

SCHEDULE 1

The Rules of the Supreme Court (Northern Ireland) 1980 COMMENCEMENT AND PROGRESS OF PROCEEDINGS

ORDER 20 AMENDMENT

Amendment of writ without leave

1.—(1) Subject to paragraph (3), the plaintiff may, without the leave of the Court, amend the writ once at any time before the pleadings in the action begun by the writ are deemed to be closed.

(2) Where a writ is amended under this rule after service thereof, then, unless the Court otherwise directs on an application made ex parte, the amended writ must be served on each defendant to the action.

(3) This rule shall not apply in relation to an amendment which consists of—

- (a) the addition, omission or substitution of a party to the action or an alteration of the capacity in which a party to the action sues or is sued, or
- (b) the addition or substitution of a new cause of action, or
- (c) (without prejudice to rule 3(1)) an amendment of the statement of claim (if any) indorsed on the writ,

unless the amendment is made before service of the writ on any party to the action.

[E.r. 1]

Amendment of appearance

2. A defendant may not amend his memorandum of appearance without the leave of the Court.

[E.r. 2]

Amendment of pleadings without leave

3.—(1) A party may, without the leave of the Court, amend any pleading of his once at any time before the pleadings are deemed to be closed and, where he does so, he must serve the amended pleading on the opposite party.

(2) Where an amended statement of claim is served on a defendant—

- (a) the defendant, if he has already served a defence on the plaintiff, may amend his defence, and
- (b) the period for service of his defence or amended defence, as the case may be; shall be either the period fixed by or under these Rules for service of his defence or a period of 14 days after the amended statement of claim is served on him, whichever expires later.

(3) Where an amended defence is served on the plaintiff by a defendant—

- (a) the plaintiff, if he has already served a reply on that defendant, may amend his reply, and
- (b) the period for service of his reply or amended reply, as the case may be, shall be either the period fixed by or under these Rules for service of his reply or a period of 14 days after the amended defence is served on him.

Status: This is the original version (as it was originally made).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

(4) In paragraphs (2) and (3) references to a defence and a reply include references to a counterclaim and a defence to counterclaim respectively.

(5) Where an amended counterclaim is served by a defendant on a party (other than the plaintiff) against whom the counterclaim is made, paragraph (2) shall apply as if the counterclaim were a statement of claim and as if the party by whom the counterclaim is made were the plaintiff and the party against whom it is made a defendant.

(6) Where a party has pleaded to a pleading which is subsequently amended and served on him under paragraph (1), then, if that party does not amend his pleading under the foregoing provisions of this rule, he shall be taken to rely on it in answer to the amended pleading, and Order 18, rule 14(2), shall have effect in such a case as if the amended pleading had been served at the time when that pleading, before its amendment under paragraph (1), was served.

[E.r. 3]

Application for disallowance of amendment made without leave

4.—(1) Within 14 days after the service on a party of a writ amended under rule 1(1) or of a pleading amended under rule 3(1), that party may apply to the Court to disallow the amendment.

(2) Where the Court hearing an application under this rule is satisfied that if an application for leave to make the amendment in question had been made under rule 5 at the date when the amendment was made under rule 1(1) or rule 3(1) leave to make the amendment or part of the amendment would have been refused, it shall order the amendment or that part to be struck out.

(3) Any order made on an application under this rule may be made on such terms as to costs or otherwise as the Court thinks just.

[E.r. 4]

Amendment of writ or pleading with leave

5.—(1) Subject to Order 15, rules 6, 7 and 8, and the following provisions of this rule, the Court may at any stage of the proceedings allow the plaintiff to amend his writ, or any party to amend his pleading, on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct.

(2) Where an application to the Court for leave to make the amendment mentioned in paragraph (3), (4) or (5) is made after any relevant period of limitation current at the date of issue of the writ has expired, the Court may nevertheless grant such leave in the circumstances mentioned in that paragraph if it thinks it just to do so.

(3) An amendment to correct the name of a party may be allowed under paragraph (2) notwithstanding that it is alleged that the effect of the amendment will be to substitute a new party if the Court is satisfied that the mistake sought to be corrected was a genuine mistake and was not misleading or such as to cause any reasonable doubt as to the identity of the party intending to sue or, as the case may be, intended to be sued.

(4) An amendment to alter the capacity in which a party sues (whether as plaintiff or as defendant by counterclaim) may be allowed under paragraph (2) if the capacity in which, if the amendment is made, the party will sue is one in which at the date of issue of the writ or the making of the counterclaim, as the case may be, he might have sued.

(5) An amendment may be allowed under paragraph (2) notwithstanding that the effect of the amendment will be to add or substitute a new cause of action if the new cause of action arises out of the same facts or substantially the same facts as a cause of action in respect of which relief has already been claimed in the action by the party applying for leave to make the amendment.

[E.r. 5]

Amendment during Long Vacation

6. Every writ, originating summons, petition, pleading or other document in any proceedings may be amended during the Long Vacation.

[E.r. 6]

Amendment of other originating process

7. Rule 5 shall have effect in relation to an originating summons, a petition and notice of an originating motion as it has effect in relation to a writ.

[E.r. 7]

Amendment of certain other documents

8.—(1) For the purpose of determining the real question in controversy between the parties to any proceedings, or of correcting any defect or error in any proceedings, the Court may at any stage of the proceedings and either of its own motion or on the application of any party to the proceedings order any document in the proceedings to be amended on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct.

(2) This rule shall not have effect in relation to a judgment or order.

[E.r. 8]

Failure to amend after order

9. Where the Court makes an order under this Order giving any party leave to amend a writ, pleading or other document, then, if that party does not amend the document in accordance with the order before the expiration of the period specified for that purpose in the order or, if no period is so specified, of a period of 14 days after the order was made, the order shall cease to have effect, without prejudice, however, to the power of the Court to extend the period.

[E.r. 9]

Mode of amendment of writ, etc.

10.—(1) Where the amendments authorised under any rule of this Order to be made in a writ, pleading or other document are so numerous or of such nature or length that to make written alterations of the document so as to give effect to them would make it difficult or inconvenient to read, a fresh document, amended as so authorised, must be prepared and, in the case of a writ or originating summons re-issued, but, except as aforesaid and subject to any direction given under rules 5 or 8, the amendments so authorised may be affected by making in writing the necessary alterations of the document and, in the case of a writ or originating summons, causing it to be re-sealed and filing a copy thereof.

(2) A writ, pleading or other document which has been amended under this Order must be indorsed with a statement that it has been amended, specifying the date on which it was amended, the name of the judge or master by whom the order (if any) authorising the amendment was made and the date thereof, or, if no such order was made, the number of the rule of this Order in pursuance of which the amendment was made.

[E.r. 10]

Amendment of judgment and orders

11. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court on motion or summons without an appeal.

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

[E.r. 11]