

STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

PART 38

DISCONTINUANCE

Right to discontinue claim

38.2.—(1) [^{F1}At any time, a claimant] may discontinue all or part of a claim [^{F2}against one or more defendants].

(2) However—

- (a) a claimant must obtain the permission of the court if [^{F3}they wish to] discontinue all or part of a claim in relation to which—
 - (i) the court has granted an interim injunction^(GL); or
 - (ii) any party has given an undertaking to the court;
- (b) where the claimant has received an interim payment in relation to a claim (whether voluntarily or pursuant to an order under Part 25), he may discontinue that claim only if—
 - (i) the defendant who made the interim payment consents in writing; or
 - (ii) the court gives permission;
- (c) where there is more than one claimant, a claimant may not discontinue unless—
 - (i) every other claimant consents in writing; or
 - (ii) the court gives permission.

^{F4}(3)

Textual Amendments

- F1** Words in rule 38.2(1) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [21\(2\)\(a\)](#)
- F2** Words in rule 38.2(1) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\)](#), [20\(1\)\(a\)](#)
- F3** Words in rule 38.2(2)(a) substituted (1.10.2023 immediately after [S.I. 2023/572](#) comes into force) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), [rules 1\(1\)](#), [20\(1\)\(b\)](#)
- F4** Rule 38.2(3) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), [rules 1\(1\)](#), [21\(2\)\(c\)](#)

Commencement Information

- I1** [Rule 38.2](#) in force at 26.4.1999, see [Signature](#)

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 38.2.