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STATUTORY INSTRUMENTS

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**2002 No. 2058 (L. 10)**

**SUPREME COURT OF ENGLAND AND WALES  
COUNTY COURTS, ENGLAND AND WALES**

**The Civil Procedure (Amendment) Rules 2002**

<i>Made</i>	- - - -	<i>23rd July 2002</i>
<i>Laid before Parliament</i>		<i>6th August 2002</i>
<i>Coming into force</i>	- -	<i>in accordance with rule 1</i>

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(1) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following Rules—

**Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 2002 and shall come into force—

- (a) for the purposes of rules 2, 29(b) and 35 of these Rules, and this rule, on 1st October 2002;
- (b) for all other purposes, on 2nd December 2002.

2. In these Rules—

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

**Amendments to the Civil Procedure Rules 1998**

3. In rule 3.7(1)—

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(1) 1997 c. 12.

(2) S.I. 1998/3132, as amended by S.I. 1999/1008, S.I. 2000/221, S.I. 2000/940, S.I. 2000/1317, S.I. 2000/2092, S.I. 2001/256, S.I. 2001/1388, S.I. 2001/1769, S.I. 2001/2792, S.I. 2001/4015 and S.I. 2001/4016.

- (a) in sub-paragraph (a), for “listing questionnaire” substitute “pre-trial check list (listing questionnaire)”;
- (b) in sub-paragraphs (b) and (c) and in the first cross-reference, for “listing questionnaire” substitute “pre-trial check list”.

4. After rule 5.4, insert—

**“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.”.

5. In Part 6—

- (a) at the end of the list of contents, insert the text set out in Part I of Schedule 1 to these Rules;
- (b) in rule 6.18, for paragraph (k) substitute—
  - “(k) “Regulation State” has the same meaning as “Member State” in the Judgments Regulation, that is all Member States except Denmark.”;
- (c) in rule 6.19(1)(b), for sub-paragraphs (ii) and (iii), substitute—
  - “(ii) Article 16 of Schedule 1 or 3C to the 1982 Act, or paragraph 11 of Schedule 4 to that Act, refers to the proceedings; or
  - (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1 or 3C to the 1982 Act, or paragraph 12 of Schedule 4 to that Act, refers.”; and
- (d) after rule 6.31, insert Section IV (Service of foreign process) as set out in Part II of Schedule 1 to these Rules.

6. In Part 19—

- (a) after rule 19.7, insert—

**“Representation of beneficiaries by trustees etc.**

**19.7A.**—(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.”

- (b) for rule 19.8A, substitute—

**“19.8A.**—(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 form required by the practice direction;
    - (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 he will become a party to the claim.
- (6) If a person served with notice of a 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 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 him.
- (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 he had been a party to the claim; but
  - (b) may, provided he acknowledges service—
    - (i) within 28 days after the notice is served on him, 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.”.

7. In rule 25.1, in paragraph (1)—

- (a) at the end of sub-paragraph (m) omit “and”; and
- (b) after sub-paragraph (n) insert—

“.

(o) an order directing any account to be taken or inquiry to be made by the court”.

8. In rules 28.4(1)(a), 28.6(1), 29.2(3)(b), 29.5(1)(c) and 29.8(a), for “listing questionnaire” substitute “pre-trial check list”.

9. For rule 28.5 substitute—

**“Pre-trial check list (listing questionnaire)**

28.5.—(1) The court will 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 will not be more than 8 weeks before the trial date or the beginning of the trial period.

(3) If—

- (a) a party fails to file the completed pre-trial check list by the date specified;
- (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.”.

10. For rule 29.6 substitute—

**“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.

(3) If—

- (a) a party fails to file the completed pre-trial check list by the date specified;
- (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.”.

11. In rule 29.7, for “listing questionnaires” substitute “pre-trial check lists”.

12. In Part 34—

- (a) for the title, substitute “WITNESSES, DEPOSITIONS AND EVIDENCE FOR FOREIGN COURTS”;
- (b) at the end of the list of contents, insert the text as set out in Part I of Schedule 2 to these Rules;
- (c) for rule 34.1, substitute—

**“I WITNESSES AND DEPOSITIONS**

### **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.”;
- (d) after rule 34.15—
- (i) omit the cross-reference; and
  - (ii) insert Section II (Evidence for foreign courts) as set out in Part II of Schedule 2 to these Rules.
- 13.** After rule 40.4, omit the second cross-reference.
- 14.** In rule 44.12A(4), in sub-paragraph (a)(i), after “order for costs”, insert “to be determined by detailed assessment”.
- 15.** In rule 44.15(3)—
- (a) in sub-paragraph (b), for “listing questionnaire” substitute “pre-trial check list (listing questionnaire)”; and
  - (b) in the cross-reference, for “listing questionnaire” substitute “pre-trial check list”.
- 16.** In rule 44.16, after paragraph (b), for “the court may adjourn the hearing to allow the legally represented party to be notified of the order sought” substitute—
- “the court may adjourn the hearing to allow the client to be—
- (i) notified of the order sought; and
  - (ii) separately represented”.
- 17.** In rule 47.14, in paragraph (6), for “person” substitute “party”.
- 18.** In rule 47.19, in the cross-reference, after “an assisted person”, insert “, unless the court orders otherwise”.
- 19.** In rule 48.6—
- (a) for paragraph (3) substitute—

“(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 him for legal services relating to the conduct of the proceedings; and
    - (c) the costs of obtaining expert assistance in assessing the costs claim.”; and
  - (b) for paragraph (4) substitute—

“(4) The amount of costs to be allowed to the litigant in person for any item of work claimed shall be—

- (a) where the litigant can prove financial loss, the amount that he can prove he has 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 the practice direction.”.

**20.** In rule 48.7, for paragraph (4) substitute—

“(4) When the court makes a wasted costs order, it must—

- (a) specify the amount to be disallowed or paid; or
- (b) direct a costs judge or a district judge to decide the amount of costs to be disallowed or paid.”.

**21.** In rule 54.16, in paragraph (1), after “8.6”, insert “(1)”.

**22.** In Part 55—

- (a) at the end of the list of contents, insert the text as set out in Part I of Schedule 3 to these Rules;
- (b) in rule 55.2, in paragraph (2)—
  - (i) in sub-paragraph (a) omit “and”;
  - (ii) after sub-paragraph (b) insert—
    - “; 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”; and
    - (iii) omit the cross-reference after sub-paragraph (b); and
- (c) at the end, insert Section III (Interim possession orders) as set out in Part II of Schedule 3 to these Rules.

**23.** In Part 57—

- (a) for the title, substitute “PROBATE AND INHERITANCE”;
- (b) at the end of the list of contents, insert the text as set out in Part I of Schedule 4 to these Rules;
- (c) in rule 57.1, in paragraph (1)—
  - (i) at the end of sub-paragraph (b), omit “and”;
  - (ii) after sub-paragraph (c), insert—
    - “; and
    - (d) claims under the Inheritance (Provision for Family and Dependents) Act 1975(3)

and

- (d) at the end, insert Section IV (Claims under the Inheritance (Provision for Family and Dependents) Act 1975) as set out in Part II of Schedule 4 to these Rules.

**24.** In rule 62.20—

- (a) in paragraph (1), for the words “RSC Order 71, Part I applies in relation to the award as it applies”, substitute—
  - “rules 74.1 to 74.7 and 74.9 apply in relation to the award as they apply”;

- (b) in paragraph (2)(a), for “country of the original court”, substitute “State of origin”; and
- (c) in paragraph (2)(b), for “RSC Order 71, rule 3”, substitute “rule 74.4”.

**25.** In rule 62.21—

- (a) for paragraph (2), substitute—

“(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(4) 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).”;

- (b) in paragraph (4), for “RSC Order 71, rule 3”, substitute “rule 74.4”; and
- (c) in paragraph (4)(b), for “rule 3(1)(c)(i) and (ii)”, substitute “rule 74.4(2)(a) to (d)”.

**26.** After Part 62, insert—

- (a) Part 64 (Estates, trusts and charities) as set out in Schedule 5 to these Rules;
- (b) Part 68 (References to the European Court) as set out in Schedule 6; and
- (c) Part 69 (Court’s power to appoint a receiver) as set out in Schedule 7.

**27.** In rule 70.1, in the cross-reference after paragraph (1), omit “, 51”.

**28.** In rule 70.5, for paragraph (2) substitute—

- “(2) This rule does not apply to—
- (a) any judgment to which Part 74 applies; or
  - (b) arbitration awards.

(Part 74 provides for the registration in the High Court for the purposes of enforcement of judgments from other jurisdictions and European Community judgments.)”.

**29.** After Part 73, insert—

- (a) Part 74 (Enforcement of judgments in different jurisdictions) as set out in Schedule 8 to these Rules; and
- (b) Part 75 (Traffic enforcement) as set out in Schedule 9 to these Rules.

**30.** In RSC Order 52, in rule 1(4), for “an order of committal may be made by a single judge of the Queen’s Bench Division” substitute—

“an order of committal may be made—

- (a) on an application under section 88 of the Charities Act 1993(5), by a single judge of the Chancery Division; and
- (b) in any other case, by a single judge of the Queen’s Bench Division”.

**31.** In RSC Order 77—

- (a) in rule 15(1)—
  - (i) in paragraph (a), for “70” substitute “69”, and

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(4) 23 & 24 Geo 5 c. 13.

(5) 1993 c. 10.

- (ii) in paragraph (b), omit “, 51”; and
  - (b) in rule 16(1), in paragraph (c), for “Order 30 or 51” substitute “CPR Part 69”.
- 32.** In RSC Order 115, in rule 8(1), for “Order 30, rules 2 to 8” substitute “CPR Part 69”.
- 33.** In CCR Order 42—
- (a) in rule 13(1)—
    - (i) in paragraph (a), for “70” substitute “69”;
    - (ii) after paragraph (a), insert “or”;
    - (iii) at the end of paragraph (b), omit “; or”; and
    - (iv) omit paragraph (c); and
  - (b) in rule 14(1), for “RSC Order 30” substitute “CPR Part 69”.

**Transitional provisions**

**34.** Where before 2nd December 2002 proceedings have begun under rule 47.6(1) for the detailed assessment of the costs of a litigant in person, rule 48.6 shall continue to apply to those proceedings as if it had not been amended.

**Revocations**

- 35.** CCR Order 48B is revoked.
- 36.** The Orders set out in column 1 of Schedule 10 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  
Carlos Dabezies  
John Leslie  
Michael Black  
Michelle Stevens-Hoare  
Philip Rainey  
David Greene  
Tim Parker  
Juliet Herzog  
Alan Street  
Ahmad Butt*

I allow these Rules

23rd July 2002

*Irvine of Lairg, C.*



SCHEDULE 1

Rule 5

PART I

IV—SERVICE OF FOREIGN PROCESS

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Scope and definitions	Rule 6.32
Request for service	Rule 6.33
Method of service	Rule 6.34
After service	Rule 6.35

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PART II

IV—SERVICE OF FOREIGN PROCESS

**Scope and definitions**

**6.32.**—(1) This Section of this Part—

- (a) applies to the service in England or Wales of any court process in connection with civil or commercial proceedings in a foreign court or tribunal; but
- (b) does not apply where the Service Regulation applies.  
(The Service Regulation is annexed to the relevant practice direction)

(2) In this Section—

- (a) “convention country”—
  - (i) means a foreign country in relation to which there is a civil procedure convention providing for service in that country of process of the High Court; and
  - (ii) includes a country which is a party to the Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters signed at the Hague on 15 November 1965; and
- (b) “process server” means—
  - (i) a process server appointed by the Lord Chancellor to serve documents to which this Section applies, or
  - (ii) his authorised agent.

**Request for service**

**6.33** Process will be served where the Senior Master receives—

- (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 the Secretary of State for Foreign and Commonwealth Affairs, with a recommendation that service should be effected;
- (b) a translation of that request into English;
- (c) two copies of the process to be served; and

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- (d) unless the foreign court or tribunal certifies that the person to be served understands the language of the process, two copies of a translation of it into English.

**Method of service**

**6.34** The process must be served as directed by the Senior Master.

**After service**

**6.35.—(1)** The process server must—

- (a) send the Senior Master a copy of the process, and
  - (i) proof of service; or
  - (ii) a statement why the process could not be served; and
- (b) if the Senior Master directs, specify the costs incurred in serving or attempting to serve the process.

**(2)** The Senior Master will send the following documents to the person who requested service—

- (a) a certificate, sealed with the seal of the Supreme Court for use out of the jurisdiction, stating—
  - (i) when and how the process 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 process; and
- (b) a copy of the process.

SCHEDULE 2

Rule 12

PART I

II—EVIDENCE FOR FOREIGN COURTS

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Interpretation	Rule 34.16
Application for order	Rule 34.17
Examination	Rule 34.18
Dealing with deposition	Rule 34.19
Claim to privilege	Rule 34.20
Order under 1975 Act as applied by Patents Act 1977	Rule 34.21

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## PART II

### II—EVIDENCE FOR FOREIGN COURTS

#### Interpretation

**34.16** In this Part “the 1975 Act” means the Evidence (Proceedings in Other Jurisdictions) Act 1975(6).

#### Application for order

**34.17** An application for an order under the 1975 Act for evidence to be obtained—

- (a) must be—
  - (i) made to the High Court;
  - (ii) supported by written evidence; and
  - (iii) accompanied by the request as a result of which the application is made, and where appropriate, a translation of the request into English; and
- (b) may be made without notice.

#### 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 Supreme Court 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,

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(6) 1975 c. 34.

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for transmission to the court or tribunal requesting the examination.

### **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(7) 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.

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(7) 1977 c. 37.

SCHEDULE 3

Rule 22

PART I

SECTION III—INTERIM POSSESSION ORDERS

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When this section may be used	Rule 55.20
Conditions for IPO application	Rule 55.21
The application	Rule 55.22
Service	Rule 55.23
Defendant’s response	Rule 55.24
Hearing of the application	Rule 55.25
Service and enforcement of the IPO	Rule 55.26
After IPO made	Rule 55.27
Application to set aside IPO	Rule 55.28

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PART II

SECTION III—INTERIM POSSESSION ORDERS

**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<sup>(8)</sup>.

(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.

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(8) 1977 c. 45.

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(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 the relevant practice direction.

(3) When he files his claim form, the claimant must also file—

- (a) an application notice in the form set out in the relevant practice direction; 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.

### **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 the relevant practice direction) 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 6.14(2)(a) does not apply.

### **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 the relevant practice direction.

### **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—

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- (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 the relevant practice direction 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.

### **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) CCR Order 26, rule 17 does 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.

### **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;

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- (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) CCR Order 24, rule 6 applies to the enforcement of a final order for possession.

**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.

SCHEDULE 4

Rule 23

PART I

IV CLAIMS UNDER THE INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975

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Scope of this Section	Rule 57.14
Proceedings in the High Court	Rule 57.15
Procedure for claims under section 1 of the Act	Rule 57.16

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## PART II

### IV CLAIMS UNDER THE INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975

#### Scope of this Section

**57.14** This Section contains rules about claims under the Inheritance (Provision for Family and Dependents) Act 1975(9) (“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(10) relating to the drawing up and service of orders apply instead of the provisions in Part 40 and its practice direction.

#### 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 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.

(4) 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.

(5) A defendant who is a personal representative of the deceased must file and serve written evidence, which must include the information required by the practice direction.

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(9) 1975 c. 63.

(10) S.I. 1991/1247. There are no relevant amending instruments.

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## SCHEDULE 5

Rule 26

## PART 64

## ESTATES, TRUSTS AND CHARITIES

**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 its practice directions, 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.

**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<sup>(11)</sup>; or
- (d) under section 48 of the Administration of Justice Act 1985<sup>(12)</sup>.

### **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<sup>(13)</sup>;
- (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.

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<sup>(11)</sup> 1958 c. 53.

<sup>(12)</sup> 1985 c. 61. Section 48 has been amended by the Courts and Legal Services Act 1990 (c. 41).

<sup>(13)</sup> 1993 c. 10.

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### **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 the practice direction.

(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.

## SCHEDULE 6

Rule 26

### PART 68

#### REFERENCES TO THE EUROPEAN COURT

##### **Contents of this Part**

Interpretation	Rule 68.1
Making of order of reference	Rule 68.2
Transmission to the European Court	Rule 68.3
Stay of proceedings	Rule 68.4

##### **Interpretation**

**68.1** In this Part—

- (a) “the court” means the court making the order;
- (b) “the European Court” means the Court of Justice of the European Communities;
- (c) “order” means an order referring a question to the European Court for a preliminary ruling under—
  - (i) article 234 of the Treaty establishing the European Community;
  - (ii) article 150 of the Euratom Treaty;
  - (iii) article 41 of the ECSC Treaty;

- (iv) the Protocol of 3 June 1971 on the interpretation by the European Court of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters(14); or
- (v) the Protocol of 19 December 1988 on the interpretation by the European Court of the Convention of 19 June 1980 on the Law applicable to Contractual Obligations(15).

### **Making of order of reference**

**68.2.**—(1) An order may be made at any stage of the proceedings—

- (a) by the court of its own initiative; or
- (b) on an application by a party in accordance with Part 23.

(2) An order may not be made—

- (a) in the High Court, by a Master or district judge;
- (b) in a county court, by a district judge.

(3) The request to the European Court for a preliminary ruling must be set out in a schedule to the order, and the court may give directions on the preparation of the schedule.

### **Transmission to the European Court**

**68.3.**—(1) The Senior Master will send a copy of the order to the Registrar of the European Court.

(2) Where an order is made by a county court, the proper officer will send a copy of it to the Senior Master for onward transmission to the European Court.

(3) Unless the court orders otherwise, the Senior Master will not send a copy of the order to the European Court until—

- (a) the time for appealing against the order has expired; or
- (b) any application for permission to appeal has been refused, or any appeal has been determined.

### **Stay of proceedings**

**68.4** Where an order is made, unless the court orders otherwise the proceedings will be stayed until the European Court has given a preliminary ruling on the question referred to it.

## **PART 69**

### **COURT'S POWER TO APPOINT A RECEIVER**

#### **Contents of this Part**

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Scope of this Part	Rule 69.1
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(14) set out in Schedule 2 to the Civil Jurisdiction and Judgments Act 1982 (c. 27).

(15) set out in Schedule 3 to the Contracts (Applicable Law) Act 1990 (c. 36).

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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

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**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.
 (The practice direction describes the powers for the court to appoint a receiver.)

**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.

(The practice direction makes provision for the form of applications by, and directions to, a receiver.)

## **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

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- (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.

(The practice direction 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.

(The practice direction supplementing Part 40 provides for inquiries into accounts.)

### **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** A receiver or any party may apply for the receiver to be discharged on completion of his duties.



### **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.

## SCHEDULE 8

Rule 29

### PART 74

#### ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

##### **Contents of this part**

Scope of this Part and interpretation	Rule 74. 1
<b>I</b>	
ENFORCEMENT IN ENGLAND AND WALES OF JUDGMENTS OF FOREIGN COURTS	
Interpretation	Rule 74.2
Applications for registration	Rule 74.3
Evidence in support	Rule 74.4
Security for costs	Rule 74.5
Registration orders	Rule 74.6
Applications to set aside registration	Rule 74.7
Appeals	Rule 74.8
Enforcement	Rule 74.9
Recognition	Rule 74.10
Authentic instruments and court settlements	Rule 74.11
<b>II</b>	
ENFORCEMENT IN FOREIGN COUNTRIES OF JUDGMENTS OF THE HIGH COURT AND COUNTY COURTS	
Application for a certified copy of a judgment	Rule 74.12

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Evidence in support	Rule 74.13
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### III

#### ENFORCEMENT OF UNITED KINGDOM JUDGMENTS IN OTHER PARTS OF THE UNITED KINGDOM

Interpretation	Rule 74.14
Registration of money judgments in the High Court	Rule 74.15
Registration of non-money judgments in the High Court	Rule 74.16
Certificates of High Court and county court money judgments	Rule 74.17
Certified copies of High Court and county court non-money judgments	Rule 74.18

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### IV

#### ENFORCEMENT IN ENGLAND AND WALES OF EUROPEAN COMMUNITY JUDGMENTS

Interpretation	Rule 74.19
Application for registration of a Community judgment	Rule 74.20
Evidence in support	Rule 74.21
Registration orders	Rule 74.22
Application to vary or cancel registration	Rule 74.23
Enforcement	Rule 74.24
Application for registration of suspension order	Rule 74.25
Registration and enforcement of a Euratom inspection order	Rule 74.26

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#### 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 county courts.

(3) Section III applies to the enforcement of United Kingdom judgments in other parts of the United Kingdom.

(4) Section IV applies to the enforcement in England and Wales of European Community judgments and Euratom inspection orders.

(5) In this Part—

- (a) “the 1920 Act” means the Administration of Justice Act 1920<sup>(16)</sup>;
- (b) “the 1933 Act” means the Foreign Judgments (Reciprocal Enforcement) Act 1933<sup>(17)</sup>;
- (c) “the 1982 Act” means the Civil Jurisdiction and Judgments Act 1982<sup>(18)</sup>;
- (d) “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.

## 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;
- (b) “Regulation State” has the same meaning as “Member State” in the Judgments Regulation, that is all Member States except Denmark;
- (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; 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.

(2) For the purposes of this Section, “domicile” is to be determined—

- (a) in an application under the 1982 Act, in accordance with sections 41 to 46 that Act;
- (b) in an application under the Judgments Regulation, in accordance with paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001<sup>(19)</sup>.

#### **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;
- (c) section 4 of the 1982 Act; and
- (d) the Judgments Regulation,

for the registration of foreign judgments for enforcement in England and Wales.

(2) Applications—

- (a) must be made to the High Court; and

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<sup>(16)</sup> 10 & 11 Geo 5 c. 81.

<sup>(17)</sup> 23 & 24 Geo 5 c. 13.

<sup>(18)</sup> 1982 c. 27, as amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12) and by S.I.1989/1346, S.I. 1990/2591, S.I. 1993/603, S.I. 2000/1824 and S.I. 2001/3929.

<sup>(19)</sup> S.I. 2001/3929.

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- (b) may be made without notice.

### **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(20) 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;

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(20) 1980 c. 11.

- (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.
- (6) An application for registration under the Judgments Regulation must, in addition to the evidence required by that Regulation, be supported by the evidence required by paragraphs (1)(b) and (2)(e) of this rule.

### **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; and
- (c) any appeal against the granting of the registration,

as if the judgment creditor were a claimant.

(2) A judgment creditor making an application under the 1982 Act or the Judgments Regulation 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.

### **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 him personally;
- (b) as provided by section 725 of the Companies Act 1985<sup>(21)</sup>; 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 6.24, 6.25, 6.26 and 6.29 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 or under the Judgments Regulation, 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.

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(21) 1985 c. 6.

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### **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.

### **Appeals**

**74.8.**—(1) An appeal against the granting or the refusal of registration under the 1982 Act or the Judgments Regulation 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 or a Regulation State, as the case may be, 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.

### **Enforcement**

**74.9.**—(1) No steps may be taken to enforce a 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 74.8, until the application or appeal has been determined.

(2) Any party wishing to enforce a judgment must file evidence of the service on the judgment debtor of—

- (a) the registration order; and
- (b) any other relevant order of the court.

(3) 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.

## **Recognition**

**74.10.**—(1) Registration of a judgment serves as a decision that the judgment is recognised for the purposes of the 1982 Act and the Judgments Regulation.

(2) An application for recognition of a judgment is governed by the same rules as an application for registration of a judgment under the 1982 Act or under the Judgments Regulation, except that rule 74.4(5)(a) and (c) does not apply.

## **Authentic instruments and court settlements**

**74.11** The rules governing the registration of judgments under the 1982 Act or under the Judgments Regulation apply as appropriate and with any necessary modifications for the enforcement of—

- (a) authentic instruments which are subject to—
  - (i) article 50 of Schedule 1 to the 1982 Act;
  - (ii) article 50 of Schedule 3C to the 1982 Act; and
  - (iii) article 57 of the Judgments Regulation; and
- (b) court settlements which are subject to—
  - (i) article 51 of Schedule 1 to the 1982 Act;
  - (ii) article 51 of Schedule 3C to the 1982 Act; and
  - (iii) article 58 of the Judgments Regulation.

## **II**

### ***ENFORCEMENT IN FOREIGN COUNTRIES OF JUDGMENTS OF THE HIGH COURT AND COUNTY COURTS***

#### **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 a county court under section 10 of the 1933 Act;
- (c) to the High Court or to a county court under section 12 of the 1982 Act; or
- (d) to the High Court or to a county court under article 54 of the Judgments Regulation.

(2) A judgment creditor who wishes to enforce in a foreign country a judgment obtained in the High Court or in a county court must apply for a certified copy of the judgment.

(3) The application may be made without notice.

#### **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 an assisted person or an LSC funded client, as defined in rule 43.2(1)(h) and (i).

(2) The written evidence must—

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- (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.

### *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 Supreme Court, together with a copy certified by written evidence to be a true copy.

##### **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 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 a 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.

#### **Certified copies of High Court and 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 a 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;

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- (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.

#### *IV*

### **ENFORCEMENT IN ENGLAND AND WALES OF EUROPEAN COMMUNITY JUDGMENTS**

#### **Interpretation**

**74.19** In this Section—

- (a) “Community judgment” means any judgment, decision or order which is enforceable under—
  - (i) article 244 or 256 of the Treaty establishing the European Community;
  - (ii) article 18, 159 or 164 of the Euratom Treaty;
  - (iii) article 44 or 92 of the ECSC Treaty; or
  - (iv) article 82 of Council Regulation (EC) 40/94 of 20 December 1993 on the Community trade mark;
- (b) “Euratom inspection order” means an order made by the President of the European Court, or a decision of the Commission of the European Communities, under article 81 of the Euratom Treaty;
- (c) “European Court” means the Court of Justice of the European Communities;
- (d) “order for enforcement” means an order under the authority of the Secretary of State that the Community judgment to which it is appended is to be registered for enforcement in the United Kingdom.

#### **Application for registration of a Community judgment**

**74.20** An application to the High Court for the registration of a Community judgment may be made without notice.

#### **Evidence in support**

- 74.21.**—(1) An application for registration must be supported by written evidence exhibiting—
- (a) the Community judgment and the order for its enforcement, or an authenticated copy; 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) Where the application is for registration of a Community judgment which is a money judgment, the evidence 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 amount in respect of which the judgment is unsatisfied; and
  - (d) that the European Court has not suspended enforcement of the judgment.

### **Registration orders**

**74.22.**—(1) A copy of the order granting permission to register a Community judgment (“the registration order”) must be served on every person against whom the judgment was given.

(2) The registration order must state the name and address for service of the person who applied for registration, and must exhibit—

- (a) a copy of the registered Community judgment; and
- (b) a copy of the order for its enforcement.

(3) In the case of a Community judgment which is a money judgment, the registration order must also state the right of the judgment debtor to apply within 28 days for the variation or cancellation of the registration under rule 74.23.

### **Application to vary or cancel registration**

**74.23.**—(1) An application to vary or cancel the registration of a Community judgment which is a money judgment on the ground that at the date of registration the judgment had been partly or wholly satisfied must be made within 28 days of the date on which the registration order was served on the judgment debtor.

(2) The application must be supported by written evidence.

### **Enforcement**

**74.24** No steps may be taken to enforce a Community judgment which is a money judgment—

- (a) before the end of the period specified in accordance with rule 74.23(1); or
- (b) where an application is made under that rule, until it has been determined.

### **Application for registration of suspension order**

**74.25.**—(1) Where the European Court has made an order that the enforcement of a registered Community judgment should be suspended, an application for the registration of that order in the High Court is made by filing a copy of the order in the Central Office of the Supreme Court.

(2) The application may be made without notice.

### **Registration and enforcement of a Euratom inspection order**

**74.26.**—(1) Rules 74.20, 74.21(1), and 74.22(1) and (2), which apply to the registration of a Community judgment, also apply to the registration of a Euratom inspection order but with the necessary modifications.

(2) An application under article 6 of the European Communities (Enforcement of Community Judgments) Order 1972(22) to give effect to a Euratom inspection order may be made on written evidence, and—

- (a) where the matter is urgent, without notice;
- (b) otherwise, by claim form.

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(22) [S.I. 1972/1590](#).

## SCHEDULE 9

Rule 29

## PART 75

## TRAFFIC ENFORCEMENT

**Contents of this Part**


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**Scope and interpretation**

**75.1.**—(1) The practice direction—

- (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.

(2) In this Part—

- (a) “the Centre” means the Traffic Enforcement Centre established under the direction of the Lord Chancellor;
- (b) “no relevant return to the warrant” means that—
  - (i) the bailiff has been unable to seize goods because he 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 warrant of execution 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.
- (c) “the 1993 Order” means the Enforcement of Road Traffic Debts Order 1993<sup>(23)</sup>;
- (d) “relevant period”, in relation to any particular case, means—
  - (i) the period allowed for serving a statutory declaration under any enactment which applies to that case; or

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<sup>(23)</sup> S.I. 1993/2073 as amended by S.I. 2001/1386.

- (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 the practice direction.

### **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—
- (a) the Centre shall be deemed to be part of the office of the court whose name appears on the documents to which the functions relates or in whose name the documents are issued; and
  - (b) any officer of the Centre, in exercising its functions, is deemed to act as an officer of that court.

### **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 the practice direction.
- (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 county court order by sealing the request and returning it to the authority.
- (4) On receipt of a sealed request the authority may draw up an order and must attach to it a form of statutory declaration for the respondent’s use.
- (5) Within 14 days of receipt of the sealed request, the authority must serve the order (and the form of statutory declaration) on the respondent in accordance with Part 6.
- (6) Where an order is served by first class post rule 6.7 is modified so that the date of service will be deemed to be the seventh day after the date on which the order was sent to the respondent.

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### **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.

### **Functions of court officer**

**75.5.**—(1) The practice direction sets out circumstances in which a court officer may exercise the functions of the court or a district judge.

(2) Any party may request any decision of a court officer to be reviewed by a district judge.

(3) Such a request must be made within 14 days of service of the decision.

### **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;

(b) CCR Order 25, rules 1 and 9;

(c) CCR Order 26, rule 5; and

(d) CCR Order 27, rules 1 to 7, 7A, 7B, 9 to 16 and 18 to 22.

(Rule 30.2 provides for the transfer between courts in order to enforce a judgment.)

### **Warrant of execution**

**75.7.**—(1) An authority seeking the issue of a warrant of execution 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.

(5) For the purposes of execution a warrant will be valid for 12 months beginning with the date of its issue.

(6) An authority may not renew a warrant issued in accordance with this Part.

### **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—

(a) the court will serve a copy of the statutory declaration on the authority;

(b) any execution issued on the order will cease to have effect; and

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- (c) if appropriate, the authority must inform any bailiff instructed to levy execution of the withdrawal of the warrant as soon as possible.

**Transfer for enforcement**

**75.9** If an authority requests the transfer of proceedings to another county court 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 warrant of execution;
- (c) specify the date of service of the order on the respondent; and
- (d) certify that the relevant period has elapsed.

**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 Parts 71, 72 or 73 or CCR Order 27—

- (i) where the authority has not attempted to enforce by execution, give the reasons no such attempt was made;
- (ii) certify that there has been no relevant return to the warrant of execution;
- (iii) specify the date of service of the order on the respondent; and
- (iv) certify that the relevant period has elapsed.

**Combining requests**

**75.11** If the court officer allows, an authority may combine information relating to different orders against the same defendant in any request or application made under rules 75.9 or 75.10.

SCHEDULE 10

Rule 36

**Table**

<i>(1)</i> <i>Order</i>	<i>(2)</i> <i>Extent of revocation</i>
RSC Order 15	The whole Order.
RSC Order 30	The whole Order.
RSC Order 44	The whole Order.
RSC Order 51	The whole Order.
RSC Order 69	The whole Order.
RSC Order 70	The whole Order.

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<i>(1)</i> <i>Order</i>	<i>(2)</i> <i>Extent of revocation</i>
RSC Order 71	The whole Order.
RSC Order 85	The whole Order.
RSC Order 87	The whole Order.
RSC Order 92	The whole Order.
RSC Order 93	Rules 6 and 21.
RSC Order 99	The whole Order.
RSC Order 108	The whole Order.
RSC Order 114	The whole Order.
CCR Order 5	Rules 12 to 14.
CCR Order 19	The whole Order.
CCR Order 24	Rules 8 to 15.
CCR Order 35	The whole Order.
CCR Order 37	The whole Order.
CCR Order 49	Rule 20.

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules make amendments to the Civil Procedure Rules 1998. In particular the following new provisions are inserted:

- A new rule 5.5 which provides for a practice direction to make provision for documents to be filed or sent to the court by facsimile or other electronic means (Rule 4).
- Section IV of Part 6, to provide for the service, in England and Wales, of foreign process (Rule 5 and Schedule 1). These matters have until now been governed by Order 69 of the Rules of the Supreme Court in Schedule 1 to the Civil Procedure Rules (“RSC”), which is now revoked.
- A new rule 19.7A which deals with the representation of beneficiaries by trustees (Rule 6). This rule replaces RSC Order 15, rule 14, which is revoked.
- Section II of Part 34, to provide for the obtaining, in England and Wales, of evidence for foreign courts (Rule 12 and Schedule 2). These matters have until now been governed by RSC Order 70, which is revoked.
- Section III of Part 55, in relation to applications for Interim Possession Orders (Rule 22 and Schedule 3). Such applications have until now been governed by Order 24, rules 8 to 15 of the County Court Rules in Schedule 2 to the Civil Procedure Rules (“CCR”), which are now revoked.



- Section IV of Part 57, dealing with claims under the Inheritance (Provision for Family and Dependents) Act 1975 (Rule 23 and Schedule 4). These proceedings have until now been governed by RSC Order 99, which is now revoked.
- Part 64, dealing with claims relating to the administration of estates and trusts, and charity proceedings (Rule 26 and Schedule 5). These proceedings have until now been governed by RSC Orders 85 and 108, which are now revoked.
- Part 68, setting out the procedure for courts to seek preliminary rulings from the Court of Justice of the European Communities (Rule 26 and Schedule 6). The procedure has until now been governed by RSC Order 114 which is now revoked.
- Part 69, dealing with the court’s power to appoint a receiver (Rule 26 and Schedule 7). These proceedings have until now been governed by RSC Orders 30 and 51, which are now revoked.
- Part 74, dealing with the enforcement in England and Wales of judgments from abroad, the enforcement abroad of judgments of courts in England and Wales, the enforcement in England and Wales, Scotland and Northern Ireland of judgments made in other jurisdictions, and the enforcement of European Community judgments (Rule 29 and Schedule 8). These matters have until now been governed by RSC Order 71, which is now revoked.
- Part 75, dealing with Traffic Enforcement (where traffic penalties are recoverable through the civil courts) (Rule 29 and Schedule 9). These matters have until now been governed by CCR Order 48B, which is now revoked.

The new provisions inserted into the Civil Procedure Rules 1998 by these amending rules leave unused for the time being Part numbers 63, 65, 66 and 67. These Part numbers will be allocated to other new rules to be considered by the Civil Procedure Rule Committee in due course.

In addition the following amendments are made:

- Rule 19.8A is amended to provide that, in claims relating to the estate of a deceased person, property subject to a trust, or the sale of any property, the court may direct that notice of a judgment or order be served on a person who is not a party, so that the judgment or order will bind that person. This rule is also amended to apply to claims in county courts as well as the High Court (Rule 6).
- Rule 48.6 is amended to provide that the costs allowed to a litigant in person will be for the same categories of work and disbursements as would have been allowed if the work had been done or the disbursements made by a legal representative on behalf of the litigant in person, and to provide that where a litigant in person is able to prove financial loss, he will be allowed the amount he can prove he has lost for time reasonably spent doing the work (Rule 19).
- Rule 48.7 is amended to provide the court with an alternative when making a wasted costs order. The court can direct a costs judge or a district judge to decide the amount of costs to be disallowed or paid (Rule 20).
- The “listing questionnaire” provided for by rule 28.5 is renamed the “pre-trial checklist” to reflect more accurately the purpose of the document, and various amendments are made to provide for this.

Various other amendments and revocations are also made.