2323 Words in [rule 89.19\(4\)\(a\)](#) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(2\)](#), [34\(c\)](#)

Making of consolidated attachment order by court of its own initiative

89.20. Where—

- (a) an application is made for an attachment of earnings order to secure the payment of a judgment debt by a debtor in respect of whom an attachment of earnings order is already in force to secure the payment of another judgment debt; and
- (b) no application is made for a consolidated attachment order,

the court officer may make such an order of that officer's own initiative after giving all persons concerned an opportunity of submitting written objections.

Extension of consolidated attachment order

89.21.—(1) This rule applies where—

- (a) a consolidated attachment order is in force to secure the payment of two or more judgment debts (“the original debts”); and
- (b) a further judgment debt (“the additional debt”) is owed by the same debtor.

(2) The creditor of the additional debt may apply for the consolidated attachment order to be extended so as to secure the payment of the additional debt as well as the original debts.

(3) If the application to extend the consolidated attachment order is granted, the court may—

- (a) vary the order accordingly; or
- (b) discharge the order and make a new consolidated attachment order to secure payment of all the judgment debts.

(4) An application under this rule must be made to the court that made the consolidated attachment order and is treated for the purposes of rules 89.19 and 89.20 as an application for a consolidated attachment order.

Payments under consolidated attachment order

89.22.—(1) If a court officer receives payment in compliance with a consolidated attachment order, the court officer must—

- (a) first deduct any court fees due in respect of proceedings for or arising out of the order that are permitted to be deducted; and
- (b) then divide the remainder of the payment to satisfy the relevant judgments falling within the ambit of the consolidated attachment order, in proportion with the amounts payable under each judgment.

(2) For the purpose of satisfying those relevant judgments, dividends may from time to time be declared and distributed among the creditors so entitled.]

GLOSSARY

Commencement Information

I219 Glossary in force at 26.4.1999, see Signature

Scope

This glossary is a guide to the meaning of certain legal expressions as used in these Rules, but it does not give the expressions any meaning in the Rules which they do not otherwise have in the law.

Expression	Meaning
Affidavit	A written, sworn statement of evidence.
Alternative dispute resolution	Collective description of methods of resolving disputes otherwise than through the normal trial process.
Base rate	The interest rate set by the Bank of England which is used as the basis for other banks' rates.
[^{F2324} Budget	An estimate of the reasonable and proportionate costs (including disbursements) which a party intends to incur in the proceedings.]
Contribution	A right of someone to recover from a third person all or part of the amount which he himself is liable to pay.
Counterclaim	A claim brought by a defendant in response to the claimant's claim, which is included in the same proceedings as the claimant's claim.
Cross-examination (and see "evidence in chief")	Questioning of a witness by a party other than the party who called the witness.
Damages	A sum of money awarded by the court as compensation to the claimant.
• aggravated damages	Additional damages which the court may award as compensation for the defendant's objectionable behaviour

Expression	Meaning
• exemplary damages	Damages which go beyond compensating for actual loss and are awarded to show the court's disapproval of the defendant's behaviour
[^{F2325} Damages-based agreement	A damages-based agreement is an agreement which complies with the provisions of the Damages-Based Agreements Regulations 2013.]
[^{F2326} A defence that, before the claimant started proceedings, the defendant unconditionally offered to the claimant the amount due.]	A defence that, before the claimant started proceedings, the defendant unconditionally offered to the claimant the amount due or, if no specified amount is claimed, an amount sufficient to satisfy the claim.
[^{F2327} Divisional Court	With or without capital letters, means a divisional court constituted under section 66 of the Senior Courts Act 1981]
Evidence in chief (and see "cross-examination")	The evidence given by a witness for the party who called him.
Indemnity	A right of someone to recover from a third party the whole amount which he himself is liable to pay.
Injunction	A court order prohibiting a person from doing something or requiring a person to do something.
Joint liability (and see "several liability")	Parties who are jointly liable share a single liability and each party can be held liable for the whole of it.
Limitation period	The period within which a person who has a right to claim against another person must start court proceedings to establish that right. The expiry of the period may be a defence to the claim.
List	Cases are allocated to different lists depending on the subject matter of the case. The lists are used for administrative purposes and may also have their own procedures and judges.
Official copy	A copy of an official document, supplied and marked as such by the office which issued the original.
Practice form	Form to be used for a particular purpose in proceedings, the form and purpose being specified by a practice direction.
Pre-action protocol	Statements of understanding between legal practitioners and others about pre-action

Expression	Meaning
	practice and which are approved by a relevant practice direction.
Privilege	The right of a party to refuse to disclose a document or produce a document or to refuse to answer questions on the ground of some special interest recognised by law.
Seal	A seal is a mark which the court puts on a document to indicate that the document has been issued by the court.
Service	Steps required by rules of court to bring documents used in court proceedings to a person's attention.
Set aside	Cancelling a judgment or order or a step taken by a party in the proceedings.
Several liability (and see "joint liability")	A person who is severally liable with others may remain liable for the whole claim even where judgment has been obtained against the others.
Stay	A stay imposes a halt on proceedings, apart from taking any steps allowed by the Rules or the terms of the stay. Proceedings can be continued if a stay is lifted.
Strike out	Striking out means the court ordering written material to be deleted so that it may no longer be relied upon.
Without prejudice	Negotiations with a view to a settlement are usually conducted "without prejudice" which means that the circumstances in which the content of those negotiations may be revealed to the court are very restricted.

Textual Amendments

- F2324** Glossary entry inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **21(a)** (with rule 22)
- F2325** Glossary entry inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **21(b)** (with rule 22)
- F2326** Words in Glossary substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **13**
- F2327** Glossary entry inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **17**

Textual Amendments

- F2324** Glossary entry inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **21(a)** (with rule 22)

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F2325** Glossary entry inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **21(b)** (with rule 22)
- F2326** Words in Glossary substituted (1.10.2021) by [The Civil Procedure \(Amendment No. 4\) Rules 2021 \(S.I. 2021/855\)](#), rules 1(1), **13**
- F2327** Glossary entry inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, **17**

*Woolf M.R.,
Richard Scott V-C.,
Anthony May L.J.,
John Leslie
Richard Holman
Godfrey Gypps
Henrietta Manners
Nicholas Chambers
David Foskett
Peter Watson
Peter Haworth
David Greene
Harriet Kimbell
Olivia Morrison-Lyons*

I allow these Rules which shall come into force on 26th April 1999

Irvine of Laing, C.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998.