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STATUTORY INSTRUMENTS

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**2001 No. 256**

**The Civil Procedure (Amendment) Rules 2001**

**Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 2001 and shall come into force—

- (a) for the purposes of rules 2, 4 to 10, 12 to 16 and 19, and this rule, on 26th March 2001;
- (b) for the purposes of rules 22, 23, 26 and 28, on the date of entry into force of section 90 of the Access to Justice Act 1999<sup>(1)</sup>;
- (c) for the purposes of rules 24 and 30, on the date of entry into force of section 23 of the Family Law Reform Act 1987<sup>(2)</sup>; and
- (d) for all other purposes, on 15th October 2001.

2. In the following rules—

- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998<sup>(3)</sup>;
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

**Amendments to the Civil Procedure Rules 1998**

3. After rule 6.1, in the cross-reference, for “proceedings for the recovery of land and mortgage possession actions — see RSC Order 10 r.4 and CCR Order 7 rr.15 and 15A” substitute “possession claims — see Part 55”.

4. In rule 6.24, in paragraph (1)(b)(ii), for “rule 6.26” substitute “rule 6.27”.

5. In rule 8.2A, for paragraphs (1) and (2), substitute—

“(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.”.

6. At the end of Part 10, insert—

“(Rule 19.8A modifies this Part where a notice of claim is served under that rule to bind a person not a party to the claim)”.

7.—(1) In rule 17.4, in paragraph (1)(b)—

- (a) at the end of sub-paragraph (ii), insert “or”; and

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<sup>(1)</sup> 1999 c. 22.

<sup>(2)</sup> 1987 c. 42.

<sup>(3)</sup> S.I. 1998/3132 as amended by S.I. 1999/1008, S.I. 2000/221, S.I. 2000/940, S.I. 2000/1317 and S.I. 2000/2092.

- (b) for sub-paragraphs (iii) and (iv), substitute—
  - “(iii) any other enactment which allows such an amendment, or under which such an amendment is allowed.”.
- (2) After rule 17.4, in the cross-reference, for “Rule 19.4” substitute “Rule 19.5”.
- 8. In rule 19.5, in paragraph (1)—
  - (a) at the end of sub-paragraph (b), insert “or”; and
  - (b) for sub-paragraphs (c) and (d), substitute—
    - “(c) any other enactment which allows such a change, or under which such a change is allowed.”.
- 9. After rule 19.5, insert—

**“Special rules about parties in claims for wrongful interference with goods**

- 19.5A.**—(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 his 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(4).
- (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 he is deprived of any claim against the defendant in respect of the goods.
- (Rule 3.1(3) provides that the court may make an order subject to conditions)
- (4) The application notice must be served on all parties and on the person referred to in paragraph (2).”.
- 10. After rule 19.8, insert—

**“Power to make judgments binding on non-parties**

- 19.8A.**—(1) This rule applies to any claim in the High Court relating to—
  - (a) the estate of a deceased person; or
  - (b) property subject to a trust.
- (2) The court may at any time direct that notice of the claim be served on a person who is not a party but who will or may be affected by any judgment made in the claim.
- (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, the notice of the claim under this rule must be—
  - (a) in the form in the relevant practice direction;
  - (b) issued by the court; and

(c) accompanied by—

- (i) a copy of the claim form;
- (ii) all other statements of case served in the claim; and
- (iii) a form of acknowledgment of service.

(5) If a person served with notice of the claim files an acknowledgment of service within 14 days he will become a party to the claim.

(6) If a person served with notice of the claim does not acknowledge service of the notice he will be bound by any judgment given in the claim as if he were a party.

(7) If, after service of the notice of the claim on a person, the claim form is amended so as substantially to alter the relief 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 him.

(8) 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 of the claim.

(9) A notice under this rule is issued on the date entered on the notice by the court.”.

**11.** In rule 22.1, in paragraph (1)—

- (a) at the end of sub-paragraph (b), delete “and”; and
- (b) at the end of sub-paragraph (c), add—

“; and

- (d) a certificate stating the reasons for bringing a possession claim or a landlord and tenant claim in the High Court in accordance with rules 55.3(2) and 56.2(2).”.

**12.** In rule 32.13, in paragraph (1), for “unless the court otherwise directs during the course of the trial” substitute “during the course of the trial unless the court otherwise directs”.

**13.** After rule 40.19, insert—

### “III DECLARATORY JUDGMENTS

**40.20** The court may make binding declarations whether or not any other remedy is claimed.”.

**14.** In rule 43.2—

- (a) in paragraph (1)(k)(i), after “a conditional fee agreement” insert “or a collective conditional fee agreement”;
- (b) after paragraph (1), in the cross-reference—
  - (i) after “The Conditional Fee Agreements Regulations 2000(5)” add “, the Collective Conditional Fee Agreements Regulations 2000(6)”; and
  - (ii) delete “respectively”.

**15.** In rule 44.16, in the cross-reference, at the end add—

“. Regulation 5(2)(b) of the Collective Conditional Fee Agreements Regulations 2000 makes similar provision in relation to collective conditional fee agreements”.

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(5) S.I. 2000/692.

(6) S.I. 2000/2988.

**16.—**(1) In rule 48.8—

(a) for paragraph (1), substitute—

“(1) This rule applies to every assessment of a solicitor’s bill to his client except a bill which is to be paid out of the Community Legal Service Fund under the Legal Aid Act 1988(7) or the Access to Justice Act 1999(8).”; and

(b) after paragraph (2), insert—

“(3) Where the court is considering a percentage increase, whether on the application of the legal representative under rule 44.16 or 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.

(4) In paragraph (3), “conditional fee agreement” means an agreement enforceable under section 58 of the Courts and Legal Services Act 1990(9) at the date on which that agreement was entered into or varied.”.

(2) Omit rule 48.9.

**17.** After Part 54, insert Part 55 (Possession claims) as set out in Schedule 1.

**18.** After Part 55, insert Part 56 (Landlord and tenant claims and miscellaneous provisions about land) as set out in Schedule 2.

**19.** In RSC Order 15, omit rules 13A and 16.

**20.** In RSC Order 45, in rule 3—

(a) in paragraph (2)—

(i) delete “mortgage proceedings to which Order 88 applies”; and

(ii) after “made in” insert—

“proceedings by a mortgagee or mortgagor or by any person having the right to foreclose or redeem any mortgage, being proceedings in which there is a claim for—

- (a) payment of moneys secured by the mortgage;
- (b) sale of the mortgaged property;
- (c) foreclosure;
- (d) delivery of possession (whether before or after foreclosure or without foreclosure) to the mortgagee by the mortgagor or by any other person who is alleged to be in possession of the property;
- (e) redemption;
- (f) reconveyance of the land or its release from the security; or
- (g) delivery of possession by the mortgagee”;

(b) after paragraph (2), insert—

“(2A) In paragraph (2) “mortgage” includes a legal or equitable mortgage and a legal or equitable charge, and reference to a mortgagor, a mortgagee and mortgaged land is to be interpreted accordingly.”; and

(c) in paragraph (3), after “permission”, insert “as is referred to in paragraph (2)”.

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(7) 1988 c. 34.

(8) 1999 c. 22.

(9) 1990 c. 41. Section 58 was substituted by section 27 of the Access to Justice Act 1999 (c. 22) with effect from 1st April 2000 (the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000, S.I. 2000/774, and the Access to Justice Act 1999 (Transitional Provisions) Order 2000, S.I. 2000/900).

**21.** In RSC Order 62, in paragraph 1(2) of Part II of Appendix 3, for “Order 88, rule 1 (mortgage claims)” substitute “Order 45, rule 3(2)”.

**22.** In RSC Order 79, in paragraphs (6)(b), (8)(b) and (10)(b) of rule 9, for “clerk of” substitute “justices' chief executive for”.

**23.** In RSC Order 109, in paragraph (5) of rule 4, for “clerk of” substitute “justices' chief executive for”.

**24.** In RSC Order 112—

- (a) for the heading, substitute “APPLICATIONS FOR USE OF SCIENTIFIC TESTS IN DETERMINING PARENTAGE”;
- (b) for the words “blood samples”, wherever they appear, substitute the words “bodily samples”; and
- (c) for the words “blood tests”, wherever they appear, substitute the words “scientific tests”.

**25.** In RSC Order 113, in paragraph (1) of rule 7, for “under this Order” substitute “in a possession claim against trespassers under Part 55”.

**26.** In RSC Order 116, in paragraph (14)(a) of rule 10, for “justices' clerk” substitute “justices' chief executive”.

**27.** In CCR Order 24—

- (a) in paragraph (1) of rule 6, for “under this Order” substitute “in a possession claim against trespassers under Part 55”;
- (b) in rule 9, for “proceedings for possession under Part I of this Order” substitute “a possession claim against trespassers under Part 55”;
- (c) in paragraph (1) of rule 10, for “rules 2 to 7” substitute “Part 55”; and
- (d) in paragraph (9)(c) of rule 12, paragraph (4) of rule 13 and paragraph (3)(c) of rule 14, for “Part I of this Order” substitute “Part 55”.

**28.** In CCR Order 27—

- (a) in paragraph (1)(b) of rule 4, for “clerk to” substitute “justices' chief executive for”, and for “clerk” substitute “chief executive”; and
- (b) in paragraph (3) of rule 10, for “clerk of” substitute “justices' chief executive for”.

**29.** In CCR Order 38, in paragraph 10 of the Table in Part III of Appendix B, for “rule 6 or 6A of Order 49” substitute “Section II of CPR Part 55 (Possession claims)”.

**30.** In CCR Order 47, in rule 5—

- (a) for the words “blood samples”, wherever they appear, substitute the words “bodily samples”; and
- (b) for the words “blood tests”, wherever they appear, substitute the words “scientific tests”.

### **Transitional provisions**

**31.** Where a claim form—

- (a) relates to proceedings to which Part 55 or Part 56 would apply if it was issued on or after the date of entry into force of rules 17 and 18 of these Rules, but
- (b) is issued before that date,
  - those rules shall not apply, and the rules of court in force immediately before that date shall apply as if they had not been amended or revoked.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## Revocations

**32.** The Orders set out in column 1 of Schedule 3 are revoked to the extent set out in column 2 of that Schedule.

*Phillips of Worth Matravers, M.R.  
Andrew Morritt, V-C.  
Anthony May, L.J.  
Richard Holman  
Godfrey Gypps  
John Leslie  
Michael Black  
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David Greene  
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I allow these Rules

Dated 23rd January 2001

*Irvine of Lairg, C.*