
STATUTORY INSTRUMENTS

1998 No. 2940

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

The Civil Procedure (Modification of Enactments) Order 1998

Made - - - - 27th November 1998

Coming into force in accordance with article 1

The Lord Chancellor, in exercise of the powers conferred on him by section 4(2) of the Civil Procedure Act 1997⁽¹⁾, hereby makes the following Order of which a draft has, in accordance with section 4(5) of that Act, been laid before and approved by resolution of each House of Parliament—

1. This Order may be cited as the Civil Procedure (Modification of Enactments) Order 1998 and shall come into force at the same time as the first Civil Procedure Rules made under section 2 of the Civil Procedure Act 1997.

2. The amendments set out in this Order shall have effect.

3. The Judgments Act 1838⁽²⁾ is amended as follows—

- (a) section 17 (judgment debts to carry interest) stands as subsection (1) of that section;
- (b) in subsection (1), for “the time of entering up the judgment” substitute “such time as shall be prescribed by rules of court”; and
- (c) insert a new subsection as follows—

“(2) Rules of court may provide for the court to disallow all or part of any interest otherwise payable under subsection (1).”.

4. In section 1 of the Law Reform (Husband and Wife) Act 1962⁽³⁾ (actions in tort between husband and wife), omit subsection (3).

5. The Supreme Court Act 1981⁽⁴⁾ is amended as follows—

- (a) in section 33 (powers of High Court exercisable before commencement of action), in subsection (2), omit “in which a claim in respect of personal injuries to a person, or in respect of a person’s death, is likely to be made,”; and

(1) 1997 c. 12.

(2) 1838 c. 110; section 17 was amended by S.I.1993/564.

(3) 1962 c. 48.

(4) 1981 c. 54.

- (b) in section 34 (power of High Court to order disclosure of documents, inspection of property etc.)–
 - (i) omit subsection (1); and
 - (ii) in each of subsections (2) and (3), omit “to which this subsection applies”.
- 6. The County Courts Act 1984⁽⁵⁾ is amended as follows–
 - (a) omit section 47 (minors);
 - (b) in section 52 (powers of court exercisable before commencement of action), in subsection (2), omit “in which a claim in respect of personal injuries to a person, or in respect of a person’s death, is likely to be made,”;
 - (c) in section 53 (power of court to order disclosure of documents, inspection of property etc.)–
 - (i) omit subsection (1); and
 - (ii) in each of subsections (2) and (3), omit “to which this section applies”;
 - (d) in section 63 (assessors)–
 - (i) in subsection (1), omit “on the application of any party”;
 - (ii) omit subsection (2);
 - (iii) in subsection (3), for “at such rate as may be prescribed” substitute “determined by the judge”; and
 - (iv) in subsection (4), for “subsection (2) (otherwise than on the application of a party to the proceedings)” substitute “assisting the judge in reviewing the taxation by the district judge of the costs of any proceedings”;
 - (e) in section 133 (proof of service of summonses etc.), in subsection (1), omit “under the hand of that officer”; and
 - (f) omit section 134 (summons and other process to be under seal).

Dated 27th November 1998

Irvine of Lairg, C.

(5) 1984 c. 28; section 52 was amended by the Courts and Legal Services Act 1990 (c. 41) section 125(3), Schedule 18, paragraph 43 and section 53 was amended by that Act, section 125(3), Schedule 18, paragraph 44.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies certain enactments in order to facilitate the making of Civil Procedure Rules. The changes are–

- to allow rules of court to prescribe the date from which interest on judgment debts should start to run;
- to allow the court, in accordance with rules of court, to disallow interest that would otherwise be payable on a judgment debt;
- to remove the requirement for rules of court to oblige the court to consider the stay of proceedings between husband and wife in an action in tort;
- to extend to all proceedings the power of the court to order discovery of documents against a potential party before proceedings have started;
- to extend to all proceedings the power of the court to order discovery of documents against a non-party;
- to remove the specific right of a child to bring proceedings in the county court without a next friend in an action for wages due to him;
- to bring the county court power to appoint assessors in line with that in the High Court;
- to remove the requirement that a certificate of service in the county court must be signed by the individual officer responsible for service; and
- to remove the requirement to seal documents issuing out of the county court and provisions relating to the evidential status of such documents to allow more flexible provisions to be made in the Civil Procedure Rules.