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STATUTORY INSTRUMENTS

2023 No. 105 (L. 3)

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

The Civil Procedure (Amendment) Rules 2023

Made - - - - 30th January 2023

Laid before Parliament 2nd February 2023

Coming into force in accordance with rule 1

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(1) to make rules under section 1 of and Schedule 1 to that Act and section 67B(1) of the Courts Act 2003(2), and after fulfilling the requirements of section 2(6) of the Civil Procedure Act 1997 and section 67C of the Courts Act 2003, makes the following Rules.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Civil Procedure (Amendment) Rules 2023 and come into force on 6th April 2023, except as provided by paragraphs (2) and (3).

(2) These Rules may be cited as the Civil Procedure (Amendment) Rules 2023 and come into force on 6th April 2023, except as provided by paragraphs (2) and (3).

(3) The amendments made by rule 24 of these Rules apply only to claims where proceedings are issued on or after 6th April 2023.

(4) The amendments made by rule 33(3)(b) and (4) of these rules apply only to claims where the claim form is issued on or after 6th April 2023.

(5) In these Rules—

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- (1) 1997 c. 12. Section 2(1) was substituted by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, Part 1. Section 1(3) was substituted by section 82(1) of the Courts Act 2003 (c. 39) and further amended by the Constitutional Reform Act 2005, sections 15 and 146 and Schedule 4, Part 1, paragraphs 261 and 262 and Schedule 18. Section 1(1) was amended by the Crime and Courts Act 2013 (c. 22), section 17(5) and Schedule 9, Part 3, paragraph 67(a). Schedule 1 to the 1997 Act was amended by the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33), s.3, Schedule Pt 1 para 19, the Crime and Courts Act 2013, s175, Schedule 9, Part 3, para 67(b).
- (2) Sections 67B and 67C were inserted by section 3 of and paragraph 32 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(3); and
- (b) a reference to “Schedule 1” means Schedule 1 to those Rules, and a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in that Schedule.

Amendments to the Civil Procedure Rules 1998

- 2. The Civil Procedure Rules 1998 are amended in accordance with rules 3 to 41 of these Rules.

Amendment of Part 2

- 3.—(1) In rule 2.1(3)(b), for “2005” substitute “2006”.
- (2) In rule 2.3(1)—
 - (a) in the definition of “MyHMCTS”, for “Her Majesty’s” substitute “His Majesty’s”; and
 - (b) in the definition of “statement of case”, for “Part 20 claim” substitute “counterclaim or other additional claim”.

Amendment of Part 3

- 4.—(1) In rule 3.7B(6)—
 - (a) for “Part 20 claimant” substitute “claimant in a counterclaim or other additional claim”; and
 - (b) for “Part 20 claim” substitute “counterclaim or other additional claim”.
- (2) In rule 3.15A(3)(c), for “Practice Direction 3E” substitute “Practice Direction 3D”.

Amendment of Part 4

- 5. In rule 4, in paragraphs (1) and (2), for “Her Majesty’s” substitute “His Majesty’s”.

Amendment of Part 6

- 6.—(1) In rule 6.6, omit the words in parentheses following paragraph (2).
- (2) In rule 6.8(b)—
 - (a) after “tenant” insert “or contract-holder”; and
 - (b) at end insert “or section 39 of the Renting Homes (Wales) Act 2016(4)”.
- (3) In rule 6.23, omit the words in parentheses following paragraph (1).

Amendment of Part 8

- 7.—(1) In the Table of Contents for the Part, in the entry for rule 8.7, for “Part 20 claims” substitute “Counterclaims and other additional claims”.
- (2) In the heading to rule 8.7, for “Part 20 claims” substitute “Counterclaims and other additional claims”.
- (3) In rule 8.7, for “Part 20 claim” substitute “counterclaim or other additional claim”.

(3) S.I. 1998/3132. There are relevant amendments in S.I. 2000/221, S.I. 2000/2092, S.I. 2001/256, S.I. 2001/1388, S.I. 2001/4015, S.I. 2002/2058, S.I. 2006/3435, S.I. 2007/2204, S.I. 2009/3390, S.I. 2012/2208, S.I. 2013/262, S.I. 2016/788, S.I. 2017/95, S.I. 2019/1118, S.I. 2021/117, S.I. 2021/196, S.I. 2022/101, and S.I. 2022/783.

(4) 2016 anaw 1.

Amendment of Part 10

8. In rule 10.5, in the second set of words in parentheses after paragraph (1), for “19.8A” substitute “19.13”.

Amendment of Part 12

9. In rule 12.3(3), after “default judgment if” insert “at the time the court is considering the issue”.

Amendment of Part 15

10. In rule 15.7, for “should normally” substitute “must, other than for good reason”.

Amendment of Part 17

11.—(1) In rule 17.1—

(a) in paragraph (1)—

(i) for “his” substitute “their”; and

(ii) after “statement of case” insert “, including by removing, adding or substituting a party.”; and

(b) after paragraph (3) insert—

“(4) A party who files a notice under Part 38 discontinuing all or part of a claim may amend their statement of case without the court’s permission to give effect to the discontinuance.”.

(2) In rule 17.2—

(a) in paragraph (1), for “his” substitute “their”; and

(b) in paragraph (2), for “him” substitute “them”.

(3) In rule 17.3—

(a) in paragraph (1), for “his” substitute “their”; and

(b) in paragraph (2)—

(i) in sub-paragraph (a), for “19.1” substitute “19.2”; and

(ii) in sub-paragraph (b), for “19.4” substitute “19.6”.

(4) In rule 17.4—

(a) in paragraph (1)(a), for his” substitute “their”;

(b) in paragraph (2), after “substantially the same facts” insert “as are already in issue on”; and

(c) in the words in parentheses after paragraph (4), for “19.5” substitute “19.6”.

Amendment of Part 19

12.—(1) For the Table of Contents for the Part substitute—

“TITLE	NUMBER
Parties – general	Rule 19.1
I ADDITION AND SUBSTITUTION OF PARTIES	
Change of parties – general	Rule 19.2
Provisions applicable where two or more persons are jointly entitled to a remedy	Rule 19.3

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

Procedure for adding and substituting parties	Rule 19.4
Human Rights	Rule 19.5
Special provisions about adding or substituting parties after the end of a relevant limitation period	Rule 19.6
Special rules about parties in claims for wrongful interference with goods	Rule 19.7
II REPRESENTATIVE PARTIES	
Representative parties with same interest	Rule 19.8
Representation of interested persons who cannot be ascertained etc.	Rule 19.9
Representation of beneficiaries by trustees etc.	Rule 19.10
Postal Services Act 2000 (c.26)	Rule 19.11
Death	Rule 19.12
Power to make judgements binding on non-parties	Rule 19.13
Derivative claims – how started	Rule 19.14
Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – application for permission	Rule 19.15
Derivative claims under Chapter 1 of Part 11 of the Companies Act 2006 – members of companies taking over claims by companies or other members	Rule 19.16
Derivative claims – other bodies corporate and trade unions	Rule 19.17
Derivative claims arising in the course of other proceedings	Rule 19.18
Derivative claims – costs	Rule 19.19
Derivative claims – discontinuance and settlement	Rule 19.20
III GROUP LITIGATION	
Definition	Rule 19.21
Group Litigation Order	Rule 19.22
Effect of the GLO	Rule 19.23
Case management	Rule 19.24
Removal from the register	Rule 19.25
Test claims	Rule 19.26”.

(2) In rule 19.2(a), at the end, omit “and”.

(3) In rule 19.3—

(a) in paragraph (1)—

(i) for “Where a claimant” to “all persons” substitute “All persons”; and

(ii) after “remedy” insert “claimed by a claimant”; and

(b) in paragraph (2), after “If any” insert “such”.

(4) In rule 19.4—

(a) for paragraph (2) substitute—

- “(2) An application for permission under paragraph (1)—
- (a) may be made by—
 - (i) an existing party; or
 - (ii) a person who wishes to become a party; and
 - (b) must be—
 - (i) supported by evidence; and
 - (ii) made under Part 23.”;
- (b) in paragraph (3), omit the words in parentheses after “rule 19.2(4)”;
- (c) in paragraph (4)—
- (i) in sub-paragraph (a), for “he has given his” substitute “they have given their”; and
 - (ii) in sub-paragraph (b), for “consent has” substitute “consent, and the proposed amended claim form and particulars of claim, have”.
- (5) For paragraphs (4A) to (6) substitute—
- “(5) If an order is made adding or substituting a person as a claimant prior to the filing of their consent—
- (a) the order; and
 - (b) the addition or substitution of the new party as claimant,
- shall not take effect until the signed, written consent of the new claimant is filed.
- (6) The Commissioners for HM Revenue and Customs may, where a dispute between other parties may have tax consequences, be added as party to proceedings if they consent in writing.
- (7) An order for the removal, addition or substitution of a party must be served on—
- (a) all parties to the proceedings; and
 - (b) any other person affected by the order.
- (8) When the court makes an order for the removal, addition or substitution of a party, it may give consequential directions.
- (9) A new defendant does not become a party to the proceedings until the amended claim form has been served on them.
- (10) A party applying to add a new party by amendment will usually be responsible for the costs of and arising from the amendment.
- (11) The court may remove, add or substitute parties in existing proceedings on its own initiative.”.
- (6) For rule 19.4A substitute—

“Human Rights

19.5.—(1) The court may not make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998(5) unless 21 days’ notice, or such other period of notice as the court directs, has been given to the Crown by the claimant.

(2) Where a claim is made under section 9 of the Human Rights Act 1998 for damages in respect of a judicial act—

- (a) that claim, including details of the judicial act, must be set out in the statement of case or the appeal notice; and
 - (b) notice must be given to the Crown.
- (3) The court may at any time consider whether notice under paragraph (1) or (2) should be given to the Crown and give directions as to the content and service of such notice.
- (4) A notice served on the Crown must be served on—
- (a) the person named in the list published under section 17 of the Crown Proceedings Act 1947⁽⁶⁾ (which is annexed to Practice Direction 66);
 - (b) Senedd Cymru, in the circumstances described in the National Assembly for Wales (Transfer of Functions) (No. 2) Order 2000⁽⁷⁾;
 - (c) the Treasury Solicitor on behalf of the Lord Chancellor, in respect of a claim under section 9 of the Human Rights Act 1998, except where the judicial act is of a Court-Martial when service must be on the Treasury Solicitor on behalf of the Secretary of State for Defence;
 - (d) all parties.
- (5) Where notice has been given to the Crown, a Minister or other person permitted by the Human Rights Act 1998 shall be joined as a party on notifying their consent to the court and all other parties.
- (6) Where the Minister has, under section 5(2)(a) of the Human Rights Act 1998, nominated a person to be joined, the notice consenting to be joined must be accompanied by the written nomination.
- (7) Where paragraph (2) applies and the appropriate person has not applied to be joined as a party within 21 days, or such other period as the court directs, after the notice is served, the court may join the appropriate person as a party.”
- (7) Rule 19.5 is renumbered as rule 19.6; and in rule 19.6 as so renumbered—
- (a) in paragraph (3)(c), for “him and his” substitute “them and their”; and
 - (b) omit the words in parentheses after paragraph (4).
- (8) Rule 19.5A is renumbered as rule 19.7; and in rule 19.7 as so renumbered—
- (a) in paragraph (1), for “his” substitute “the claimant’s”;
 - (b) in paragraph (3), for “he” substitute “that person”; and
 - (c) omit the words in parentheses after paragraph (3).
- (9) Rule 19.6 is renumbered as rule 19.8; and in paragraph (5) of rule 19.7 as so renumbered, for 19.7” substitute “19.9”.
- (10) Rule 19.7 is renumbered as rule 19.9.
- (11) Rule 19.7A is renumbered as rule 19.10.
- (12) For rule 19.7B substitute—

“Postal Services Act 2000

19.11. A copy of an application notice under section 92 of the Postal Services Act 2000⁽⁸⁾ for permission to bring proceedings in the name of the sender or addressee of a postal packet

⁽⁶⁾ 1847 c. 44. Section 17 was amended by S.I. 1968/1656, article 3(2).

⁽⁷⁾ S.I. 2000/1830. The National Assembly for Wales was renamed as Senedd Cymru or the Welsh Parliament by virtue of section 2 of the Senedd and Elections (Wales) Act 2000 (2000 anaw 1).

⁽⁸⁾ 2000 c. 26.

- or their personal representative must be served on the universal service provider and on the person in whose name the applicant seeks to bring the proceedings.”.
- (13) Rule 19.8 is renumbered as rule 19.12.
- (14) Rule 19.8A is renumbered as rule 19.13; and in rule 19.13 as so renumbered—
- (a) in paragraph (4)(a)(i)—
 - (i) before “form” insert “prescribed”; and
 - (ii) omit the words after “form”;
 - (b) in paragraph (5), for “he” substitute “they”;
 - (c) in paragraph (6), for “he” substitute “they”;
 - (d) in paragraph (7), for “him” substitute “them”; and
 - (e) in paragraph (8)—
 - (i) in sub-paragraph (a), for “he” substitute “they”; and
 - (ii) in sub-paragraph (b)—
 - (aa) for “he” substitute “they”; and
 - (bb) for “him” substitute “them”.
- (15) Rule 19.9 is renumbered as rule 19.14; and in rule 19.14 as so renumbered—
- (a) in paragraph (2), after “claim form” insert “headed “Derivative Claim””; and
 - (b) in paragraph (4)(a), for “19.9A or 19.9C” substitute “19.15 or 19.17”.
- (16) Rule 19.9A is renumbered as rule 19.15; and in rule 19.15 as so renumbered—
- (a) in paragraph (4)(a)—
 - (i) before “form” insert “prescribed”; and
 - (ii) omit the words after “form”; and
 - (b) for paragraph (8) substitute—
 - “(8) An application under paragraph (7)—
 - (a) may be made without notice; and
 - (b) must state in the application notice the reasons for the application and be filed with any written evidence in support.”.
- (17) Rule 19.9B is renumbered as rule 19.16, and in paragraph (3) of rule 19.16 as so renumbered, for “19.9A” in the two places where it occurs substitute “19.15”.
- (18) Rule 19.9C is renumbered as rule 19.17, and in paragraph (5) of rule 19.17 as so renumbered—
- (a) for “19.9A” substitute “19.15”; and
 - (b) for “19.9B” substitute “19.16”.
- (19) Rule 19.9D is renumbered as rule 19.18; and in rule 19.18 as so renumbered—
- (a) in paragraph (a), for “19.9A or 19.9B” substitute “19.15 or 19.16”; and
 - (b) in paragraph (b), for “19.9C” substitute “19.17”.
- (20) Rule 19.9E is renumbered as rule 19.19; and in rule 19.19 as so renumbered—
- (a) the existing text of the rule is numbered as paragraph (1); and
 - (b) after paragraph (1) as so numbered, insert—

“(2) If the claimant seeks an order that the defendant company or other body concerned indemnify the claimant against liability for costs incurred in the permission application or the claim, this should be stated in the permission application or claim form or both.”.

- (21) Rule 19.9F is renumbered as rule 19.20.
- (22) Rule 19.10 is renumbered as rule 19.21; and in rule 19.21 as so renumbered, for “19.11” substitute “19.22”.
- (23) Rule 19.11 is renumbered as rule 19.22; and in rule 19.22 as so renumbered—
- (a) in paragraph (1), at the end insert “The multiple parties may be claimants or defendants.”;
 - (b) in the words in parentheses after paragraph (1), after “GLO” insert “where the multiple parties are claimants”;
 - (c) in paragraph (2)—
 - (i) at the end of sub-paragraph (b), omit “and”;
 - (ii) at the end of sub-paragraph (c), for the full stop substitute “; and”; and
 - (iii) after sub-paragraph (c) insert—
 - (d) be made in the King’s Bench Division with the consent of the President of the King’s Bench Division; in the Chancery Division with the consent of the Chancellor of the High Court; or in the County Court with the consent of the Head of Civil Justice. Such consent will be sought by the court to which the application for the GLO is made.”.
- (24) Rule 19.12 is renumbered as rule 19.23; and in rule 19.23 as so renumbered—
- (a) in paragraph (2), for “him” substitute “them”; and
 - (b) in paragraph (3), for “him” substitute “them”.
- (25) Rule 19.13 is renumbered as rule 19.24; and in rule 19.24 as so renumbered, omit the words in parentheses at the end of the rule.
- (26) Rule 19.14 is renumbered as rule 19.25.
- (27) Rule 19.15 is renumbered as rule 19.26; and in paragraph (2) of rule 19.26 as so renumbered, for “on” substitute “in”.

Amendment of Part 20

- 13.—**(1) In rule 20.3, for paragraph (4) substitute—
- “(4) Part 14 (admissions) applies to a counterclaim, but the only rules that apply to other additional claims are—
- (a) rules 14.1 and 14.2 (which provide that a party may admit the truth of another party’s case in writing); and
 - (b) rules 14.1(2) and 14.2(4) (request or application for judgment following admission by notice in writing).”.
- (2) In rule 20.4(2)(a), for “he files it with his” substitute “the defendant files the counterclaim with the”.
- (3) In rule 20.5(1), for “A defendant” substitute “Subject to rule 20.7, a defendant”.
- (4) In rule 20.6—
- (a) in paragraph (1), for the words after “proceedings by” to the end substitute “filing and serving on that party a notice containing a statement of the nature and grounds of the additional claim”;
 - (b) in paragraph (2)(a)—

- (i) for “he” substitute “the defendant”;
 - (ii) for “his” where it occurs in paragraph (i) and the first time in paragraph (ii) substitute “the”; and
 - (iii) for “his” where it occurs the second time in paragraph (ii) substitute “their”.
- (5) In rule 20.7(3)(a), for “he files his” substitute “they file their”.
- (6) In rule 20.9(2)—
- (a) for “to which the court may have regard” substitute “which the court may consider”;
 - (b) in sub-paragraph (b), for “him” substitute “them”; and
 - (c) in sub-paragraph (c)(ii), for “he is” substitute “they are”.
- (7) For rule 20.10 substitute—

“Effect of service of an additional claim

20.10. A person on whom an additional claim is served becomes a party to the proceedings if they are not a party already.”.

- (8) In rule 20.11—
- (a) in paragraph (2)(a), for “in so” substitute “as”;
 - (b) in paragraph (3)—
 - (i) in sub-paragraph (a)—
 - (aa) for “he has” substitute “they have”; and
 - (bb) for “him” substitute “them”; and
 - (ii) in sub-paragraph (b), for “he” substitute “they”.
- (9) In rule 20.13, in the words in parentheses at the end of the rule, for “Part 20” substitute “additional”.

Amendment of Part 21

14.—(1) In the Table of Contents for the Part, in the entry for rule 21.12, for “Expenses” substitute “Costs and expenses”.

- (2) In rule 21.1(2)(e)—
- (a) for “him” substitute “them”; and
 - (b) for “his” in both places where it occurs substitute “their”.
- (3) In rule 21.2—
- (a) in paragraph (1), for “his” substitute “their”;
 - (b) for paragraph (2) substitute—

“(2) Unless the court makes an order under paragraph (3), a litigation friend must conduct proceedings on a child’s behalf.”;
 - (c) for paragraph (5)(b) substitute—

“(b) it later appears to the court desirable for a litigation friend to conduct the proceedings on the child’s behalf.”; and
 - (d) after paragraph (5) insert—

“(6) Where one of the parties is a child or protected party, that party shall be referred to in the title to the proceedings as “[name] (a [child] [protected party]) by [name] as litigation friend”.

- (7) Where one of the parties is a child conducting the proceedings on their own behalf, the child shall be referred to in the title as “[name] (a child)”.
- (4) In rule 21.3, for “permission of the court” where those words appear in paragraphs (2) and (3) substitute “the court’s permission”.
- (5) In rule 21.4—
- (a) in paragraph (2)—
 - (i) for “litigation friend of the protected party” substitute “protected party’s litigation friend”; and
 - (ii) for “his” substitute “the deputy’s”; and
 - (b) in paragraph (3)—
 - (i) omit “has been” the second time it occurs;
 - (ii) for “he” substitute “they”;
 - (iii) in sub-paragraph (b), for “has” substitute “have”; and
 - (iv) for sub-paragraph (c) substitute—
 - “(c) where the child or protected party is a claimant, undertake to pay any costs that the claimant is ordered to pay, subject to any right to be repaid from the assets of the child or protected party.”
- (6) In rule 21.5—
- (a) in paragraph (2)—
 - (i) for “his” substitute “their”;
 - (ii) in sub-paragraph (a)—
 - (aa) for “deputy” to “for” substitute “protected party is to be”; and
 - (bb) for “at the time” substitute “when”; and
 - (iii) in sub-paragraph (b)—
 - (aa) for “deputy” to “for” substitute “protected party is to be”;
 - (bb) for “he” substitute “the deputy”; and
 - (cc) for “on behalf of the deputy” substitute “on the deputy’s behalf”;
 - (b) in paragraph (3)—
 - (i) for “he satisfies” substitute “they satisfy”; and
 - (ii) in sub-paragraph (b)—
 - (aa) for “he first takes” substitute “they first take”; and
 - (bb) for “on behalf of the defendant” substitute “on the defendant’s behalf”
 - (c) after paragraph (3) insert—

“(4) The certificate of suitability must be verified by a statement of truth and must state in accordance with the prescribed form that the person—

 - (a) agrees to act;
 - (b) knows or believes the person concerned is a child or lacks capacity to conduct the proceedings (stating in the latter case the grounds for that knowledge or belief); and
 - (c) meets the requirements of rule 21.4(3).”;
 - (d) paragraph (4) is renumbered as paragraph (5); and

- (e) after paragraph (5) as so renumbered insert—
 - “(6) Where the grounds for believing that a protected party lacks capacity to conduct the litigation are based on expert opinion, a copy of such opinion must be served, either with the certificate of suitability or separately.”.
- (7) In rule 21.6—
 - (a) in paragraph (2), after “made” insert “under Part 23”;
 - (b) in paragraph (4), after “evidence” insert “of all the matters set out in rule 21.4(3)”;
 - (c) in paragraph (5), for the words after “satisfied” substitute “of those matters”; and
 - (d) after paragraph (5) insert—
 - “(6) Where the proposed litigation friend is the Official Solicitor, the court’s order must make provision for payment of any charges, expenses or disbursements.”.
- (8) In rule 21.7(1)(c), for “in substitution for” substitute “instead of”.
- (9) In rule 21.8—
 - (a) for paragraph (2) substitute—
 - “(2) In the case of a protected party, an application under rule 21.6 must also be served on the protected party, unless the court directs otherwise.”;
 - (b) in paragraph (3)—
 - (i) in sub-paragraph (a), for “who is purporting to act as the litigation friend” substitute “appearing to act as such”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) the proposed litigation friend, if they are not the applicant.”; and
 - (c) in paragraph (4), omit “specified”.
- (10) In rule 21.9—
 - (a) in paragraph (3)(a), omit “former”;
 - (b) in paragraph (4)—
 - (i) for the words from “child” to “act” substitute “party whose litigation friend’s appointment”;
 - (ii) in sub-paragraph (b), for “his” substitute “the party’s”; and
 - (iii) in sub-paragraph (c), for “he intends” substitute “they intend”;
 - (c) after paragraph (4) insert—
 - “(5) Where that party was a child, the notice must state that they have reached the age of 18 and be signed by that party personally.”;
 - (d) paragraph (5) is renumbered as paragraph (6), and in paragraph (6) as so renumbered—
 - (i) for “the child or protected” both times it occurs substitute “that”;
 - (ii) after “appointment” omit “of the litigation friend”; and
 - (iii) before “strike out” insert “stay or”; and
 - (e) paragraph (6) is renumbered as paragraph (7), and in paragraph (7) as so renumbered, for “until—” to the end substitute “until the party concerned serves the notice required under paragraph (4) or the former litigation friend serves notice on the parties that their appointment has ceased”.
- (11) In rule 21.10, for paragraph (3) substitute—
 - “(3) The documents supporting any application or request for approval must include—

- (a) a draft consent order setting out the proposed settlement terms;
- (b) details of whether or to what extent liability is admitted;
- (c) the age and occupation (if any) of the child or protected party;
- (d) confirmation that the litigation friend approves the settlement;
- (e) a copy of any relevant medical, financial or other expert evidence or advice;
- (f) in a personal injury claim arising from an accident, details of the accident and of claimed loss and damage;
- (g) any documents relevant to considerations of liability; and
- (h) a legal opinion on the merits of the settlement, except in very clear cases, together with any relevant instructions unless they are sufficiently set out in the opinion.

(4) If the claim includes damages for future financial loss, the court must be satisfied that the parties have considered whether the damages should wholly or partly comprise periodical payments.

(5) If the settlement includes periodical payments, the draft consent order must satisfy the requirements of rules 41.8 and 41.9 as appropriate.

(6) In proceedings to which Section II or Section III of Part 45 applies, the court will not make an order for detailed assessment of the costs payable to the child or protected party but will assess the costs in the manner set out in that Section.

(7) Where settlement of a claim by or on behalf of a dependent child includes agreement on a sum to be apportioned to the dependent child, the parties must provide to the court in addition details of—

- (a) the claimed loss of future earnings in respect of the deceased;
- (b) the nature and extent of the dependency.”.

(12) In rule 21.11—

- (a) in paragraph (3), for “in accordance with” substitute “under”; and
- (b) after paragraph (3) insert—

“(4) Where a child lacks capacity to manage and control any money recovered by or on behalf of the child, and is likely to remain so on reaching full age, the fund will be administered as a protected beneficiary’s fund.

(5) Where a child or protected beneficiary is in receipt of publicly funded legal services the fund shall be subject to a first charge under section 25 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(9) (statutory charge) and an order for the investment of money on the child’s or protected beneficiary’s behalf must contain a direction to that effect.

(6) The representative or litigation friend of the child or protected beneficiary must apply to the court for directions for management of the fund or payment into court (using Form CFO 320 or CFO 320PB to be completed by the judge), stating the nature and terms of any proposed investment vehicle, with appropriate supporting evidence.

(7) The judge hearing the application may adjourn it and give directions for further information to be provided and, unless the judge directs otherwise, the money recovered will be paid into the court special account pending determination of the application for investment.

(8) Where money is recovered for the benefit of a child who is not a protected beneficiary—

- (a) if the court considers it appropriate, it may order that the money be paid directly to the litigation friend to be placed in a bank, building society or similar account for the child's use;
 - (b) if the money remains invested in court, it must be paid out to the child when the child reaches the age of 18;
 - (c) any investments held in court other than money must either be sold and the proceeds paid to the child, or transferred to the child, when the child reaches the age of 18.
- (9) Where money is recovered for the benefit of a protected beneficiary—
- (a) if the amount is £100,000 or more, subject to (b) below, the court shall direct the litigation friend to apply to the Court of Protection for the appointment of a deputy, after which the fund shall be dealt with as directed by the Court of Protection;
 - (b) the procedure in sub-paragraph (a) will not apply where a person with authority to administer the protected beneficiary's financial affairs has been appointed as attorney under a registered enduring power of attorney, or as donee of a registered lasting power of attorney, or as the deputy appointed by the Court of Protection;
 - (c) any payment out of money must be in accordance with any decision or order of the Court of Protection;
 - (d) if an application to the Court of Protection is required, that application must be made;
 - (e) if the Court of Protection so decides, on its own initiative or at the request of the judge hearing the application for investment, an amount exceeding £100,000 may be retained in court and invested in the same way as the fund of a child.
- (10) A request for payment of money from a fund held for the benefit of a child or protected party, or to vary an investment strategy, may be made in writing with appropriate supporting evidence (but without making a formal application) to a Master or District Judge and may be determined without a hearing unless the court directs otherwise.”.
- (13) In rule 21.12—
- (a) in the heading, for “Expenses” substitute “Costs and expenses”;
 - (b) in paragraph (1), for “Subject to paragraph (1A), in” substitute “In”;
 - (c) paragraph (1A) is renumbered as paragraph (2), and in paragraph (2) as so renumbered—
 - (i) in sub-paragraph (a), for “pursuant to” substitute “under”; and
 - (ii) in sub-paragraph (b), for “assessed summarily pursuant to” substitute “summarily assessed under”;
 - (d) paragraphs (2) to (8) are renumbered as paragraphs (3) to (9);
 - (e) in paragraph (6) as renumbered, after “legal representative” insert “or deputy”;
 - (f) in paragraph (7) as renumbered, for “paragraph (7)” substitute “paragraph (8)”;
 - (g) in paragraph (8) as renumbered, in sub-paragraph (b), for the words from “pecuniary” to the end substitute “past financial loss”;
 - (h) in paragraph (9) as renumbered, before “a claim” insert “where”; and
 - (i) after paragraph (9) as renumbered insert—

“(10) A litigation friend must support a claim for payment from a fund of costs or expenses by filing a witness statement setting out, so far as applicable—

- (a) the nature and amount of the costs or expenses and the reason they were incurred;
- (b) a copy of any conditional fee or damages based agreement;
- (c) a copy of any risk assessment by reference to which any success fee was determined;
- (d) the reasons why the particular funding model was selected;
- (e) the advice given to the litigation friend on funding arrangements;
- (f) a copy bill or informal breakdown of the solicitor and own client base costs incurred;
- (g) details of any costs agreed, recovered or fixed costs recoverable by the child; and
- (h) an explanation of the amount agreed or awarded for—
 - (i) general damages for pain, suffering and loss of amenity; and
 - (ii) damages for past financial loss, net of any sums recoverable by the Compensation Recovery Unit or the Department for Work and Pensions.”.

(14) In rule 21.13, at the end of the rule insert—

“(Paragraph 8 of Practice Direction 40A deals with approval of the accounts of a guardian of assets of a child.)”.

Amendment of Part 22

15. In rule 22.1(1)(e)—

- (a) for “possession claim” substitute “claim for possession”; and
- (b) after “55.3(2)” insert “, 55.32(2)”.

Amendment of Part 24

16. In rule 24.3(2)(b)—

- (a) after “tenant” insert “or contract-holder”; and
- (b) for “or the Housing Act 1988” substitute “, the Housing Act 1988(10) or the Renting Homes (Wales) Act 2016(11)”.

Amendment of Part 25

17. In rule 25.12, in the words in parentheses after paragraph (1), for “Part 20 claims” substitute “counterclaims or other additional claims”.

Amendment of Part 26

18.—(1) In rule 26.4A(3), for “Her Majesty’s” substitute “His Majesty’s”.

(2) In rule 26.6, at the end of paragraph (1), for the full stop substitute—

“,

- (c) in relation to claims under the Renting Homes (Wales) Act 2016, any claim which includes a claim by a contract-holder of a dwelling against a landlord where —

(10) 1988 c. 50.

(11) 2016 anaw 1.

- (i) the contract-holder is seeking an order requiring the landlord to carry out repairs or other work to the dwelling (whether or not the contract-holder is also seeking some other remedy);
 - (ii) the cost of the repairs or other work to the dwelling is estimated to be not more than £1,000; and
 - (iii) the value of any other claim for damages is not more than £1,000.”.
- (3) In rule 26.7—
- (a) in paragraph (4), for “his” substitute “their”; and
 - (b) after paragraph (4) insert—
“*(5) In claims under the Renting Homes (Wales) Act 2016, the court will not allocate a claim to the small claims track, if it includes a claim by a contract-holder of a dwelling against their landlord for a remedy in respect of harassment or unlawful eviction.*”.
- (4) In rule 26.8(1)(e), for “Part 20” substitute “additional”.

Amendment of Part 27

- 19.** In rule 27.1, in the words in parentheses following paragraph (2)—
- (a) after “residential premises” the first time it occurs, insert “or to a dwelling where the claim is under the Renting Homes (Wales) Act 2016”;
 - (b) at the end of the third bulleted paragraph, for the full stop substitute—
“
— any claim which includes a claim under the Renting Home (Wales) Act 2016 by a contract-holder of a dwelling against their landlord for repairs or other work to the dwelling where the estimated cost of the repairs or other work is not more than £1,000 and the financial value of any other claim for damages is not more than £1,000).”.

Amendment of Part 30

- 20.**—(1) In rule 30.5(4), for “Queen’s” substitute “King’s”.
- (2) In rule 30.8, in paragraphs (1) and (4), for “Queen’s” substitute “King’s”.

Amendment of Part 38

- 21.**—(1) In rule 38.1—
- (a) in paragraph (1), at the end insert “A “claim” includes a cause of action or part of one.”; and
 - (b) in paragraph (2)(b), for “his” in both places where it occurs substitute “their”.
- (2) In rule 38.2—
- (a) in paragraph (1), for “A claimant” substitute “At any time, a claimant”;
 - (b) in paragraph (2)(a), for “he” substitute “they”; and
 - (c) omit paragraph (3).
- (3) In rule 38.3—
- (a) in paragraph (2), for “which he files that he has” substitute “that they have”; and
 - (b) after paragraph (4) insert—
“*(5) A notice of discontinuance must be in Form N279 unless the court permits otherwise.*”.

- (4) In rule 38.4(2), for “him” substitute “them”.
- (5) In rule 38.5—
 - (a) in paragraph (1), for “him” substitute “them”; and
 - (b) in paragraph (2)—
 - (i) for “proceedings are” substitute “claim is”; and
 - (ii) for “him” substitute “that defendant”.
- (6) In rule 38.6(2)(a)—
 - (a) before “part” insert “discontinued”; and
 - (b) omit “which he is discontinuing”.
- (7) For rule 38.7 substitute—

“Discontinuance and subsequent proceedings

38.7.—(1) A claimant who discontinues a claim needs the permission of the court to make another claim against the same defendant if—

- (a) they discontinued the claim after the defendant filed a defence or, in a Part 8 claim, filed an acknowledgment of service or written evidence; and
- (b) the other claim arises out of facts which are the same or substantially the same as those relating to the discontinued claim.

(2) If the claimant considers that permission is needed, the application for permission shall be included in the claim form and claim will proceed only if permission is granted.

(3) The defendant shall inform the court in writing as soon as practicable whether the defendant asserts that permission is needed and, if so, whether the defendant consents to permission being granted.

(4) If the parties agree that permission should be granted, the court shall issue an order granting permission on the papers or make such other order as it thinks fit.

(5) If the parties disagree about whether permission should be granted, the court shall determine the issue either at a hearing or, in its discretion, on the papers after receiving written representations.

(6) The defendant is not required to file an acknowledgment of service unless and until permission is granted.”.

Amendment of Part 40

- 22.**—(1) In rule 40.3(4), for “Queen’s” substitute “King’s”.
- (2) In rule 40.17, after paragraph (a) insert—
 - “(aa) where the Renting Homes (Wales) Act 2016 applies, possession of the dwelling;”.

Amendment of Part 41

- 23.**—(1) In the table of contents, for the entry for rule 41.3A substitute—

“IA APPORTIONMENT IN FATALITY CASES	
Apportionment in fatality cases	Rule 41.3A”.

- (2) After rule 41.3 and above rule 41.3A, insert—

“IA APPORTIONMENT IN FATALITY CASES

Apportionment in fatality cases”.

Amendment of Part 44

24. In rule 44.14—

- (a) in paragraph (1), for “damages” substitute “, or agreements to pay or settle a claim for, damages, costs”;
- (b) after paragraph (1), insert—
 - “(2) For the purposes of this Section, orders for costs includes orders for costs deemed to have been made (either against the claimant or in favour of the claimant) as set out in rule 44.9.”;
- (c) renumber what was paragraph (2) as paragraph (3);
- (d) after what will now be paragraph (3), insert—
 - “(4) Where enforcement is permitted against any order for costs made in favour of the claimant, rule 44.12 applies.”; and
- (e) renumber what was paragraph (3) as paragraph (5).

Amendment of Part 45

25.—(1) In rule 45.1(2)—

- (a) in sub-paragraph (c), after “possession claim” insert “or recovery of a dwelling including a Renting Homes possession claim”;
 - (b) in sub-paragraph (d)—
 - (i) after “possession claim” insert “or recovery of a dwelling including a Renting Homes possession claim”; and
 - (ii) in the words “possession of land” omit “of land”;
 - (c) in sub-paragraph (e), after “tenancy” insert “or a claim under Section V of Part 55 (Renting Homes Wales – Accelerated possession claims of dwellings let on a standard contract)”;
 - (d) in sub-paragraph (f), after “demotion claim” in each of the three places it occurs insert “or prohibited conduct standard contract order claim”.
- (2) In rule 45.5—
- (a) in the heading, after “demotion claim” insert “prohibited conduct standard contract order claim (Wales)”;
 - (b) in Table 3 below paragraph (2), in the Table heading, after “demotion claim” insert “or prohibited conduct standard contract order claim (Wales)”.
- (3) In rule 45.6, in the heading, after “demotion claim” insert “or prohibited conduct standard contract order claim (Wales)”.
- (4) In rule 45.29N(2)(b), for “21.2(2)” substitute “21.1(2)”.

Amendment of Part 52

- 26.** In rule 52.24(1), at the end of sub-paragraph (c) insert “or a CILEX lawyer”.

Amendment of Part 53

- 27.—(1) In rule 53.2, in the following places, for “Queen’s” substitute “King’s”—
- (a) paragraph (2), in both places where it occurs;
 - (b) paragraph (3); and
 - (c) paragraph (4), in the opening words and in each of sub-paragraphs (a) and (b).
- (2) In rule 53.4(1), for “Queen’s” substitute “King’s”.

Amendment of Part 54

- 28.—(1) In rule 54.1A(1)—
- (a) at the end of sub-paragraph (c) insert “or a CILEX lawyer”; and
 - (b) for “Queen’s” substitute “King’s”.
- (2) For rule 54.7A substitute—

“Judicial review of decisions of the Upper Tribunal

54.7A.—(1) Where the Upper Tribunal has refused permission to appeal against a decision of the First-tier Tribunal, no application for judicial review of the Upper Tribunal’s decision, or which relates to the First-tier Tribunal’s decision, may be made except where the question in the judicial review application is—

- (a) whether the application for permission to appeal was validly made to the Upper Tribunal;
 - (b) whether the Upper Tribunal when refusing permission to appeal was properly constituted; or
 - (c) whether the Upper Tribunal is acting or has acted in bad faith or in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.
- (2) The claim form and the supporting documents must be filed no later than 16 days after the date on which notice of the Upper Tribunal’s decision was sent to the applicant.”.
- (3) In rule 54.22, in paragraphs (2) and (3), for “Queen’s” substitute “King’s”.
- (4) In rule 54.32, omit paragraphs (2) and (3).

Amendment of Part 56

29. In rule 56.5(1)(b)(iv), for “under rule 56.5(a) to (c)” substitute “referred to in paragraphs (i) to (iii)”.

Amendment of Part 57

30. In rule 57.33(1), for “19.8” substitute “19.12”.

Amendment of Part 58

- 31.—(1) In rule 58.1(1), for “Queen’s” substitute “King’s”.
- (2) In rule 58.10(1), for “15.8” substitute “15.8(a)”.

Amendment of Part 59

32. In rule 59.9(1), for “15.8” substitute “15.8(a)”.

Amendment of Part 61

- 33.**—(1) In rule 61.1(2)(b), for “Queen’s” substitute “King’s”.
- (2) In rule 61.2—
- (a) in paragraph (1)(a), omit paragraph (v); and
 - (b) in paragraph (2), after “started in the Admiralty Court”, insert “and a claim for loss of life or personal injury specified in section 20(2)(f) of the Senior Courts Act 1981(12) should be started in the Admiralty Court in the circumstances set out in Practice Direction 61”.
- (3) In rule 61.4—
- (a) in paragraph (4A), in the full-out, omit “, where every party has electronic track data in its control, each must”; and
 - (b) for paragraph (6) substitute—
 - “(6) A collision statement case must—
 - (a) be in a form set out in Practice Direction 61
 - (b) contain the matters set out in Practice Direction 61; and
 - (c) be verified by a statement of truth.”.
- (4) After paragraph (6), insert—
- “(6A) Each party must file a collision defence in respect of each collision statement of case filed by another party.
 - (6B) A party’s collision defence must—
 - (a) be filed within 28 days of service of the relevant collision statement of case on that party;
 - (b) comply with the requirements set out in Practice Direction 61; and
 - (c) be verified by a statement of truth.
 - (6C) A party may file a collision reply to a collision defence filed by another party.
 - (6D) A party’s collision reply must—
 - (a) be filed within 21 days of service of the relevant collision defence on that party; and
 - (b) be verified by a statement of truth.”.

Amendment of Part 65

- 34.** In rule 65.28(1)(b)(i), for “Queen’s” substitute “King’s”.

Amendment of Part 66

- 35.**—(1) In the Table of Contents for the Part, in the entry for rule 66.4, for “Part 20” substitute “additional”.
- (2) In rule 66.4, in—
- (a) the heading;
 - (b) paragraph (1);
 - (c) paragraph (2);
 - (d) paragraph (3); and

(e) paragraph (4),
for “Part 20” substitute “additional”.

Amendment of Part 73

36. The paragraph inserted by [S.I. 2022/783](#) as paragraph (8) of rule 73.3 is moved to become paragraph (8) of rule 73.7.

Amendment of Part 77

37. In rule 77.5, for “Queen’s” substitute “King’s”.

Amendment of Part 81

38. In rule 81.3(8), for “Queen’s” both times it occurs substitute “King’s”.

Amendment of Part 83

39. In rule 83.14A(1)(b), for “Queen’s” substitute “King’s”.

Amendment of Part 87

40.—(1) In rule 87.4(1)(c), for “Queen’s” substitute “King’s”.
(2) In rule 87.5(c), for “Queen’s” substitute “King’s”.

Amendment of Schedule 1

41. In—
(a) RSC Order 79, rule 8, paragraphs (1) and (2);
(b) RSC Order 109, rule 2(1);
(c) RSC Order 115, rules—
 (i) 2;
 (ii) 12;
 (iii) 25(1) and (2); and
 (iv) 38(1),

for “Queen’s” substitute “King’s”.

*Sir Geoffrey Vos, MR
Lord Justice Birss
Mr Justice Kerr
Mr Justice Trower
Master Cook
His Honour Judge Jarman KC
District Judge Clarke
Isabel Hitching KC
Tom Montagu-Smith KC
Virginia Jones
Ben Roe
Ian Curtis-Nye*

I allow these Rules
Signed by authority of the Lord Chancellor

30th January 2023

Bellamy
Parliamentary Under-Secretary of State for
Justice
Ministry of Justice

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Civil Procedure Rules 1998 (S.I. 1998/3132) by—

- (a) Substituting for references to “Queen’s” and “Her Majesty’s”, in Parts 2, 4, 19, 26, 30, 40, 53, 54, 58, 61, 65, 77, 81, 83 and 87 and in Schedule 1, references to “King’s” and “His Majesty’s” in consequence of the accession of King Charles III;
- (b) amending Parts 17, 19, 20, 21 and 38 (together with consequential amendments in particular to cross-references of numbers of rules in, or practice directions under, those Parts) pursuant to the Civil Procedure Rule Committee’s statutory duty under s. 2(7) of the Civil Procedure Act 1997(13) to try to make rules which are both simple and simply expressed;
- (c) amending Parts 2, 3, 8, 25, 26 and 66 to change references to “Part 20 claim” (a term no longer used) to refer to counterclaims or other additional claims;
- (d) amending Parts 6, 22, 24, 26, 27, 40 and 45 to make consequential amendments to reflect changes in terminology introduced as part of the implementation of the Renting Homes (Wales) Act 2016;
- (e) amending Part 12 to align the wording of paragraph (3) of rule 12.3 with that of paragraphs (1) and (2) of that rule;
- (f) amending Parts 15, 54 and 56 to correct errors identified by the Joint Committee on Statutory Instruments in its Fourteenth Report of Session 2022-23;
- (g) amending rule 44.14 (effect of qualified one-way costs shifting)—
 - (i) to allow the court in cases falling within the scope of the qualified one-way costs regime to order that the parties’ costs liabilities be set-off against each other, *Ho v Adekun [2021] UKSC 43* having previously found that this rule, properly construed, did not allow the court to do so; and
 - (ii) to include within this rule, as well as deemed orders, agreements to pay damages or costs, so to allow the off-setting of costs orders made in favour of a defendant and ensure that offers made under Part 36, and, for example, settlements concluded by way of a Tomlin Order, come within the rule;
- (h) amending Parts 52 and 54 to add to the list of qualifications for authorised court officers who may perform certain functions of the court the new qualification of CILEX lawyer;
- (i) substituting for rule 54.7A a revised rule in consequence of the provisions of section 2 of the Judicial Review and Courts Act 2022(14);
- (j) amending Part 61 (Admiralty claims)—
 - (i) by amending rule 61.2 so that, by reference to the circumstances set out in Practice Direction 61, personal injury claims which do not require the expertise of the Admiralty Court may be issued in the County Court; and
 - (ii) by amending rule 61.4 (which makes provision relating to collision claims), first to remove the requirement that all parties must have electronic track data in their

(13) 1997 c. 12.

(14) 2022 c. 35.

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- control before parties are required to provide copies or permit early inspection of that data and, secondly, to ensure proper particularisation of statements of case;
- (k) making minor amendments in various places to correct minor errors such as typographical errors or incorrect cross-references.