
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

PART 38

DISCONTINUANCE

[^{F1}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.]

Textual Amendments

- F1** Rule 38.7 substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 21(7)

Status:

Point in time view as at 06/04/2023.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 38.7.