

SCHEDULE 1

Rule 50(3)

Commencement Information

II Sch. 1 in force at 26.4.1999, see [Signature](#)

RSC ORDER 10

SERVICE OF ORIGINATING PROCESS: GENERAL PROVISIONS

Service of claim form in certain actions for possession of land

^{F1}**Rule 4**

Textual Amendments

F1 Sch. 1 RSC Order 10 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

RSC ORDER 11

SERVICE OF PROCESS, ETC., OUT OF THE JURISDICTION

Principal cases in which service of claim form out of jurisdiction is permissible

^{F2}**Rule 1**

Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 8](#) (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

The period for filing an acknowledgment of service or filing or serving an admission where the claim form is served under rule 1(2)

^{F2}**Rule1A**

Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 8](#) (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

The period for filing a defence where the claim form is served under rule 1(2)

^{F2}**Rule1B**

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

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Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

F2

Textual Amendments

F2 Sch. 1 RSC Order 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

F3RSC ORDER 15

CAUSES OF ACTION, COUNTERCLAIMS AND PARTIES

Textual Amendments

F3 Sch. 1 RSC Order 15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Proceedings against estates

F3Rule 6A

Change of parties by reason of death, etc.

F3Rule 7

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Failure to proceed after death of party

F³Rule 9

Relator actions

F³Rule 11

Representative proceedings

F³Rule 12

Derivative claims

F³Rule 12A

Representation of interested persons who cannot be ascertained, etc.

F³Rule 13

Notice of claim to non—parties

F³Rule 13A

Representation of beneficiaries by trustees, etc.

F³Rule 14

Representation of deceased person interested in proceedings

F³Rule 15

Declaratory judgment

F³Rule 16

Conduct of proceedings

F³Rule 17

**RSC ORDER 17
INTERPLEADER**

Entitlement to relief by way of interpleader

Rule 1.—(1) Where—

- (a) a person is under a liability in respect of a debt or in respect of any money, goods or chattels and he is, or expects to be, sued for or in respect of that debt or money or those goods or chattels by two or more persons making adverse claims thereto; or

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- (b) claim is made to any money, goods or chattels taken or intended to be taken by a sheriff in execution under any process, or to the proceeds or value of any such goods or chattels, by a person other than the person against whom the process is issued,

the person under liability as mentioned in sub-paragraph (a) or (subject to rule 2) the sheriff, may apply to the Court for relief by way of interpleader.

(2) References in this Order to a sheriff shall be construed as including references to any other officer charged with the execution of process by or under the authority of the High Court.

Claim to goods, etc., taken in execution

Rule 2.—(1) Any person making a claim to or in respect of any money, goods or chattels taken or intended to be taken in execution under process of the Court, or to the proceeds or value of any such goods or chattels, must give notice of his claim to the sheriff charged with the execution of the process and must include in his notice a statement of his address, and that address shall be his address for service.

(2) On receipt of a claim made under this rule the sheriff must forthwith give notice thereof to the execution creditor and the execution creditor must, within seven days after receiving the notice, give notice to the sheriff informing him whether he admits or disputes the claim. An execution creditor who gives notice in accordance with this paragraph admitting a claim shall only be liable to the sheriff for any fees and expenses incurred by the sheriff before receipt of that notice.

(3) Where—

- (a) the sheriff receives a notice from an execution creditor under paragraph (2) disputing a claim, or the execution creditor fails, within the period mentioned in that paragraph, to give the required notice; and
- (b) the claim made under this rule is not withdrawn,

the sheriff may apply to the Court for relief under this Order.

(4) A sheriff who receives a notice from an execution creditor under paragraph (2) admitting a claim made under this rule shall withdraw from possession of the money, goods or chattels claimed and may apply to the Court for relief under this Order of the following kind, that is to say, an order restraining the bringing of a claim against him for or in respect of his having taken possession of that money or those goods or chattels.

Claim in respect of goods protected from seizure

Rule 2A.—(1) Where a judgment debtor whose goods have been seized, or are intended to be seized, by a sheriff under a writ of execution claims that such goods are not liable to execution by virtue of section 138(3A) of the Act⁽¹⁾, he must within 5 days of the seizure give notice in writing to the sheriff identifying all those goods in respect of which he makes such a claim and the grounds of such claim in respect of each item.

(2) Upon receipt of a notice of claim under paragraph (1), the sheriff must forthwith give notice thereof to the execution creditor and to any person who has made a claim to, or in respect of, the goods under rule 2 (1) and the execution creditor and any person who has made claim must, within 7 days of receipt of such notice, inform the sheriff in writing whether he admits or disputes the judgment debtor's claim in respect of each item.

(3) The sheriff shall withdraw from possession of any goods in respect of which the judgment debtor's claim is admitted or if the execution creditor or any person claiming under rule 2 (1) fails to notify him in accordance with paragraph (2) and the sheriff shall so inform the parties in writing.

(1) Section 138 was amended by the Administration of Justice Act 1985 (c. 61), sections 55 and 67(2); and by the Courts and Legal Services Act 1990 (c. 41), section 125(2), schedule 17, paragraph 17.

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- (4) Where the sheriff receives notice from—
- (a) the execution creditor; or
 - (b) any such person to whom notice was given under paragraph (2), that the claim or any part thereof is disputed, he must forthwith seek the directions of the Court and may include therein an application for an order restraining the bringing of any claim against him for, or in respect of, his having seized any of those goods or his having failed so to do.
- (5) The sheriff's application for directions under paragraph (4) shall be made by an application in accordance with CPR Part 23 and, on the hearing of the application, the Court may—
- (a) determine the judgment debtor's claim summarily; or
 - (b) give such directions for the determination of any issue raised by such claim as may be just.
- (6) A master and a district judge of a district registry shall have power to make an order of the kind referred to in paragraph (4) and the reference to master shall be construed in accordance with rule 4.

Mode of application

Rule 3.—(1) An application for relief under this Order must be made by claim form unless made in an existing claim, in which case it must be made by accordance with CPR Part 23.

(2) Where the applicant is a sheriff who has withdrawn from possession of money, goods or chattels taken in execution and who is applying for relief under rule 2 (4) the claim form must be served on any person who made a claim under that rule to or in respect of that money or those goods or chattels, and that person may attend the hearing of the application.

(4) Subject to paragraph (5) a claim form or application notice under this rule must be supported by evidence that the applicant—

- (a) claims no interest in the subject—matter in dispute other than for charges or costs;
- (b) does not collude with any of the claimants to that subject—matter; and
- (c) is willing to pay or transfer that subject—matter into Court or to dispose of it as the Court may direct.

(5) Where the applicant is a sheriff, he shall not provide such evidence as is referred to in paragraph (4) unless directed by the Court to do so.

(6) Any person who makes a claim under rule 2 and who is served with a claim form under this rule shall within 14 days serve on the execution creditor and the sheriff a witness statement or affidavit specifying any money and describing any goods and chattels claimed and setting out the grounds upon which such claim is based.

(7) Where the applicant is a sheriff a claim form under this rule must give notice of the requirement in paragraph (6).

To whom Sheriff may apply for relief

Rule 4 An application to the Court for relief under this Order may, if the applicant is a sheriff, be made—

- (a) where the claim in question is proceeding in the Royal Courts of Justice, to a Master or, if the execution to which the application relates has been or is to be levied in the district of a District Registry, either to a Master or to the District Judge of that Registry;
- (b) where the claim in question is proceeding in a District Registry, to the District Judge of that Registry or, if such execution has been or is to be levied in the district of some other District Registry or outside the district of any District Registry, either to the said the District Judge or to the District Judge of that other Registry or to a Master as the case may be.

Where the claim in question is proceeding in the Admiralty Court or the Family Division, references in this rule to a Master shall be construed as references to the Admiralty Registrar or to a Registrar of that Division.

Powers of Court hearing claim

Rule 5.—(1) Where on the hearing of a claim under this Order all the persons by whom adverse claims to the subject—matter in dispute (hereafter in this Order referred to as “the interpleader claimants”) appear, the Court may order—

- (a) that any interpleader claimant be made a defendant in any claim pending with respect to the subject—matter in dispute in substitution for or in addition to the applicant for relief under this Order; or
- (b) that an issue between the interpleader claimants be stated and tried and may direct which of the interpleader claimants is to be claimant and which defendant.

(2) Where—

- (a) the applicant under this Order is a sheriff; or
- (b) all the interpleader claimants consent or any of them so requests; or
- (c) the question at issue between the interpleader claimants is a question of law and the facts are not in dispute,

the Court may summarily determine the question at issue between the interpleader claimants and make an order accordingly on such terms as may be just.

(3) Where an interpleader claimant, having been duly served with a claim form under this Order, does not appear at the hearing or, having appeared, fails or refuses to comply with an order made in the proceedings, the Court may make an order declaring the interpleader claimant, and all persons claiming under him, for ever barred from prosecuting his claim against the applicant for such relief and all persons claiming under him, but such an order shall not affect the rights of the interpleader claimants as between themselves.

Power to order sale of goods taken in execution

Rule 6 Where an application for relief under this Order is made by a sheriff who has taken possession of any goods or chattels in execution under any process, and an interpleader claimant alleges that he is entitled, under a bill of sale or otherwise, to the goods or chattels by way of security for debt, the Court may order those goods or chattels or any part thereof to be sold and may direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

Power to stay proceedings

Rule 7 Where a defendant to a claim applies for relief under this Order in the claim, the Court may by order stay all further proceedings in the claim.

Other powers

Rule 8.—^[F4](1) Subject to the foregoing rules of this Order, the Court may in or for the purposes of any interpleader proceedings make such order as to costs or any other matter as it thinks just.

^[F5](2) Where the interpleader claimant fails to appear at the hearing, the Court may direct that the sheriff’s and execution creditor’s costs shall be assessed by a master or, where the hearing was heard in a district registry, by a district judge of that registry and the following CPR rules shall apply—

- (a) 44.4 (basis of assessment);

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- (b) 44.5 (factors to be taken into account in deciding the amount of costs);
- (c) 48.4 (limitations on court’s power to award costs in favour of trustee or personal representative); and
- (d) 48.6 (litigants in person).

(3) Where the claim in question is proceeding in the Admiralty Court or the Family Division, references in this rule to a Master shall be construed as references to the Admiralty Registrar or to a Registrar of that Division.]

Textual Amendments

- F4** Sch. 1 RSC Order 17 rule 8 renumbered as RSC Order 17 rule 8(1) (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\), rules 1, 27\(a\)](#)
- F5** Sch. 1 RSC Order 17 rule 8(2)(3) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\), rules 1, 27\(b\)](#)

One order in several proceedings

Rule 9 Where the Court considers it necessary or expedient to make an order in any interpleader proceedings in several proceedings pending in several Divisions, or before different Judges of the same Division, the Court may make such an order; and the order shall be entitled in all those causes or matters and shall be binding on all the parties to them.

Disclosure

Rule 10 CPR Parts 31 and 18 shall, with the necessary modifications, apply in relation to an interpleader issue as they apply in relation to any other proceedings.

Trial of interpleader issue

Rule 11.—(1) CPR Part 39 shall, with the necessary modifications, apply to the trial of an interpleader issue as it applies to the trial of a claim.

(2) The Court by whom an interpleader issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the interpleader proceedings.

**RSC ORDER 23
SECURITY FOR COSTS**

Order to apply to High Court and County Court

^{F6}**Rule A1**

Textual Amendments

- F6** Sch.1 RSC Order 23 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\), rule 1\(b\), Sch. 8 \(with rule 39\(b\)\)](#) (as amended by S.I. 2000/940, rules 1, 2)

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Security for costs of proceedings, etc.

^{F6}Rule 1

Textual Amendments

F6 Sch.1 RSC Order 23 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Manner of giving security

^{F6}Rule 2

Textual Amendments

F6 Sch.1 RSC Order 23 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Saving for enactments

^{F6}Rule 3

Textual Amendments

F6 Sch.1 RSC Order 23 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

^{F7}RSC ORDER 30

RECEIVERS

Textual Amendments

F7 Sch. 1 RSC Order 30 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Order to apply to High Court and County Court

^{F7}Rule A1

Application for receiver and injunction

^{F7}Rule 1

Giving of security by receiver

^{F7}Rule 2

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Remuneration of receiver

^{F7}**Rule 3**

Service of order and notice

^{F7}**Rule 4**

Receiver’s accounts

^{F7}**Rule 5**

Payment into Court by receiver

^{F7}**Rule 6**

Default by receiver

^{F7}**Rule 7**

Directions to receivers

^{F7}**Rule 8**

^{F8}**RSC ORDER 31**

**SALES, ETC. OF LAND BY ORDER OF COURT:
CONVEYANCING COUNSEL OF THE COURT**

Textual Amendments

^{F8} Sch. 1 RSC Order 31 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Order to apply to High Court and County Court

^{F8}**Rule A1**

I. Sales, etc. of Land by Order of Court

Power to order sale of land

^{F8}**Rule 1**

Manner of carrying out sale

^{F8}**Rule 2**

Certifying result of sale

^{F8}**Rule 3**

Mortgage, exchange or partition under order of the Court

^{F8}**Rule 4**

II. Conveyancing Counsel of the Court

Reference of matters to conveyancing counsel of Court

^{F8}**Rule 5**

Objection to conveyancing counsel’s opinion

^{F8}**Rule 6**

Obtaining counsel’s opinion on reference

^{F8}**Rule 8**

^{F9}**RSC ORDER 44**

PROCEEDINGS UNDER JUDGMENTS AND ORDERS: CHANCERY DIVISION

Textual Amendments

^{F9} [Sch. 1 RSC Order 44](#) revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 10](#)

Application to Orders

^{F9}**Rule 1**

Service of notice of judgment on person not a party

^{F9}**Rule 2**

Directions by the Court

^{F9}**Rule 3**

Application of rules 5 to 8

^{F9}**Rule 4**

Advertisements for creditors and other claimants

^{F9}**Rule 5**

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Examination of claims

^{F9}**Rule 6**

Adjudication on claims

^{F9}**Rule 7**

Notice of adjudication

^{F9}**Rule 8**

Interest on debts

^{F9}**Rule 9**

Interest on legacies

^{F9}**Rule 10**

Master’s order

^{F9}**Rule 11**

Appeal against Master’s order

^{F9}**Rule 12**

RSC ORDER 45

ENFORCEMENT OF JUDGMENTS AND ORDERS: GENERAL

Enforcement of judgment, etc., for payment of money

Rule 1.—^{F10}(1)

^{F11}(2)

^{F12}(3)

(4) In this Order references to any writ shall be construed as including references to any further writ in aid of the first mentioned writ.

Textual Amendments

- F10** Sch. 1 RSC Order 45 rule 1(1) revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)
- F11** Sch. 1 RSC Order 45 rule 1(2) revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)
- F12** Sch. 1 RSC Order 45 rule 1(3) revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Notice of seizure

Rule 2 When first executing a writ of fieri facias, the Sheriff or his officer shall deliver to the debtor or leave at each place where execution is levied a notice in Form No. 55 in the relevant Practice Direction informing the debtor of the execution.

Enforcement of judgment for possession of land

Rule 3.—(1) Subject to the provisions of these rules, a judgment or order for the giving of possession of land may be enforced by one or more of the following means, that is to say—

- (a) writ of possession;
- (b) in a case in which rule 5 applies, an order of committal;
- (c) in such a case, writ of sequestration.

(2) A writ of possession to enforce a judgment or order for the giving of possession of any land shall not be issued without the permission of the Court except where the judgment or order was given or made in ^{F13}... [^{F14}proceedings by a mortgagee or mortgagor or by any person having the right to foreclose or redeem any mortgage, being proceedings in which there is a claim for—

- (a) payment of moneys secured by the mortgage;
- (b) sale of the mortgaged property;
- (c) foreclosure;
- (d) delivery of possession (whether before or after foreclosure or without foreclosure) to the mortgagee by the mortgagor or by any other person who is alleged to be in possession of the property;
- (e) redemption;
- (f) reconveyance of the land or its release from the security; or
- (g) delivery of possession by the mortgagee]

[^{F15}(2A) In paragraph (2) “mortgage” includes a legal or equitable mortgage and a legal or equitable charge, and reference to a mortgagor, a mortgagee and mortgaged land is to be interpreted accordingly.]

(3) Such permission [^{F16}as is referred to in paragraph (2)] shall not be granted unless it is shown—

- (a) that every person in actual possession of the whole or any part of the land has received such notice of the proceedings as appears to the Court sufficient to enable him to apply to the Court for any relief to which he may be entitled; and
- (b) if the operation of the judgment or order is suspended by subsection (2) of section 16 of the Landlord and Tenant Act, 1954(2), that the applicant has not received notice in writing from the tenant that he desires that the provisions of paragraphs (a) and (b) of that subsection shall have effect.

(4) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

Textual Amendments

F13 Words in [Sch. 1 RSC Order 45 rule 3\(2\)](#) omitted (15.10.2001) by virtue of [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), **20(a)(i)**

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- F14** Words in Sch. 1 RSC Order 45 rule 3(2) inserted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), **20(a)(ii)**
- F15** Sch. 1 RSC Order 45 rule 3(2A) inserted inserted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), **20(b)**
- F16** Words in Sch. 1 RSC Order 45 rule 3(3) inserted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), **20(c)**

Enforcement of judgment for delivery of goods

Rule 4.—(1) Subject to the provisions of these rules, a judgment or order for the delivery of any goods which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the goods may be enforced by one or more of the following means, that is to say—

- (a) writ of delivery to recover the goods without alternative provision for recovery of the assessed value thereof (hereafter in this rule referred to as a “writ of specific delivery”);
- (b) in a case in which rule 5 applies, an order of committal;
- (c) in such a case, writ of sequestration.

(2) Subject to the provisions of these rules, a judgment or order for the delivery of any goods or payment of their assessed value may be enforced by one or more of the following means, that is to say—

- (a) writ of delivery to recover the goods or their assessed value;
- (b) by order of the Court, writ of specific delivery;
- (c) in a case in which rule 5 applies, writ of sequestration.

An application for an order under sub-paragraph (b) shall be made in accordance with CPR Part 23, which must be served on the defendant against whom the judgment or order sought to be enforced was given or made.

(3) A writ of specific delivery, and a writ of delivery to recover any goods or their assessed value, may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(4) A judgment or order for the payment of the assessed value of any goods may be enforced by the same means as any other judgment or order for the payment of money.

Enforcement of judgment to do or abstain from doing any act

Rule 5.—(1) Where—

- (a) a person required by a judgment or order to do an act within a time specified in the judgment or order refuses or neglects to do it within that time or, as the case may be, within that time as extended or abridged under a court order or CPR rule 2.11; or
- (b) a person disobeys a judgment or order requiring him to abstain from doing an act, then, subject to the provisions of these rules, the judgment or order may be enforced by one or more of the following means, that is to say—
 - (i) with the permission of the Court, a writ of sequestration against the property of that person;
 - (ii) where that person is a body corporate, with the permission of the Court, a writ of sequestration against the property of any director or other officer of the body;

(iii) subject to the provisions of the Debtors Act 1869 and 1878(3), an order of committal against that person or, where that person is a body corporate, against any such officer.

(2) Where a judgment or order requires a person to do an act within a time therein specified and an order is subsequently made under rule 6 requiring the act to be done within some other time, references in paragraph (1) of this rule to a judgment or order shall be construed as references to the order made under rule 6.

(3) Where under any judgment or order requiring the delivery of any goods the person liable to execution has the alternative of paying the assessed value of the goods, the judgment or order shall not be enforceable by order of committal under paragraph (1), but the Court may, on the application of the person entitled to enforce the judgment or order, make an order requiring the first mentioned person to deliver the goods to the applicant within a time specified in the order, and that order may be so enforced.

Judgment, etc. requiring act to be done: order fixing time for doing it

Rule 6.—(1) Notwithstanding that a judgment or order requiring a person to do an act specifies a time within which the act is to be done, the Court shall, have power to make an order requiring the act to be done within another time, being such time after service of that order, or such other time, as may be specified therein.

(2) Where, a judgment or order requiring a person to do an act does not specify a time within which the act is to be done, the Court shall have power subsequently to make an order requiring the act to be done within such time after service of that order, or such other time, as may be specified therein.

(3) An application for an order under this rule must be made in accordance with CPR Part 23 and the application notice must be served on the person required to do the act in question.

Service of copy of judgment, etc., prerequisite to enforcement under r.5

Rule 7.—(1) In this rule references to an order shall be construed as including references to a judgment.

(2) Subject to paragraphs (6) and (7) of this rule, an order shall not be enforced under rule 5 unless—

- (a) a copy of the order has been served personally on the person required to do or abstain from doing the act in question; and
- (b) in the case of an order requiring a person to do an act, the copy has been so served before the expiration of the time within which he was required to do the act.

(3) Subject as aforesaid, an order requiring a body corporate to do or abstain from doing an act shall not be enforced as mentioned in rule 5 (1)(b)(ii) or (iii) unless—

- (a) a copy of the order has also been served personally on the officer against whose property permission is sought to issue a writ of sequestration or against whom an order of committal is sought; and
- (b) in the case of an order requiring the body corporate to do an act, the copy has been so served before the expiration of the time within which the body was required to do the act.

(4) There must be prominently displayed on the front of the copy of an order served under this rule a warning to the person on whom the copy is served that disobedience to the order would be a contempt of court punishable by imprisonment, or (in the case of an order requiring a body corporate

(3) 1869 c. 62; 1878 c. 54.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

to do or abstain from doing an act) punishable by sequestration of the assets of the body corporate and by imprisonment of any individual responsible.

(5) With the copy of an order required to be served under this rule, being an order requiring a person to do an act, there must also be served a copy of any order or agreement under CPR rule 2.11 extending or abridging the time for doing the act and, where the first—mentioned order was made under rule 5 (3) or 6 of this Order, a copy of the previous order requiring the act to be done.

(6) An order requiring a person to abstain from doing an act may be enforced under rule 5 notwithstanding that service of a copy of the order has not been effected in accordance with this rule if the Court is satisfied that pending such service, the person against whom or against whose property is sought to enforce the order has had notice thereof either—

- (a) by being present when the order was made; or
- (b) by being notified of the terms of the order, whether by telephone, telegram or otherwise.

(7) The Court may dispense with service of a copy of an order under this rule if it thinks it just to do so.

Court may order act to be done at expense of disobedient party

Rule 8 If an order of mandamus, a mandatory order, an injunction or a judgment or order for the specific performance of a contract is not complied with, then, without prejudice to its powers under section 39 of the Act and its powers to punish the disobedient party for contempt, the Court may direct that the act required to be done may, so far as practicable, be done by the party by whom the order or judgment was obtained or some other person appointed by the Court, at the cost of the disobedient party, and upon the act being done the expenses incurred may be ascertained in such manner as the Court may direct and execution may issue against the disobedient party for the amount so ascertained and for costs.

Execution by or against person not being a party

^{F17}**Rule 9**

Textual Amendments

F17 Sch. 1 RSC Order 45 rule 9 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Conditional judgment: waiver

^{F18}**Rule 10**

Textual Amendments

F18 Sch. 1 RSC Order 45 rule 10 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with [rule 24](#)) (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Matters occurring after judgment: stay of execution, etc.

Rule 11 Without prejudice to Order 47, rule 1, a party against whom a judgment has been given or an order made may apply to the Court for a stay of execution of the judgment or order or other

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

relief on the ground of matters which have occurred since the date of the judgment or order, and the Court may by order grant such relief, and on such terms, as it thinks just.

Forms of writs

Rule 12.—(1) A writ of fieri facias must be in such of the Forms Nos. 53 to 63 in the relevant Practice Direction as is appropriate in the particular case.

(2) A writ of delivery must be in Form No. 64 or 65 in the relevant Practice Direction, whichever is appropriate.

(3) A writ of possession must be in Form No. 66 or 66A in the relevant Practice Direction, whichever is appropriate.

(4) A writ of sequestration must be in Form No. 67 in the relevant Practice Direction.

Enforcement of judgments and orders for recovery of money, etc.

^{F19}**Rule 13**

Textual Amendments
F19 Sch. 1 RSC Order 45 rule 13 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with rule 24) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), [43\(2\)](#))

Enforcement of decisions of Value Added Tax Tribunals

^{F20}**Rule 14**

Textual Amendments
F20 Sch. 1 RSC Order 45 rule 14 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), [43\(2\)](#))

RSC ORDER 46

WRITS OF EXECUTION: GENERAL

Definition

Rule 1 In this Order, unless the context otherwise requires, “writ of execution” includes a writ of fieri facias, a writ of possession, a writ of delivery, a writ of sequestration and any further writ in aid of any of the aforementioned writs.

When permission to issue any writ of execution is necessary

Rule 2.—(1) A writ of execution to enforce a judgment or order may not issue without the permission of the Court in the following cases, that is to say:—

- (a) where six years or more have elapsed since the date of the judgment or order;
- (b) where any change has taken place, whether by death or otherwise, in the parties entitled or liable to execution under the judgment or order;

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (c) where the judgment or order is against the assets of a deceased person coming to the hands of his executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;
- (d) where under the judgment or order any person is entitled to a remedy subject to the fulfilment of any condition which it is alleged has been fulfilled;
- (e) where any goods sought to be seized under a writ of execution are in the hands of a receiver appointed by the Court or a sequestrator.

(2) Paragraph (1) is without prejudice to section 2 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽⁴⁾, or any other enactment or rule by virtue of which a person is required to obtain the permission of the Court for the issue of a writ of execution or to proceed to execution on or otherwise to the enforcement of a judgment or order.

(3) Where the Court grants permission, whether under this rule or otherwise, for the issue of a writ of execution and the writ is not issued within one year after the date of the order granting such permission, the order shall cease to have effect, without prejudice, however, to the making of a fresh order.

Permission required for issue of writ in aid of other writ

Rule 3 A writ of execution in aid of any other writ of execution shall not issue without the permission of the Court.

Application for permission to issue writ

Rule 4.—(1) An application for permission to issue a writ of execution may be made in accordance with CPR Part 23 but the application notice need not be served on the respondent unless the Court directs.

- (2) Such an application must be supported by a witness statement or affidavit—
 - (a) identifying the judgment or order to which the application relates and, if the judgment or order is for the payment of money, stating the amount originally due thereunder and the amount due thereunder at the date the application notice is filed;
 - (b) stating, where the case falls within rule 2 (1)(a) the reasons for the delay in enforcing the judgment or order;
 - (c) stating where the case falls within rule 2 (1)(b) the change which has taken place in the parties entitled or liable to execution since the date of the judgment or order;
 - (d) stating, where the case falls within rule 2 (1)(c) or (d) that a demand to satisfy the judgment or order was made on the person liable to satisfy it and that he has refused or failed to do so;
 - (e) giving such other information as is necessary to satisfy the Court that the applicant is entitled to proceed to execution on the judgment or order in question and that the person against whom it is sought to issue execution is liable to execution on it.

(3) The Court hearing such application may grant permission in accordance with the application or may order that any issue or question, a decision on which is necessary to determine the rights of the parties, be tried in any manner in which any question of fact or law arising in proceedings may be tried and, in either case, may impose such terms as to costs or otherwise as it thinks just.

Application for permission to issue writ of sequestration

Rule 5.—(1) Notwithstanding anything in rules 2 and 4, an application for permission to issue a writ of sequestration must be made in accordance with CPR Part 23 and be heard by a Judge.

(4) 1951 c. 65.

(2) Subject to paragraph (3) the application notice, stating the grounds of the application and accompanied by a copy of the witness statement or affidavit in support of the application, must be served personally on the person against whose property it is sought to issue the writ.

(3) The Court may dispense with service of the application notice under this rule if it thinks it just to do so.

(4) The judge hearing an application for permission to issue a writ of sequestration may sit in private in any case in which, if the application were for an order of committal, he would be entitled to do so by virtue of Order 52, rule 6 but, except in such a case, the application shall be heard in public.

Issue of writ of execution

Rule 6.—(1) Issue of a writ of execution takes place on its being sealed by a court officer of the appropriate office.

(2) Before such a writ is issued a praecipe for its issue must be filed.

(3) The praecipe must be signed by or on behalf of the solicitor of the person entitled to execution or, if that person is acting in person, by him.

(4) No such writ shall be sealed unless at the time of the tender thereof for sealing—

(a) the person tendering it produces—

(i) the judgment or order on which the writ is to issue, or an office copy thereof;

(ii) where the writ may not issue without the permission of the Court, the order granting such permission or evidence of the granting of it;

(iii) where judgment on failure to acknowledge service has been entered against a State, as defined in section 14 of the State Immunity Act 1978(5), evidence that the State has been served in accordance with CPR rule 40.10 and that the judgment has taken effect; and

(b) the court officer authorised to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act thereunder has expired.

(5) Every writ of execution shall bear the date of the day on which it is issued.

(6) In this rule “the appropriate office” means—

(a) where the proceedings in which execution is to issue are in a District Registry, that Registry;

(b) where the proceedings are in the Principal Registry of the Family Division, that Registry;

(c) where the proceedings are Admiralty proceedings or commercial proceedings which are not in a District Registry, the Admiralty and Commercial Registry;

(ca) where the proceedings are in the Chancery Division, Chancery Chambers;

(d) in any other case, the Central Office of the Supreme Court.

Duration and renewal of writ of execution

Rule 8.—(1) For the purpose of execution, a writ of execution is valid in the first instance for 12 months beginning with the date of its issue.

(2) Where a writ has not been wholly executed the Court may by order extend the validity of the writ from time to time for a period of 12 months at any one time beginning with the day on which

(5) 1978 c. 33.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

the order is made, if an application for extension is made to the Court before the day next following that on which the writ would otherwise expire or such later day, if any, as the Court may allow.

(3) Before a writ the validity of which had been extended under paragraph (2) is executed either the writ must be sealed with the seal of the office out of which it was issued showing the date on which the order extending its validity was made or the applicant for the order must serve a notice (in Form No. 71 in the relevant Practice Direction) sealed as aforesaid, on the sheriff to whom the writ is directed informing him of the making of the order and the date thereof.

(4) The priority of a writ, the validity of which has been extended under this rule, shall be determined by reference to the date on which it was originally delivered to the sheriff.

(5) The production of a writ of execution, or of such a notice as is mentioned in paragraph (3) purporting in either case to be sealed as mentioned in that paragraph, shall be evidence that the validity of that writ, or, as the case may be, of the writ referred to in that notice, has been extended under paragraph (2).

(6) If, during the validity of a writ of execution, an interpleader summons is issued in relation to an execution under that writ, the validity of the writ shall be extended until the expiry of 12 months from the conclusion of the interpleader proceedings.

Return to writ of execution

Rule 9.—(1) Any party at whose instance or against whom a writ of execution was issued may serve a notice on the sheriff to whom the writ was directed requiring him, within such time as may be specified in the notice, to indorse on the writ a statement of the manner in which he has executed it and to send to that party a copy of the statement.

(2) If a sheriff on whom such a notice is served fails to comply with it the party by whom it was served may apply to the Court for an order directing the sheriff to comply with the notice.

RSC ORDER 47

WRITS OF FIERI FACIAS

Power to stay execution by writ of fieri facias

Rule 1.—(1) Where a judgment is given or an order made for the payment by any person of money, and the Court is satisfied, on an application made at the time of the judgment or order, or at any time thereafter, by the judgment debtor or other party liable to execution—

- (a) that there are special circumstances which render it inexpedient to enforce the judgment or order; or
- (b) that the applicant is unable from any cause to pay the money,

then, notwithstanding anything in rule 2 or 3, the Court may by order stay the execution of the judgment or order by writ of fieri facias either absolutely or for such period and subject to such conditions as the Court thinks fit.

(2) An application under this rule, if not made at the time the judgment is given or order made, must be made in accordance with CPR Part 23 and may be so made notwithstanding that the party liable to execution did not acknowledge service of the claim form or serve a defence or take any previous part in the proceedings.

(3) The grounds on which an application under this rule is made must be set out in the application notice and be supported by a witness statement or affidavit made by or on behalf of the applicant substantiating the said grounds and, in particular, where such application is made on the grounds of

the applicant's inability to pay, disclosing his income, the nature and value of any property of his and the amount of any other liabilities of his.

(4) The application notice and a copy of the supporting witness statement or affidavit must, not less than 4 clear days before the hearing, be served on the party entitled to enforce the judgment or order.

(5) An order staying execution under this rule may be varied or revoked by a subsequent order.

Two or more writs of fieri facias

Rule 2.—(1) A party entitled to enforce a judgment or order by writ of fieri facias may issue two or more such writs, directed to the sheriffs of different counties, at either the same time or different times, to enforce that judgment or order, but no more shall be levied under all those writs together than is authorised to be levied under one of them.

(2) Where a party issues two or more writs of fieri facias directed to the sheriffs of different counties to enforce the same judgment or order he must inform each sheriff of the issue of the other writ or writs.

Separate writs to enforce payment of costs, etc.

Rule 3.—(1) Where only the payment of money, together with costs to be assessed in accordance with CPR Part 47 (detailed costs assessment), is adjudged or ordered, then, if when the money becomes payable under the judgment or order the costs have not been assessed, the party entitled to enforce that judgment or order may issue a writ of fieri facias to enforce payment of the sum (other than for costs) adjudged or ordered and, not less than 8 days after the issue of that writ, he may issue a second writ to enforce payment of the assessed costs.

(2) A party entitled to enforce a judgment or order for the delivery of possession of any property (other than money) may, if he so elects, issue a separate writ of fieri facias to enforce payment of any damages or costs awarded to him by that judgment or order.

No expenses of execution in certain cases

Rule 4 Where a judgment or order is for less than £600 and does not entitle the claimant to costs against the person against whom the writ of fieri facias to enforce the judgment or order is issued, the writ may not authorise the sheriff to whom it is directed to levy any fees, poundage or other costs of execution.

Writ of fieri facias de bonis ecclesiasticis, etc.

Rule 5.—(1) Where it appears upon the return of any writ of fieri facias that the person against whom the writ was issued has no goods or chattels in the county of the sheriffs to whom the writ was directed but that he is the incumbent of a benefice named in the return, then, after the writ and return have been filed, the party by whom the writ of fieri facias was issued may issue a writ of fieri facias de bonis ecclesiasticis or a writ of sequestrari de bonis ecclesiasticis directed to the bishop of the diocese within which that benefice is.

(2) Any such writ must be delivered to the bishop to be executed by him.

(3) Only such fees for the execution of any such writ shall be taken by or allowed to the bishop or any diocesan officer as are for the time being authorised by or under any enactment, including any measure of the General Synod.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Order for sale otherwise than by auction

Rule 6.—(1) An order of the Court under section 145 of the Bankruptcy Act 1883(6), that a sale under an execution may be made otherwise than by public auction may be made on the application of the person at whose instance the writ of execution under which the sale is to be made was issued or the person against whom that writ was issued (in this rule referred to as “the judgment debtor”) or the sheriff to whom it was issued.

(2) Such an application must be made in accordance with CPR Part 23 and the application notice must contain a short statement of the grounds of the application.

(3) Where the applicant for an order under this rule is not the sheriff, the sheriff must, on the demand of the applicant, send to the applicant a list containing the name and address of every person at whose instance any other writ of execution against the goods of the judgment debtor was issued and delivered to the sheriff (in this rule referred to as “the sheriff’s list”); and where the sheriff is the applicant, he must prepare such a list.

(4) Not less than 4 clear days before the hearing the applicant must serve the application notice on each of the other persons by whom the application might have been made and on every person named in the sheriff’s list.

(5) Service of the application notice on a person named in the sheriff’s list is notice to him for the purpose of section 12 of the Bankruptcy Act 1890(7) (which provides that the Court shall not consider an application for permission to sell privately goods taken in execution until notice directed by rules of Court has been given to any other execution creditor).

(6) The applicant must produce the sheriff’s list to the Court on the hearing of the application.

(7) Every person on whom the application notice was served may attend and be heard on the hearing of the application.

RSC ORDER 48

EXAMINATION OF JUDGMENT DEBTOR, ETC.

Order for examination of judgment debtor

^{F21}**Rule 1**

Textual Amendments

F21 Sch. 1 RSC Order 48 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Examination of party liable to satisfy other judgment

^{F21}**Rule 2**

Textual Amendments

F21 Sch. 1 RSC Order 48 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

(6) 1883 c. 52.
(7) 1890 c. 71.

Examiner to make record of debtor’s statement

^{F21}**Rule 3**

Textual Amendments

F21 Sch. 1 RSC Order 48 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

RSC ORDER 49

GARNISHEE PROCEEDINGS

Attachment of debt due to judgment debtor

^{F22}**Rule 1**

Textual Amendments

F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Application for order

^{F22}**Rule 2**

Textual Amendments

F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Service and effect of order to show cause

^{F22}**Rule 3**

Textual Amendments

F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

No appearance or dispute of liability by garnishee

^{F22}**Rule 4**

Textual Amendments

F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Dispute of liability by garnishee

^{F22}**Rule 5**

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Textual Amendments
F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Claims of third persons

^{F22}**Rule 6**

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Textual Amendments
F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Discharge of garnishee

^{F22}**Rule 8**

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Textual Amendments
F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Money in Court

^{F22}**Rule 9**

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Textual Amendments
F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Costs

^{F22}**Rule 10**

.....
Textual Amendments
F22 Sch. 1 RSC Order 49 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

RSC ORDER 50

CHARGING ORDERS, STOP ORDERS, ETC.

Order imposing a charge on a beneficial interest

^{F23}**Rule 1**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Service of notice of order to show cause

^{F23}**Rule 2**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Order made on further considerations

^{F23}**Rule 3**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Order imposing a charge on an interest held by a trustee

^{F23}**Rule 4**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Effect of order in relation to securities out of Court

^{F23}**Rule 5**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Effect of order in relation to funds in Court

^{F23}**Rule 6**

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Textual Amendments
F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Discharge, etc., of charging order

^{F23}**Rule 7**

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Textual Amendments
F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Jurisdiction of Master, etc., to grant injunction

^{F23}**Rule 9**

.....
Textual Amendments
F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Enforcement of charging order by sale

^{F23}**Rule 9A**

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Textual Amendments
F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Funds in Court: stop order

^{F23}**Rule 10**

.....
Textual Amendments
F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Securities not in Court: stop notice

^{F23}**Rule 11**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Effect of stop notice

F23 **Rule 12**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Amendment of stop notice

F23 **Rule 13**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Withdrawal etc. of stop notice

F23 **Rule 14**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Order prohibiting transfer, etc. of securities

F23 **Rule 15**

Textual Amendments

F23 Sch. 1 RSC Order 50 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

F24RSC ORDER 51
RECEIVERS: EQUITABLE EXECUTION

Textual Amendments
F24 Sch. 1 RSC Order 51 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Order to apply to High Court and County Courts

F24Rule A1.

Appointment of receiver by way of equitable execution

F24Rule 1

Masters etc. may appoint receiver

F24Rule 2

Application of rules as to appointment of receiver, etc.

F24Rule 3

**RSC ORDER 52
COMMITTAL**

Committal for contempt of court

Rule 1.—(1) The power of the High Court or Court of Appeal to punish for contempt of court may be exercised by an order of committal.

(2) Where contempt of court—

(a) is committed in connection with—

- (i) any proceedings before a Divisional Court of the Queen’s Bench Division; or
- (ii) criminal proceedings, except where the contempt is committed in the face of the court or consists of disobedience to an order of the court or a breach of an undertaking to the court; or
- (iii) proceedings in an inferior court; or

(b) is committed otherwise than in connection with any proceedings, then, subject to paragraph (4), an order of committal may be made only by a Divisional Court of the Queen’s Bench Division.

This paragraph shall not apply in relation to contempt of the Court of Appeal.

(3) Where contempt of court is committed in connection with any proceedings in the High Court, then, subject to paragraph (2), an order of committal may be made by a single judge of the Queen’s Bench Division except where the proceedings were assigned or subsequently transferred to some other Division, in which case the order may be made only by a single judge of that other Division.

The reference in this paragraph to a single judge of the Queen’s Bench Division shall, in relation to proceedings in any court the judge or judges of which are, when exercising the jurisdiction of that court, deemed by virtue of any enactment to constitute a court of the High Court, be construed as a reference to a judge of that court.

(4) Where by virtue of any enactment the High Court has power to punish or take steps for the punishment of any person charged with having done anything in relation to a court, tribunal or person which would, if it had been done in relation to the High Court, have been a contempt of that Court, [F25 an order of committal may be made—

- (a) on an application under section 88 of the Charities Act 1993, by a single judge of the Chancery Division; and
- (b) in any other case, by a single judge of the Queen’s Bench Division]

Textual Amendments

F25 Words in Sch. 1 RSC Order 52 rule 1(4) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **30**

Application to Divisional Court

Rule 2.—(1) No application to a Divisional Court for an order of committal against any person may be made unless permission to make such an application has been granted in accordance with this rule.

(2) An application for such permission must be made without notice to a Divisional Court, except in vacation when it may be made to a judge in chambers and must be supported by a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his committal is sought, and by an affidavit, to be filed before the application is made, verifying the facts relied on.

(3) The applicant must give notice of the application for permission not later than the preceding day to the Crown Office and must at the same time lodge in that office copies of the statement and affidavit.

(4) Where an application for permission under this rule is refused by a judge in chambers, the applicant may make a fresh application for such permission to a Divisional Court.

(5) An application made to a Divisional Court by virtue of paragraph (4) must be made within 8 days after the judge’s refusal to give permission or, if a Divisional Court does not sit within that period, on the first day on which it sits thereafter.

Application for order after leave to apply granted

Rule 3.—(1) When permission has been granted under rule 2 to apply for an order of committal, the application for the order must be made to a Divisional Court and, unless the court or judge granting permission has otherwise directed, there must be at least 14 clear days between the service of the claim form and the day named therein for the hearing.

(2) Unless within 14 days after such permission was granted, the claim form is issued the permission shall lapse.

(3) Subject to paragraph 4, the claim form, accompanied by a copy of the statement and affidavit in support of the application for permission, must be served personally on the person sought to be committed.

(4) Without prejudice to the powers of the court or judge under Part 6 of the CPR, the court or judge may dispense with service under this rule if it or he thinks it just to do so.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Application to Court other than Divisional Court

Rule 4.—(1) Where an application for an order of committal may be made to a court other than a Divisional Court, the application must be made by claim form or application notice and be supported by an affidavit.

(2) Subject to paragraph (3) the claim form or application notice, stating the grounds of the application and accompanied by a copy of the affidavit in support of the application, must be served personally on the person sought to be committed.

(3) Without prejudice to its powers under Part 6 of the CPR, the Court may dispense with service under this rule if it thinks it just to do so.

(4) This rule does not apply to committal applications which under rules 1(2) and 3(1) should be made to a Divisional Court but which, in vacation, have been properly made to a single judge in accordance with Order 64, rule 4.

Saving for power to commit without application for purpose

Rule 5 Nothing in the foregoing provisions of this Order shall be taken as affecting the power of the High Court or Court of Appeal to make an order of committal of its own initiative against a person guilty of contempt of court.

Provisions as to hearing

Rule 6.—(1) Subject to paragraph (2), the Court hearing an application for an order of committal may sit in private in the following cases, that is to say—

- (a) where the application arises out of proceedings relating to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;
- (b) where the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder within the meaning of the Mental Health Act 1983(8);
- (c) where the application arises out of proceedings in which a secret process, discovery or invention was in issue;
- (d) where it appears to the Court that in the interests of the administration of justice or for reasons of national security the application should be heard in private;

but, except as aforesaid, the application shall be heard in [F26public].

(2) If the Court hearing an application in private by virtue of paragraph (1) decides to make an order of committal against the person sought to be committed, it shall in [F26public] state—

- (a) the name of that person,
- (b) in general terms the nature of the contempt of Court in respect of which the order of committal is being made, and
- (c) the length of the period for which he is being committed.

(3) Except with the permission of the Court hearing an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the statement under rule 2 or, as the case may be, in the claim form or application notice under rule 4.

(4) If on the hearing of the application the person sought to be committed expresses a wish to give oral evidence on his own behalf, he shall be entitled to do so.

(8) 1983 c. 20.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F26 Word in Sch. 1 RSC Order 52 rule 6 substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **32**

Power to suspend execution of committal order

Rule 7.—(1) The Court by whom an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(2) Where execution of an order of committal is suspended by an order under paragraph (1), the applicant for the order of committal must, unless the Court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that paragraph.

Discharge of person committed

Rule 8.—(1) The Court may, on the application of any person committed to prison for any contempt of Court, discharge him.

(2) Where a person has been committed for failing to comply with a judgment or order requiring him to deliver any thing to some other person or to deposit it in Court or elsewhere, and a writ of sequestration has also been issued to enforce that judgment or order, then, if the thing is in the custody or power of the person committed, the commissioners appointed by the writ of sequestration may take possession of it as if it were the property of that person and, without prejudice to the generality of paragraph (1), the Court may discharge the person committed and may give such directions for dealing with the thing taken by the commissioners as it thinks fit.

(RSC Order 46, rule 5 contains rules relating to writs of sequestration)

Saving for other powers

Rule 9 Nothing in the foregoing provisions of this Order shall be taken as affecting the power of the Court to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment in like manner as if he had been guilty of contempt of the High Court, to pay a fine or to give security for his good behaviour, and those provisions, so far as applicable, and with the necessary modifications, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

^{F27}RSC ORDER 53 APPLICATIONS FOR JUDICIAL REVIEW

Textual Amendments

F27 Sch. 1 RSC Order 53 revoked (2.10.2000) by The Civil Procedure (Amendment No. 4) Rules 2000 (S.I. 2000/2092), rules 1, **23** (with rule 30)

Cases appropriate for application for judicial review

Rule 1 ^{F27}

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Joinder of claims for relief

Rule 2 ^{F27}

Grant of leave to apply for judicial review

Rule 3 ^{F27}

Delay in applying for relief

Rule 4 ^{F27}

Mode of applying for judicial review

Rule 5 ^{F27}

Statements and evidence

Rule 6 ^{F27}

Claim for damages

Rule 7 ^{F27}

Application for disclosure, further information, cross—examination, etc.

Rule 8 ^{F27}

Hearing of application for judicial review

Rule 9 ^{F27}

Saving for person acting in obedience to mandamus

Rule 10 ^{F27}

Proceedings for disqualification of member of local authority

Rule 11 ^{F27}

Consolidation of applications

Rule 12 ^{F27}

Appeal from Judge’s order

Rule 13 ^{F27}

Meaning of “Court”

Rule 14 ^{F27}

RSC ORDER 54

APPLICATIONS FOR WRIT OF HABEAS CORPUS

Application for writ of habeas corpus ad subjiciendum

Rule 1.—(1) Subject to rule 11, an application for a writ of habeas corpus ad subjiciendum shall be made to a judge in Court, except that—

- (a) it shall be made to a Divisional Court of the Queen’s Bench Division if the Court so directs;
- (b) it may be made to a judge otherwise than in court at any time when no judge is sitting in court; and
- (c) any application on behalf of a child must be made in the first instance to a judge otherwise than in court.

(2) An application for such writ may be made without notice being served on any other party and, subject to paragraph (3) must be supported by a witness statement or affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(3) Where the person restrained is unable for any reason to make the witness statement or affidavit required by paragraph (2) the witness statement or affidavit may be made by some other person on his behalf and that witness statement or affidavit must state that the person restrained is unable to make the witness statement or affidavit himself and for what reason.

Power of Court to whom application made without notice being served on any other party

Rule 2.—(1) The Court or judge to whom an application under rule 1 is made without notice being served on any other party may make an order forthwith for the writ to issue, or may—

- (a) where the application is made to a judge otherwise than in court, direct the issue of a claim form seeking the writ, or that an application therefor be made by claim form to a Divisional Court or to a judge in court;
- (b) where the application is made to a judge in court, adjourn the application so that notice thereof may be given, or direct that an application be made by claim form to a Divisional Court;
- (c) where the application is made to a Divisional Court, adjourn the application so that notice thereof may be given.

(2) The claim form must be served on the person against whom the issue of the writ is sought and on such other persons as the Court or judge may direct, and, unless the Court or judge otherwise directs, there must be at least 8 clear days between the service of the claim form and the date named therein for the hearing of the application.

Copies of witness statement or affidavits to be supplied

Rule 3 Every party to an application under rule 1 must supply to every other party on demand and on payment of the proper charges copies of the witness statement or affidavits which he proposes to use at the hearing of the application.

Power to order release of person restrained

Rule 4.—(1) Without prejudice to rule 2 (1), the Court or judge hearing an application for a writ of habeas corpus ad subjiciendum may in its or his discretion order that the person restrained be released, and such order shall be a sufficient warrant to any governor of a prison, constable or other person for the release of the person under restraint.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) Where such an application in criminal proceedings is heard by a judge and the judge does not order the release of the person restrained, he shall direct that the application be made by claim form to a Divisional Court of the Queen's Bench Division.

Directions as to return to writ

Rule 5 Where a writ of habeas corpus ad subjiciendum is ordered to issue, the Court or judge by whom the order is made shall give directions as to the Court or judge before whom, and the date on which, the writ is returnable.

Service of writ and notice

Rule 6.—(1) Subject to paragraphs (2) and (3), a writ of habeas corpus ad subjiciendum must be served personally on the person to whom it is directed.

(2) If it is not possible to serve such writ personally, or if it is directed to a governor of a prison or other public official, it must be served by leaving it with a servant or agent of the person to whom the writ is directed at the place where the person restrained is confined or restrained.

(3) If the writ is directed to more than one person, the writ must be served in manner provided by this rule on the person first named in the writ, and copies must be served on each of the other persons in the same manner as the writ.

(4) There must be served with the writ a notice (in Form No. 90 in the relevant Practice Direction) stating the Court or judge before whom and the date on which the person restrained is to be brought and that in default of obedience proceedings for committal of the party disobeying will be taken.

Return to the writ

Rule 7.—(1) The return to a writ of habeas corpus ad subjiciendum must be indorsed on or annexed to the writ and must state all the causes of the detainer of the person restrained.

(2) The return may be amended, or another return substituted therefor, by permission of the Court or judge before whom the writ is returnable.

Procedure at hearing of writ

Rule 8 When a return to a writ of habeas corpus ad subjiciendum is made, the return shall first be read, and motion then made for discharging or remanding the person restrained or amending or quashing the return, and where that person is brought up in accordance with the writ, his counsel shall be heard first, then the counsel for the Crown, and then one counsel for the person restrained in reply.

Bringing up prisoner to give evidence, etc.

Rule 9.—(1) An application for a writ of habeas corpus ad testificandum or of habeas corpus ad respondendum must be made on witness statement or affidavit to a Judge ^{F28}....

(2) An application for an order to bring up a prisoner, otherwise than by writ of habeas corpus, to give evidence in any proceedings, civil or criminal, before any Court, tribunal or justice, must be made on witness statement or affidavit to a Judge ^{F29}....

Textual Amendments

F28 Words in [Sch. 1 RSC Order 11 52 rule 9\(1\)](#) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [62\(a\)](#)

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F29 Words in Sch. 1 RSC Order 11 52 rule 9(2) omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **62(a)**

Form of writ

Rule 10 A writ of habeas corpus must be in Form No. 89, 91 or 92 in the relevant Practice Direction, whichever is appropriate.

Applications relative to the custody, etc., of child

Rule 11 An application by a parent or guardian of a child for a writ of habeas corpus ad subjiciendum relative to the custody, care or control of the child must be made in the Family Division, and this Order shall accordingly apply to such applications with the appropriate modifications.

RSC ORDER 55

**APPEALS TO HIGH COURT FROM COURT,
TRIBUNAL OR PERSON: GENERAL**

Application

^{F30}**Rule 1**

Textual Amendments
F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Court to hear appeal

^{F30}**Rule 2.**

Textual Amendments
F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Bringing of appeal

^{F30}**Rule 3**

Textual Amendments
F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Service of notice of appeal and entry of appeal

^{F30}**Rule 4**

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Date of hearing of appeal

F30 **Rule 5**

Textual Amendments

F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Amendment of grounds of appeal, etc.

F30 **Rule 6**

Textual Amendments

F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Interlocutory applications

F30 **Rule 6A**

Textual Amendments

F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Powers of Court hearing appeal

F30 **Rule 7**

Textual Amendments

F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Right of Minister, etc., to appear and be heard

F30 **Rule 8**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F30 Sch. 1 RSC Order 55 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

RSC ORDER 56

APPEALS, ETC., TO HIGH COURT BY CASE STATED: GENERAL

Appeals from the Crown Court by case stated

^{F31}**Rule 1**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Notice of entry of appeal

^{F31}**Rule 4**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals relating to affiliation proceedings and care proceedings

^{F31}**Rule 4A**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeal from Magistrates' Court by case stated

^{F31}**Rule 5**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Case stated by Magistrates' Court: filing case, etc.

^{F31}**Rule 6**

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Textual Amendments
F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Case stated by Ministers, tribunal, etc.

^{F31}**Rule 7**

.....
Textual Amendments
F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Application for order to state a case

^{F31}**Rule 8**

.....
Textual Amendments
F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Signing and service of case

^{F31}**Rule 9**

.....
Textual Amendments
F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Proceedings for determination of case

^{F31}**Rule 10**

.....
Textual Amendments
F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Amendment of case

^{F31}**Rule 11**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Right of Minister to appear and be heard

F31 **Rule 12**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Extradition

F31 **Rule 12A**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Interlocutory applications

F31 **Rule 13**

Textual Amendments

F31 Sch. 1 RSC Order 56 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

F32 **RSC ORDER 57 DIVISIONAL COURT
PROCEEDINGS, ETC.: SUPPLEMENTARY PROVISIONS**

Textual Amendments

F32 Sch. 1 RSC Order 57 revoked (2.10.2000) by The Civil Procedure (Amendment No. 4) Rules 2000 (S.I. 2000/2092), rules 1, **24**

Application

Rule 1 **F32**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Entry of claims

Rule 2 ^{F32}

Issue, etc., of claim form

Rule 3 ^{F32}

Filing of witness statement or affidavits and drawing up of orders

Rule 4 ^{F32}

Issue of writs

Rule 5 ^{F32}

Custody of records

Rule 6 ^{F32}

RSC ORDER 58

APPEALS FROM MASTERS, REGISTRARS, REFEREES AND JUDGES

Appeals from certain decisions of Masters, etc. to Judge sitting in private

^{F33}**Rule 1**

Textual Amendments
F33 Sch. 1 RSC Order 58 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), Sch. 8 (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from certain decisions of Masters, etc., to Court of Appeal

^{F33}**Rule 2**

Textual Amendments
F33 Sch. 1 RSC Order 58 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), Sch. 8 (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from District Judges

^{F33}**Rule 3**

Textual Amendments
F33 Sch. 1 RSC Order 58 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), Sch. 8 (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Appeals from Judge of the Technology and Construction Court

^{F33}Rule 4

Textual Amendments

F33 Sch. 1 RSC Order 58 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

RSC ORDER 59

APPEALS TO THE COURT OF APPEAL

Application of Order to appeals

^{F34}Rule 1

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Classes of case where permission to appeal is required

^{F34}Rule 1B

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Application of Order to applications for new trial

^{F34}Rule 2

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Interpretation

^{F34}Rule 2A

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

General Provisions as to Appeals

Who may exercise the powers of the Court of Appeal

^{F34}Rule 2B

.....
Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Variation of time

^{F34}Rule 2C

.....
Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Notice of appeal

^{F34}Rule 3

.....
Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Time for appealing

^{F34}Rule 4

.....
Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Setting down appeal

^{F34}Rule 5

.....
Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Respondent's notice

^{F34}Rule 6

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Amendment of notice of appeal and respondent's notice

^{F34}Rule 7

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Directions of the Court as to service

^{F34}Rule 8

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Documents to be filed by appellant

^{F34}Rule 9

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

General powers of the Court

^{F34}Rule 10

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Powers of the Court as to new trials

^{F34}Rule 11

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Evidence on appeal

F34 **Rule 12**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Non—disclosure of payment into Court

F34 **Rule 12A**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Stay of execution, etc.

F34 **Rule 13**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Applications to Court of Appeal

F34 **Rule 14**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Extension of time

F34 **Rule 15**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Special Provisions as to Particular Appeals

Appeal against decree nisi

F34 **Rule 16**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeal against order for revocation of patent

F34 **Rule 17**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeal from Patents Court on appeal from Comptroller

F34 **Rule 18**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeal from county court

F34 **Rule 19**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals in cases of contempt of court

F34 **Rule 20**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from Social Security Commissioners

^{F34}**Rule 21**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from Value Added Tax Tribunals

^{F34}**Rule 22**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Dismissal of patient’s appeal by consent

^{F34}**Rule 23**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from Immigration Appeals Tribunal

^{F34}**Rule 24**

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from Special Commissioners

^{F34}**Rule 25**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F34 Sch. 1 RSC Order 59 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

RSC ORDER 60

APPEALS TO COURT OF APPEAL FROM THE RESTRICTIVE PRACTICES COURT

Appeal to be brought by notice of appeal

^{F35}**Rule 1**

Textual Amendments

F35 Sch. 1 RSC Order 60 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Service of notice of appeal

^{F35}**Rule 2**

Textual Amendments

F35 Sch. 1 RSC Order 60 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Entry, etc. of appeal

^{F35}**Rule 3**

Textual Amendments

F35 Sch. 1 RSC Order 60 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Powers of Court of Appeal

^{F35}**Rule 4**

Textual Amendments

F35 Sch. 1 RSC Order 60 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

RSC ORDER 61

APPEALS FROM TRIBUNALS TO COURT OF APPEAL BY CASE STATED

Statement of case by Lands Tribunal

^{F36}**Rule 1**

.....
Textual Amendments

F36 Sch. 1 RSC Order 61 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Statement of case by other tribunals

^{F36}**Rule 2**

.....
Textual Amendments

F36 Sch. 1 RSC Order 61 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Proceedings on case stated

^{F36}**Rule 3**

.....
Textual Amendments

F36 Sch. 1 RSC Order 61 revoked (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

RSC ORDER 62

COSTS

APPENDIX 3

Fixed Costs

The scale of costs set out in this Appendix shall apply in the cases to which the Appendix refers.

Part II

Costs on judgment without trial for possession of land

- 1.—(1) Where the claim is for the possession of land, and the claimant obtains judgment—
- (a) under CPR Part 12 (default judgment); or
 - (c) under CPR Part 24 (summary judgment),

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

for possession of the land and costs, then, subject to sub-paragraph (2), there shall be allowed the costs prescribed by paragraph 2 of this Part of this Appendix.

(2) Where the claimant is also entitled under the judgment to damages to be assessed, or where the plaintiff claims any remedy of the nature specified in [F37Order 45, rule 3(2)], this Part of this Appendix shall not apply.

Textual Amendments

F37 Words in [Sch. 1 RSC Order 62 Appendix 3 Pt. 2 para. 1\(2\)](#) substituted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), [rules 1\(d\)](#), **21**

2. The costs to be allowed under this Part of this Appendix shall be £143.75, together with any court fee, and additional costs where appropriate set out the Table below.

Textual Amendments

F37 Words in [Sch. 1 RSC Order 62 Appendix 3 Pt. 2 para. 1\(2\)](#) substituted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), [rules 1\(d\)](#), **21**

Additional Costs

B. Additional Costs

<i>Amount to be allowed</i>	<i>£</i>
(1) Where there is more than one defendant, in respect of each additional defendant served	£13.75
(2) Where service by an alternative method is ordered and effected, in respect of each defendant served	£53.25
(3) Where service out of the jurisdiction is ordered and effected, in the case of service—	£68.25
(a) in Scotland, Northern Ireland, the Isle of Man or the Channel Islands	
(b) in any other place out of the jurisdiction	£77.00
(4) In the case of default judgment under CPR Part 12 or summary judgment under CPR Part 24 the claimant makes an affidavit of service for the purpose of a judgment where the defendant failed to respond to the claim form (the allowance to include the search fee)	£20.50
(5) In the case of summary judgment under CPR Part 24 where an affidavit of service of the Part 23 application is required	£20.50
(6) In the case of summary judgment under CPR Part 24 for each adjournment of the application	£20.50

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Part III

Miscellaneous

This Part shows the amount to be allowed in respect of enforcement costs.

2. Where a certificate in respect of money £39.00 provisions contained in a judgment is registered in the High Court in the Register of United Kingdom judgments under Schedule 6 to the Civil Jurisdiction and Judgments Act 1982(9), there shall be allowed—

Costs of registration

2A. Where costs are allowed under the following paragraphs of this Part, the appropriate court fees shall be allowed in addition.

^{F38}**3.** ...

^{F38}**4.** ...

5. Where leave is given under Order 45, rule 3, to enforce a judgment or order for the giving of possession of land by writ of possession, if the costs are allowed on the judgment or order there shall be allowed the following costs, which shall be added to the judgment or order—

Basic costs

Where notice of the proceedings has been given £2.75 to more than one person, in respect of each additional person

6. Where a writ of execution within the meaning of Order 46, rule 1, is issued against any party, there shall be allowed—

Costs of issuing execution

Textual Amendments

F38 Sch. 1 RSC Order 62 Appendix 3 Pt. 3 paras. 3, 4 omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **34**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

RSC ORDER 64

SITTINGS, VACATIONS AND OFFICE HOURS

Divisional Court business during vacation

Rule 4 Proceedings which require to be immediately or promptly heard and which by virtue of the following provisions must be brought in a Divisional Court may, in vacation, be brought before a single judge:

(a) Order 52, rules 1 (2) and 3 (1);

^{F39}(b)

^{F40}(c)

^{F40}(d)

Textual Amendments

F39 Sch. 1 RSC Order 64 rule 4(b) revoked (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **25**

F40 Sch. 1 RSC Order 64 rule 4(c)(d) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by [S.I. 2000/940](#), rules 1, 2)

^{F41}RSC ORDER 51

RECEIVERS: EQUITABLE EXECUTION

Textual Amendments

F41 Sch. 1 RSC Order 69 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Order to apply to High Court and County Courts

^{F41}**Rule A1**

Appointment of receiver by way of equitable execution

^{F41}**Rule 1**

Masters etc. may appoint receiver

^{F41}**Rule 2**

Application of rules as to appointment of receiver, etc.

^{F41}**Rule 3**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

F42 RSC ORDER 70

Application of rules as to appointment of receiver, etc.

.....
Textual Amendments

F42 Sch. 1 RSC Order 70 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Interpretation and exercise of jurisdiction

F42 **Rule 1**

Application for order

F42 **Rule 2**

Application by Treasury Solicitor in certain cases

F42 **Rule 3.**

Person to take and manner of taking examination

F42 **Rule 4**

Dealing with deposition

F42 **Rule 5**

Claim to privilege

F42 **Rule 6**

F43 RSC ORDER 71

RECIPROCAL ENFORCEMENT OF JUDGMENTS AND ENFORCEMENT OF
EUROPEAN COMMUNITY JUDGMENTS AND RECOMMENDATIONS ETC.
UNDER THE MERCHANT SHIPPING (LINER CONFERENCES) ACT 1982

.....
Textual Amendments

F43 Sch. 1 RSC Order 71 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

***I. Reciprocal Enforcement: the Administration of Justice Act 1920(2)
and the Foreign Judgments (Reciprocal Enforcement) Act 1933***

Powers under relevant Acts exercisable by judge or master

^{F43}**Rule 1**

Application for registration

^{F43}**Rule 2**

Evidence in support of application

^{F43}**Rule 3**

Security for costs

^{F43}**Rule 4**

Order for registration

^{F43}**Rule 5**

Register of judgments

^{F43}**Rule 6**

Notice of registration

^{F43}**Rule 7**

Application to set aside registration

^{F43}**Rule 9**

Issue of execution

^{F43}**Rule 10**

Determination of certain questions

^{F43}**Rule 11**

Rules to have effect subject to Orders in Council

^{F43}**Rule 12**

Certified copy of High Court judgment

^{F43}**Rule 13**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

II. Enforcement of European Community Judgments

Interpretation

^{F43}**Rule 15**

Functions under Order in Council exercisable by judge or master

^{F43}**Rule 16**

Application for registration of Community judgment, etc.

^{F43}**Rule 17**

Evidence in support of application

^{F43}**Rule 18**

Register of judgments and orders

^{F43}**Rule 19**

Notice of registration

^{F43}**Rule 20**

Issue of execution

^{F43}**Rule 21**

Application to vary or cancel registration

^{F43}**Rule 22**

Application for registration of suspension order

^{F43}**Rule 23**

Application for enforcement of Euratom inspection order

^{F43}**Rule 24**

III. Reciprocal Enforcement: the Civil Jurisdiction and Judgments Act 1982

Interpretation

^{F43}**Rule 25**

Assignment of business and exercise of powers

^{F43}**Rule 26**

Application for registration

^{F43}**Rule 27**

Evidence in support of application

^{F43}**Rule 28**

Security for costs

^{F43}**Rule 29**

Order for registration

^{F43}**Rule 30**

Register of judgments registered under s.4 of the Act of 1982

^{F43}**Rule 31**

Notice of registration

^{F43}**Rule 32**

Appeals

^{F43}**Rule 33**

Issue of execution

^{F43}**Rule 34**

Application for recognition

^{F43}**Rule 35**

Enforcement of High Court judgments in other Contracting States

^{F43}**Rule 36**

Enforcement of United Kingdom judgments in other parts of the United Kingdom: money provisions

^{F43}**Rule 37**

Enforcement of United Kingdom judgments in other parts of the United Kingdom: non-money provisions

^{F43}**Rule 38**

Register of United Kingdom judgments

^{F43}**Rule 39**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Authentic Instruments and Court Settlements

^{F43} **Rule 39A**

*IV. Enforcement of Recommendations etc. Under the
Merchant Shipping (Liner Conferences) Act 1982*

Exercise of powers

^{F43} **Rule 40**

Application for registration

^{F43} **Rule 41**

Evidence in support of application

^{F43} **Rule 42**

Order for registration

^{F43} **Rule 43**

Register of recommendations etc.

^{F43} **Rule 44**

*V. RECIPROCAL ENFORCEMENT: COUNCIL REGULATION (EC) NO. 44/2001
OF 22ND DECEMBER 2000 ON JURISDICTION AND THE RECOGNITION AND
ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS*

Interpretation

^{F43} **Rule 45.**

Assignment of business and exercise of powers

^{F43} **Rule 46.**

Application for registration

^{F43} **Rule 47.**

Evidence in support of application

^{F43} **Rule 48.**

Order for registration

^{F43} **Rule 49.**

Register of judgments registered under the Judgments Regulation

^{F43}**Rule 50.**

Notice of registration

^{F43}**Rule 51.**

Appeals

^{F43}**Rule 52.**

Enforcement

^{F43}**Rule 53.**

Application for recognition

^{F43}**Rule 54.**

Enforcement of High Court Judgments in other Regulation States

^{F43}**Rule 55.**

Register of certificates

^{F43}**Rule 56.**

Authentic instruments and court settlements

^{F43}**Rule 57.**

RSC ORDER 74

**APPLICATIONS AND APPEALS UNDER
THE MERCHANT SHIPPING ACT 1995**

Assignment of proceedings

^{F44}**Rule 1**

Textual Amendments

F44 Sch. 1 RSC Order 74 revoked (25.3.2002) by The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(c), **36**

Appeals and re-hearings

^{F44}**Rule 2**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F44 Sch. 1 RSC Order 74 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **36**

RSC ORDER 77

PROCEEDINGS BY AND AGAINST THE CROWN

Application and interpretation

Rule 1.—(1) These rules apply to civil proceedings to which the Crown is a party subject to the following rules of this Order.

(2) In this Order—

“civil proceedings by the Crown”, “civil proceedings against the Crown” and “civil proceedings by or against the Crown” have the same respective meanings as in Part II of the Crown Proceedings Act 1947(**10**), and do not include any of the proceedings specified in section 23(3) of that Act;

“civil proceedings to which the Crown is a party” has the same meaning as it has for the purposes of Part IV of the Crown Proceedings Act 1947, by virtue of section 38 (4) of that Act;

“order against the Crown” means any order (including an order for costs) made in any civil proceedings by or against the Crown or in any proceedings on the Crown side of the Queen’s Bench Division, or in connection with any arbitration to which the Crown is a party, in favour of any person against the Crown or against a government department or against an officer of the Crown as such;

“order” includes a judgment, decree, rule, award or declaration.

Transfer of proceedings

Rule 2.—(1) Subject to paragraph (2) in civil proceedings by or against the Crown no order shall be made under CPR Part 30 for the transfer of the proceedings, or of any application therein, from the Royal Courts of Justice to a district registry, except with the consent of the Crown.

(2) In any civil proceedings against the Crown begun by the issue of a claim form out of a district registry the Crown may acknowledge service of the claim form either in the district registry or, at the option of the Crown, in the appropriate office of the Supreme Court at the Royal Courts of Justice, and where service is acknowledged in an office of the Supreme Court at the Royal Courts of Justice the claim shall thereafter proceed in the Royal Courts of Justice and no order shall be made under CPR Part 30 for the transfer of any proceedings before the trial from the Royal Courts of Justice to a district registry.

Particulars to be included in claim form

Rule 3.—(1) In the case of a claim form which begins civil proceedings against the Crown the contents of the claim form required by CPR rule 16.2 shall include a statement of the circumstances in which the Crown’s liability is alleged to have arisen and as to the government department and officers of the Crown concerned.

(10) 1947 c. 44.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) If in civil proceedings against the Crown a defendant considers that the claim form does not contain a sufficient statement as required by this rule, he may, before the expiration of the time limited for acknowledging service of the claim form, apply to the claimant by notice for a further and better statement containing such information as may be specified in the notice.

(3) Where a defendant gives a notice under this rule, the time limited for acknowledging service of the claim form shall not expire until 4 days after the defendant has notified the claimant in writing that the defendant is satisfied with the statement supplied in compliance with the notice or 4 days after the Court has, on the application of the claimant in accordance with CPR Part 23, decided that no further information as to the matters referred to in paragraph (1) is reasonably required.

(3A) An application notice under paragraph (3) shall be served on the defendant not less than 7 days before the hearing.

Service on the Crown

Rule 4.—(1) Order 11 and any other provision of these rules relating to service out of the jurisdiction shall not apply in relation to the service of any process by which civil proceedings against the Crown are begun.

(2) Personal service of any document required to be served on the Crown for the purpose of or in connection with any civil proceedings is not requisite; but where the proceedings are by or against the Crown service on the Crown must be effected—

- (a) by leaving the document at the office of the person who is in accordance with section 18 of the Crown Proceedings Act 1947, to be served, or of any agent whom that person has nominated for the purpose, but in either case with a member of the staff of that person or agent; or
- (b) by posting it in a prepaid envelope addressed to the person who is to be served as aforesaid or to any such agent as aforesaid.

(3) Any document (other than a claim form) service of which is effected under paragraph 2(a) between 12 noon on a Saturday and midnight on the following day or after 4 in the afternoon on any other weekday shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on the Monday following that Saturday or on the day following that other weekday, as the case may be.

(4) Where by virtue of these rules any document is required to be served on any person but is not required to be served personally and at the time when service is to be effected that person is in default as to acknowledgment of service or has no address for service, the document need not be served on that person unless the Court otherwise directs or any of these rules otherwise provides.

- (a) (5) (a) No process shall be served or executed within the jurisdiction on a Sunday except, in case of urgency, with the permission of the Court.
- (b) For the purposes of this rule “process” includes a claim form, judgment, application or other notice, order, petition, or warrant.

Counterclaim and set-off

Rule 6.—(1) A person may not in any proceedings by the Crown make any counterclaim or claim a set-off in his statement of case if the proceedings are for the recovery of, or the counterclaim or set-off arises out of a right or claim to repayment in respect of, any taxes, duties or penalties.

(2) No counterclaim may be made, or set-off claimed in its statements of case, without the permission of the Court, by the Crown in proceedings against the Crown, or by any person in proceedings by the Crown—

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) if the Crown is sued or sues in the name of a Government department and the subject-matter of the counterclaim or set-off does not relate to that department; or
 - (b) if the Crown is sued or sues in the name of the Attorney-General.
- (3) Any application for permission under this rule must be made by in accordance with CPR Part 23.

Summary judgment

Rule 7.—(1) No application shall be made against the Crown—

- (a) under CPR Part 24 ^{F45}... in any proceedings against the Crown,
- (b) for summary judgment on a counterclaim under CPR Part 24 in any proceedings by the Crown.

(2) Where an application is made by the Crown under CPR Part 24 ^{F45}... the affidavit or witness statement required in support of the application must be made by—

- (a) the solicitor acting for the Crown, or
- (b) an officer duly authorised by the solicitor so acting or by the department concerned

and the witness statement or affidavit shall be sufficient if it states that in the belief of the witness the applicant is entitled to the relief claimed and there is no defence to the claim or part of a claim to which the application relates or no defence except as to the amount of any damages claimed.

Textual Amendments

F45 Words in [Sch. 1 RSC Order 77 rule 7](#) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **39(a)**

Summary applications to the Court in certain revenue matters

Rule 8.—(1) This rule applies to applications under section 14 of the Crown Proceedings Act 1947(**11**).

- (2) An application to which this rule applies shall be made by claim form.
- (3) The person from whom any account or information or payment is claimed or by whom any books are required to be produced must be made a defendant to the application.
- (4) A claim form under this rule—
 - (a) must be entitled in the matter or matters out of which the need for the application arises and in the matter of the Crown Proceedings Act 1947; and
 - (b) must refer to the enactment under which the account or information or payment or the production of books is claimed and, where information is claimed, must show (by appropriate questions or otherwise) what information is required.

(5) Upon any application to which this rule applies, a witness statement or affidavit by a duly authorised officer of the Government department concerned setting out the state of facts upon which the application is based and stating that he has reason to think that those facts exist shall be evidence of those facts; and if evidence is filed disputing any of those facts, further evidence may be filed and the Court may either decide the matter upon the witness statements or affidavits (after any cross-examination that may have been ordered) or may direct that it be decided by oral evidence in Court.

(11) [1947 c. 44](#); section 14 was amended by the Finance Act [1975 \(c. 7\)](#), section 52(1), schedule 12, paragraph 28; by the Inheritance Tax Act [1984 \(c. 51\)](#), section 276, schedule 8, paragraph 2; and by the Finance Act [1972 \(c. 41\)](#), section 55.

(6) An order in favour of the Crown on an application to which this rule applies shall, unless the Court otherwise determines, name a time within which each of its terms is to be complied with.

(8) Nothing in this rule shall, in relation to any case in which the only remedy claimed by the Crown is the payment of money, be construed as requiring the Crown to proceed by way of an application to which this rule applies or as preventing the Crown from availing itself of any other procedure which is open to it under these rules.

Joinder of Commissioners of Inland Revenue

Rule 8A Nothing in CPR rule 19.3 shall be construed as enabling the Commissioners of Inland Revenue to be added as a party to any proceedings except with their consent signified in writing or in such manner as may be authorised.

Judgment in default

Rule 9.—(1) Except with the permission of the Court, no judgment in default under CPR Part 12 shall be entered against the Crown in civil proceedings against the Crown.

(2) Except with the permission of the Court, a defendant shall not enter default judgment against the Crown as a third party.

(3) An application for permission under this rule may be made by an application in accordance with CPR Part 23 and the application notice must be served not less than 7 days before the return day.

Third party notices

Rule 10.—(1) A Part 20 claim for service on the Crown, where the Crown is not already a party shall not be issued without the permission of the Court, and the application for the grant of such permission must be made by application in accordance with CPR Part 23, and the application notice must be served on the claimant and the Crown.

(2) Permission to issue such a claim for service on the Crown shall not be granted unless the Court is satisfied that the Crown is in possession of all such information as it reasonably requires as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned.

Interpleader: application for order against Crown

Rule 11 No order shall be made against the Crown under Order 17, rule 5 (3) except [^{F46}by application, notice of which must be] served not less than 7 days before the return day.

Textual Amendments

F46 Words in Sch. 1 RSC Order 77 rule 11 substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **39(b)**

Disclosure and further information

Rule 12.—(3) Where in any proceedings an order of the Court directs that a list of documents made in answer to an order for disclosure against the Crown shall be verified by witness statement or affidavit, the witness statement or affidavit shall be made by such officer of the Crown as the Court may direct.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(4) Where in any proceedings an order is made under the said section 28 for further information to be provided by the Crown, the Court shall direct by what officer of the Crown the further information is to be provided.

Place of trial

Rule 13.—(1) Civil proceedings by or against the Crown shall not, except with the consent of the Crown, be directed to be tried elsewhere than at the Royal Courts of Justice.

(2) Nothing in any of these rules shall prejudice the right of the Crown to demand a local venue for the trial of any proceedings in which the Attorney General has waived his right to a trial at bar.

Evidence

Rule 14.—(1) Civil proceedings against the Crown may be instituted to perpetuate any testimony in any case in which the Crown is alleged to have an interest or estate in the honour, title, dignity or office or property in question.

(2) For the avoidance of doubt it is hereby declared that any powers exercisable by the Court in regard to the taking of evidence are exercisable in proceedings by or against the Crown as they are exercisable in proceedings between subjects.

Execution and satisfaction of orders

Rule 15.—^{F47}(1) Nothing in—

- (a) CPR Parts ^{F48}69] to 73; and
- (b) Orders 45 to 47 ^{F49}... and 52,

shall apply in respect of any order against the Crown.]

(2) An application under the proviso to subsection (1) of section 25 of the Crown Proceedings Act 1947, for a direction that a separate certificate shall be issued under that subsection with respect to the costs (if any) ordered to be paid to the applicant, may be made to the Court without notice being served on any other party.

(3) Any such certificate must be in Form No. 95 or 96 in the relevant Practice Direction, whichever is appropriate.

Textual Amendments

- F47** Sch. 1 RSC Order 77 rule 15(1) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **9(a)** (with rule 24)
- F48** Word in Sch. 1 RSC Order 77 rule 15(1)(a) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **31(a)(i)**
- F49** Word in Sch. 1 RSC Order 77 rule 15(1)(b) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **31(a)(ii)**

Attachment of debts, etc.

Rule 16.—(1) No order—

- (a) for the attachment of debts [^{F50}under CPR Part 72], or
- (b) for the appointment of a sequestrator under Order 45, or
- (c) for the appointment of a receiver under [^{F51}CPR Part 69],

shall be made or have effect in respect of any money due or accruing due, or alleged to be due or accruing due, from the Crown.

(1A) No application shall be made under paragraph (2) unless the order of the court to be enforced is for a sum of money amounting in value to at least £50.

(2) Every application to the Court for an order under section 27 (1) of the Crown Proceedings Act 1947⁽¹²⁾ restraining any person from receiving money payable to him by the Crown and directing payment of the money to the applicant or some other person must be made by claim form and, unless the Court otherwise directs, served—

- (a) on the Crown at least 15 days before the return day, and
- (b) on the person to be restrained or his solicitor at least 7 days after the claim form has been served on the Crown and at least 7 days before the return day.

(2A) An application under paragraph (2) must be supported by a witness statement or affidavit—

- (a) setting out the facts giving rise to the application;
- (b) stating the name and last known address of the person to be restrained;
- (c) identifying the order to be enforced and stating the amount of such order and the amount remaining unpaid under it at the time of the application, and
- (d) identifying the particular debt from the Crown in respect of which the application is made.

(2B) Where the debt from the Crown in respect of which the application is made is money payable by the Crown to a person on account of a deposit in the National Savings Bank, the witness statement or affidavit must state the name and address of the branch^{F52} ... at which the account is believed to be held and the number of that account or, if it be the case, that all or part of this information is not known to the witness.

(2C) A Master, the Admiralty Registrar and a district judge of the Family Division shall have power to hear an application under paragraph (2).

[^{F53}(3) CPR rule 72.8 shall apply in relation to such an application as is mentioned in paragraph (2) for an order restraining a person from receiving money payable to him by the Crown as that rule applies to an application under CPR rule 72.2 for a third party debt order, except that the court shall not have power to order enforcement to issue against the Crown.]

Textual Amendments

- F50** Words in Sch. 1 RSC Order 77 rule 16(1)(a) substituted (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(c), **9(b)(i)** (with rule 24)
- F51** Words in Sch. 1 RSC Order 77 rule 16(1)(c) substituted (2.12.2002) by The Civil Procedure (Amendment) Rules 2002 (S.I. 2002/2058), rules 1(b), **31(b)**
- F52** Words in Sch. 1 RSC Order 77 rule 16(2B) revoked (26.3.2001) by The Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I. 2001/1149), art. 1(2), **Sch. 2** (with art. 4(11))
- F53** Sch. 1 RSC Order 77 rule 16(3) substituted (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(c), **9(b)(ii)** (with rule 24)

Proceedings relating to postal packets

Rule 17.—(1) An application by any person under [^{F54}section 92 of the Postal Services Act 2000], for permission to bring proceedings in the name of the sender or addressee of a postal packet or his personal representatives must be made by claim form in the Queen’s Bench Division.

(12) 1947 c. 44; section 27(1) was amended by the Supreme Court Act 1981 (c. 54), section 139(1) and schedule 7.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) The Crown and the person in whose name the applicant seeks to bring proceedings must be made defendants to a claim under this rule.

Textual Amendments

F54 Words in Sch. 1 RSC Order 77 rule 17 substituted (26.3.2001) by The Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I. 2001/1149), art. 1(2), Sch. 1 para. 123(2)

Applications under ss.17 and 29 of Crown Proceedings Act

Rule 18.—(1) Every application to the Court under section 17 (4) of the Crown Proceedings Act 1947, must be made by claim form.

(2) An application such as is referred to in section 29 (2) of the Crown Proceedings Act 1947, may be made to the Court at any time before trial in accordance with CPR Part 23, or may be made at the trial of the proceedings.

RSC ORDER 79

CRIMINAL PROCEEDINGS

Estreat of recognizances

Rule 8.—(1) No recognizance acknowledged in or removed into the Queen’s Bench Division shall be estreated without the order of a judge.

(2) Every application to estreat a recognizance in the Queen’s Bench Division must be made by claim form and will be heard by a judge ^{F55}...and must be supported by a witness statement or affidavit showing in what manner the breach has been committed and proving that the claim form was duly served.

(2A) When it issues the claim form the court will fix a date for the hearing of the application.

(3) A claim form under this rule must be served at least 2 clear days before the day named therein for the hearing.

(4) On the hearing of the application the judge may, and if requested by any party shall, direct any issue of fact in dispute to be tried by a jury.

(5) If it appears to the judge that a default has been made in performing the conditions of the recognizance, the judge may order the recognizance to be estreated.

Textual Amendments

F55 Words in Sch. 1 RSC Order 79 rule 8(2) omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, 62(f)

Bail

Rule 9.—(1) Subject to the provisions of this rule, every application to the High Court in respect of bail in any criminal proceeding—

(a) where the defendant is in custody, must be made by claim form to a judge ^{F56}... to show cause why the defendant should not be granted bail;

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (b) where the defendant has been admitted to bail, must be made by claim form to a judge^{F56} ... to show cause why the variation in the arrangements for bail proposed by the applicant should not be made.
- (2) Subject to paragraph (5), the claim form (in Form No. 97 or 97A in the relevant practice direction) must, at least 24 hours before the day named therein for the hearing, be served—
- (a) where the application was made by the defendant, on the prosecutor and on the Director of Public Prosecutions, if the prosecution is being carried on by him;
- (b) where the application was made by the prosecutor or a constable under section 3 (8) of the Bail Act 1976⁽¹³⁾, on the defendant.
- (3) Subject to paragraph (5), every application must be supported by witness statement or affidavit.
- (4) Where a defendant in custody who desires to apply for bail is unable through lack of means to instruct a solicitor, he may give notice in writing to the [^{F57}court] stating his desire to apply for bail and requesting that the official solicitor shall act for him in the application, and the [^{F58}court may] assign the official solicitor to act for the applicant accordingly.
- (5) Where the official solicitor has been so assigned the [^{F59}court may] dispense with the requirements of paragraphs (1) to (3) and deal with the application in a summary manner.
- (6) Where the [^{F60}court] grants the defendant bail, the order must be in Form No. 98 in the relevant Practice Direction and a copy of the order shall be transmitted forthwith—
- (a) where the proceedings in respect of the defendant have been transferred to the Crown Court for trial or where the defendant has been committed to the Crown Court to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;
- (b) in any other case, to the [^{F61}justices' chief executive for] the court which committed the defendant.
- (6A) The recognizance of any surety required as a condition of bail granted as aforesaid may, where the defendant is in a prison or other place of detention, be entered into before the governor or keeper of the prison or place as well as before the persons specified in section 8 (4) of the Bail Act 1976.
- (6B) Where under section 3 (5) or (6) of the Bail Act 1976⁽¹⁴⁾ [^{F62}the court] imposes a requirement to be complied with before a person's release on bail, [^{F63}it] may give directions as to the manner in which and the person or persons before whom the requirement may be complied with.
- (7) A person who in pursuance of an order for the grant of bail made by [^{F64}the court] under this rule proposes to enter into a recognizance or give security must, unless [^{F65}the court] otherwise directs, give notice (in Form No. 100 in the relevant Practice Direction) to the prosecutor at least 24 hours before he enters into the recognizance or complies with the requirements as aforesaid.
- (8) Where in pursuance of such an order as aforesaid a recognizance is entered into or requirement complied with before any person, it shall be the duty of that person to cause the recognizance or, as the case may be, a statement of the requirement complied with to be transmitted forthwith—
- (a) where the proceedings in respect of the defendant have been transferred to the Crown Court for trial or where the defendant has been committed to the Crown Court to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;
- (b) in any other case, to the [^{F66}justices' chief executive for] the court which committed the defendant

⁽¹³⁾ 1976 c. 63; section 3(8) was amended by the Criminal Law Act 1977 (c. 45), section 65(4), schedule 12.

⁽¹⁴⁾ 1976 c. 63; section 3(6) was amended by the Criminal Justice and Public Order Act 1994 (c. 33), sections 27(2), 168(3), schedule 11.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

and a copy of such recognizance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the defendant is detained, unless the recognizance was entered into or the requirement complied with before such governor or keeper.

(10) An order ^{F67}... varying the arrangements under which the defendant has been granted bail shall be in Form 98A in the relevant practice direction and a copy of the order shall be transmitted forthwith—

- (a) where the proceedings in respect of the defendant have been transferred to the Crown Court for trial or where the defendant has been committed to the Crown Court to be sentenced or otherwise dealt with, to the appropriate officer of the Crown Court;
- (b) in any other case, to the [^{F68}justices' chief executive for] the court which committed the defendant.

(11) Where in pursuance of an order of [^{F69}the High Court or the Crown Court] a person is released on bail in any criminal proceeding pending the determination of an appeal to the High Court or House of Lords or an application for an order of certiorari, then, upon the abandonment of the appeal or application, or upon the decision of the High Court or House of Lords being given, any justice (being a justice acting for the same petty sessions area as the magistrates' court by which that person was convicted or sentenced) may issue process for enforcing the decision in respect of which such appeal or application was brought or, as the case may be, the decision of the High Court or House of Lords.

(12) If an applicant to the High Court in any criminal proceedings is refused bail ^{F70}..., the applicant shall not be entitled to make a fresh application for bail to any other judge or to a Divisional Court.

(13) The record required by section 5 of the Bail Act 1976(15) to be made by the High Court shall be made by including in the file relating to the case in question a copy of the relevant order of the Court and shall contain the particulars set out in Form No. 98 or 98A in the relevant Practice Direction, whichever is appropriate, except that in the case of a decision to withhold bail the record shall be made by inserting a statement of the decision on the Court's copy of the relevant claim form and including it in the file relating to the case in question.

(14) In the case of a person whose return or surrender is sought under the Extradition Act 1989(16), this rule shall apply as if references to the defendant were references to that person and references to the prosecutor were references to the State seeking the return or surrender of that person.

Textual Amendments

- F56** Words in Sch. 1 RSC Order 79 rule 9 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **62(f)**
- F57** Word in Sch. 1 RSC Order 79 rule 9(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(a)**
- F58** Words in Sch. 1 Order 79 rule 9(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(b)**
- F59** Words in Sch. 1 Order 79 rule 9(5) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(b)**
- F60** Word in Sch. 1 RSC Order 79 rule 9(6) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(c)**
- F61** Words in Sch. 1 RSC Order 79 rule 9(6)(b) substituted (1.4.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(b), **22**

(15) 1976 c. 63; section 5 was amended by the Criminal Justice Act 1982 (c. 48), section 60; and by the Criminal Law Act 1977 (c. 45), section 65(4), schedule 12; and by the Criminal Justice and Public Order Act 1994 (c. 33), section 27(4), schedule 3, paragraph 1.

(16) 1989 c. 33.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- F62** Words in Sch. 1 RSC Order 79 rule 9(6B) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(d)(i)**
- F63** Word in Sch. 1 RSC Order 79 rule 9(6B) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(d)(ii)**
- F64** Words in Sch. 1 RSC Order 79 rule 9(7) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(e)(i)**
- F65** Words in Sch. 1 RSC Order 79 rule 9(7) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(e)(ii)**
- F66** Words in Sch. 1 RSC Order 79 rule 9(8)(b) substituted (1.4.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(b), **22**
- F67** Words in Sch. 1 RSC Order 79 rule 9(10) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(f)**
- F68** Words in Sch. 1 RSC Order 79 rule 9(10)(b) substituted (1.4.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(b), **22**
- F69** Words in Sch. 1 RSC Order 79 rule 9(11) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(g)**
- F70** Words in Sch. 1 RSC Order 79 rule 9(12) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **40(h)**

Issue of witness summonses, etc.

^{F71}**Rule 10**

- Textual Amendments**
- F71** Sch. 1 RSC Order 79 rules 10, 11 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **41**

Application for warrant to arrest witness

^{F71}**Rule 11**

- Textual Amendments**
- F71** Sch. 1 RSC Order 79 rules 10, 11 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **41**

RSC ORDER 81

PARTNERS

Claims by and against firms within jurisdiction

Rule 1 Subject to the provisions of any enactment, any two or more persons claiming to be entitled, or alleged to be liable, as partners in respect of a cause of action and carrying on business within the jurisdiction may sue, or be sued, in the name of the firm (if any) of which they were partners at the time when the cause of action accrued.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Disclosure of partners' names

Rule 2.—(1) Any defendant to a claim brought by partners in the name of a firm may serve on the claimant’s or their solicitor a notice requiring them or him forthwith to furnish the defendant with a written statement of the names and places of residence of all the persons who were partners in the firm at the time when the cause of action accrued; and if the notice is not complied with the Court may order the claimant’s or their solicitor to furnish the defendant with such a statement and to verify it on oath or otherwise as may be specified in the order, or may order that further proceedings in the claim be stayed on such terms as the Court may direct.

(2) When the names of the partners have been declared in compliance with a notice or order given or made under paragraph (1) the proceedings shall continue in the name of the firm but with the same consequences as would have ensued if the persons whose names have been so declared had been named as claimants in the claim form.

(3) Paragraph (1) shall have effect in relation to a claim brought against partners in the name of a firm as it has effect in relation to a claim brought by partners in the name of a firm but with the substitution, for references to the defendant and the claimants, of references to the claimant and the defendants respectively, and with the omission of the words “or may order” to the end.

Acknowledgment of service in a claim against firm

Rule 4.—(1) Where persons are sued as partners in the name of their firm, service may not be acknowledged in the name of the firm but only by the partners thereof in their own names, but the claim shall nevertheless continue in the name of the firm.

(2) Where in a claim against a firm the claim form by which the claim is begun is served on a person as a partner, that person, if he denies that he was a partner or liable as such at any material time, may acknowledge service of the claim form and state in his acknowledgment that he does so as a person served as a partner in the defendant firm but who denies that he was a partner at any material time.

An acknowledgment of service given in accordance with this paragraph shall, unless and until it is set aside, be treated as an acknowledgment by the defendant firm.

(3) Where an acknowledgment of service has been given by a defendant in accordance with paragraph (2) then—

- (a) the claimant may either apply to the Court to set it aside on the ground that the defendant was a partner or liable as such at a material time or may leave that question to be determined at a later stage of the proceedings;
- (b) the defendant may either apply to the Court to set aside the service of the claim form on him on the ground that he was not a partner or liable as such at a material time or may at the proper time serve a defence on the claimant denying in respect of the claimant’s claim either his liability as a partner or the liability of the defendant firm or both.

(4) The Court may at any stage of the proceedings in a claim in which a defendant has acknowledged service in accordance with paragraph (2) on the application of the claimant or of that defendant, order that any question as to the liability of that defendant or as to the liability of the defendant firm be tried in such manner and at such time as the Court directs.

^{F72}(5)

Textual Amendments

F72 Sch. 1 RSC Order 81 rule 4(5) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, 42

Enforcing judgment or order against firm

Rule 5.—(1) Where a judgment is given or order made against a firm, execution to enforce the judgment or order may, subject to rule 6, issue against any property of the firm within the jurisdiction.

(2) Where a judgment is given or order made against a firm, execution to enforce the judgment or order may, subject to rule 6 and to the next following paragraph, issue against any person who—

- (a) acknowledged service of the claim form as a partner, or
- (b) having been served as a partner with the claim form, failed to acknowledge service of it, or
- (c) admitted in his statement of case that he is a partner, or
- (d) was adjudged to be a partner.

(3) Execution to enforce a judgment or order given or made against a firm may not issue against a member of the firm who was out of the jurisdiction when the claim form was issued unless he—

- (a) acknowledged service of the claim form as a partner, or
- (b) was served within the jurisdiction with the claim form as a partner, or
- (c) was, with the permission of the Court given under [^{F73}Section III of CPR Part 6], served out of the jurisdiction with the claim form, as a partner

and, except as provided by paragraph (1) and by the foregoing provisions of this paragraph, a judgment or order given or made against a firm shall not render liable, release or otherwise affect a member of the firm who was out of the jurisdiction when the claim form was issued.

(4) Where a party who has obtained a judgment or order against a firm claims that a person is liable to satisfy the judgment or order as being a member of the firm, and the foregoing provisions of this rule do not apply in relation to that person, that party may apply to the Court for permission to issue execution against that person, the application to be made in accordance with CPR Part 23 and the application notice must be served personally on that person.

(5) Where the person against whom an application under paragraph (4) is made does not dispute his liability, the Court hearing the application may, subject to paragraph (3) give permission to issue execution against that person, and, where that person disputes his liability, the Court may order that the liability of that person be tried and determined in any manner in which any issue or question in a claim may be tried and determined.

Textual Amendments

F73 Words in [Sch. 1 RSC Order 81 rule 5\(3\)\(c\)](#) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rules 1\(b\)](#), [23](#)

Enforcing judgment or order in actions between partners, etc.

Rule 6.—(1) Execution to enforce a judgment or order given or made in—

- (a) a claim by or against a firm in the name of the firm against or by a member of the firm, or
- (b) a claim by a firm in the name of the firm against a firm in the name of the firm where those firms have one or more members in common,

shall not issue except with the permission of the Court.

(2) The Court hearing an application under this rule may give such directions, including directions as to the taking of accounts and the making of inquiries, as may be just.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Attachment of debts owed by firm

Rule 7.—(1) An order may be made [^{F74}under CPR rule 72.2], in relation to debts due or accruing due from a firm carrying on business within the jurisdiction notwithstanding that one or more members of the firm is resident out of the jurisdiction.

(2) [^{F75}An interim third party debt order under CPR rule 72.4(2)] relating to such debts as aforesaid must be served on a member of the firm within the jurisdiction or on some other person having the control or management of the partnership business.

(3) Where an order made under [^{F76}the said rules 72.2 or 72.4(2)] requires a firm to appear before the Court, an appearance by a member of the firm constitutes a sufficient compliance with the order.

Textual Amendments

- F74** Words in Sch. 1 RSC Order 81 rule 7(1) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **10(a)** (with rule 24)
- F75** Words in Sch. 1 RSC Order 81 rule 7(2) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **10(b)** (with rule 24)
- F76** Words in Sch. 1 RSC Order 81 rule 7(3) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **10(c)** (with rule 24)

Application to person carrying on business in another name

Rule 9 An individual carrying on business within the jurisdiction in a name or style other than his own name, may whether or not he is within the jurisdiction be sued in that name or style as if it were the name of a firm, and rules 2 to 8 shall, so far as applicable, apply as if he were a partner and the name in which he carries on business were the name of his firm.

Applications for orders charging partner's interest in partnership property, etc.

Rule 10.—(1) Every application to the Court by a judgment creditor of a partner for an order under section 23 of the Partnership Act 1890(17) (which authorises the High Court or a judge thereof to make certain orders on the application of a judgment creditor of a partner, including an order charging the partner's interest in the partnership property) and every application to the Court by a partner of the judgment debtor made in consequence of the first mentioned application must be made [^{F77}in accordance with CPR Part 23].

(2) A Master or the Admiralty Registrar or a district judge may exercise the powers conferred on a judge by the said section 23.

(3) Every [^{F78}application notice] issued by a judgment creditor under this rule, and every order made on such [^{F79}an application], must be served on the judgment debtor and on such of his partners as are within the jurisdiction or, if the partnership is a cost book company, on the judgment debtor and the purser of the company.

(4) Every [^{F80}application notice] issued by a partner of a judgment debtor under this rule, and every order made on such [^{F81}an application], must be served—

- (a) on the judgment creditor, and
- (b) on the judgment debtor, and

(17) 1890 c. 39; section 23 was amended by the Statute Law Revision Act 1908 (c. 49); and by the Courts Act 1971 (c. 23), section 56(4), schedule 11, Part II.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(c) on such of the other partners of the judgment debtor as do not join in the application and are within the jurisdiction or, if the partnership is a cost book company, on the purser of the company.

(5) [^{F82}An application notice] or order served in accordance with this rule on the purser of a cost book company or, in the case of a partnership not being such a company, on some only of the partners thereof, shall be deemed to have been served on that company or on all the partners of that partnership, as the case may be.

Textual Amendments

- F77** Words in Sch. 1 RSC Order 81 rule 10(1) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **43(a)**
- F78** Words in Sch. 1 RSC Order 81 rule 10(3) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **43(b)(i)**
- F79** Words in Sch. 1 RSC Order 81 rule 10(3) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **43(c)(i)**
- F80** Words in Sch. 1 RSC Order 81 rule 10(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **43(b)(ii)**
- F81** Words in Sch. 1 RSC Order 81 rule 10(4) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **43(c)(ii)**
- F82** Words in Sch. 1 RSC Order 81 rule 10(5) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **43(d)**

^{F83}RSC ORDER 82

DEFAMATION CLAIMS

Textual Amendments

- F83** Sch. 1 RSC Order 82 revoked (28.2.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(a), **40**

Application

Rule 1 ^{F83}

Indorsement of claim in libel claim

Rule 2 ^{F83}

Obligation to give particulars

Rule 3 ^{F83}

Ruling on meaning

Rule 3A ^{F83}

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Provisions as to payment into Court

Rule 4 ^{F83}

Statement in open Court

Rule 5 ^{F83}

Further information not allowed in certain cases

Rule 6 ^{F83}

Fulfilment of offer of amends under s.4 of the Defamation Act 1952

Rule 8 ^{F83}

^{F84}**RSC ORDER 85**

ADMINISTRATION AND SIMILAR ACTIONS

Textual Amendments
F84 Sch. 1 RSC Order 85 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Interpretation

^{F84}**Rule 1**

Determination of questions, etc., without administration

^{F84}**Rule 2**

Parties

^{F84}**Rule 3**

Judgments and orders in administration claims

^{F84}**Rule 5**

Conduct of sale of trust property

^{F84}**Rule 6**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

^{F85}RSC ORDER 87

DEBENTURE HOLDERS' CLAIMS : RECEIVER'S REGISTER

Textual Amendments

F85 Sch. 1 RSC Order 87 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Receiver's register

^{F85}**Rule 1**

Registration of transfers, etc.

^{F85}**Rule 2**

Application for rectification of receiver's register

^{F85}**Rule 3**

Receiver's register evidence of transfers, etc.

^{F85}**Rule 4**

Proof of title of holder of bearer debenture, etc.

^{F85}**Rule 5**

Requirements in connection with payments

^{F85}**Rule 6**

RSC ORDER 88

MORTGAGE CLAIMS

Application and Interpretation

^{F86}**Rule 1**

Textual Amendments

F86 Sch. 1 RSC Order 88 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Assignment of certain actions to Chancery Division

^{F86}**Rule 2**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Textual Amendments

F86 Sch. 1 RSC Order 88 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Commencement of claim

^{F86}**Rule 3**

Textual Amendments

F86 Sch. 1 RSC Order 88 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Claim for possession: failure by a defendant to acknowledge service

^{F86}**Rule 4**

Textual Amendments

F86 Sch. 1 RSC Order 88 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Claim in Chancery Division for possession or payment: evidence

^{F86}**Rule 5**

Textual Amendments

F86 Sch. 1 RSC Order 88 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Claim for the enforcement of charging order by sale

^{F87}**Rule 5A**

Textual Amendments

F87 Sch. 1 RSC Order 88 rule 5A revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Foreclosure in redemption claim

^{F88}**Rule 7**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F88 Sch. 1 RSC Order 88 rule 7 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

**RSC ORDER 91
REVENUE PROCEEDINGS**

Assignment to Chancery Division, etc.

Rule 1 The following proceedings, namely—

- (a) any case stated for the opinion of the High Court under—
 - (i) section 13 [^{F89}and 13B] of the Stamp Act 1891(**18**), or
 - (ii) section 705A of the Income and Corporation Taxes Act 1988(**19**), or
 - (iii) regulation 22 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994(**20**);
- (b) any appeal to the High Court under—
 - (i) section 53, 56A or 100C (4) of the Taxes Management Act 1970(**21**), or
 - (ii) section 222 (3), 225, 249 (3) or 251 of the Inheritance Tax Act 1984(**22**), or
 - (iii) regulation 8 (3) or 10 of the Stamp Duty Reserve Tax Regulations 1986(**23**);
- (c) any application for permission to appeal under the said section 222 (3) or the said regulation 8 (3); and
- (d) proceedings to which the provisions of section 56A of the Taxes Management Act 1970(**24**) apply under any enactment or regulation,

shall be assigned to the Chancery Division and heard and determined by a single judge.

Textual Amendments

F89 Words in [Sch. 1 RSC Order 91 rule 1\(a\)\(i\)](#) inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **24**

Appeal under section 222 of the Inheritance Tax Act 1984(25)

^{F90}**Rule 2**

(18) 1891 c. 39; section 13 was amended by the Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36), section 10(3), schedule 3.
 (19) 1988 c. 1; section 705A was inserted by S.I. 1994/1813.
 (20) S.I. 1994/1812.
 (21) 1970 c. 9; sections 53 and 56A were substituted by S.I. 1994/1813. Section 100C was inserted by the Finance Act 1989 (c. 26).
 (22) 1984 c. 51; sections 225 and 251 were substituted by S.I. 1994/1813.
 (23) S.I. 1986/1711.
 (24) 1970 c. 9; section 56A was substituted by S.I. 1994/1813.
 (25) 1984 c. 51.

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Textual Amendments

F90 Sch. 1 RSC Order 91 rule 2 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Setting down case stated under Taxes Management Act 1970

^{F91}**Rule 3**

Textual Amendments

F91 Sch. 1 RSC Order 91 rule 3 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Case stated: notice to be given of certain matters

^{F92}**Rule 4**

Textual Amendments

F92 Sch. 1 RSC Order 91 rule 4 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals under section 53 and 100C (4) of the Taxes Management Act 1970

^{F93}**Rule 5**

Textual Amendments

F93 Rule 5, Sch. 1 RSC Order 91 rule 5 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals under section 56A of the Taxes Management Act 1970, section 225 of the Inheritance Tax Act 1984 and regulation 10 of the Stamp Duty Reserve Tax Regulations 1986

^{F94}**Rule 5A**

Textual Amendments

F94 Sch. 1 RSC Order 91 rule 5A revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Appeals from value added tax tribunals

^{F95}**Rule 6**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F95 Sch. 1 RSC Order 91 rule 6 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

F96RSC ORDER 92

LODGMET, INVESTMENT, ETC., OF
FUNDS IN COURT: CHANCERY DIV ISION

Textual Amendments

F96 Sch. 1 RSC Order 92 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Payment into court by life assurance company

F96Rule 1

Payment into court under Trustee Act 1925

F96Rule 2

Payments into court under section 26, Banking Act 1987

F96Rule 3A

Notice of lodgment

F96Rule 4

Applications with respect to funds in court

F96Rule 5

RSC ORDER 93

APPLICATIONS AND APPEALS TO HIGH COURT
UNDER VARIOUS ACTS: CHANCERY DIVISION

Notice of petition under section 55 of National Debt Act 1870(26)

Rule1 Where a petition is presented under section 55 of the National Debt Act, 1870, the petitioner must, before the petition is heard, apply to a judge of the Chancery Division ^{F97}... for directions with respect to giving notice of the claim to which the petition relates, and the judge may

(26) [1870 c. 71.](#)

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

direct that notice thereof be given by advertisement or in such other manner as he may direct or may dispense with the giving of such notice.

Textual Amendments
F97 Words in [Sch. 1 RSC Order 93 rule 1](#) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **62(g)**

Application under Public Trustee Act 1906(27)

Rule 2 Without prejudice to sections 10 (2) and 13 (7) of the Public Trustee Act, 1906, the jurisdiction of the High Court under that Act shall be exercised by a judge of the Chancery Division sitting in private.

Proceedings under Trustee Act 1925(28)

Rule 4 All proceedings brought in the High Court under the Trustee Act, 1925, shall be assigned to the Chancery Division.

Application under section 2(3) of Public Order Act 1936(29)

Rule 5.—(1) Proceedings by which an application is made to the High Court under section 2 (3) of the Public Order Act 1936, shall be assigned to the Chancery Division.

(2) Such an application shall be made by claim form and the persons to be made defendants to the claim shall be such persons as the Attorney-General may determine.

(3) In the absence of other sufficient representation the Court may appoint the official solicitor to represent any interests which in the opinion of the Court ought to be represented on any inquiry directed by the Court under the said section 2 (3).

Application under Variation of Trusts Act 1958(30)

^{F98}**Rule 6**

Textual Amendments
F98 [Sch. 1 RSC Order 93 rule 6](#) revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Right of appeal under Law of Property Act

Rule 9 An appeal shall lie to the High Court against a decision of the Minister of Agriculture, Fisheries and Food under paragraph 16 of Schedule 15 to the Law of Property Act 1922**(31)**.

(27) [1906 c. 55](#).
(28) [1925 c. 19](#).
(29) [1936 c. 2](#).
(30) [1958 c. 53](#).
(31) [1922 c. 16](#); Paragraph 16 was amended by the Law of Property (Amendment) Act [1924 \(c. 5\)](#), section 2, schedule 2.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Determination of appeal or case stated under various Acts

Rule 10.—(1) An appeal to the High Court against an order of a county court made under the Land Registration Act 1925(32), shall be heard and determined by a Divisional Court of the Chancery Division.

F⁹⁹(2)

F¹⁰⁰(3)

Textual Amendments

F99 Sch. 1 RSC Order 93 rule 10(2) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, [rules 1, 2](#))

F100 Sch. 1 RSC Order 93 rule 10(3) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, [rules 1, 2](#))

Appeal under section 17 of Industrial Assurance Act 1923(33)

F¹⁰¹**Rule11**

Textual Amendments

F101 Sch. 1 RSC Order 93 rule 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, [rules 1, 2](#))

Appeals, etc., affecting industrial and provident societies, etc.

F¹⁰²**Rule12**

Textual Amendments

F102 Sch. 1 RSC Order 93 rule 12 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, [rules 1, 2](#))

Application under section 19 or 27 of Leasehold Reform Act 1967(34)

F¹⁰³**Rule 15**

Textual Amendments

F103 Sch. 1 RSC Order 93 rule 15 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), [rule 1\(d\)](#), [Sch. 3](#)

(32) 1925 c. 21.

(33) 1923 c. 8; section 17 was amended by the Friendly Societies Act 1971 (c. 66), sections 5(5), 14(2), schedule 3 and by the Friendly Societies Act 1992 (c. 40), section 100, schedule 19, Part I, paragraphs 1, 5 and 6.

(34) 1967 c. 88; section 19 was amended by the Local Land Charges Act 1975 (c. 76), section 17(2), schedule 1.

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Proceedings under the Commons Registration Act 1965(35)

Rule 16.—(1) Proceedings in the High Court under section 14 or 18 of the Commons Registration Act 1965 shall be assigned to the Chancery Division.

^{F104}(2)

^{F105}(3)

Textual Amendments

F104 Sch. 1 RSC Order 93 rule 16(2) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), [rules 1, 2](#))

F105 Sch. 1 RSC Order 93 rule 16(3) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), [rules 1, 2](#))

Proceedings under section 21 or 25 of the Law of Property Act 1969(36)

Rule 17 Proceedings in the High Court under section 21 or 25 of the Law of Property Act 1969 shall be assigned to the Chancery Division.

Proceedings under section 86 of the Civil Aviation Act 1982(37)

Rule 18.—(1) Proceedings in the High Court for the amendment of any register of aircraft mortgages kept pursuant to an Order in Council made under section 86 of the Civil Aviation Act 1982 shall be assigned to the Chancery Division.

(2) Such proceedings shall be brought by claim form and every person, other than the claimant, appearing in the register as mortgagee or mortgagor of the aircraft in question shall be made a defendant to the claim.

(3) A copy of the claim form shall also be sent to the Civil Aviation Authority and the Authority shall be entitled to be heard in the proceedings.

Proceedings under s.85 (7) of the Fair Trading Act 1973(38) and the Control of Misleading Advertisements Regulations 1988(39)

Rule 19.—(1) Proceedings to which this rule applies shall be assigned to the Chancery Division and may be begun by claim form.

(2) This rule applies to any application to the High Court for an order under s.85 (7) of the Fair Trading Act 1973, or under any provision to which that section applies or under the Control of Misleading Advertisements Regulations 1988.

Proceedings under section 50 of the Administration of Justice Act 1985(40)

^{F106}**Rule 20**

(35) [1965 c. 65.](#)

(36) [1969 c. 59](#); section 25 was amended by the [Limitation Act 1980 \(c. 58\)](#), section 40(2), schedule 3, paragraph 9; and by the [Land Charges Act 1972 \(c. 61\)](#), section 18, schedule 5.

(37) [1982 c. 16](#); section 86 was amended by the [Merchant Shipping Act 1995 \(c. 21\)](#), section 314(2), schedule 13, paragraph 64.

(38) [1973 c. 41.](#)

(39) [S.I. 1988/915.](#)

(40) [1985 c. 61.](#)

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F106 Sch. 1 RSC Order 93 rule 20 revoked (15.10.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(b), **15**

Proceedings under section 48 of the Administration of Justice Act 1985

^{F107}**Rule 21**

Textual Amendments

F107 Sch. 1 RSC Order 93 rule 21 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Proceedings under [^{F108}the Financial Services and Markets Act 2000]

Rule 22.—(1) In this rule “the Act” means [^{F109}the Financial Services and Markets Act 2000] and a section referred to by number means the section so numbered in that Act.

(2) Proceedings in the High Court under the Act (other than application for mandamus) and actions for damages for breach of a statutory duty imposed by the Act shall be assigned to the Chancery Division.

(3) Such proceedings and actions shall be begun by claim form except for applications by petition by [^{F110}the Financial Services Authority under section 367].

[^{F111}(4) Where there is a question of the construction of any rule or other instrument made by or with the approval or consent of the Financial Services Authority under the Act, that Authority may make representations to the court.]

Textual Amendments

F108 Words in Sch. 1 RSC Order 93 rule 22 heading substituted (14.1.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **38(a)(i)**

F109 Words in Sch. 1 RSC Order 93 rule 22(1) substituted (14.1.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **38(a)(i)**

F110 Words in Sch. 1 RSC Order 93 rule 22(3) substituted (14.1.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **38(a)(ii)**

F111 Sch. 1 RSC Order 93 rule 22(4) substituted (14.1.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **38(a)(iii)**

Proceedings under the Banking Act 1987(41)

^{F112}**Rule 23**

Textual Amendments

F112 Sch. 1 RSC Order 93 rule 23 omitted (14.1.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **38(b)**

(41) 1987 c. 22.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

RSC ORDER 94

APPLICATIONS AND APPEALS TO HIGH COURT UNDER VARIOUS ACTS: QUEEN'S BENCH DIVISION

Jurisdiction of High Court to quash certain orders, schemes, etc.

Rule 1.—(1) Where by virtue of any enactment the High Court has jurisdiction, on the application of any person, to quash or prohibit any order, scheme, certificate or plan, any amendment or approval of a plan, any decision of a Minister or government department or any action on the part of a Minister or government department, the jurisdiction shall be exercisable by a single judge of the Queen's Bench Division.

(2) The application must be made by claim form which must state the grounds of the application.

Filing and service of claim form

Rule 2.—(1) A claim form under rule 1 must be filed at the Crown Office, and served, within the time limited by the relevant enactment for making the application.

(2) Subject to paragraph (4) the claim form must be served on the appropriate Minister or government department, and—

- (a) if the application relates to a compulsory purchase order made by an authority other than the appropriate Minister or government department, or to a clearance order under the Housing Act 1985(42), on the authority by whom the order was made;
- (b) if the application relates to a scheme or order to which Schedule 2 to the Highways Act 1980(43), applies made by an authority other than the Secretary of State, on that authority;
- (c) if the application relates to a structure plan, local plan or other development plan within the meaning of the Town and Country Planning Act 1990(44), on the local planning authority who prepared the plan;
- (d) if the application relates to any decision or order, or any action on the part of a Minister of the Crown to which section 21 of the Land Compensation Act 1961(45), or section 288 of the Town and Country Planning Act 1990, applies, on the authority directly concerned with such decision, order or action or, if that authority is the applicant, on every person who would, if he were aggrieved by the decision, order or action, be entitled to apply to the High Court under the said section 21 or the said section 245, as the case may be;
- (e) if the application relates to a scheme to which Schedule 32 to the Local Government, Planning and Land Act 1980(46) applies, on the body which adopted the scheme.

(3) In paragraph (2) “the appropriate Minister or government department” means the Minister of the Crown or government department by whom the order, scheme, certificate, plan, amendment, approval or decision in question was or may be made, authorised, confirmed, approved or given or on whose part the action in question was or may be taken.

(4) Where the application relates to an order made under the Road Traffic Regulation Act 1984(47), the claim form must be served—

- (a) if the order was made by a Minister of the Crown, on that Minister;

(42) 1985 c. 68.

(43) 1980 c. 66.

(44) 1990 c. 8.

(45) 1961 c. 33.

(46) 1980 c. 65.

(47) 1984 c. 27.

- (b) if the order was made by a local authority with the consent, or in pursuance of a direction, of a Minister of the Crown, on that authority and also on that Minister;
- (c) in any other case, on the local authority by whom the order was made.

Filing of witness statement or affidavits, etc.

Rule 3.—(1) Evidence at the hearing of an application under rule 1 shall be by witness statement or affidavit.

(2) Any witness statement or affidavit in support of the application must be filed by the applicant in the Crown Office within 14 days after service of the claim form and the applicant must, at the time of filing, serve a copy of the witness statement or affidavit and of any exhibit thereto on the respondent.

(3) Any witness statement or affidavit in opposition to the application must be filed by the respondent in the Crown Office within 21 days after the service on him under paragraph (2) of the applicant's witness statement or affidavit and the respondent must, at the time of filing, serve a copy of his witness statement or affidavit and of any exhibit thereto on the applicant.

(4) When filing a witness statement or affidavit under this rule a party must leave a copy thereof and of any exhibit thereto at the Crown Office for the use of the Court.

(5) Unless the Court otherwise orders, an application under rule 1 shall not be heard earlier than 14 days after the time for filing a witness statement or affidavit by the respondent has expired.

Rectification of register of deeds of arrangement

Rule 4.—(1) Every application to the Court under section 7 of the Deeds of Arrangement Act, 1914(48), for an order—

- (a) that any omission to register a deed of arrangement within the time prescribed by that Act be rectified by extending the time for such registration, or
- (b) that any omission or mis-statement of the name, residence or description of any person be rectified by the insertion in the register of his true name, residence or description,

must be made by witness statement or affidavit without notice being served on any other party to a master of the Queen's Bench Division.

(2) The witness statement or affidavit must set out particulars of the deed of arrangement and of the omission or mis-statement in question and must state the grounds on which the application is made.

Exercise of jurisdiction under Representation of the People Acts

Rule 5.—(1) Proceedings in the High Court under the Representation of the People Acts shall be assigned to the Queen's Bench Division.

(2) Subject to paragraphs (3) and (4) the jurisdiction of the High Court under the said Acts in matters relating to parliamentary and local government elections shall be exercised by a Divisional Court.

(3) Paragraph (2) shall not be construed as taking away from a single judge or a master any jurisdiction under the said Acts which, but for that paragraph, would be exercisable by a single judge or, as the case may be, by a Master.

(4) Where the jurisdiction of the High Court under the said Acts is by a provision of any of those Acts made exercisable in matters relating to parliamentary elections by a single judge, that

(48) 1914 c. 47.

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

jurisdiction in matters relating to local government elections shall also be exercisable by a single judge.

^{F113}(5)

Textual Amendments
F113 Sch. 1 RSC Order 94 rule 5(5) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **47(a)**

Appeal to High Court where Court’s decision is final

^{F114}**Rule 6**

Textual Amendments
F114 Sch. 1 RSC Order 94 rule 6 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Reference of question of law by Agricultural Land Tribunal

^{F115}**Rule 7**

Textual Amendments
F115 Sch. 1 RSC Order 94 rule 7 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Tribunals and Inquiries Act 1992(49): appeal from tribunal

[^{F116}**Rule 8.**—(1) A person who was a party to proceedings before any such tribunal as is mentioned in section 11(1) of the Tribunals and Inquiries Act 1992 and is dissatisfied in point of law with the decision of the tribunal may appeal to the High Court.

- (2) The appellant’s notice must be served—
 - (a) on the chairman of the tribunal;
 - (b) in the case of a tribunal which has no chairman or member who acts as a chairman, on the member or members of that tribunal; or
 - (c) in the case of any such tribunal as is specified in paragraph 16 of Schedule 1 to the said Act of 1992, on the secretary of the tribunal.

(3) Where an appeal is against the decision of a tribunal constituted under section 46 of the National Health Service Act 1977 the appellants’s notice must be filed at the High Court within 14 days after the date of that decision.

(4) Where an appeal is against the decision of a tribunal established under section 1 of the Employment Tribunals Act 1996 the appellant’s notice must be filed at the High Court within 42 days after the date of that decision.]

(49) 1992 c. 53.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F116 Sch. 1 RSC Order 94 rule 8 substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **25(a)**

Tribunals and Inquiries Act 1992: case stated by tribunal

Rule 9.—(1) Any such tribunal as is mentioned in section 11 (1) of the Tribunals and Inquiries Act 1992 may, of its own initiative or at the request of any party to proceedings before it, state in the course of proceedings before it in the form of a special case for the decision of the High Court any question of law arising in the proceedings.

(2) Any party to proceedings before any such tribunal who is aggrieved by the tribunal’s refusal to state such a case may apply to the High Court for an order directing the tribunal to do so.

(3) A case stated by any such tribunal which has no chairman or member who acts as a chairman must be signed by the member or members of the tribunal.

Tribunals and Inquiries Act 1971(50): appeal from Minister of Transport

^{F117}**Rule 10**

Textual Amendments

F117 Sch. 1 RSC Order 94 rule 10 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Consumer Credit Act 1974(51): appeal from Secretary of State

^{F118}**Rule 10A**

Textual Amendments

F118 Sch. 1 RSC Order 94 rule 10A omitted (2.5.2000) by virtue of [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Case stated by Mental Health Review Tribunal

^{F119}**Rule 11**

Textual Amendments

F119 Sch. 1 RSC Order 94 rule 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by [S.I. 2000/940](#), rules 1, 2)

(50) 1971 c. 62.
(51) 1974 c. 39.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Applications for permission under section 289 (6) of the Town and Country Planning Act 1990(52) and section 65 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990(53)

Rule 12.—(1) An application for permission to appeal to the High Court under section 289 of the Town and Country Planning Act 1990 or section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 shall be made within 28 days after the date on which notice of the decision was given to the applicant.

(2) An application shall—

- (a) include, where necessary, any application to extend the time for applying,
- (b) be in writing setting out the reasons why permission should be granted, and if the time for applying has expired, the reasons why the application was not made within that time,
- (c) be made by filing it in the Crown Office together with the decision, a draft [F120appellant’s notice], and a witness statement or affidavit verifying any facts relied on,
- (d) before being filed under sub-paragraph (c), be served together with the draft [F120appellant’s notice] and a copy of the witness statement or affidavit to be filed with the application, upon the persons who are referred to in rule 13 (5), and
- (e) be accompanied by a witness statement or affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the application and, if any person who ought to be served has not been served, the witness statement or affidavit must state that fact and the reason for it.

(3) An application shall be heard—

- (a) by a single judge F121 ...;
- (b) unless the Court otherwise orders, not less than 21 days after it was filed at the Crown Office.

Any person served with the application shall be entitled to appear and be heard.

(4) If on the hearing of an application the Court is of opinion that any person who ought to have been served has not been served, the Court may adjourn the hearing on such terms (if any) as it may direct in order that the application may be served on that person.

(5) If the Court grants permission—

- (a) it may impose such terms as to costs and as to giving security as it thinks fit;
- (b) it may give directions; and
- (c) the [F120appellant’s notice] by which the appeal is to be brought shall be served and filed within 7 days of the grant.

(6) Any respondent who intends to use a witness statement or affidavit at the hearing shall file it in the Crown Office and serve a copy thereof on the applicant as soon as is practicable and in any event, unless the Court otherwise allows, at least 2 days before the hearing. The Court may allow the applicant to use a further witness statement or affidavit.

Textual Amendments

F120 Words in [Sch. 1 RSC Order 94](#) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **25(b)**

(52) [1990 c. 8.](#)

(53) [1990 c. 9.](#)

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F121 Words in Sch. 1 RSC Order 94 rule 12(3)(a) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **63(d)**

Proceedings under sections 289 and 290 of the Town and Country Planning Act 1990 and under section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Rule 13.—(1) In this rule a reference to “section 65” is a reference to section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990, but, save as aforesaid, a reference to a section by number is a reference to the section so numbered in the Town and Country Planning Act 1990.

(2) An appeal shall lie to the High Court on a point of law against a decision of the Secretary of State under subsection (1) or (2) of section 289 or under subsection (1) of section 65 at the instance of any person or authority entitled to appeal under any of those subsections respectively.

(3) In the case of a decision to which section 290 applies, the person who made the application to which the decision relates, or the local planning authority, if dissatisfied with the decision in point of law, may appeal against the decision to the High Court.

(4) Any appeal under section 289 (1) or (2), section 65 (1) or section 290, and any case stated under section 289 (3) or section 65 (2), shall be heard and determined by a single judge unless the Court directs that the matter shall be heard and determined by a Divisional Court.

(5) The persons to be served with the [^{F122}appellant’s notice] by which an appeal to the High Court is brought by virtue of section 289 (1) or (2), section 65 (1) or section 290 are—

- (a) the Secretary of State;
- (b) the local planning authority who served the notice or gave the decision, as the case may be, or, where the appeal is brought by that authority, the appellant or applicant in the proceedings in which the decision appealed against was given;
- (c) in the case of an appeal brought by virtue of section 289 (1) or section 65 (1), any other person having an interest in the land to which the notice relates, and;
- (d) in the case of an appeal brought by virtue of section 289 (2), any other person on whom the notice to which those proceedings related was served.

(6) The Court hearing any such appeal may remit the matter to the Secretary of State to the extent necessary to enable him to provide the Court with such further information in connection with the matter as the Court may direct.

(7) Where the Court is of opinion that the decision appealed against was erroneous in point of law, it shall not set aside or vary that decision but shall remit the matter to the Secretary of State with the opinion of the Court for re-hearing and determination by him.

^{F123}(8)

(9) The Court may give directions as to the exercise, until an appeal brought by virtue of section 289 (1) is finally concluded and any re-hearing and determination by the Secretary of State has taken place, of the power to serve, and institute proceedings (including criminal proceedings) concerning—

- (a) a stop notice under section 183, and;
- (b) a breach of condition notice under section 187A.

Textual Amendments
F122 Words in Sch. 1 RSC Order 94 rule 13(5) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **25(c)(i)**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

F123 Sch. 1 RSC Order 94 rule 13(8) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 8](#) (with rule 39(b)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Applications under section 13 Coroners Act 1988(54)

Rule 14.—(1) Any application under section 13 of the Coroners Act 1988 shall be heard and determined by a Divisional Court.

(2) The application must be made by claim form and the claim form must state the grounds of the application and, unless the application is made by the Attorney General, shall be accompanied by his fiat.

(3) The claim form must be filed in the Crown Office and served upon all persons directly affected by the application within six weeks after the grant of the fiat.

Applications under section 42, Supreme Court Act 1981(55)

Rule 15.—(1) Every application to the High Court by the Attorney General under section 42 of the Supreme Court Act 1981 shall be heard and determined by a Divisional Court.

(2) The application must be made by claim form which, together with a witness statement or affidavit in support, shall be filed in the Crown Office and served on the person against whom the order is sought.

[^{F124}Proceedings under the Protection from Harassment Act 1997

Rule 16.—(1) In this rule, “the Act” means the Protection from Harassment Act 1997.

(2) This rule shall apply to injunctions granted on or after 1st September 1998 and injunctions granted before that date shall be treated as if this rule had not come into force.

(3) Proceedings in the High Court under section 3 of the Act shall be assigned to the Queen’s Bench Division.

(4) An application for the issue of a warrant for the arrest of the defendant under section 3(3) of the Act shall—

- (a) state that it is an application for the issue of a warrant for the arrest of the defendant;
- (b) set out the grounds for making the application and be supported by an affidavit or evidence on oath;
- (c) state whether the claimant has informed the police of the defendant’s conduct as described in sub-paragraph (b); and
- (d) state whether, to the claimant’s knowledge, criminal proceedings are being pursued.

(5) The Court before whom a person is brought following his arrest may—

- (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the injunction, or
- (b) adjourn the proceedings and, where such an order is made, the arrested person shall be released and—
 - (i) may be dealt with within 14 days of the day on which he was arrested; and
 - (ii) be given not less than 2 days’ notice of the adjourned hearing.

(6) This rule applies to proceedings under section 3 of the Act in a county court with the following modifications—

(54) [1988 c. 13.](#)

(55) [1981 c. 54.](#)

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) Such proceedings in a county court shall be begun—
 - (i) in the court for the district in which the claimant resides or carries on business; or
 - (ii) in the court for the district in which the defendant resides or carries on business.
- (b) Where a county court—
 - (i) grants an injunction under section 3 of the Act; or
 - (ii) issues a warrant for the arrest of the defendant, the injunction or warrant shall be issued in the appropriate prescribed form.]

Textual Amendments
F124 Sch. 1 RSC Order 94 rule 16 inserted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, 48

RSC ORDER 95

BILLS OF SALE ACTS 1878(56) AND 1882(57) AND THE INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1967(58)

Rectification of register

Rule 1.—(1) Every application to the Court under section 14 of the Bills of Sale Act 1878, for an order—

- (a) that any omission to register a bill of sale or a witness statement or affidavit of renewal thereof within the time prescribed by that Act be rectified by extending the time for such registration, or
- (b) that any omission or mis-statement of the name, residence or occupation of any person be rectified by the insertion in the register of his true name, residence or occupation,

must be made by witness statement or affidavit to a master of the Queen’s Bench Division, and a copy of the witness statement or affidavit need not be served on any other person.

(2) Every application for such an order as is described in paragraph (1) shall be supported by a witness statement or affidavit setting out particulars of the bill of sale and of the omission or mis-statement in question and stating the grounds on which the application is made.

Entry of satisfaction

Rule 2.—(1) Every application under section 15 of the Bills of Sale Act 1878, to a master of the Queen’s Bench Division for an order that a memorandum of satisfaction be written on a registered copy of a bill of sale must [^{F125}be made by claim form.]

^{F126}(a)

^{F126}(b)

[^{F127}(1A) If a consent to the satisfaction signed by the person entitled to the benefit of the bill of sale can be obtained, from claim form and the documents set out in paragraph (2) must not be served on any other person.]

(56) 1878 c. 31.
 (57) 1882 c. 43.
 (58) 1967 c. 48.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (2) [^{F128}Where paragraph (1A) applies, the claim form] must be supported by—
- (a) particulars of the consent referred to in that paragraph; and
 - (b) a witness statement or affidavit by a witness who attested the consent verifying the signature on it.
- (3) [^{F129}Where paragraph (1A) does not apply, the claim form] must be served on the person entitled to the benefit of the bill of sale and must be supported by evidence that the debt (if any) for which the bill of sale was made has been satisfied or discharged.

Textual Amendments

- F125** Words in Sch. 1 RSC Order 95 rule 2(1) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [49\(a\)\(ii\)](#)
- F126** Sch. 1 RSC Order 95 rule 2(1)(a)(b) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [49\(a\)\(i\)](#)
- F127** Sch. 1 RSC Order 95 rule 2(1A) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [49\(b\)](#)
- F128** Words in Sch. 1 RSC Order 95 rule 2(2) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [49\(c\)](#)
- F129** Words in Sch. 1 RSC Order 95 rule 2(3) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [49\(d\)](#)

Restraining removal on sale of goods seized

Rule 3 An application to the Court under the proviso to section 7 of the Bills of Sale Act (1878) Amendment Act 1882 must be made by the issue of a claim form.

Search of register

Rule 4 Any master of the Queen’s Bench Division shall, on a request in writing giving sufficient particulars, and on payment of the prescribed fee, cause a search to be made in the register of bills of sale and issue a certificate of the result of the search.

Application under section 1 (5) of the Industrial and Provident Societies Act 1967(59)

Rule 5 Every application to the Court under section 1 (5) of the Industrial and Provident Societies Act 1967 for an order—

- (a) that the period for making an application for recording a charge be extended, or
- (b) that any omission from or misstatement in such an application be rectified,

must be made to a Master of the Queen’s Bench Division by witness statement or affidavit setting out particulars of the charge and of the omission or misstatement in question and stating the grounds of the application, and need not be served on any other person.

Assignment of book debts

Rule 6.—(1) There shall continue to be kept in the Central Office, under the supervision of the registrar, a register of assignments of book debts.

(59) 1967 c. 48.

(2) Every application for registration of an assignment of a book debt under section 344 of the Insolvency Act 1986⁽⁶⁰⁾ shall be made by producing at the Filing and Record Department of the Central Office—

- (a) a true copy of the assignment, and of every schedule thereto, and
- (b) a witness statement or affidavit verifying the date and the time, and the due execution of the assignment in the presence of the witness, and setting out the particulars of the assignment and the parties thereto.

(3) On an application being made in accordance with the preceding paragraph, the documents there referred to shall be filed, and the particulars of the assignment, and of the parties to it, shall be entered in the register.

(4) In this rule, “the registrar” has the meaning given in section 13 of the Bills of Sale Act 1878.

RSC ORDER 96

THE MINES (WORKING FACILITIES AND SUPPORT) ACT 1966⁽⁶¹⁾, ETC.

Assignment to Chancery Division

Rule 1 Any proceedings in which the jurisdiction conferred on the High Court by section 1 of the Railway and Canal Commission (Abolition) Act 1949⁽⁶²⁾, is invoked shall be assigned to the Chancery Division and be begun by claim form which need not be served on any other party.

Reference by Secretary of State of certain applications

Rule 2 Where under any provision of the Mines (Working Facilities and Support) Act 1966, the Secretary of State refers any application to the High Court, he shall—

- (a) file the reference, signed by him or by an officer authorised by him for the purpose, in Chancery Chambers, together with all documents and plans deposited with him by the applicant, and
- (b) within 3 days after doing so give notice to the applicant of the filing of the reference.

Issue of claim form

Rule 3 Within 10 days after receipt of the notice mentioned in rule 2 (b) the applicant must issue a claim form which need not be served on any other party which must state the application of the applicant under the said Act of 1966 and any other relief sought.

Appointment for directions

Rule 4.—(1) Within 7 days after issue of the claim form the applicant, having applied at Chancery Chambers for the name of the master assigned to hear the claim, must take an appointment before that master for the hearing of the claim and must forthwith serve notice of the appointment on the Secretary of State.

(2) Not less than 2 clear days before the day appointed for the first hearing of the claim, the applicant must leave at Chancery Chambers—

⁽⁶⁰⁾ 1986 c. 45.

⁽⁶¹⁾

⁽⁶²⁾ 1949 c. 11.

1966 c. 4.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) a witness statement or affidavit of facts in support of the claim, giving particulars of all persons known to the applicant to be interested in or affected by the application, and
 - (b) a draft of any proposed advertisement or notice of the application.
- (3) On the appointment the master shall—
- (a) fix a time within which any notice of objection under rule 5 must be given,
 - (b) fix a date for the further hearing of the claim, and
 - (c) direct what, if any, advertisements and notices of the application and of the date fixed for the further hearing of the claim are to be inserted and given, and what persons, if any, are to be served with a copy of the application and of any other document in the proceedings.
- (4) Any such advertisement or notice must include a statement of the effect of rule 5.

Objections to application

Rule 5.—(1) Any person wishing to oppose the application must, within the time fixed by the master under rule 4 (3), serve on the applicant a notice of objection stating—

- (a) his name and address and the name and address of his solicitor, if any,
- (b) the grounds of his objection and any alternative methods of effecting the objects of the application which he alleges may be used, and
- (c) the facts on which he relies.

(2) Any notice required to be served on a person who has given notice of objection (hereafter in this Order referred to as “the objector”) may be served by delivering it or sending it by prepaid post—

- (a) where the name and address of a solicitor is stated in the notice of objection, to the solicitor at that address, and
- (b) in any other case, to the objector at his address stated in the notice of objection.

(3) An objector shall be entitled to appear in person or by a solicitor or counsel at the further hearing of the claim and to take such part in the proceedings as the master or judge thinks fit; but if he does not so appear his notice of objection shall be of no effect and he shall not be entitled to take any part in the proceedings unless the master or judge otherwise orders.

List of objectors

Rule 6 Not less than 2 clear days before the day fixed for the further hearing of the claim, the applicant must leave at Chancery Chambers any notices of objection served on the applicant together with a list arranged in 3 columns stating—

- (a) in column 1, the names and addresses of the objectors,
- (b) in column 2, the names and addresses of their respective solicitors, if any, and
- (c) in column 3, short summaries of their respective grounds of objection.

Directions on further hearing

Rule 7 At the further hearing of the claim the master shall—

- (a) give directions as to the procedure to be followed before the claim is set down for hearing, including, if he thinks fit, a direction—
 - (i) that further particulars be given of any of the grounds or facts relied on in support of or in opposition to the application made by the claim,
 - (ii) that the applicant may serve a reply to any notice of objection,
 - (iii) that any particular fact be proved by witness statement or affidavit,

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(iv) that statements of case or points of claim or defence be served, and
[^{F130}(b) adjourn the claim for hearing before the judge in such manner as he shall think best adapted to secure the just, expeditious and economical disposal of the proceedings]

Textual Amendments

F130 Sch. 1 RSC Order 96 rule 7(b) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **50**

Other applications

Rule 8 Rules 2 to 7 shall, so far as applicable and with the necessary adaptations, apply in relation to any other application to the High Court falling within rule 1 as they apply in relation to an application under the Mines (Working Facilities and Support) Act 1966.

RSC ORDER 97

THE LANDLORD AND TENANT ACTS 1927(63), 1954(64) AND 1987(65)

Interpretation

^{F131}**Rule 1**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Assignment of proceedings to Chancery Division, etc.

^{F131}**Rule 2**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Issue, etc., of claim form

^{F131}**Rule 3**

(63) 1927 c. 36; section 1 was amended by the Landlord and Tenant Act 1954 (c. 56), section 47(5). Section 8 was amended by the 1954 Act, sections 45, 68(1) and schedule 7.
(64) 1954 c. 56.
(65) 1987 c. 31.
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*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Claim for compensation in respect of improvement

^{F131}**Rule 4**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Proceedings under Part I of Act of 1927

^{F131}**Rule 5**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application for new tenancy under section 24 of Act of 1954

^{F131}**Rule 6**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application to authorise agreement

^{F131}**Rule 6A**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Evidence on application under section 24 of Act of 1954

^{F131}**Rule 7**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Parties to certain proceedings

F131 **Rule 8**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Order dismissing application under section 24 which is successfully opposed

F131 **Rule 9**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application to determine interim rent

F131 **Rule 9A**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Other applications under Part II of Act of 1954

F131 **Rule 10**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Transfer of proceedings from county court

F131 **Rule 11**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application for relief under section 16, etc., of the Act of 1954

^{F131}Rule 12

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Evidence of rateable value

^{F131}Rule 13

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application under section 19 of the Act of 1987

^{F131}Rule 14

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application for order under section 24 of the Act of 1987

^{F131}Rule 15

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application for acquisition order under section 29 of the Act of 1987

^{F131}Rule 16

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Application for order under section 38 or section 40 of the Act of 1987

F131 **Rule 17**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Service of notices in proceedings under the Act of 1987

F131 **Rule 18**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Tenants' associations

F131 **Rule 19**

Textual Amendments

F131 Sch. 1 RSC Order 97 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

RSC ORDER 98

LOCAL GOVERNMENT FINANCE ACT 1982(66), PART III

Interpretation

Rule 1 In this Order “the Act” means the Local Government Finance Act 1982 and a section referred to by number means the section so numbered in that Act.

Application by auditor for declaration

Rule 2.—(1) Any application for a declaration under section 19 (1) of the Act that an item of account is contrary to law shall be made by claim form.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) The claim form shall be served on the body to whose accounts the application relates and on any person against whom an order is sought under section 19 (2).

(3) Not later than seven days after filing the claim form in the Crown Office ^{F132}... the applicant shall file in that office a witness statement or affidavit stating the facts on which he intends to rely at the hearing of the application.

(4) The claim shall be entered for hearing within six weeks after the claim form has been filed in the Crown Office but, unless the Court otherwise directs, the application shall not be heard sooner than 28 days after service of the claim form.

Textual Amendments

F132 Words in [Sch. 1 RSC Order 98 rule 2\(3\)](#) omitted (2.10.2000) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), [rules 1, 26](#)

Appeal against decision of auditor

^{F133}**Rule 3**

Textual Amendments

F133 [Sch. 1 RSC Order 98 rule 3](#) revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rule 1\(b\)](#), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), [rules 1, 2](#))

General provisions

Rule 4.—(1) Any proceedings in which the jurisdiction conferred on the High Court by section 19 or section 20 of the Act is invoked shall be assigned to the Queen’s Bench Division and be heard by a single judge, unless the Court directs that the matter shall be heard by a Divisional Court; and the Court may, at any stage direct that any officer or member of the body to whose accounts the application of appeal relates be joined as a respondent.

(2) Except in so far as the Court directs that the evidence on any such application or appeal shall be given orally, it shall be given by witness statement or affidavit.

(3) The applicant or appellant must forthwith after filing any witness statement or affidavit under rule 2 (3) or 3 (3) serve a copy thereof on every respondent and any person intending to oppose the application or appeal must, not less than four days before the hearing, serve on the applicant or appellant a copy of any witness statement or affidavit filed by him in opposition ^{F134}....

(4) Except by permission of the Court, no witness statement or affidavit may be used at the hearing unless a copy thereof was served in accordance with paragraph (3).

Textual Amendments

F134 Words in [Sch. 1 RSC Order 98 rule 4\(3\)](#) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), [rules 1, 52](#)

F135 RSC ORDER 99

INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975

Textual Amendments

F135 Sch. 1 RSC Order 99 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), [Sch. 10](#)

Order to apply to High Court and County Court

F135 **Rule A1**

Interpretation

F135 **Rule 1**

Assignment to Chancery or Family Division if proceedings in High Court

F135 **Rule 2**

Application for financial provision

F135 **Rule 3**

Powers of Court as to parties

F135 **Rule 4**

Witness statement or affidavit in answer

F135 **Rule 5**

Separate representation

F135 **Rule 6**

Endorsement of memorandum on grant

F135 **Rule 7**

Disposal of proceedings in private

F135 **Rule 8**

Subsequent applications in proceedings under section 1

F135 **Rule 9**

Drawing up and service of orders

F135 **Rule 10**

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

RSC ORDER 101

THE PENSIONS APPEAL TRIBUNALS ACT 1943

Assignment to Queen's Bench Division

^{F136}**Rule 1**

Textual Amendments

F136 Sch. 1 RSC Order 101 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Construction of reference to judge

^{F136}**Rule 2**

Textual Amendments

F136 Sch. 1 RSC Order 101 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Application for permission to appeal

^{F136}**Rule 3**

Textual Amendments

F136 Sch. 1 RSC Order 101 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Appeal

^{F136}**Rule 4**

Textual Amendments

F136 Sch. 1 RSC Order 101 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), rules 1, 2)

RSC ORDER 106

PROCEEDINGS RELATING TO SOLICITORS: THE SOLICITORS ACT 1974(67)

Interpretation

Rule 1.—(1) In this Order—

“the Act” means the Solicitors Act 1974 and a section referred to by number means the section so numbered in that Act;

“appeal” means an appeal to the High Court against an order made by the Tribunal on an application or complaint under the Act.

(2) Expressions used in this Order which are used in the Act have the same meanings in this Order as in the Act.

Jurisdiction under Part III of Act

Rule 2.—(2) The jurisdiction of the High Court under Part III of the Act may be exercised by

- (a) A judge ^{F137} ...
- (b) A master, a taxing master or a district judge of the Family Division, or
- (c) A district judge if the costs are for contentious business done in proceedings in the district registry of which he is the district judge or for non contentious business.

Textual Amendments

F137 Words in [Sch. 1 RSC Order 106 rule 2\(2\)\(a\)](#) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), [rules 1](#), [62\(h\)](#)

Power to order solicitor to deliver cash account, etc.

Rule 3.—(1) Where the relationship of solicitor and client exists or has existed the court may, on the application of the client or his personal representatives, make an order for—

- (a) the delivery by the solicitor of a cash account;
- (b) the payment or delivery up by the solicitor of money or securities;
- (c) the delivery to the claimant of a list of the moneys or securities which the solicitor has in his possession or control on behalf of the claimant;
- (d) the payment into or lodging in court of any such moneys or securities.

(2) An application for an order under this rule must be made by the issue of a claim form, or if in proceedings by an application in accordance with CPR Part 23.

(3) If the defendant alleges that he has a claim for costs, the Court may make such order for detailed assessment in accordance with CPR Part 47 and payment, or securing the payment, thereof and the protection of the defendant’s lien, if any, as the Court thinks fit.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Certificate to be submitted with solicitor's application for detailed assessment

Rule 5A A solicitor who applies for an order under the Act for the detailed assessment in accordance with CPR Part 47 of his bill of costs shall lodge with his application a certificate that all the relevant requirements of the Act have been satisfied.

Applications under Schedule 1 to Act

Rule 6.—(1) Proceedings in the High Court under Schedule 1 to the Act shall be assigned to the Chancery Division.

(2) The claim form by which an application for an order under the said Schedule is made must be entitled in the matter of a solicitor, or a deceased solicitor, as the case may be (without naming him) and in the matter of the Act.

(3) Where an order has been made under paragraph 9 (4), 9 (5) or 10 of the said Schedule an application for an order under paragraph 9 (8) or 9 (10) may be made in accordance with CPR Part 23 in the proceedings in which the first mentioned order was made.

Defendants to applications under Schedule 1 to Act

Rule 7 The defendant to a claim by which an application for an order under Schedule 1 to the Act is made shall be—

- (a) if the application is for an order under paragraph 5 thereof, the solicitor or, as the case may be, every member of the firm, on whose behalf the money in respect of which the order is sought is held;
- (b) if the application is for an order under paragraph 6 (4) or 9 (8) thereof, the Law Society;
- (c) if the application is for an order under paragraph 8, 9 (4) or 9 (5) thereof, the person against whom the order is sought;
- (d) if the application is for an order under paragraph 9 (10) thereof, the person from whom the Law Society obtained possession of the documents by virtue of paragraph 9 or 10;
- (e) if the application is for an order under paragraph 10 thereof for the re-direction of postal packets addressed to a solicitor or his firm, the solicitor or, as the case may be, every member of the firm;
- (f) if the application is for an order under paragraph 11 thereof, the solicitor or personal representative in substitution for whom the appointment of a new trustee is sought and, if he is a co-trustee, the other trustee or trustees.

Interim order restricting payment out of banking account

Rule 8 At any time after the issue of a claim form by which an application for an order under paragraph 5 of Schedule 1 to the Act is made, the Court may, on the application of the claimant made without notice in accordance with CPR Part 23 make an interim order under that paragraph to have effect until the hearing of the application and include therein a further order requiring the defendant to show cause at the hearing why an order under that paragraph should not be made.

Adding parties, etc.

Rule 9 The Court may, at any stage of proceedings under Schedule 1 to the Act, order any person to be added as a party to the proceedings or to be given notice thereof.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Service of documents

Rule 10.—(1) Any document required to be served on the Law Society in proceedings under this Order shall be served by sending it by prepaid post to the secretary of the Law Society.

(2) Subject to paragraph (1) a claim form by which an application under Schedule 1 to the Act is made, an order under paragraph 5 of that Schedule or rule 8 and any other document not required to be served personally which is to be served on a defendant to proceedings under the said Schedule shall, unless the Court otherwise directs, be deemed to be properly served by sending it by prepaid post to the defendant at his last known address.

Constitution of Divisional Court to hear appeals

Rule 11 Every appeal shall be heard by a Divisional Court of the Queen’s Bench Division consisting, unless the Lord Chief Justice otherwise directs, of not less than three judges.

Title, service, etc., of notice of appeal

Rule 12.—(1) The [F138 appellant’s notice] by which an appeal is brought must be entitled in the matter of a solicitor, or, as the case may be, a solicitor’s clerk, without naming him, and in the matter of the Act.

(2) Unless the Court otherwise orders, the persons to be served with such notice are every party to the proceedings before the Tribunal and the Law Society.

[F139(3) The appellant’s notice must be filed at the court within 14 days after the date on which a statement of the tribunal’s findings was filed pursuant to section 48(1) of the Act.]

[F140(4)]

<p>Textual Amendments</p> <p>F138 Words in Sch. 1 RSC Order 106 rule 12(1) substituted (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rules 1(b), 27(a)(i)</p> <p>F139 Sch. 1 RSC Order 106 rule 12(3) substituted (2.5.2000) by The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rules 1(b), 27(a)(ii)</p> <p>F140 Sch. 1 RSC Order 106 rule 12(4) omitted (2.5.2000) by virtue of The Civil Procedure (Amendment) Rules 2000 (S.I. 2000/221), rules 1(b), 27(a)(iii)</p>

Law Society to produce certain documents

Rule 13.—(1) Within 7 days after being served with the [F141 appellant’s notice] the Law Society must lodge in the Crown Office three copies of each of the following documents:—

- (a) the order appealed against, together with the statement of the Tribunal’s findings required by section 48 (1) of the Act,
- (b) any document lodged by a party with the Tribunal which is relevant to a matter in issue on the appeal, and
- (c) the transcript of the shorthand note, or, as the case may be, the note taken by the chairman of the Tribunal of the evidence in the proceedings before the Tribunal.

(2) At the hearing of the appeal the Court shall direct by whom the costs incurred in complying with paragraph (1) are to be borne and may order them to be paid to the Law Society by one of the parties notwithstanding that the Society does not appear at the hearing.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F141 Words in Sch. 1 RSC Order 106 rule 13(1) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **27(b)**

Restriction on requiring security for costs

Rule 14 No person other than an appellant who was the applicant in the proceedings before the Tribunal, shall be ordered to give security for the costs of an appeal.

Disciplinary committee's opinion may be required

Rule 15 The Court may direct the Tribunal to furnish the Court with a written statement of their opinion on the case which is the subject-matter of an appeal or on any question arising therein, and where such a direction is given, the clerk to the Tribunal must as soon as may be lodge three copies of such statement in the Crown Office and at the same time send a copy to each of the parties to the appeal.

Persons entitled to be heard on appeal

Rule 16 A person who has not been served with the [^{F142}appellant's notice] but who desires to be heard in opposition to the appeal shall, if he appears to the Court to be a proper person to be so heard, be entitled to be so heard.

Textual Amendments

F142 Words in Sch. 1 RSC 106 rule 16 substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **27(c)**

Discontinuance of appeal

Rule 17.—(1) An appellant may at any time discontinue his appeal by serving notice of discontinuance on the clerk to the Tribunal and every other party to the appeal and, if the appeal has been entered, by lodging a copy of the notice in the Crown Office.

(2) Where an appeal has been discontinued in accordance with paragraph (1) it shall be treated as having been dismissed with an order for payment by the appellant of the costs of and incidental to the appeal, including any costs incurred by the Law Society in complying with rule 13 (1).

^{F143}RSC ORDER 108

PROCEEDINGS RELATING TO CHARITIES: THE CHARITIES ACT 1993

Textual Amendments

F143 Sch. 1 RSC Order 108 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Interpretation

^{F143}**Rule 1**

Assignment to Chancery Division

^{F143}**Rule 2**

Application for permission to appeal or to take charity proceedings

^{F143}**Rule 3**

Application for enforcement of order or direction of Commissioners

^{F143}**Rule 4**

Appeal against order, etc., of Commissioners

^{F143}**Rule 5**

Service on Commissioners

^{F143}**Rule 6**

RSC ORDER 109

THE ADMINISTRATION OF JUSTICE ACT 1960(68)

Applications under Act

Rule 1.—(1) Any of the following applications, that is to say—

- (a) an application under section 2 of the Administration of Justice Act 1960, or under that section as applied by section 13 of that Act, to extend the time within which an application may be made to a Divisional Court for permission to appeal to the House of Lords under section 1 of that Act, or section 13 thereof, from an order or decision of that Court, and
- (b) an application by a defendant under section 9 (3) of that Act to a Divisional Court for permission to be present on the hearing of any proceedings preliminary or incidental to an appeal to the House of Lords under section 1 of that Act from a decision of that Court

must be made to a Divisional Court except in vacation when it may be made to a judge ^{F144}...

(2) Any such application to a Divisional Court, if not made in the proceedings before the Divisional Court from whose order or decision the appeal in question is brought, must be made by the issue of a claim form ^{F145}....

(3) Any such application to a judge ^{F146}... must, in the case of such an application as is referred to in paragraph (1)(a) be made by the issue of a claim form and, in the case of such an application as is referred to in paragraph (1)(b) need not be served on any other person unless, in the latter case, the judge otherwise directs.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(4) No application notice or copy of the claim form (as the case may be) by which such an application as is referred to in paragraph (1)(b) is made, need be given to any party affected thereby unless the Divisional Court otherwise directs.

(5) Where any application to which this rule applies is made in vacation to a single judge and the judge refuses the application, the applicant shall be entitled to have the application determined by a Divisional Court.

Textual Amendments

- F144** Words in Sch. 1 RSC Order 109 rule 1(1) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **62(i)**
- F145** Words in Sch. 1 RSC Order 109 rule 1(2) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **55**
- F146** Words in Sch. 1 RSC Order 109 rule 1(3) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **62(i)**

Appeals under section 13 of Act

Rule 2.—(1) An appeal to a Divisional Court of the High Court under section 13 of the Administration of Justice Act 1960, shall be heard and determined by a Divisional Court of the Queen’s Bench Division.

^{F147}(3)

(4) Unless the Court gives permission, there shall be not more than 4 clear days between the date on which the order or decision appealed against was made and the day named in the notice of appeal for the hearing of the appeal.

(5) The notice must be served, and the appeal entered, not less than one clear day before the day named in the notice for the hearing of the appeal.

Textual Amendments

- F147** Sch. 1 RSC Order 109 rule 2(3) omitted (2.5.2000) by virtue of [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **29(a)**

Release of appellant on bail

Rule 3.—(1) Where, in the case of an appeal under section 13 of the Administration of Justice Act 1960, to a Divisional Court or to the House of Lords from a Divisional Court, the appellant is in custody, the High Court may order his release on his giving security (whether by recognizance, with or without sureties, or otherwise and for such reasonable sum as the Court may fix) for his appearance, within 10 days after the judgment of the Divisional Court or, as the case may be, of the House of Lords, on the appeal before the court from whose order or decision the appeal is brought unless the order or decision is reversed by that judgment.

(2) Order 79, rule 9 (1) to (6) and (8) shall apply in relation to an application to the High Court for bail pending an appeal under the said section 13 to which this rule applies, and to the admission of a person to bail in pursuance of an order made on the application, as they apply in relation to an application to that Court for bail in criminal proceedings, and to the admission of a person to bail in pursuance of an order made on the application, but with the substitution, for references to the defendant, of references to the appellant, and, for references to the prosecutor, of references to the court officer of the court from whose order or decision the appeal is brought and to the parties to the proceedings in that court who are directly affected by the appeal.

[^{F148}Release of appellant on bail by the Court of Appeal

Rule 4.—(1) Where, in the case of an appeal under section 13 of the Administration of Justice Act 1960 to the Court of Appeal or to the House of Lords from the Court of Appeal, the appellant is in custody, the Court of Appeal may order his release on his giving security (whether by recognisance, with or without sureties, or otherwise and for such reasonable sum as that court may fix) for his appearance within 10 days after the judgment of the Court of Appeal or, as the case may be, of the House of Lords on the appeal shall have been given, before the court from whose order or decision the appeal is brought unless the order or decision is reversed by that judgment.

(2) An application for the release of a person under paragraph (1) pending an appeal to the Court of Appeal or House of Lords under the said section 13 must be made in accordance with CPR Part 23, and the application notice must, at least 24 hours before the day named therein for the hearing, be served on the court from whose order or decision the appeal is brought and on all parties to the proceedings in that court who are directly affected by the appeal.

(3) Order 79, rules 9(6), (6A), (6B) and (8) shall apply in relation to the grant of bail under this rule by the Court of Appeal in a case of criminal contempt of court as they apply in relation to the grant of bail in criminal proceedings by the High Court, but with the substitution for references to a judge of references to the Court of Appeal and for references to the defendant of references to the appellant.

(4) When granting bail under this rule in a case of civil contempt of court, the Court of Appeal may order that the recognisance or other security to be given by the appellant or the recognisance of any surety shall be given before any person authorised by virtue of section 119(1) of the Magistrates' Courts Act 1980 to take a recognisance where a magistrates' court having power to take it has, instead of taking it, fixed the amount in which the principal and his sureties, if any, are to be bound. An order by the Court of Appeal granting bail as aforesaid must be in Form 98 in the relevant practice direction with the necessary adaptations.

(5) Where in pursuance of an order of the Court of Appeal under paragraph (4) of this rule a recognisance is entered into or other security given before any person, it shall be the duty of that person to cause the recognisance of the appellant or any surety or, as the case may be, a statement of the other security given, to be transmitted forthwith to the [^{F149}justices' chief executive for] the court which committed the appellant; and a copy of such recognisance or statement shall at the same time be sent to the governor or keeper of the prison or other place of detention in which the appellant is detained, unless the recognisance or security was given before such governor or keeper.

(6) The powers conferred on the Court of Appeal by paragraphs (1), (3) and (4) of this rule may be exercised by a single judge.]

Textual Amendments

F148 Sch. 1 RSC Order 109 rule 4 inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 7](#)

F149 Words in Sch. 1 RSC Order 109 rule 4(5) substituted (1.4.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(b), [23](#)

RSC ORDER 110

ENVIRONMENTAL CONTROL PROCEEDINGS

Injunctions to prevent environmental harm

Rule 1.—(1) An injunction under—

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) section 187B or 214A of the Town and Country Planning Act 1990(69);
- (b) section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990(70); or
- (c) section 26AA of the Planning (Hazardous Substances) Act 1990(71)

may be granted against a person whose identity is unknown to the applicant; and in the following provisions of this rule such an injunction against such a person is referred to as “an injunction under paragraph (1),” and the person against whom it is sought is referred to as “the defendant”.

(2) An applicant for an injunction under paragraph (1) shall, in the [F150 claim form], describe the defendant by reference to—

- (a) a photograph,
- (b) a thing belonging to or in the possession of the defendant, or
- (c) any other evidence,

with sufficient particularity to enable service to be effected..

(3) An applicant for an injunction under paragraph (1) shall file in support of the application evidence by witness statement or affidavit—

- (a) verifying that he was unable to ascertain, within the time reasonably available to him, the defendant’s identity,
- (b) setting out the action taken to ascertain the defendant’s identity, and
- (c) verifying the means by which the defendant has been described in the application and that the description is the best that the applicant is able to provide.

(4) Paragraph (2) is without prejudice to the power of the Court to make an order for service by an alternative method or dispensing with service.

Textual Amendments

F150 Words in Sch. 1 RSC Order 110 rule 1(2) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, 56

RSC ORDER 111

THE SOCIAL SECURITY ADMINISTRATION ACT 1992

Judge by whom appeals and references to be heard

^{F151}**Rule 1**

Textual Amendments

F151 Sch. 1 RSC Order 111 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), [Sch. 8](#) (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

^{F151}

(69) 1990 c. 8.
(70) 1990 c. 9.
(71) 1990 c. 10.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F151 Sch. 1 RSC Order 111 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000](#) (S.I. 2000/221), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

F151

Textual Amendments

F151 Sch. 1 RSC Order 111 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000](#) (S.I. 2000/221), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

F151

Textual Amendments

F151 Sch. 1 RSC Order 111 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000](#) (S.I. 2000/221), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

F151

Textual Amendments

F151 Sch. 1 RSC Order 111 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000](#) (S.I. 2000/221), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by S.I. 2000/940, rules 1, 2)

RSC ORDER 112

[^{F152}APPLICATIONS FOR USE OF SCIENTIFIC TESTS IN DETERMINING PARENTAGE]

Textual Amendments

F152 Sch. 1 RSC Order 112 heading substituted (1.4.2001) by [The Civil Procedure \(Amendment\) Rules 2001](#) (S.I. 2001/256), rules 1(c), **24(a)**

Interpretation

Rule 1 In this Order—

“the Act” means Part III of the Family Law Reform Act 1969⁽⁷²⁾;

(72) 1969 c. 46.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

“^{F153}bodily samples]” and “^{F154}scientific tests]” have the meanings assigned to them by section 25 of the Act;

“direction” means a direction for the use of ^{F154}scientific tests] under section 20 (1) of the Act;

“the court officer” means the officer of the court who draws up a direction.

Textual Amendments

F153 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(b)**

F154 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(c)**

Application for direction

Rule 2.—(1) Except with the permission of the court, an application in any proceedings for a direction shall be in accordance with CPR Part 23 and a copy of the application notice shall be served on every party to the proceedings (other than the applicant) and on any other person from whom the direction involves the taking of ^{F153}bodily samples].

(3) Any notice required by this rule to be served on a person who is not a party to the proceedings shall be served on him personally.

Textual Amendments

F153 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(b)**

Applications involving children under 16 and patients

Rule 3 Where an application is made for a direction in respect of a person who is either—

- (a) under 16, or
- (b) suffering from a mental disorder within the meaning of the Mental Health Act 1983(**73**) and incapable of understanding the nature and purpose of ^{F154}scientific tests],

the application notice ^{F155}... shall state the name and address of the person having the care and control of the person under disability and shall be served on him instead of on the person under disability.

Textual Amendments

F154 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(c)**

F155 Words in Sch. 1 RSC Order 112 rule 3 omitted (26.4.1999) by virtue of The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **57**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Addition as a party of person to be tested

Rule 4 Where an application is made for a direction involving the taking of [^{F153}bodily samples] from a person who is not a party to the proceedings in which the application is made, the court may at any time direct that person to be made a party to the proceedings.

Textual Amendments

F153 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(b)**

Service of direction and adjournment of proceedings

Rule 5 Where the court gives a direction in any proceedings, the court officer shall send a copy to every party to the proceedings and to every other person from whom the direction involves the taking of [^{F153}bodily samples] and, unless otherwise ordered, further consideration of the proceedings shall be adjourned until the court receives a report pursuant to the direction.

Textual Amendments

F153 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(b)**

Service of copy report

Rule 6 On receipt by the court of a report made pursuant to a direction, the proper officer shall send a copy to every party to the proceedings and to every other person from whom the direction involved the taking of [^{F153}bodily samples].

Textual Amendments

F153 Words in Sch. 1 RSC Order 112 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **24(b)**

RSC ORDER 113

SUMMARY PROCEEDINGS FOR POSSESSION OF LAND

Proceedings to be brought by claim form

^{F156}**Rule 1**

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rule 1(d), **Sch. 3**

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Jurisdiction of Masters

^{F156}Rule 1A

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rule 1(d), **Sch. 3**

Forms of claim form

^{F156}Rule 2

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rule 1(d), **Sch. 3**

Witness statement or affidavit in support

^{F156}Rule 3

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rule 1(d), **Sch. 3**

Service of claim form

^{F156}Rule 4

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rule 1(d), **Sch. 3**

Application by occupier to be made a party

^{F156}Rule 5

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rule 1(d), **Sch. 3**

Order for possession

^{F156}Rule 6

Textual Amendments

F156 Sch. 1 RSC Order 113 rules 1-6 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Writ of possession

Rule 7.—(1) Order 45, rule 3 (2) shall not apply in relation to an order for possession [^{F157}in a possession claim against trespassers under Part 55] but no writ of possession to enforce such an order shall be issued after the expiry of three months from the date of the order without the permission of the Court.

An application for permission may be made without notice being served on any other party unless the Court otherwise directs.

(2) The writ of possession shall be in Form No. 66A.

Textual Amendments

F157 Words in [Sch. 1 RSC Order 113 rule 7\(1\)](#) substituted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), **25**

Setting aside order

^{F158}**Rule 8**

Textual Amendments

F158 Sch. 1 RSC Order 113 rule 8 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), **Sch. 3**

^{F159}**RSC ORDER 114**

REFERENCES TO THE EUROPEAN COURT

Textual Amendments

F159 Sch. 1 RSC Order 114 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Interpretation

^{F159}**Rule 1**

Making of order

^{F159}**Rule 2**

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Schedule to order to set out request for ruling

^{F159}**Rule 3**

Stay of proceedings pending ruling

^{F159}**Rule 4**

Transmission of order to the European Court

^{F159}**Rule 5**

Appeals from orders made by High Court

^{F159}**Rule 6**

RSC ORDER 115

**CONFISCATION AND FORFEITURE IN
CONNECTION WITH CRIMINAL PROCEEDINGS**

**I. Drug Trafficking Act 1994(74) and Criminal Justice (International Co-operation) Act
1990(75)**

Interpretation

Rule 1.—(1) In this Part of this Order, “The Act” means the Drug Trafficking Act 1994 and a section referred to by number means the section so numbered in the Act.

(2) Expressions used in this Part of this Order which are used in the Act have the same meanings in this Part of this Order as in the Act and include any extended meaning given by the Criminal Justice (Confiscation) (Northern Ireland) Order 1990.

Assignment of proceedings

Rule 2 Subject to rule 12, the jurisdiction of the High Court under the Act shall be exercised by a judge of the Chancery Division or of the Queen’s Bench Division ^{F160}....

Textual Amendments

F160 Words in Sch. 1 RSC Order 115 rule 2 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, [62\(j\)](#)

Title of proceedings

Rule 2A An application made in accordance with CPR Part 23, or a claim form issued in relation to proceedings under this Part of this Order shall be entitled in the matter of the defendant, naming him, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(74) [1994 c. 37](#).
(75) [1990 c. 5](#).

Application for confiscation order

Rule 2B.—(1) An application by the prosecutor for a confiscation order under section 19 shall be made in accordance with CPR Part 23 where there have been proceedings against the defendant in the High Court, and shall otherwise be made by the issue of a claim form.

(2) The application shall be supported by a witness statement or affidavit giving full particulars of the following matters—

- (a) the grounds for believing that the defendant has died or absconded;
- (b) the date or approximate date on which the defendant died or absconded;
- (c) where the application is made under section 19 (2), the offence or offences of which the defendant was convicted, and the date and place of conviction;
- (d) where the application is made under section 19 (4), the proceedings which have been initiated against the defendant (including particulars of the offence and the date and place of institution of those proceedings); and
- (e) where the defendant is alleged to have absconded, the steps taken to contact him.

(3) The prosecutor's statement under section 11 shall be exhibited to the witness statement or affidavit and shall include the following particulars—

- (a) the name of the defendant;
- (b) the name of the person by whom the statement is given;
- (c) such information known to the prosecutor as is relevant to the determination whether the defendant has benefited from drug trafficking and to the assessment of the value of his proceeds of drug trafficking.

(4) Unless the Court otherwise orders, a witness statement or affidavit under paragraph (2) may contain statements of information and belief, with their sources and grounds.

(5) The application and the witness statement or affidavit in support shall be served not less than 7 days before the date fixed for the hearing of the application on—

- (a) the defendant (or on the personal representatives of a deceased defendant);
- (b) any person who the prosecutor reasonably believes is likely to be affected by the making of a confiscation order; and
- (c) the receiver, where one has been appointed in the matter.

Application for restraint order or charging order

Rule 3.—(1) An application for a restraint order under section 26 or for a charging order under section 27 (to either of which may be joined an application for the appointment of a receiver) may be made by the prosecutor by the issue of a claim form, notice of which need not be served on any other party.

(2) An application under paragraph (1) shall be supported by a witness statement or affidavit, which shall—

- (a) give the grounds for the application; and
- (b) to the best of the witness's ability, give full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property.

(3) Unless the Court otherwise directs, a witness statement or affidavit under paragraph (2) may contain statements of information or belief with the sources and grounds thereof.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Restraint order and charging order

Rule 4.—(1) A restraint order may be made subject to conditions and exceptions, including but not limited to conditions relating to the indemnifying of third parties against expenses incurred in complying with the order, and exceptions relating to living expenses and legal expenses of the defendant, but the prosecutor shall not be required to give an undertaking to abide by any order as to damages sustained by the defendant as a result of the restraint order.

(2) Unless the Court otherwise directs, a restraint order made where notice of it has not been served on any person shall have effect until a day which shall be fixed for the hearing where all parties may attend on the application and a charging order shall be an order to show cause, imposing the charge until such day.

(3) Where a restraint order is made the prosecutor shall serve copies of the order and of the witness statement or affidavit in support on the defendant and on all other named persons restrained by the order and shall notify all other persons or bodies affected by the order of its terms.

(4) Where a charging order is made the prosecutor shall serve copies of the order and of the witness statement or affidavit in support on the defendant and, where the property to which the order relates is held by another person, on that person and shall serve a copy of the order on such of the persons or bodies [^{F161}specified in CPR rule 73.5(1)(c) to (e)] as shall be appropriate.

Textual Amendments

F161 Words in Sch. 1 RSC Order 115 rule 4(4) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **11** (with rule 24)

Discharge or variation of order

Rule 5.—(1) Any person or body on whom a restraint order or a charging order is served or who is notified of such an order may make an application in accordance with CPR Part 23 to discharge or vary the order.

(2) The [^{F162}application notice] and any witness statement or affidavit in support shall be lodged with the court and served on the prosecutor and, where he is not the applicant, on the defendant, not less than two clear days before the date fixed for the hearing of the [^{F163}application].

(3) Upon the court being notified that proceedings for the offences have been concluded or that the amount, payment of which is secured by a charging order has been paid into court, any restraint order or charging order, as the case may be, shall be discharged.

(4) The Court may also discharge a restraint order or a charging order upon receiving notice from the prosecutor that it is no longer appropriate for the restraint order or the charging order to remain in place.

Textual Amendments

F162 Words in Sch. 1 RSC Order 115 rule 5(2) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **60(a)(i)**

F163 Word in Sch. 1 RSC Order 115 rule 5(2) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **60(a)(ii)**

Further application by prosecutor

Rule 6.—(1) Where a restraint order or a charging order has been made the prosecutor may apply by an application in accordance with CPR Part 23 with notice or, where the case is one of urgency or the giving of notice would cause a reasonable apprehension of dissipation of assets, without notice—

- (a) to vary such order, or
- (b) for a restraint order or a charging order in respect of other realisable property, or
- (c) for the appointment of a receiver.

(2) An application under paragraph (1) shall be supported by a witness statement or affidavit which, where the application is for a restraint order or a charging order, shall to the best of the witness's ability give full particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property.

(3) The application and witness statement or affidavit in support shall be lodged with the court and served on the defendant and, where one has been appointed in the matter, on the receiver, not less than two clear days before the date fixed for the hearing of the [F164 application].

(4) Rule 4 (3) and (4) shall apply to the service of restraint orders and charging orders respectively made under this rule on persons other than the defendant.

Textual Amendments

F164 Word in Sch. 1 RSC Order 115 rule 6(3) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **60(b)**

Realisation of property

Rule 7.—(1) An application by the prosecutor under section 29 shall, where there have been proceedings against the defendant in the High Court, be made by an application in accordance with CPR Part 23 and shall otherwise be made by the issue of a claim form

(2) The application notice or claim form, as the case may be, shall be served with the evidence in support not less than 7 days before the date fixed for the hearing of the application or claim on:—

- (a) the defendant,
- (b) any person holding any interest in the realisable property to which the application relates, and
- (c) the receiver, where one has been appointed in the matter.

(3) The application shall be supported by a witness statement or affidavit, which shall, to the best of the witness's ability, give full particulars of the realisable property to which it relates and specify the person or persons holding such property, and a copy of the confiscation order, of any certificate issued by the Crown Court under section 5 (2) and of any charging order made in the matter shall be exhibited to such witness statement or affidavit.

(4) The Court may, on an application under section 29—

- (a) exercise the power conferred by section 30 (2) to direct the making of payments by a receiver;
- (b) give directions in respect of the property interests to which the application relates; and
- (c) make declarations in respect of those interests.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Receivers

Rule 8.—(1) Subject to the provisions of this rule, the provisions of [F165CPR Part 69] shall apply where a receiver is appointed in pursuance of a charging order or under sections 26 or 29.

(2) Where the receiver proposed to be appointed has been appointed receiver in other proceedings under the Act, it shall not be necessary for a witness statement or affidavit of fitness to be sworn or for the receiver to give security, unless the Court otherwise orders.

(3) Where a receiver has fully paid the amount payable under the confiscation order and any sums remain in his hands, he shall make an application to the court for directions in accordance with CPR Part 23, as to the distribution of such sums.

(4) An application under paragraph (3) shall be served with any evidence in support not less than 7 days before the date fixed for the hearing of the application on:—

- (a) the defendant, and
- (b) any other person who held property realised by the receiver.

(5) A receiver may apply for an order to discharge him from his office by making an application in accordance with CPR Part 23, which shall be served, together with any evidence in support, on all persons affected by his appointment not less than 7 days before the day fixed for the hearing of the application.

Textual Amendments

F165 Words in [Sch. 1 RSC Order 115 rule 8\(1\)](#) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), [rules 1\(b\)](#), [32](#)

Certificate of inadequacy

Rule 9.—(1) The defendant or a receiver appointed under section 26 or 29 or in pursuance of a charging order may apply in accordance with CPR Part 23 for a certificate under section 17 (1).

(2) An application under paragraph (1) shall be served with any supporting evidence not less than 7 days before the date fixed for the hearing of the application on the prosecutor and, as the case may be, on either the defendant or the receiver (where one has been appointed).

Certificate under section 16

Rule 9A An application under section 16 (2) (increase in realisable property) shall be served with any supporting evidence not less than 7 days before the date fixed for the hearing of the application on the defendant and, as the case may be, on either the prosecutor or (where one has been appointed in the matter) on the receiver.

Compensation

Rule 10 An application for an order under section 18 shall be made in accordance with CPR Part 23, which shall be served, with any supporting evidence, on the person alleged to be in default and on the relevant authority under section 18 (5) not less than 7 days before the date fixed for the hearing of the application.

Disclosure of information

Rule 11.—(1) An application by the prosecutor under section 59 shall be made in accordance with CPR Part 23 and the application notice shall state the nature of the order sought and whether

material sought to be disclosed is to be disclosed to a receiver appointed under section 26 or 29 or in pursuance of a charging order or to a person mentioned in section 59 (8).

(2) The application notice and witness statement or affidavit in support shall be served on the authorised Government Department in accordance with Order 77, rule 4 not less than 7 days before the date fixed for the hearing of the application.

(3) The witness statement or affidavit in support of an application under paragraph (1) shall state the grounds for believing that the conditions in section 59 (4) and, if appropriate, section 59 (7) are fulfilled.

Compensation for, discharge and variation of confiscation order

Rule 11A.—(1) An application under section 21, 22 or 23 shall be made in accordance with CPR Part 23 which, together with any evidence in support, shall be lodged with the Court and served on the prosecutor not less than 7 days before the day fixed for the hearing of the application.

(2) Notice shall also be served on any receiver appointed in pursuance of a charging order or under section 26 or 29.

(3) An application for an order under section 22 shall be supported by a witness statement or affidavit giving details of—

- (a) the confiscation order made under section 19 (4);
- (b) the acquittal of the defendant;
- (c) the realisable property held by the defendant; and
- (d) the loss suffered by the applicant as a result of the confiscation order.

(4) An application for an order under section 23 shall be supported by a witness statement or affidavit giving details of—

- (a) the confiscation order made under section 19 (4);
- (b) the date on which the defendant ceased to be an absconder;
- (c) the date on which proceedings against the defendant were instituted and a summary of the steps taken in the proceedings since then; and
- (d) any indication given by the prosecutor that he does not intend to proceed against the defendant.

(5) An application made under section 21 shall be supported by a witness statement or affidavit giving details of—

- (a) the confiscation order made under section 19(4);
- (b) the circumstances in which the defendant ceased to be an absconder; and
- (c) the amounts referred to in section 21 (2).

(6) Where an application is made for an order under section 23 (3) or 24 (2)(b), the witness statement or affidavit shall also include—

- (a) details of the realisable property to which the application relates; and
- (b) details of the loss suffered by the applicant as a result of the confiscation order.

(7) Unless the Court otherwise orders, a witness statement or affidavit under paragraphs (3) to (6) may contain statements of information and belief, with the sources and grounds thereof.

Exercise of powers under sections 37 and 40

Rule 12 The powers conferred on the High Court by sections 37 and 40 may be exercised by a judge [^{F166}or] a master of the Queen's Bench Division.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F166 Word in [Sch. 1 RSC Order 115 rule 12](#) substituted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **60(c)**

Application for registration

Rule 13 An application for registration of an order specified in an Order in Council made under section 37 or of an external confiscation order under section 40 (1) must be made in accordance with CPR Part 23, and may be made without notice.

Evidence in support of application under section 37

Rule 14 An application for registration of an order specified in an Order in Council made under section 37 must be made in accordance with CPR Part 23, and be supported by a witness statement or affidavit—

- (i) exhibiting the order or a certified copy thereof, and
- (ii) stating, to the best of the witness's knowledge, particulars of what property the person against whom the order was made holds in England and Wales, giving the source of the witness's knowledge.

Evidence in support of application under section 40 (1)

Rule 15.—(1) An application for registration of an external confiscation order must be made in accordance with CPR Part 23, and be supported by a witness statement or affidavit—

- (a) exhibiting the order or a verified or certified or otherwise duly authenticated copy thereof and, where the order is not in the English language, a translation thereof into English certified by a notary public or authenticated by witness statement or affidavit, and
- (b) stating—
 - (i) that the order is in force and is not subject to appeal,
 - (ii) where the person against whom the order was made did not appear in the proceedings, that he received notice thereof in sufficient time to enable him to defend them,
 - (iii) in the case of money, either that at the date of the application the sum payable under the order has not been paid or the amount which remains unpaid, as may be appropriate, or, in the case of other property, the property which has not been recovered, and
 - (iv) to the best of the witness's knowledge, particulars of what property the person against whom the order was made holds in England and Wales, giving the source of the witness's knowledge.

(2) Unless the Court otherwise directs, a witness statement or affidavit for the purposes of this rule may contain statements of information or belief with the sources and grounds thereof.

Register of orders

Rule 16.—(1) There shall be kept in the Central Office under the direction of the Master of the Crown Office a register of the orders registered under the Act.

(2) There shall be included in such register particulars of any variation or setting aside of a registration and of any execution issued on a registered order.

Notice of registration

Rule 17.—(1) Notice of the registration of an order must be served on the person against whom it was obtained by delivering it to him personally or by sending it to him at his usual or last known address or place of business or in such other manner as the Court may direct.

[^{F167}(2) Permission is not required to serve such a notice out of the jurisdiction and CPR rules 6.24, 6.25 and 6.29 shall apply in relation to such notice as they apply in relation to a claim form.]

Textual Amendments

F167 Sch. 1 RSC Order 115 rule 17(2) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rules 1\(b\)](#), [31](#)

Application to vary or set aside registration

Rule 18 An application made in accordance with CPR Part 23 by the person against whom an order was made to vary or set aside the registration of an order must be made to a judge and be supported by witness statement or affidavit.

Enforcement of order

Rule 19.—(2) If an application is made under rule 18, an order shall not be enforced until after such application is determined.

Variation, satisfaction and discharge of registered order

Rule 20 Upon the court being notified by the applicant for registration that an order which has been registered has been varied, satisfied or discharged, particulars of the variation, satisfaction or discharge, as the case may be, shall be entered in the register.

Rules to have effect subject to Orders in Council

Rule 21 Rules 12 to 20 shall have effect subject to the provisions of the Order in Council made under section 37 or, as the case may be, of the Order in Council made under section 39.

Criminal Justice (International Co-operation) Act 1990: external forfeiture orders

Rule 21A The provisions of this Part of this Order shall, with such modifications as are necessary and subject to the provisions of any Order in Council made under section 9 of the Criminal Justice (International Co-operation) Act 1990([76](#)), apply to proceedings for the registration and enforcement of external forfeiture orders as they apply to such proceedings in relation to external confiscation orders.

For the purposes of this rule, an external forfeiture order is an order made by a court in a country or territory outside the United Kingdom which is enforceable in the United Kingdom by virtue of any such Order in Council.

II. Part VI of the Criminal Justice Act 1988([77](#))

(76) 1990 c. 5.

(77) 1988 c. 33.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Interpretation

Rule 22.—(1) In this Part of this Order, “the 1988 Act” means the Criminal Justice Act 1988 and a section referred to by number means the section so numbered in that Act.

(2) Expressions which are used in this Part of this Order which are used in the 1988 Act have the same meanings in this Part of this Order as in the 1988 Act and include any extended meaning given by the Criminal Justice (Confiscation) (Northern Ireland) Order 1990.

Application of Part I of Order 115

Rule 23 Part I of Order 115 (except rule 11) shall apply for the purposes of proceedings under Part VI of the 1988 Act with the necessary modifications and, in particular,—

- (a) references to drug trafficking offences and to drug trafficking shall be construed as references to offences to which Part VI of the 1988 Act applies and to committing such an offence;
- (b) references to the Drug Trafficking Act 1994 shall be construed as references to the 1988 Act and references to sections 5 (2), 26, 27, 29, 30 (2), 17 (1), 18, 18 (5), 39 and 40 of the 1994 Act shall be construed as references to sections 73 (6), 77, 78, 80, 81, 81 (1), 83 (1), 89, 89 (5), 96 and 97 of the 1988 Act respectively;
- (c) rule 3 (2) shall have effect as if the following sub-paragraphs were substituted for sub-paragraphs (a) and (b)—
 - “(a) state, as the case may be, either that proceedings have been instituted against the defendant for an offence to which Part VI of the 1988 Act applies (giving particulars of the offence) and that they have not been concluded or that, whether by the laying of an information or otherwise, a person is to be charged with such an offence;
 - (b) state, as the case may be, either that a confiscation order has been made or the grounds for believing that such an order may be made;”
- (d) rule 7 (3) shall have effect as if the words “certificate issued by a magistrates' court or the Crown Court” were substituted for the words “certificate issued by the Crown Court”;
- (e) rule 8 shall have effect as if the following paragraph were added at the end—
 - “(6) Where a receiver applies in accordance with CPR Part 23 for the variation of a confiscation order, the application notice shall be served, with any supporting evidence, on the defendant and any other person who may be affected by the making of an order under section 83 of the 1988 Act, not less than 7 days before the date fixed for the hearing of the application.”
- (f) rule 11 shall apply with the necessary modifications where an application is made under section 93J of the 1988 Act for disclosure of information held by government departments.

[^{F168}III: TERRORISM ACT 2000]

Textual Amendments

F168 Sch. 1 RSC Order 115 Section 3 heading substituted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(a)**

Interpretation

Rule 24 In this Part of this Order—

- (a) “the Act” means [^{F169}Terrorism Act 2000];
- (b) “Schedule 4” means Schedule 4 to the Act; ^{F170} ...
- [^{F171}(ba) “the prosecutor” means the person with conduct of proceedings which have been instituted in England and Wales for an offence under any of sections 15 to 18 of the Act, or the person who the High Court is satisfied will have the conduct of [^{F172}any proceedings] for such an offence; and]
- (c) [^{F173}other] expressions used have the same meanings as they have in [^{F174}Schedule 4 to] the Act.

Textual Amendments

- F169** Words in Sch. 1 RSC Order 115 rule 24(a) substituted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(b)(i)**
- F170** Word in Sch. 1 RSC Order 115 rule 24(b) omitted (31.5.2001) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(b)(ii)**
- F171** Sch. 1 RSC Order 115 rule 24(ba) inserted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(b)(iii)**
- F172** Words in Sch. 1 RSC Order 115 rule 24(ba) substituted (20.12.2001) by [The Civil Procedure \(Amendment No. 6\) Rules 2001 \(S.I. 2001/4016\)](#), rules 1, **2(a)**
- F173** Word in Sch. 1 RSC Order 115 rule 24(c) inserted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(b)(iv)**
- F174** Words in Sch. 1 RSC Order 115 rule 24(c) substituted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(b)(v)**

Assignment of proceedings

Rule 25.—(1) Subject to paragraph (2), the jurisdiction of the High Court under the Act shall be exercised by a judge of the Queen’s Bench Division or of the Chancery Division ^{F175}...

(2) The jurisdiction conferred on the High Court by paragraph 9 of Schedule 4 may also be exercised by a master of the Queen’s Bench Division.

Textual Amendments

- F175** Words in Sch. 1 RSC Order 115 rule 25(1) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **62(j)**

Application for restraint order

Rule 26.—(1) An application for a restraint order under [^{F176}paragraph 5] of Schedule 4 may be made by the prosecutor by a claim form, which need not be served on any person.

(2) An application under paragraph (1) shall be supported by a witness statement or affidavit, which shall:—

- [^{F177}(a) state, as the case may be, either—
 - (i) that proceedings have been instituted against a person for an offence under any of sections 15 to 18 of the Act and that they have not been concluded; or

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(ii) that a criminal investigation has been started in England and Wales with regard to such an offence,

and in either case give details of the alleged or suspected offence and of the defendant’s involvement;]

(b) [^{F178}where proceedings have been instituted,] state, as the case may be, that a forfeiture order has been made in the proceedings or the grounds for believing that such an order may be made;

[^{F179}(ba) where proceedings have not been instituted—

(i) indicate the state of progress of the investigation and when it is anticipated that a decision will be taken on whether to institute proceedings against the defendant;

(ii) state the grounds for believing that a forfeiture order may be made in any proceedings against the defendant; and

(iii) verify that the prosecutor is to have the conduct of any such proceedings;]

(c) to the best of the witness’s ability, give full particulars of the property in respect of which the order is sought and specify the person or persons holding such property and any other persons having an interest in it;

^{F180}(d)

^{F180}(e)

(3) A claim form under paragraph (1) shall be entitled in the matter of the defendant, naming him, and in the matter of the Act, and all subsequent documents in the matter shall be so entitled.

(4) Unless the Court otherwise directs, a witness statement or affidavit under paragraph (2) may contain statements of information or belief with the sources and grounds thereof.

Textual Amendments

- F176** Words in Sch. 1 RSC Order 115 rule 26(1) substituted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(c)**
- F177** Sch. 1 RSC Order 115 rule 26(2)(a) substituted (20.12.2001) by [The Civil Procedure \(Amendment No. 6\) Rules 2001 \(S.I. 2001/4016\)](#), rules 1, **2(b)(i)**
- F178** Words in Sch. 1 RSC Order 115 rule 26(2)(b) inserted (20.12.2001) by [The Civil Procedure \(Amendment No. 6\) Rules 2001 \(S.I. 2001/4016\)](#), rules 1, **2(b)(ii)**
- F179** Sch. 1 RSC Order 115 rule 26(2)(ba) inserted (20.12.2001) by [The Civil Procedure \(Amendment No. 6\) Rules 2001 \(S.I. 2001/4016\)](#), rules 1, **2(b)(iii)**
- F180** Sch. 1 RSC Order 115 rule 26(2)(d)(e) omitted (20.12.2001) by virtue of [The Civil Procedure \(Amendment No. 6\) Rules 2001 \(S.I. 2001/4016\)](#), rules 1, **2(b)(iv)**

Restraint order

Rule 27.—(1) A restraint order may be made subject to conditions and exceptions, including but not limited to conditions relating to the indemnifying of third parties against expenses incurred in complying with the order, and exceptions relating to living expenses and legal expenses of the defendant, but the prosecutor shall not be required to give an undertaking to abide by any order as to damages sustained by the defendant as a result of the restraint order.

(2) Unless the Court otherwise directs, a restraint order made without notice of [^{F181}the application for] it being served on any person shall have effect until a day which shall be fixed for the hearing where all parties may attend on the application.

(3) Where a restraint order is made the prosecutor shall serve copies of the order and [F182, unless the court otherwise orders,] of the witness statement or affidavit in support on the defendant and on all other persons affected by the order.

Textual Amendments

F181 Words in Sch. 1 RSC Order 115 rule 27(2) inserted (31.5.2001) by The Civil Procedure (Amendment No. 2) Rules 2001 (S.I. 2001/1388), rules 1(c), **16(e)**

F182 Words in Sch. 1 RSC Order 115 rule 27(3) inserted (20.12.2001) by The Civil Procedure (Amendment No. 6) Rules 2001 (S.I. 2001/4016), rules 1, **2(c)**

Discharge or variation of order

Rule 28.—(1) Subject to paragraph (2), an application to discharge or vary a restraint order shall be made in accordance with CPR Part 23.

(2) Where the case is one of urgency, an application under this rule by the prosecutor may be made without notice.

(3) The application and any witness statement or affidavit in support shall be lodged with the court and, where the application is made in accordance with CPR Part 23 the application notice shall be served on the following persons (other than the applicant)—

- (a) the prosecutor;
- (b) the defendant; and
- (c) all other persons restrained or otherwise affected by the order;

not less than two clear days before the date fixed for the hearing of the application.

(4) Where a restraint order has been made and has not been discharged, the prosecutor shall notify the court when proceedings for the offence have been concluded, and the court shall thereupon discharge the restraint order.

(5) Where an order is made discharging or varying a restraint order, the applicant shall serve copies of the order of discharge or variation on all persons restrained by the earlier order and shall notify all other persons affected of the terms of the order of discharge or variation.

Compensation

Rule 29 An application for an order under [F183 paragraph 9 or 10 of Schedule 4] shall be made in accordance with CPR Part 23, and the application notice, shall be served, with any supporting evidence, on the person alleged to be in default and on [F184 the person or body by whom compensation, if ordered, will be payable under paragraph 9(6) or 10(4)] not less than 7 days before the date fixed for the hearing of the application.

Textual Amendments

F183 Words in Sch. 1 RSC Order 115 rule 29 substituted (31.5.2001) by The Civil Procedure (Amendment No. 2) Rules 2001 (S.I. 2001/1388), rules 1(c), **16(f)(i)**

F184 Words in Sch. 1 RSC Order 115 rule 29 substituted (31.5.2001) by The Civil Procedure (Amendment No. 2) Rules 2001 (S.I. 2001/1388), rules 1(c), **16(f)(ii)**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Application for registration

Rule 30 An application for registration of a Scottish order, a Northern Ireland order or an Islands order must be made in accordance with CPR Part 23 and may be made without notice.

Evidence in support of application

Rule 31.—(1) An application for registration of any such order as is mentioned in rule 30 must be supported by a witness statement or affidavit—

- (a) exhibiting the order or a certified copy thereof, and
- (b) which shall, to the best of the witness’s ability, give particulars of such property in respect of which the order was made as is in England and Wales, and specify the person or persons holding such property.

(2) Unless the Court otherwise directs, a witness statement or affidavit for the purposes of this rule may contain statements of information or belief with the sources and grounds thereof.

Register of orders

Rule 32.—(1) There shall be kept in the Central Office under the direction of the Master of the [F185 Administrative Court] a register of the orders registered under the Act.

(2) There shall be included in such register particulars of any variation or setting aside of a registration, and of any execution issued on a registered order.

Textual Amendments

F185 Words in [Sch. 1 RSC Order 115 rule 32\(1\)](#) substituted (31.5.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(c), **16(g)**

Notice of registration

Rule 33.—(1) Notice of the registration of an order must be served on the person or persons holding the property referred to in rule 31(1)(b) and any other persons appearing to have an interest in that property.

[F186(2) Permission is not required to serve such a notice out of the jurisdiction and CPR rules 6.24, 6.25 and 6.29 shall apply in relation to such notice as they apply in relation to a claim form.]

Textual Amendments

F186 [Sch. 1 RSC Order 115 rule 33\(2\)](#) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **31**

Application to vary or set aside registration

Rule 34 An application to vary or set aside the registration of an order must be made to a judge in accordance with CPR Part 23 and be supported by a witness statement or affidavit.

This rule does not apply to a variation or cancellation under rule 36.

Enforcement of order

Rule 35.—(2) If an application is made under rule 34, an order shall not be enforced until after such application is determined.

(3) This rule does not apply to the taking of steps under [^{F187}paragraph 7 or 8] of Schedule 4, as applied by [^{F188}paragraph 13(6)] of that Schedule.

Textual Amendments

F187 Words in Sch. 1 RSC Order 115 rule 35(3) substituted (31.5.2001) by The Civil Procedure (Amendment No. 2) Rules 2001 (S.I. 2001/1388), rules 1(c), **16(h)(i)**

F188 Words in Sch. 1 RSC Order 115 rule 35(3) substituted (31.5.2001) by The Civil Procedure (Amendment No. 2) Rules 2001 (S.I. 2001/1388), rules 1(c), **16(h)(ii)**

Variation and cancellation of registration

Rule 36 If effect has been given (whether in England or Wales or elsewhere) to a Scottish, Northern Ireland or Islands order, or if the order has been varied or discharged by the court by which it was made, the applicant for registration shall inform the court and—

- (a) if such effect has been given in respect of all the money or other property to which the order applies, or if the order has been discharged by the court by which it was made, registration of the order shall be cancelled;
- (b) if such effect has been given in respect of only part of the money or other property, or if the order has been varied by the court by which it was made, registration of the order shall be varied accordingly.

[^{F189}RSC ORDER 116

THE CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

Textual Amendments

F189 Sch. 1 RSC Order 116 inserted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **61**, Appendix 1

Application

1. This Order shall apply in relation to acquittals in respect of offences alleged to be committed on or after 15th April 1997.

Interpretation

2. In this Order, unless the context otherwise requires—

“the Act” means the Criminal Procedure and Investigations Act 1996;

“acquitted person” means a person whose acquittal of an offence is the subject of a certification under section 54(2) of the Act, and “acquittal” means the acquittal of that person of that offence;

“magistrates' court” has the same meaning as in section 148 of the Magistrates' Courts Act 1980;

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

“prosecutor” means the individual or body which acted as prosecutor in the proceedings which led to the acquittal;

“record of court proceedings” means—

- (a) (where the proceedings took place in the Crown Court) a transcript of the evidence, or
- (b) a note of the evidence made by the justices' clerk,

in the proceedings which led to the conviction for the administration of justice offence referred to in section 54(1)(b) of the Act or, as the case may be, the proceedings which led to the acquittal;

“single judge” means a judge of the Queen’s Bench Division;

“witness” means a witness whose evidence is contained in a witness statement or affidavit filed under rule 5, 7, 8 or 9.

Assignment of proceedings

3. The jurisdiction of the High Court under section 54(3) of the Act shall be exercised by a single judge.

Time limit for making application

4. An application under section 54(3) of the Act shall be made not later than 28 days after—
- (a) the expiry of the period allowed for appealing (whether by case stated or otherwise), or making an application for leave to appeal, against the conviction referred to in section 54(1)(b) of the Act; or
 - (b) where notice of appeal or application for leave to appeal against the conviction is given, the determination of the appeal or application for leave to appeal and, for this purpose, “determination” includes abandonment (within the meaning of rule 10 of the Criminal Appeal Rules 1968 or, as the case may be, rule 11 of the Crown Court Rules 1982).

Application

5.—(1) An application under section 54(3) of the Act shall be made by claim form which shall be issued out of the Crown Office by the prosecutor.

- (2) The application shall be accompanied by—
- (a) a witness statement or affidavit which deals with the conditions in section 55(1), (2) and (4) of the Act and which exhibits any relevant documents (which may include a copy of any record of court proceedings);
 - (b) a copy of the certification under section 54(2) of the Act.

Notice to the acquitted person

6.—(1) The prosecutor shall, within 4 days of the issue of the application, serve written notice on the acquitted person that the application has been issued.

- (2) The notice given under paragraph (1) shall—
- (a) specify the date on which the application was issued;
 - (b) be accompanied by a copy of the application and of the documents which accompanied it;
 - (c) inform the acquitted person that—
 - (i) the result of the application may be the making of an order by the High Court quashing the acquittal, and

- (ii) if he wishes to respond to the application, he must, within 28 days of the date of service on him of the notice, file in the Crown Office any witness statement or affidavit on which he intends to rely.

Witness statement or affidavit of service on an acquitted person

7. The prosecutor shall, as soon as practicable after service of the notice under rule 6, file at the Crown Office a witness statement or affidavit of service which exhibits a copy of the notice.

Response of acquitted person

8.—(1) If the acquitted person wishes to respond to the application, he shall, within 28 days of service on him of notice under rule 6, file in the Crown Office a witness statement or affidavit which—

- (a) deals with the conditions in section 55(1), (2) and (4) of the Act; and
- (b) exhibits any relevant documents (which may include a copy of any record of court proceedings).

(2) The acquitted person shall, within 4 days of the filing of the documents mentioned in paragraph (1), serve copies of them on the prosecutor.

Evidence

9.—(1) A witness statement or affidavit filed under rule 5, 7, 8 or this rule may contain statements of information or belief with the sources and grounds thereof.

(2) The prosecutor may, not later than 10 days after expiry of the period allowed under rule 8(1), apply for an order granting permission to file further evidence without notice being served on any other party.

(3) If the single judge grants permission, the order shall specify a period within which further evidence or records are to be filed, and the Crown Office shall serve a copy of the order on the prosecutor and on the acquitted person.

(4) The prosecutor shall, within 4 days of filing further evidence in the Crown Office, serve a copy of that evidence on the acquitted person.

Determination of the application

10.—(1) Subject to paragraph (3), the single judge shall determine whether or not to make an order under section 54(3) of the Act on the basis of the written material provided under rules 5, 7, 8 and 9 in the absence of the prosecutor, the acquitted person, or of any witness.

(2) The determination shall not be made, and any hearing under paragraph (3) shall not take place, before the expiry of—

- (a) 10 days after the expiry of the period allowed under rule 8(1), or
- (b) 10 days after the expiry of the period allowed by any order made under rule 9(3).

(3) The single judge may, of his own initiative or on the application of the prosecutor or acquitted person, order a hearing of the application if he thinks fit.

(4) An application under paragraph (3) shall state whether a hearing is desired in order for a deponent for the other party to attend and be cross-examined, and, if so, the reasons for wishing the witness to attend.

(5) An application under paragraph (3) shall be made no later than 7 days after the expiry of the period allowed—

- (a) under rule 8(1), or

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(b) by any order made under rule 9(3).

(6) Where a hearing is ordered, the single judge may, of his own initiative or on the application of the prosecutor or acquitted person, order a witness to attend in order to be cross-examined.

(7) The prosecutor or the acquitted person, as the case may be, shall within 4 days after filing the application under paragraph (3), serve a copy of it on the other party, and file in the Crown Office a witness statement or affidavit of service.

(8) A party served under paragraph (7) shall, within 5 days of service, file any representations he wishes to make as to whether or not a hearing should be ordered.

(9) Subject to paragraph (10) below—

(a) the single judge shall not determine an application for a hearing under paragraph (3) unless—

(i) a witness statement or affidavit of service has been filed as required by paragraph (7), and

(ii) the period for filing representations allowed under paragraph (8) has elapsed, or

(iii) representations have been filed under paragraph (8).

(b) The requirements imposed by sub-paragraph (a)(i) and (iii) are satisfied even though the witness statement or affidavit of service or, as the case may be, the representations are filed outside the time limits allowed.

(10) Where after an application for a hearing has been made—

(a) no witness statement or affidavit of service has been filed, and

(b) no representations under paragraph (8) have been received after the expiry of 7 days from the filing of the application,

the single judge may reject the application.

(11) Where after a hearing is ordered, either the prosecutor or the acquitted person desires a witness for the other party to attend the hearing in order to be cross-examined, he must apply for an order under paragraph (5) giving his reasons without notice being served on any other party.

(12) The Crown Office shall serve notice on the prosecutor and the acquitted person of any order made under the foregoing paragraphs of this rule and, where a hearing is ordered, the notice shall—

(a) set out the date, time and place of the hearing, and

(b) give details of any witness ordered to attend for cross-examination.

(13) A hearing ordered under paragraph (3) above shall be in public unless the single judge otherwise directs.

(14) the Crown Office shall serve notice of any order made under section 54(3) of the Act quashing the acquittal or of a decision not to make such an order on the prosecutor, the acquitted person and—

(a) where the court before which the acquittal or conviction occurred was a magistrates' court, on the [^{F190}justices' chief executive];

(b) where the court before which the acquittal or conviction occurred was the Crown Court, on the appropriate officer of the Crown Court sitting at the place where the acquittal or conviction occurred.]

Textual Amendments

F190 Words in Sch. 1 RSC Order 116 rule 10(14)(a) substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(b), 26

SCHEDULE 2

Rule 50(4)

Commencement Information

I2 Sch. 2 in force at 26.4.1999, see [Signature](#)

CCR ORDER 1

CITATION, APPLICATION AND INTERPRETATION

Application of RSC to county court proceedings

Rule 6 Where by virtue of these rules or section 76 of the Act or otherwise any provision of the RSC is applied in relation to proceedings in a county court, that provision shall have effect with the necessary modifications and in particular—

- (b) any reference in that provision to a master, district judge of the principal registry of the Family Division, the Admiralty registrar, or a district judge or taxing officer shall be construed as a reference to the district judge of the county court; and
- (d) any reference in that provision to an office of the Supreme Court having the conduct of the business of a division or court or a district registry shall be construed as a reference to the county court office.

CCR ORDER 3

COMMENCEMENT OF PROCEEDINGS

Appeals to county court

^{F191}**Rule 6**

Textual Amendments

F191 Sch. 2 CCR Order 3 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

CCR ORDER 4

VENUE FOR BRINGING PROCEEDINGS

Proceedings relating to land

Rule 3 Proceedings—

- ^{F192}(a)
- (b) for the foreclosure or redemption of any mortgage or, [^{F193}subject to CPR rule 73.10], for enforcing any charge or lien on land; or
- (c) for the recovery of moneys secured by a mortgage or charge on land,

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Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

may be commenced only in the court for the district in which the land or any part of the land is situated.

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Textual Amendments

F192 Sch. 2 CCR Order 4 rule 3(a) revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

F193 Words in Sch. 2 CCR Order 4 rule 3(b) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **12** (with rule 24)

CCR ORDER 5

CAUSES OF ACTION AND PARTIES

Representative proceedings

^{F194}**Rule 5**

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Textual Amendments

F194 Sch. 2 CCR Order 5 rules 5-8 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Representation of person or class

^{F194}**Rule 6**

.....

Textual Amendments

F194 Sch. 2 CCR Order 5 rules 5-8 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Representation of estate where no personal representative

^{F194}**Rule 7**

.....

Textual Amendments

F194 Sch. 2 CCR Order 5 rules 5-8 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Proceedings against estates

^{F194}**Rule 8**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F194 Sch. 2 CCR Order 5 rules 5-8 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Partners may sue and be sued in firm name

Rule 9.—(1) Subject to the provisions of any enactment, any two or more persons claiming to be entitled, or alleged to be liable, as partners in respect of a cause of action and carrying on business within England or Wales may sue or be sued in the name of the firm of which they were partners when the cause of action arose.

(2) Where partners sue or are sued in the name of the firm, the partners shall, on demand made in writing by any other party, forthwith deliver to the party making the demand and file a statement of the names and places of residence of all the persons who were partners in the firm when the cause of action arose.

(3) If the partners fail to comply with such a demand, the court, on application by any other party, may order the partners to furnish him with such a statement and to verify it on oath and may direct that in default—

- (a) if the partners are claimants, the proceedings be stayed on such terms as the court thinks fit, or
- (b) if the partners are defendants, they be debarred from defending the claim.

(4) When the names and places of residence of the partners have been stated in compliance with a demand or order under this rule, the proceedings shall continue in the name of the firm.

Defendant carrying on business in another name

Rule 10.—(1) A person carrying on business in England or Wales in a name other than his own name may, whether or not he is within the jurisdiction, be sued—

- (a) in his own name, followed by the words “trading as A.B.”, or
- (b) in his business name, followed by the words “(a trading name)”.

(2) Where a person is sued in his business name in accordance with paragraph (1)(b), the provisions of these rules relating to claims against firms shall, subject to the provisions of any enactment, apply as if he were a partner and the name in which he carried on business were the name of his firm.

Failure to proceed after death of party

^{F195}**Rule 12**

Textual Amendments

F195 Sch. 2 CCR Order 5 rules 12-14 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Claim to money in court where change in parties after judgment

^{F195}**Rule 13**

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F195 Sch. 2 CCR Order 5 rules 12-14 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Bankruptcy of claimant

^{F195}**Rule 14**

Textual Amendments

F195 Sch. 2 CCR Order 5 rules 12-14 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

CCR ORDER 6

PARTICULARS OF CLAIM

Recovery of land

^{F196}**Rule 3**

Textual Amendments

F196 Sch. 2 CCR Order 6 rule 3 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Mortgage claim

^{F197}**Rule 5**

Textual Amendments

F197 Sch. 2 CCR Order 6 rule 5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Mortgage claim—dwelling-house

^{F198}**Rule 5A**

Textual Amendments

F198 Sch. 2 CCR Order 6 rule 5A revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Hire-purchase

Rule 6.—(1) Where a claimant claims the delivery of goods let under a hire-purchase agreement [^{F199}or a conditional sale agreement] to a person other than a body corporate, he shall in his particulars state in the order following—

- (a) the date of the agreement and the parties to it with the number of the agreement or sufficient particulars to enable the debtor to identify the agreement;
- (b) where the claimant was not one of the original parties to the agreement, the means by which the rights and duties of the creditor under the agreement passed to him;
- (c) whether the agreement is a regulated agreement and, if it is not a regulated agreement, the reason why;
- (d) the place where the agreement was signed by the debtor (if known);
- (e) the goods claimed;
- (f) the total price of the goods;
- (g) the paid-up sum;
- (h) the unpaid balance of the total price;
- (i) whether a default notice or a notice under section 76 (1) or section 98 (1) of the Consumer Credit Act 1974 has been served on the debtor, and if it has, the date on which and the manner in which it was so served;
- (j) the date when the right to demand delivery of the goods accrued;
- (k) the amount (if any) claimed as an alternative to the delivery of the goods; and
- (l) the amount (if any) claimed in addition to the delivery of the goods or any claim under sub-paragraph (k), stating the cause of action in respect of which each such claim is made.

(2) Where a claimant's claim arises out of a hire-purchase agreement [^{F200}or a conditional sale agreement] but is not for the delivery of goods, he shall in his particulars state in the order following—

- (a) the date of the agreement and the parties to it with the number of the agreement or sufficient particulars to enable the debtor to identify the agreement;
- (b) where the claimant was not one of the original parties to the agreement, the means by which the rights and duties of the creditor under the agreement passed to him;
- (c) whether the agreement is a regulated agreement and, if it is not a regulated agreement, the reason why;
- (d) the place where the agreement was signed by the debtor (if known);
- (e) the goods let under the agreement;
- (f) the amount of the total price;
- (g) the paid-up sum;
- (h) the amount (if any) claimed as being due and unpaid in respect of any instalment or instalments of the total price; and
- (i) the nature and amount of any other claim and the circumstances in which it arises.

(3) Expressions used in this rule which are defined by the Consumer Credit Act 1974 have the same meanings in this rule as they have in that Act.

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Textual Amendments

- F199** Words in Sch. 2 CCR Order 6 rule 6(1) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **64(a)**
- F200** Words in Sch. 2 CCR Order 6 rule 6(2) inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **64(b)**

CCR ORDER 7

SERVICE OF DOCUMENTS

Recovery of land

^{F201}**Rule 15**

Textual Amendments

- F201** Sch. 2 CCR Order 7 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Mortgage possession claims

^{F201}**Rule 15A**

Textual Amendments

- F201** Sch. 2 CCR Order 7 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

CCR ORDER 13

APPLICATIONS AND ORDERS IN THE COURSE OF PROCEEDINGS

General provisions

^{F202}**Rule 1**

Textual Amendments

- F202** Sch. 2 CCR Order 13 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with [rule 39\(b\)](#)) (as amended by [S.I. 2000/940](#), rules 1, 2)

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

CCR ORDER 16

TRANSFER OF PROCEEDINGS

Interpleader proceedings under execution

Rule 7.—(1) This rule applies to interpleader proceedings under an execution which are ordered to be transferred from the High Court.

(2) Notice of the hearings or pre-trial review of the proceedings shall be given by the court officer to the sheriff as well as to every other party to the proceedings.

(3) The interpleader claimant shall, within 8 days of the receipt by him of the notice referred to in paragraph (2), file in triplicate particulars of any goods alleged to be his property and the grounds of his interpleader claim and the court officer shall send a copy to the execution creditor and to the sheriff, but the judge may hear the proceedings or, as the case may be, the district judge may proceed with the pre-trial review, if he thinks fit, notwithstanding that the particulars have not been filed.

(4) Subject to any directions in the order of the High Court, damages may be claimed against the execution creditor in the same manner as in interpleader proceedings commenced in a county court.

(5) On any day fixed for the pre-trial review of the proceedings or for the hearing of any application by the sheriff or other party for directions the court may order the sheriff—

- (a) to postpone the sale of the goods seized;
- (b) to remain in possession of such goods until the hearing of the proceedings; or
- (c) to hand over possession of such goods to the district judge,

and, where a direction is given under sub-paragraph (c), the district judge shall be allowed reasonable charges for keeping possession of the goods, not exceeding those which might be allowed to the sheriff, and, if the district judge is directed to sell the goods, such charges for the sale as would be allowed under an execution issued by the county court.

(6) No order made in the proceedings shall prejudice or affect the rights of the sheriff to any proper charges and the judge may make such order with respect to them as may be just.

(7) The charges referred to in paragraphs (5) and (6) shall ultimately be borne in such manner as the judge shall direct.

(8) The order made at the hearing of the proceedings shall direct how any money in the hands of the sheriff is to be disposed of.

^{F203}CCR ORDER 19

REFERENCE TO EUROPEAN COURT

Textual Amendments

F203 Sch. 2 CCR Order 19 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Making and transmission of order

^{F203}**Rule 15**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

CCR ORDER 22

JUDGMENTS AND ORDERS

Certificate of judgment

Rule 8.—(1) Any person who wishes to have a certificate of any judgment or order given or made in a claim shall make a request in writing to the court stating—

- (a) if he is a party to the claim whether the certificate—
 - (i) is required for the purpose of taking proceedings on the judgment or order in another court;
 - (ii) is required for the purpose of enforcing the judgment or order in the High Court; or
 - (iii) is for the purpose of evidence only;
- (b) if he is not a party to the claim, the purpose for which the certificate is required, the capacity in which he asks for it and any other facts showing that the certificate may properly be granted.

(1A) Where the certificate is required for the purpose of enforcing the judgment or order in the High Court, the applicant shall also either—

- [^{F204}(a) state that—
 - (i) it is intended to enforce the judgment or order by execution against goods; or
 - (ii) the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers; or]
- (b) confirm that an application has been made for an order under section 42 of the Act (transfer to High Court by order of a county court) and attach a copy of the application to the request for a certificate.

(2) Where the request is made by a person who is not a party to the claim, the request shall be referred to the district judge, who may, if he thinks fit, refer it to the judge.

(3) Without prejudice to paragraph (2), for the purposes of section 12 (2) of the Act a certificate under this rule may be signed by the court manager or any other officer of the court acting on his behalf.

Textual Amendments

F204 Sch. 2 CCR Order 22 rule 8(1A)(a) substituted (15.10.2001) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(a), **13** (with rule 24)

Variation of payment

Rule 10.—(1) Where a judgment or order has been given or made for the payment of money, the person entitled to the benefit of the judgment or order or, as the case may be, the person liable to make the payment (in this rule referred to as “the judgment creditor” and “the debtor” respectively) may apply in accordance with the provisions of this rule for a variation in the date or rate of payment.

(2) The judgment creditor may apply in writing, without notice being served on any other party, for an order that the money, if payable in one sum, be paid at a later date than that by which it is due or by instalments or, if the money is already payable by instalments, that it be paid by the same or smaller instalments, and the court officer may make an order accordingly unless no payment has been made under the judgment or order for 6 years before the date of the application in which case he shall refer the application to the district judge.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(3) The judgment creditor may apply to the district judge on notice for an order that the money, if payable in one sum, be paid at an earlier date than that by which it is due or, if the money is payable by instalments, that it be paid in one sum or by larger instalments, and any such application shall be made in writing stating the proposed terms and the grounds on which it is made.

(4) Where an application is made under paragraph (3)—

- (a) the proceedings shall be automatically transferred to the debtor's home court if the judgment or order was not given or made in that court; and
- (b) the court officer shall fix a day for the hearing of the application before the district judge and give to the judgment creditor and the debtor not less than 8 days' notice of the day so fixed,

and at the hearing the district judge may make such order as seems just.

(5) The debtor may apply for an order that the money, if payable in one sum, be paid at a later date than that by which it is due or by instalments or, if the money is already payable by instalments, that it be paid by smaller instalments, and any such application shall be in the appropriate form stating the proposed terms, the grounds on which it is made and including a signed statement of the debtor's means.

(6) Where an application is made under paragraph (5), the court officer shall—

- (a) send the judgment creditor a copy of the debtor's application (and statement of means); and
- (b) require the judgment creditor to notify the court in writing, within 14 days of service of notification upon him, giving his reasons for any objection he may have to the granting of the application.

(7) If the judgment creditor does not notify the court of any objection within the time stated, the court officer shall make an order in the terms applied for.

(8) Upon receipt of a notice from the judgment creditor under paragraph (6), the court officer may determine the date and rate of payment and make an order accordingly.

(9) Any party affected by an order made under paragraph (8) may, within 14 days of service of the order on him and giving his reasons, apply on notice for the order to be re-considered and, where such an application is made—

- (a) the proceedings shall be automatically transferred to the debtor's home court if the judgment or order was not given or made in that court; and
- (b) the court officer shall fix a day for the hearing of the application before the district judge and give to the judgment creditor and the debtor not less than 8 days' notice of the day so fixed.

(10) On hearing an application under paragraph (9), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.

(11) Any order made under any of the foregoing paragraphs may be varied from time to time by a subsequent order made under any of those paragraphs.

Set-off of cross-judgments

Rule 11.—(1) An application under section 72 of the Act for permission to set off any sums, including costs, payable under several judgments or orders each of which was obtained in a county court shall be made in accordance with this rule.

(2) Where the judgments or orders have been obtained in the same county court, the application may be made to that court on the day when the last judgment or order is obtained, if both parties are present, and in any other case shall be made on notice.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(3) Where the judgments or orders have been obtained in different county courts, the application may be made to either of them on notice, and notice shall be given to the other court.

(4) The district judge of the court to which the application is made and the district judge of any other court to which notice is given under paragraph (3) shall forthwith stay execution on any judgment or order in his court to which the application relates and any money paid into court under the judgment or order shall be retained until the application has been disposed of.

(5) The application may be heard and determined by the court and any order giving permission shall direct how any money paid into court is to be dealt with.

(6) Where the judgments or orders have been obtained in different courts, the court in which an order giving permission is made shall send a copy of the order to the other court, which shall deal with any money paid into that court in accordance with the order.

(7) The court officer or, as the case may be, each of the court officers affected shall enter satisfaction in the records of his court for any sums ordered to be set off, and execution or other process for the enforcement of any judgment or order not wholly satisfied shall issue only for the balance remaining payable.

(8) Where an order is made by the High Court giving permission to set off sums payable under several judgments and orders obtained respectively in the High Court and a county court, the court officer of the county court shall, on receipt of a copy of the order, proceed in accordance with paragraph (7).

Order of appellate court

Rule 13 Where the Court of Appeal or High Court has heard and determined an appeal from a county court, the party entitled to the benefit of the order of the Court of Appeal or High Court shall deposit the order or an office copy thereof in the office of the county court.

CCR ORDER 24

SUMMARY PROCEEDINGS FOR THE RECOVERY OF LAND

Part I—Land

Proceedings to be by claim form

^{F205}**Rule 1**

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Textual Amendments
F205 Sch. 2 CCR Order 24 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Witness statement or affidavit in support

^{F205}**Rule 2**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F205 Sch. 2 CCR Order 24 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Service of claim form

F205 **Rule 3**

Textual Amendments

F205 Sch. 2 CCR Order 24 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application by occupier to be made a party

F205 **Rule 4**

Textual Amendments

F205 Sch. 2 CCR Order 24 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Hearing of claim

F205 **Rule 5**

Textual Amendments

F205 Sch. 2 CCR Order 24 rules 1-5 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Warrant of possession

Rule 6.—(1) Subject to paragraphs (2) and (3), a warrant of possession to enforce an order for possession [^{F206}in a possession claim against trespassers under Part 55] may be issued at any time after the making of the order and subject to the provisions of Order 26, rule 17, a warrant of restitution may be issued in aid of the warrant of possession.

(2) No warrant of possession shall be issued after the expiry of 3 months from the date of the order without the permission of the court, and an application for such permission may be made without notice being served on any other party unless the court otherwise directs.

(3) Nothing in this rule shall authorise the issue of a warrant of possession before the date on which possession is ordered to be given.

Textual Amendments

F206 Words in Sch. 2 CCR Order 24 rule 6(1) substituted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), [27\(a\)](#)

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Setting aside order

^{F207}**Rule 7**

Textual Amendments
F207 Sch. 2 CCR Order 24 rule 7 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Part II—Interim Possession Orders

Definitions and interpretation

^{F208}**Rule 8**

Textual Amendments
F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Conditions for interim possession order application

^{F208}**Rule 9**

Textual Amendments
F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Issue of the applications

^{F208}**Rule 10**

Textual Amendments
F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Service of the notice of application

^{F208}**Rule 11**

Textual Amendments
F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Consideration of the application

^{F208}Rule 12

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Textual Amendments

F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Service and enforcement of the interim possession order

^{F208}Rule 13

.....
Textual Amendments

F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Matters arising after making of an interim possession order

^{F208}Rule 14

.....
Textual Amendments

F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Application to set aside an interim possession order

^{F208}Rule 15

.....
Textual Amendments

F208 Sch. 2 CCR Order 24 rules 8-15 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

CCR ORDER 25

ENFORCEMENT OF JUDGMENTS AND ORDERS: GENERAL

Judgment creditor and debtor

Rule 1 In this Order and Orders 26 to 29 “judgment creditor” means the person who has obtained or is entitled to enforce a judgment or order and “debtor” means the person against whom it was given or made.

Transfer of proceedings for enforcement

^{F209}Rule 2

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F209 Sch. 2 CCR Order 25 rule 2 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Oral examination of debtor

^{F210}**Rule 3**

Textual Amendments

F210 Sch. 2 CCR Order 25 rule 3 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Examination of debtor under judgment not for money

^{F211}**Rule 4**

Textual Amendments

F211 Sch. 2 CCR Order 25 rule 4 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Provision of information

^{F212}**Rule 5**

Textual Amendments

F212 Sch. 2 CCR Order 25 Rule 5 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Interest on judgment debts

^{F213}**Rule 5A**

Textual Amendments

F213 Sch. 2 CCR Order 25 Rule 5A revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in [rule 24](#) and [S.I. 2001/4015](#), rules 1(c), **43(2)**)

Description of parties

Rule 6 Where the name or address of the judgment creditor or the debtor as given in the request for the issue of a warrant of execution or delivery, judgment summons or warrant of committal differs from his name or address in the judgment or order sought to be enforced and the judgment creditor satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the judgment creditor or the debtor, as the case may be, shall be described in the warrant

or judgment summons as “C.D. of [name and address as given in the request] suing [or sued] as A.D. of [name and address in the judgment or order]”.

Recording and giving information as to warrants and orders

Rule 7.—(1) Subject to paragraph (1A), every district judge by whom a warrant or order is issued or received for execution shall from time to time state in the records of his court what has been done in the execution of the warrant or order.

(1A) Where a warrant of execution issued by a court (“the home court”) is sent to another court for execution (“the foreign court”), paragraph (1) shall not apply to the district judge of the home court, but when such a warrant is returned to the home court under paragraph (7), the court officer of the home court shall state in the records of his court what has been done in the execution of the warrant or order.

(2) If the warrant or order has not been executed within one month from the date of its issue or receipt by him, the court officer of the court responsible for its execution shall, at the end of that month and every subsequent month during which the warrant remains outstanding, send notice of the reason for non-execution to the judgment creditor and, if the warrant or order was received from another court, to that court.

(3) The district judge responsible for executing a warrant or order shall give such information respecting it as may reasonably be required by the judgment creditor and, if the warrant or order was received by him from another court, by the district judge of that court.

(4) Where money is received in pursuance of a warrant of execution or committal sent by one court to another court, the foreign court shall, subject to paragraph (5) and to section 346 of Insolvency Act 1986⁽⁷⁸⁾ and section 326 of the Companies Act 1948⁽⁷⁹⁾, send the money to the judgment creditor in the manner prescribed by the Court Funds Rules 1987⁽⁸⁰⁾ and, where the money is received in pursuance of a warrant of committal, make a return to the home court.

(5) Where interpleader proceedings are pending, the court shall not proceed in accordance with paragraph (4) until the interpleader proceedings are determined and the district judge shall then make a return showing how the money is to be disposed of and, if any money is payable to the judgment creditor, the court shall proceed in accordance with paragraph (4).

(6) Where a warrant of committal has been received from another court, the foreign court shall, on the execution of the warrant, send notice thereof to the home court.

(7) Where a warrant of execution has been received from another court, either—

(a) on the execution of the warrant; or

(b) if the warrant is not executed—

(i) on the making of a final return to the warrant; or

(ii) on suspension of the warrant under rule 8 (suspension of judgment or execution) or Order 26, rule 10 (withdrawal and suspension of warrant at creditor’s request),

the foreign court shall return the warrant to the home court.

Suspension of judgment or execution

Rule 8.—(1) The power of the court to suspend or stay a judgment or order or to stay execution of any warrant may be exercised by the district judge or, in the case of the power to stay execution of a warrant of execution and in accordance with the provisions of this rule, by the court officer.

⁽⁷⁸⁾ 1986 c. 45.

⁽⁷⁹⁾ 1948 c. 38.

⁽⁸⁰⁾ S.I. 1988/821, as amended by S.I. 1988/817, 1990/518, 1991/227 and 1997/177.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) An application by the debtor to stay execution of a warrant of execution shall be in the appropriate form stating the proposed terms, the grounds on which it is made and including a signed statement of the debtor's means.

(3) Where the debtor makes an application under paragraph (2), the court shall—

- (a) send the judgment creditor a copy of the debtor's application (and statement of means); and
- (b) require the creditor to notify the court in writing, within 14 days of service of notification upon him, giving his reasons for any objection he may have to the granting of the application.

(4) If the judgment creditor does not notify the court of any objection within the time stated, the court officer may make an order suspending the warrant on terms of payment.

(5) Upon receipt of a notice by the judgment creditor under paragraph (3)(b), the court officer may, if the judgment creditor objects only to the terms offered, determine the date and rate of payment and make an order suspending the warrant on terms of payment.

(6) Any party affected by an order made under paragraph (5) may, within 14 days of service of the order on him and giving his reasons, apply on notice for the order to be reconsidered and the court shall fix a day for the hearing of the application before the district judge and give to the judgment creditor and the debtor not less than 8 days' notice of the day so fixed.

(7) On hearing an application under paragraph (6), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.

(8) Where the judgment creditor states in his notice under paragraph (3)(b) that he wishes the bailiff to proceed to execute the warrant, the court shall fix a day for a hearing before the district judge of the debtor's application and give to the judgment creditor and to the debtor not less than 2 days' notice of the day so fixed.

(9) Subject to any directions given by the district judge, where a warrant of execution has been suspended, it may be re-issued on the judgment creditor's filing a request ^{F214}... showing that any condition subject to which the warrant was suspended has not been complied with.

(10) Where an order is made by the district judge suspending a warrant of execution, the debtor may be ordered to pay the costs of the warrant and any fees or expenses incurred before its suspension and the order may authorise the sale of a sufficient portion of any goods seized to cover such costs, fees and expenses and the expenses of sale.

Textual Amendments

F214 Words in [Sch. 2 CCR Order 25 rule 8\(9\)](#) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), [rules 1\(c\)](#), [14\(a\)](#) (with [rule 24](#))

Enforcement of judgment or order against firm

Rule 9.—(1) Subject to paragraph (2), a judgment or order against a firm may be enforced against—

- (a) any property of the firm;
- (b) any person who admitted in the proceedings that he was a partner or was adjudged to be a partner;
- (c) any person who was served as a partner with the claim form if—
 - (i) judgment was entered under CPR Part 12, in default of defence or under CPR Part 14 on admission; or

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(iii) the person so served did not appear at the trial or hearing of the proceedings.

(2) A judgment or order may not be enforced under paragraph (1) against a member of the firm who was out of England and Wales when the claim form was issued unless he—

- (a) was served within England and Wales with the claim form as a partner; or
- (b) was, with the [F215] permission of the court under CPR rule 6.20] served out of England and Wales with the claim form as a partner,

and, except as provided by paragraph (1)(a) and by the foregoing provisions of this paragraph, a judgment or order obtained against a firm shall not render liable, release or otherwise affect a member of the firm who was out of England and Wales when the claim form was issued.

(3) A judgment creditor who claims to be entitled to enforce a judgment or order against any other person as a partner may apply to the court for permission to do so by filing an application notice in accordance with CPR Part 23.

(4) An application notice under paragraph (3) shall be served on the alleged partner, not less than three days before the hearing of the application, in the manner [F216] set out in CPR rule 6.2] and on the hearing of the application, if the alleged partner does not dispute his liability, the court may, subject to paragraph (2), give permission to enforce the judgment or order against him and, if he disputes liability, the court may order that the question of his liability be tried and determined in such a manner as the court thinks fit.

(5) The foregoing provisions of this rule shall not apply where it is desired to enforce in a county court a judgment or order of the High Court, or a judgment, order, decree or award of any court or arbitrator which is or has become enforceable as if it were a judgment or order of the High Court, and in any such case the provisions of the RSC relating to the enforcement of a judgment or order against a firm shall apply.

Textual Amendments

F215 Words in Sch. 2 CCR Order 25 rule 9(2)(b) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **32(b)(i)**

F216 Words in Sch. 2 CCR Order 25 rule 9(4) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **14(b)** (with rule 24)

Enforcing judgment between a firm and its members

Rule 10.—(1) Execution to enforce a judgment or order given or made in—

- (a) proceedings by or against a firm, in the name of the firm against or by a member of the firm; or
- (b) proceedings by a firm in the name of the firm against a firm in the name of the firm where those firms have one or more members in common,

shall not issue without the permission of the court.

(2) On an application for permission the court may give such directions, including directions as to the taking of accounts and the making of inquiries, as may be just.

Enforcement of High Court judgment

^{F217}**Rule 11**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F217 Sch. 2 CCR Order 25 rule 11 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Enforcement of award of tribunal

^{F218}**Rule 12**

Textual Amendments

F218 Sch. 2 CCR Order 25 rule 12 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Transfer to High Court for enforcement

Rule 13.—^{F219}(1) Where the judgment creditor makes a request for a certificate of judgment under Order 22, rule 8(1) for the purpose of enforcing the judgment or order in the High Court—

- (a) by execution against goods; or
- (b) where the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers,

the grant of a certificate by the court shall take effect as an order to transfer the proceedings to the High Court and the transfer shall have effect on the grant of that certificate.]

(2) On the transfer of proceedings in accordance with paragraph (1), the court shall give notice to the debtor [^{F220}or the person against whom the possession order was made] that the proceedings have been transferred and shall make an entry of that fact in the records of his court.

(3) In a case where a request for a certificate of judgment is made under Order 22, rule 8(1) for the purpose of enforcing a judgment or order in the High Court and—

- (a) an application for a variation in the date or rate of payment of money due under a judgment or order;
- (b) an application under either CPR rule 39.3(3) or CPR rule 13.4;
- (c) a request for an administration order; or
- (d) an application for a stay of execution under section 88 of the Act,

is pending, the request for the certificate shall not be dealt with until those proceedings are determined.

Textual Amendments

F219 Sch. 2 CCR Order 25 Rule 13(1) substituted (15.10.2001) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(a), **15(a)** (with rule 24)

F220 Words in Sch. 2 CCR Order 25 rule 13(2) inserted (15.10.2001) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(a), **15(b)** (with rule 24)

CCR ORDER 26

WARRANTS OF EXECUTION, DELIVERY AND POSSESSION

Application for warrant of execution

Rule 1.—(1) A judgment creditor desiring a warrant of execution to be issued shall file a request in that behalf certifying—

- (a) the amount remaining due under the judgment or order; and
- (b) where the order made is for payment of a sum of money by instalments—
 - (i) that the whole or part of any instalment due remains unpaid; and
 - (ii) the amount for which the warrant is to be issued.

(1A) The court officer shall discharge the functions—

- (a) under section 85 (2) of the Act of issuing a warrant of execution;
- (b) under section 85 (3) of the Act of entering in the record mentioned in that subsection and on the warrant the precise time of the making of the application to issue the warrant; and
- (c) under section 103 (1) of the Act of sending the warrant of execution to another county court.

(2) Where the court has made an order for payment of a sum of money by instalments and default has been made in payment of such an instalment, a warrant of execution may be issued for the whole of the said sum of money and costs then remaining unpaid or, subject to paragraph (3), for such part as the judgment creditor may request, not being in the latter case less than £50 or the amount of one monthly instalment or, as the case may be, four weekly instalments, whichever is the greater.

(3) In any case to which paragraph (2) applies no warrant shall be issued unless at the time when it is issued—

- (a) the whole or part of an instalment which has already become due remains unpaid; and
- (b) any warrant previously issued for part of the said sum of money and costs has expired or has been satisfied or abandoned.

(4) Where a warrant is issued for the whole or part of the said sum of money and costs, the court officer shall, unless the district judge responsible for execution of the warrant directs otherwise, send a warning notice to the person against whom the warrant is issued and, where such a notice is sent, the warrant shall not be levied until 7 days thereafter.

(5) Where judgment is given or an order made for payment otherwise than by instalments of a sum of money and costs to be assessed in accordance with CPR Part 47 (detailed assessment procedure) and default is made in payment of the sum of money before the costs have been assessed, a warrant of execution may issue for recovery of the sum of money and a separate warrant may issue subsequently for the recovery of the costs if default is made in payment of them.

Execution of High Court judgment

Rule 2.—(1) Where it is desired to enforce by warrant of execution a judgment or order of the High Court, or a judgment, order, decree or award which is or has become enforceable as if it were a judgment of the High Court, the request referred to in rule 1 (1) may be filed in any court in the district of which execution is to be levied.

(2) Subject to Order 25, rule 9 (5), any restriction imposed by these rules on the issue of execution shall apply as if the judgment, order, decree or award were a judgment or order of the county court, but permission to issue execution shall not be required if permission has already been given by the High Court.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(3) Notice of the issue of the warrant shall be sent by the county court to the High Court.

Execution against farmer

Rule 3 If after the issue of a warrant of execution the district judge for the district in which the warrant is to be executed has reason to believe that the debtor is a farmer, the execution creditor shall, if so required by the district judge, furnish him with an official certificate, dated not more than three days beforehand, of the result of a search at the Land Registry as to the existence of any charge registered against the debtor under the Agricultural Credits Act 1928(81).

Concurrent warrants

Rule 4 Two or more warrants of execution may be issued concurrently for execution in different districts, but—

- (a) no more shall be levied under all the warrants together than is authorised to be levied under one of them; and
- (b) the costs of more than one such warrant shall not be allowed against the debtor except by order of the court.

Permission to issue certain warrants

Rule 5.—(1) A warrant of execution shall not issue without the permission of the court where—

- (a) six years or more have elapsed since the date of the judgment or order;
- (b) any change has taken place, whether by death or otherwise in the parties entitled to enforce the judgment or order or liable to have it enforced against them;
- (c) the judgment or order is against the assets of a deceased person coming into the hands of his executors or administrators after the date of the judgment or order and it is sought to issue execution against such assets; or
- (d) any goods to be seized under a warrant of execution are in the hands of a receiver appointed by a court.

(2) An application for permission shall be supported by a witness statement or affidavit establishing the applicant's right to relief and may be made without notice being served on any other party in the first instance but the court may direct the application notice to be served on such persons as it thinks fit.

(3) Where, by reason of one and the same event, a person seeks permission under paragraph (1) (b) to enforce more judgments or orders than one, he may make one application only, specifying in a schedule all the judgments or orders in respect of which it is made, and if the application notice is directed to be served on any person, it need set out only such part of the application as affects him.

(4) Paragraph (1) is without prejudice to any enactment, rule or direction by virtue of which a person is required to obtain the permission of the court for the issue of a warrant or to proceed to execution or otherwise to the enforcement of a judgment or order.

Duration and renewal of warrant

Rule 6.—(1) A warrant of execution shall, for the purpose of execution, be valid in the first instance for 12 months beginning with the date of its issue, but if not wholly executed, it may be renewed from time to time, by order of the court, for a period of 12 months at any one time, beginning with the day next following that on which it would otherwise expire, if an application for renewal is made before that day or such later day (if any) as the court may allow.

(81) 1928 c. 43.

(2) A note of any such renewal shall be indorsed on the warrant and it shall be entitled to priority according to the time of its original issue or, where appropriate, its receipt by the district judge responsible for its execution.

Notice on levy

Rule 7 Any bailiff upon levying execution shall deliver to the debtor or leave at the place where execution is levied a notice of the warrant.

Bankruptcy or winding up of debtor

Rule 8.—(1) Where the district judge responsible for the execution of a warrant is required by any provision of the Insolvency Act 1986(82) or any other enactment relating to insolvency to retain the proceeds of sale of goods sold under the warrant or money paid in order to avoid a sale, the court shall, as soon as practicable after the sale or the receipt of the money, send notice to the execution creditor and, if the warrant issued out of another court, to that court.

(2) Where the district judge responsible for the execution of a warrant—

- (a) receives notice that a bankruptcy order has been made against the debtor or, if the debtor is a company, that a provisional liquidator has been appointed or that an order has been made or a resolution passed for the winding up of the company; and
- (b) withdraws from possession of goods seized or pays over to the official receiver or trustee in bankruptcy or, if the debtor is a company, to the liquidator the proceeds of sale of goods sold under the warrant or money paid in order to avoid a sale or seized or received in part satisfaction of the warrant,

the court shall send notice to the execution creditor and, if the warrant issued out of another court, to that court.

(3) Where the court officer of a court to which a warrant issued out of another court has been sent for execution receives any such notice as is referred to in paragraph (2)(a) after he has sent to the home court any money seized or received in part satisfaction of the warrant, he shall forward the notice to that court.

Withdrawal and suspension of warrant at creditor's request

Rule 10.—(1) Where an execution creditor requests the district judge responsible for executing a warrant to withdraw from possession, he shall, subject to the following paragraphs of this rule, be treated as having abandoned the execution, and the court shall mark the warrant as withdrawn by request of the execution creditor.

(2) Where the request is made in consequence of a claim having been made under Order 33, rule 1, to goods seized under the warrant, the execution shall be treated as being abandoned in respect only of the goods claimed.

(3) If the district judge responsible for executing a warrant is requested by the execution creditor to suspend it in pursuance of an arrangement between him and the debtor, the court shall mark the warrant as suspended by request of the execution creditor and the execution creditor may subsequently apply to the district judge holding the warrant for it to be re-issued and, if he does so, the application shall be deemed for the purpose of section 85 (3) of the Act to be an application to issue the warrant.

(4) Nothing in this rule shall prejudice any right of the execution creditor to apply for the issue of a fresh warrant or shall authorise the re-issue of a warrant which has been withdrawn or has expired or has been superseded by the issue of a fresh warrant.

(82) 1986 c. 45.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Suspension of part warrant

Rule 11 Where a warrant issued for part of a sum of money and costs payable under a judgment or order is suspended on payment of instalments, the judgment or order shall, unless the court otherwise directs, be treated as suspended on those terms as respects the whole of the sum of money and costs then remaining unpaid.

Inventory and notice where goods removed

Rule 12.—(1) Where goods seized in execution are removed, the court shall forthwith deliver or send to the debtor a sufficient inventory of the goods removed and shall, not less than 4 days before the time fixed for the sale, give him notice of the time and place at which the goods will be sold.

(2) The inventory and notice shall be given to the debtor by delivering them to him personally or by sending them to him by post at his place of residence or, if his place of residence is not known, by leaving them for him, or sending them to him by post, at the place from which the goods were removed.

Account of sale

Rule 13 Where goods are sold under an execution, the court shall furnish the debtor with a detailed account in writing of the sale and of the application of the proceeds.

Notification to foreign court of payment made

Rule 14 Where, after a warrant has been sent to a foreign court for execution but before a final return has been made to the warrant, the home court is notified of a payment made in respect of the sum for which the warrant is issued, the home court shall send notice of the payment to the foreign court.

Order for private sale

Rule 15.—(1) Subject to paragraph (6), an order of the court under section 97 of the Act that a sale under an execution may be made otherwise than by public auction may be made on the application of the execution creditor or the debtor or the district judge responsible for the execution of the warrant.

(2) Where he is not the applicant for an order under this rule, the district judge responsible for the execution of the warrant shall, on the demand of the applicant, furnish him with a list containing the name and address of every execution creditor under any other warrant or writ of execution against the goods of the debtor of which the district judge has notice, and where the district judge is the applicant, he shall prepare such a list.

(3) Not less than 4 days before the day fixed for the hearing of the application, the applicant shall give notice of the application to each of the other persons by whom the application might have been made and to every person named in the list referred to in paragraph (2).

(4) The applicant shall produce the list to the court on the hearing of the application.

(5) Every person to whom notice of the application was given may attend and be heard on the hearing of the application.

(6) Where the district judge responsible for the execution of the warrant is the district judge by whom it was issued and he has no notice of any other warrant or writ of execution against the goods of the debtor, an order under this rule may be made by the court of its own motion with the consent of the execution creditor and the debtor or after giving them an opportunity of being heard.

Warrant of delivery

Rule 16.—(1) Except where an Act or rule provides otherwise, a judgment or order for the delivery of any goods shall be enforceable by warrant of delivery in accordance with this rule.

(2) If the judgment or order does not give the person against whom it was given or made the alternative of paying the value of the goods, it may be enforced by a warrant of specific delivery, that is to say, a warrant to recover the goods without alternative provision for recovery of their value.

(3) If the judgment or order is for the delivery of the goods or payment of their value, it may be enforced by a warrant of delivery to recover the goods or their value.

(4) Where a warrant of delivery is issued, the judgment creditor shall be entitled, by the same or a separate warrant, to execution against the debtor's goods for any money payable under the judgment or order which is to be enforced by the warrant of delivery.

(4A) Where a judgment or order is given or made for the delivery of goods or payment of their value and a warrant is issued to recover the goods or their value, money paid into court under the warrant shall be appropriated first to any sum of money and costs awarded.

(5) The foregoing provisions of this Order, so far as applicable, shall have effect, with the necessary modifications, in relation to warrants of delivery as they have effect in relation to warrants of execution.

Warrant of possession

Rule 17.—(1) A judgment or order for the recovery of land shall be enforceable by warrant of possession.

(2) Without prejudice to paragraph (3A), the person desiring a warrant of possession to be issued shall file a request in that behalf certifying that the land has not been vacated in accordance with the judgment or order for the recovery of the said land.

(3) Where a warrant of possession is issued, the judgment creditor shall be entitled, by the same or a separate warrant, to execution against the debtor's goods for any money payable under the judgment or order which is to be enforced by the warrant of possession.

(3A) In a case to which paragraph (3) applies or where an order for possession has been suspended on terms as to payment of a sum of money by instalments, the judgment creditor shall in his request certify—

- (a) the amount of money remaining due under the judgment or order; and
- (b) that the whole or part of any instalment due remains unpaid.

(4) A warrant of restitution may be issued, with the permission of the court, in aid of any warrant of possession.

(5) An application for permission under paragraph (4) may be made without notice being served on any other party and shall be supported by evidence of wrongful re-entry into possession following the execution of the warrant of possession and of such further facts as would, in the High Court, enable the judgment creditor to have a writ of restitution issued.

(6) Rules 5 and 6 shall apply, with the necessary modifications, in relation to a warrant of possession and any further warrant in aid of such a warrant as they apply in relation to a warrant of execution.

Saving for enforcement by committal

Rule 18 Nothing in rule 16 or 17 shall prejudice any power to enforce a judgment or order for the delivery of goods or the recovery of land by an order of committal.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

CCR ORDER 27

ATTACHMENT OF EARNINGS

Part I—General

Interpretation

Rule 1.—(1) In this Order—

“the Act of 1971” means the Attachment of Earnings Act 1971(83) and, unless the context otherwise requires, expressions used in that Act have the same meanings as in that Act;

Index of orders

Rule 2.—(1) The court officer of every court shall keep a nominal index of the debtors residing within the district of his court in respect of whom there are in force attachment of earnings orders which have been made by that court or of which the court officer has received notice from another court.

(2) Where a debtor in respect of whom a court has made an attachment of earnings order resides within the district of another court, the court officer of the first-mentioned court shall send a copy of the order to the court officer of the other court for entry in his index.

(3) The court officer shall, on the request of any person having a judgment or order against a person believed to be residing within the district of the court, cause a search to be made in the index of the court and issue a certificate of the result of the search.

Appropriate court

Rule 3.—(1) Subject to paragraphs (2) and (3), an application for an attachment of earnings order may be made to the court for the district in which the debtor resides.

(2) If the debtor does not reside within England or Wales, or the creditor does not know where he resides, the application may be made to the court in which, or for the district in which, the judgment or order sought to be enforced was obtained.

(3) Where the creditor applies for attachment of earnings orders in respect of two or more debtors jointly liable under a judgment or order, the application may be made to the court for the district in which any of the debtors resides, so however that if the judgment or order was given or made by any such court, the application shall be made to that court.

Mode of applying

Rule 4.—(1) A judgment creditor who desires to apply for an attachment of earnings order shall file his application certifying the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid and, where it is sought to enforce an order of a magistrates' court—

- (a) a certified copy of the order; and
- (b) a witness statement or affidavit verifying the amount due under the order or, if payments under the order are required to be made to the [F221]justices' chief executive for] the magistrates' court, a certificate by that [F221]chief executive] to the same effect.

(83) 1971 c. 32.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) On the filing of the documents mentioned in paragraph (1) the court officer shall, where the order to be enforced is a maintenance order, fix a day for the hearing of the application.

Textual Amendments

F221 Words in Sch. 2 CCR Order 27 rule 4(1)(b) substituted (1.4.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(b), **28(a)**

Service and reply

Rule 5.—^{F222}(1) Notice of the application together with a form of reply in the appropriate form, shall be served on the debtor in the manner ^{F223}set out in CPR rule 6.2].]

(2) The debtor shall, within 8 days after service on him of the documents mentioned in paragraph (1), file a reply in the form provided, and the instruction to that effect in the notice to the debtor shall constitute a requirement imposed by virtue of section 14 (4) of the Act of 1971:

Provided that no proceedings shall be taken for an offence alleged to have been committed under section 23 (2)(c) or (f) of the Act of 1971 in relation to the requirement unless the said documents have been served on the debtor personally or the court is satisfied that they came to his knowledge in sufficient time for him to comply with the requirement.

(2A) Nothing in paragraph (2) shall require a defendant to file a reply if, within the period of time mentioned in that paragraph, he pays to the judgment creditor the money remaining due under the judgment or order and, where such payment is made, the judgment creditor shall so inform the court officer.

(3) On receipt of a reply the court officer shall send a copy to the applicant.

Textual Amendments

F222 [Sch. 2 CCR Order 27 rule 5\(1\)](#) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **33(a)**

F223 Words in Sch. 2 CCR Order 27 rule 5(1) substituted (25.3.2002) by [The Civil Procedure \(Amendment\) No. 4 Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **16** (with rule 24)

Notice to employer

Rule 6 Without prejudice to the powers conferred by section 14 (1) of the Act of 1971, the court officer may, at any stage of the proceedings, send to any person appearing to have the debtor in his employment a notice requesting him to give to the court, within such period as may be specified in the notice, a statement of the debtor's earnings and anticipated earnings with such particulars as may be so specified.

Attachment of earnings order

Rule 7.—(1) On receipt of the debtor's reply, the court officer may, if he has sufficient information to do so, make an attachment of earnings order and a copy of the order shall be sent to the parties and to the debtor's employer.

(2) Where an order is made under paragraph (1), the judgment creditor or the debtor may, within 14 days of service of the order on him and giving his reasons, apply on notice for the order to be re-considered and the court officer shall fix a day for the hearing of the application and give to the judgment creditor and the debtor not less than 2 days' notice of the day so fixed.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(3) On hearing an application under paragraph (2), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.

(4) Where an order is not made under paragraph (1), the court officer shall refer the application to the district judge who shall, if he considers that he has sufficient information to do so without the attendance of the parties, determine the application.

(5) Where the district judge does not determine the application under paragraph (4), he shall direct that a day be fixed for the hearing of the application whereupon the court officer shall fix such a day and give to the judgment creditor and the debtor not less than 8 days' notice of the day so fixed.

(6) Where an order is made under paragraph (4), the judgment creditor or the debtor may, within 14 days of service of the order on him and giving his reasons, apply on notice for the order to be re-considered; and the court officer shall fix a day for the hearing of the application and give to the judgment creditor and the debtor not less than 2 days' notice of the day so fixed.

(7) On hearing an application under paragraph (6), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.

(8) If the creditor does not appear at the hearing of the application under paragraph (5) but—

- (a) the court has received a witness statement or affidavit of evidence from him; or
- (b) the creditor requests the court in writing to proceed in his absence,

the court may proceed to hear the application and to make an order thereon.

(9) An attachment of earnings order may be made to secure the payment of a judgment debt if the debt is—

- (a) of not less than £50; or
- (b) for the amount remaining payable under a judgment for a sum of not less than £50.

Failure by debtor

Rule 7A.—(1) If the debtor has failed to comply with rule 5 (2) or to make payment to the judgment creditor, the court officer may issue an order under section 14 (1) of the Act of 1971 which shall—

- (a) be indorsed with or incorporate a notice warning the debtor of the consequences of disobedience to the order;
- (b) be served on the debtor personally; and
- (c) direct that any payments made thereafter shall be paid into the court and not direct to the judgment creditor.

(2) Without prejudice to rule 16, if the person served with an order made pursuant to paragraph (1) fails to obey it or to file a statement of his means or to make payment, the court officer shall issue a notice calling on that person to show good reason why he should not be imprisoned and any such notice shall be served on the debtor personally not less than 5 days before the hearing.

(3) Order 29, rule 1 shall apply, with the necessary modifications and with the substitution of references to the district judge for references to the judge, where a notice is issued under paragraph (2) or (4) of that rule.

(4) In this rule “statement of means” means a statement given under section 14 (1) of the Act of 1971.

Suspended committal order

Rule 7B.—(1) If the debtor fails to attend at an adjourned hearing of an application for an attachment of earnings order and a committal order is made, the judge or district judge may direct that the committal order shall be suspended so long as the debtor attends at the time and place specified in the committal order and paragraphs (2), (4) and (5) of Order 28, rule 7 shall apply, with the necessary modifications, where such a direction is given as they apply where a direction is given under paragraph (1) of that rule.

(2) Where a committal order is suspended under paragraph (1) and the debtor fails to attend at the time and place specified under paragraph (1), a certificate to that effect given by the court officer shall be sufficient authority for the issue of a warrant of committal.

Failure by debtor—maintenance orders

Rule 8.—(1) An order made under section 23 (1) of the Act of 1971(84) for the attendance of the debtor at an adjourned hearing of an application for an attachment of earnings order to secure payments under a maintenance order shall—

- (a) be served on the debtor personally not less than 5 days before the day fixed for the adjourned hearing; and
- (b) direct that any payments made thereafter shall be paid into the court and not direct to the judgment creditor.

(2) An application by a debtor for the revocation of an order committing him to prison and, if he is already in custody, for his discharge under subsection (7) of the said section 23 shall be made to the judge or district judge in writing without notice to any other party showing the reasons for the debtor's failure to attend the court or his refusal to be sworn or to give evidence, as the case may be, and containing an undertaking by the debtor to attend the court or to be sworn or to give evidence when next ordered or required to do so.

(3) The application shall, if the debtor has already been lodged in prison, be attested by the governor of the prison (or any other officer of the prison not below the rank of principal officer) and in any other case be made on witness statement or affidavit.

(4) Before dealing with the application the judge or district judge may, if he thinks fit, cause notice to be given to the judgment creditor that the application has been made and of a day and hour when he may attend and be heard.

Costs

Rule 9.—(1) Where costs are allowed to the judgment creditor on an application for an attachment of earnings order, there may be allowed—

- (a) a charge of a solicitor for attending the hearing and, if the court so directs, for serving the application;
- (b) if the court certifies that the case is fit for counsel, a fee to counsel; and
- (c) the court fee on the issue of the application.

(2) For the purpose of paragraph (1)(a) a solicitor who has prepared on behalf of the judgment creditor a witness statement or affidavit or request under rule 7 (8) shall be treated as having attended the hearing.

(3) The costs may be fixed and allowed without detailed assessment under CPR Part 47.

(84) 1971 c. 32; section 23(1) was amended by the Administration of Justice Act 1982 (c. 53), section 53(2).

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Contents and service of order

Rule 10.—(1) An attachment of earnings order shall contain such of the following particulars relating to the debtor as are known to the court, namely—

- (a) his full name and address;
- (b) his place of work; and
- (c) the nature of his work and his works number, if any,

and those particulars shall be the prescribed particulars for the purposes of section 6 (3) of the Act of 1971.

(2) An attachment of earnings order and any order varying or discharging such an order shall be served on the debtor and on the person to whom the order is directed, and CPR Part 6 and CPR rules 40.4 and 40.5 shall apply with the further modification that where the order is directed to a corporation which has requested the court that any communication relating to the debtor or to the class of persons to whom he belongs shall be directed to the corporation at a particular address, service may, if the district judge thinks fit, be effected on the corporation at that address.

(3) Where an attachment of earnings order is made to enforce a judgment or order of the High Court or a magistrates' court, a copy of the attachment of earnings order and of any order discharging it shall be sent by the court officer of the county court to the court officer of the High Court, or, as the case may be, the [F224;justices' chief executive for] the magistrates' court.

Textual Amendments

F224 Words in [Sch. 2 CCR Order 27 rule 10\(3\)](#) substituted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), [rules 1\(b\)](#), [27\(b\)](#)

Application to determine whether particular payments are earnings

Rule 11 An application to the court under section 16 of the Act of 1971 to determine whether payments to the debtor of a particular class or description are earnings for the purpose of an attachment of earnings order may be made to the district judge in writing and the court officer shall thereupon fix a date and time for the hearing of the application by the court and give notice thereof to the persons mentioned in the said section 16 (2)(a), (b) and (c).

Notice of cesser

Rule 12 Where an attachment of earnings order ceases to have effect under section 8 (4) of the Act of 1971, the court officer of the court in which the matter is proceeding shall give notice of the cesser to the person to whom the order was directed.

Variation and discharge by court of own motion

Rule 13.—(1) Subject to paragraph (9), the powers conferred by section 9 (1) of the Act of 1971 may be exercised by the court of its own motion in the circumstances mentioned in the following paragraphs.

(2) Where it appears to the court that a person served with an attachment of earnings order directed to him has not the debtor in his employment, the court may discharge the order.

(3) Where an attachment of earnings order which has lapsed under section 9 (4) of the Act of 1971 is again directed to a person who appears to the court to have the debtor in his employment, the court may make such consequential variations in the order as it thinks fit.

(4) Where, after making an attachment of earnings order, the court makes or is notified of the making of another such order in respect of the same debtor which is not to secure the payment of a judgment debt or payments under an administration order, the court may discharge or vary the first-mentioned order having regard to the priority accorded to the other order by paragraph 8 of Schedule 3 to the Act of 1971.

(5) Where, after making an attachment of earnings order, the court makes an order under section 4 (1)(b) of the Act of 1971⁽⁸⁵⁾ or makes an administration order, the court may discharge the attachment of earnings order or, if it exercises the power conferred by section 5 (3) of the said Act, may vary the order in such manner as it thinks fit.

(6) On making a consolidated attachment of earnings order the court may discharge any earlier attachment of earnings order made to secure the payment of a judgment debt by the same debtor.

(7) Where it appears to the court that a bankruptcy order has been made against a person in respect of whom an attachment of earnings order is in force to secure the payment of a judgment debt, the court may discharge the attachment of earnings order.

(8) Where an attachment of earnings order has been made to secure the payment of a judgment debt and the court grants permission to issue execution for the recovery of the debt, the court may discharge the order.

(9) Before varying or discharging an attachment of earnings order of its own motion under any of the foregoing paragraphs of this rule, the court shall, unless it thinks it unnecessary in the circumstances to do so, give the debtor and the person on whose application the order was made an opportunity of being heard on the question whether the order should be varied or discharged, and for that purpose the court officer may give them notice of a date, time and place at which the question will be considered.

Transfer of attachment order

Rule 14.—(1) Where the court by which the question of making a consolidated attachment order falls to be considered is not the court by which any attachment of earnings order has been made to secure the payment of a judgment debt by the debtor, the district judge of the last-mentioned court shall, at the request of the district judge of the first-mentioned court, transfer to that court the matter in which the attachment of earnings order was made.

(2) Without prejudice to paragraph (1), if in the opinion of the judge or district judge of any court by which an attachment of earnings order has been made, the matter could more conveniently proceed in some other court, whether by reason of the debtor having become resident in the district of that court or otherwise, he may order the matter to be transferred to that court.

(3) The court to which proceedings arising out of an attachment of earnings are transferred under this rule shall have the same jurisdiction in relation to the order as if it has been made by that court.

Exercise of power to obtain statement of earnings etc.

Rule 15.—(1) An order under section 14 (1) of the Act of 1971 shall be indorsed with or incorporate a notice warning the person to whom it is directed of the consequences of disobedience to the order and shall be served on him personally.

(2) Order 34, rule 2, shall apply, with the necessary modifications, in relation to any penalty for failure to comply with an order under the said section 14 (1) or, subject to the proviso to rule 5 (2), any penalty for failure to comply with a requirement mentioned in that rule, as it applies in relation to a fine under section 55 of the County Courts Act 1984⁽⁸⁶⁾.

⁽⁸⁵⁾ 1971 c. 32; section 4 was amended by the Insolvency Act 1976 (c. 60), section 13(2); and by the County Courts Act 1984 (c. 28), section 148(1), schedule 2, Part V, paragraph 40.

⁽⁸⁶⁾ 1984 c. 28.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Offences

Rule 16.—(1) Where it is alleged that a person has committed any offence mentioned in section 23 (2)(a), (b), (d), (e) or (f) of the Act of 1971 in relation to proceedings in, or to an attachment of earnings order made by, a county court, the district judge shall, unless it is decided to proceed against the alleged offender summarily, issue a summons calling upon him to show cause why he should not be punished for the alleged offence.

The summons shall be served on the alleged offender personally not less than 14 days before the return day.

(2) Order 34, rules 3 and 4, shall apply, with the necessary modifications, to proceedings for an offence under section 23 (2) of the Act of 1971 as they apply to proceedings for offences under the County Courts Act 1984⁽⁸⁷⁾.

Maintenance orders

Rule 17.—(1) The foregoing rules of this Order shall apply in relation to maintenance payments as they apply in relation to a judgment debt, subject to the following paragraphs.

(2) An application for an attachment of earnings order to secure payments under a maintenance order made by a county court shall be made to that county court.

(3) Any application under section 32 of the Matrimonial Causes Act 1973⁽⁸⁸⁾ for permission to enforce the payment of arrears which became due more than 12 months before the application for an attachment of earnings order shall be made in that application.

[^{F225}(3A) Notice of the application together with a form of reply in the appropriate form, shall be served on the debtor in the manner [^{F226}set out in CPR rule 6.2].]

[^{F227}(3B) Service of the notice shall be effected not less than 21 days before the hearing, but service may be effected at any time before the hearing on the applicant satisfying the court by witness statement or affidavit that the respondent is about to remove from his address for service.]

[^{F228}(3C)] ^{F229}... Rule 5 (2A) shall not apply.

(4) An application by the debtor for an attachment of earnings order to secure payments under a maintenance order may be made on the making of the maintenance order or an order varying the maintenance order, and rules 4 and 5 shall not apply.

(5) Rule 7 shall have effect as if for paragraphs (1) to (8) there were substituted the following paragraph—

“(1) An application for an attachment of earnings order may be heard and determined by the district judge, who shall hear the application in private.”

(6) Rule 9 shall apply as if for the reference to the amount payable under the relevant adjudication there were substituted a reference to the arrears due under the related maintenance order.

(7) Where an attachment of earnings order made by the High Court designates the court officer of a county court as the collecting officer, that officer shall, on receipt of a certified copy of the order from the court officer of the High Court, send to the person to whom the order is directed a notice as to the mode of payment.

(8) Where an attachment of earnings order made by a county court to secure payments under a maintenance order ceases to have effect and—

- (a) the related maintenance order was made by that court; or
- (b) the related maintenance order was an order of the High Court and—

⁽⁸⁷⁾ 1984 c. 28.

⁽⁸⁸⁾ 1973 c. 18.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (i) the court officer of the county court has received notice of the cessation from the court officer of the High Court; or
- (ii) a committal order has been made in the county court for the enforcement of the related maintenance order,

the court officer of the county court shall give notice of the cessation to the person to whom the attachment of earnings order was directed.

(9) Where an attachment of earnings order has been made by a county court to secure payments under a maintenance order, notice under section 10 (2) of the Act of 1971 to the debtor and to the person to whom the district judge is required to pay sums received under the order shall be in the form provided for that purpose, and if the debtor wishes to request the court to discharge the attachment of earnings order or to vary it otherwise than by making the appropriate variation, he shall apply to the court, within 14 days after the date of the notice, for the remedy desired.

(10) Rule 13 shall have effect as if for paragraphs (4) to (7) there were substituted the following paragraph:—

“(4) Where it appears to the court by which an attachment of earnings order has been made that the related maintenance order has ceased to have effect, whether by virtue of the terms of the maintenance order or under section 28 of the Matrimonial Causes Act 1973⁽⁸⁹⁾ or otherwise, the court may discharge or vary the attachment of earnings order.”

Textual Amendments

- F225** Sch. 2 CCR Order 27 rule 17(3A) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **33(b)(i)**
- F226** Words in Sch. 2 CCR Order 27 rule 17(3A) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **16** (with rule 24)
- F227** Sch. 2 CCR Order 27 rule 17(3B) inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **33(b)(iii)**
- F228** Sch. 2 CCR Order 27 rule 17(3B) renumbered as Sch. 2 CCR Order 27 rule 17(3C) (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **33(b)(ii)**
- F229** Words in Sch. 2 CCR Order 27 rule 17(3B) omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **67**

Part II—Consolidated Attachment of Earnings Orders

Cases in which consolidated order may be made

Rule 18 Subject to the provisions of rules 19 to 21, the court may make a consolidated attachment order where—

- (a) two or more attachment of earnings orders are in force to secure the payment of judgment debts by the same debtor; or
- (b) on an application for an attachment of earnings order to secure the payment of a judgment debt, or for a consolidated attachment order to secure the payment of two or more judgment debts, it appears to the court that an attachment of earnings order is already in force to secure the payment of a judgment debt by the same debtor.

⁽⁸⁹⁾ 1973 c. 18; section 28(1) was amended by the Matrimonial and Family Proceedings Act 1984 (c. 42), section 5.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Application for consolidated order

Rule 19.—(1) An application for a consolidated attachment order may be made—

- (a) by the debtor in respect of whom the order is sought; or
- (b) by any person who has obtained or is entitled to apply for an attachment of earnings order to secure the payment of a judgment debt by that debtor.

(2) An application under paragraph (1) may be made in the proceedings in which any attachment of earnings order (other than a priority order) is in force and rules 3, 4 and 5 of this Order shall not apply.

(3) Where the judgment which it is sought to enforce was not given by the court which made the attachment of earnings order, the judgment shall be automatically transferred to the court which made the attachment of earnings order.

(3A) An application under paragraph (1)(b) shall certify the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid.

(3B) Where an application for a consolidated attachment of earnings order is made, the court officer shall—

- (a) notify any party who may be affected by the application of its terms; and
- (b) require him to notify the court in writing, within 14 days of service of notification upon him, giving his reasons for any objection he may have to the granting of the application.

(3C) If notice of any objection is not given within the time stated, the court officer shall make a consolidated attachment of earnings order.

(3D) If any party objects to the making of a consolidated attachment of earnings order, the court officer shall refer the application to the district judge who may grant the application after considering the objection made and the reasons given.

(3E) In the foregoing paragraphs of this rule, a party affected by the application means—

- (a) where the application is made by the debtor, the creditor in the proceedings in which the application is made and any other creditor who has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor;
- (b) where the application is made by the judgment creditor, the debtor and every person who, to the knowledge of the applicant, has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor.

(4) A person to whom two or more attachment of earnings orders are directed to secure the payment of judgment debts by the same debtor may request the court in writing to make a consolidated attachment order to secure the payment of those debts, and on receipt of such a request paragraphs (3B) to (3E) shall apply, with the necessary modifications, as if the request were an application by the judgment creditor.

Making of consolidated order by court of its own motion

Rule 20 Where an application is made for an attachment of earnings order to secure the payment of a judgment debt by a debtor in respect of whom an attachment of earnings order is already in force to secure the payment of another judgment debt and no application is made for a consolidated attachment order, the court officer may make such an order of his own motion after giving all persons concerned an opportunity of submitting written objections.

Extension of consolidated order

Rule 21.—(1) Where a consolidated attachment order is in force to secure the payment of two or more judgment debts, any creditor to whom another judgment debt is owed by the same judgment

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debtor may apply to the court by which the order was made for it to be extended so as to secure the payment of that debt as well as the first-mentioned debts and, if the application is granted, the court may either vary the order accordingly or may discharge it and make a new consolidated attachment order to secure payment of all the aforesaid judgment debts.

(2) An application under this rule shall be treated for the purposes of rules 19 and 20 as an application for a consolidated attachment order.

Payments under consolidated order

Rule 22 Instead of complying with section 13 of the Act of 1971, a court officer who receives payments made to him in compliance with a consolidated attachment order shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order as are deductible from those payments, deal with the sums paid as he would if they had been paid by the debtor to satisfy the relevant adjudications in proportion to the amounts payable thereunder, and for that purpose dividends may from time to time be declared and distributed among the creditors entitled thereto.

CCR ORDER 28

JUDGMENT SUMMONSES

Application for judgment summons

Rule 1.—(1) An application for the issue of a judgment summons may be made to the court for the district in which the debtor resides or carries on business or, if the summons is to issue against two or more persons jointly liable under the judgment or order sought to be enforced, in the court for the district in which any of the debtors resides or carries on business.

(2) The judgment creditor shall make his application by filing a request in that behalf certifying the amount of money remaining due under the judgment or order, the amount in respect of which the judgment summons is to issue and that the whole or part of any instalment due remains unpaid.

[^{F230}(3) The judgment creditor must file with the request all written evidence on which he intends to rely.]

Textual Amendments

F230 Sch. 2 CCR Order 28 rule 1(3) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(a)**

Mode of service

Rule 2.—(1) Subject to paragraph (2), a judgment summons shall be served personally on every debtor against whom it is issued.

(2) Where the judgment creditor or his solicitor gives a certificate for postal service in respect of a debtor residing or carrying on business within the district of the court, the judgment summons shall, unless the district judge otherwise directs, be served on that debtor by an officer of the court sending it to him by first-class post at the address stated in the request for the judgment summons and, unless the contrary is shown, the date of service shall be deemed to be the seventh day after the date on which the judgment summons was sent to the debtor.

(3) Where a judgment summons has been served on a debtor in accordance with paragraph (2), no order of commitment shall be made against him unless—

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Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(a) he appears at the hearing; or

[^{F231}(b) it is made under section 110(2) of the Act.]

[^{F232}(4) The written evidence on which the judgment creditor intends to rely must be served with the judgment summons.]

Textual Amendments

F231 Sch. 2 CCR Order 28 rule 2(3)(b) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(b)(i)**

F232 Sch. 2 CCR Order 28 rule 2(4) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(b)(ii)**

Time for service

Rule 3.—(1) [^{F233}The judgment summons and written evidence must] be served not less than 14 days before the day fixed for the hearing.

(2) A notice of non-service shall be sent pursuant to CPR rule 6.11 in respect of a judgment summons which has been sent by post under rule 2 (2) and has been returned to the court office undelivered.

(3) CPR rules 7.5 and 7.6 shall apply, with the necessary modifications, to a judgment summons as they apply to a claim form.

Textual Amendments

F233 Words in Sch. 2 CCR Order 28 rule 3(1) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(c)**

Enforcement of debtor's attendance

Rule 4.—(1) Order 27, rules 7B and 8, shall apply, with the necessary modifications, to an order made under section 110 (1) of the Act for the attendance of the debtor at an adjourned hearing of a judgment summons as they apply to an order made under section 23 (1) of the Attachment of Earnings Act 1971(**90**) for the attendance of the debtor at an adjourned hearing of an application for an attachment of earnings order.

[^{F234}(1A) An order made under section 110(1) of the Act must be served personally on the judgment debtor.

(1B) Copies of—

- (a) the judgment summons; and
- (b) the written evidence,

must be served with the order.]

(2) At the time of service of the order there shall be paid or tendered to the debtor a sum reasonably sufficient to cover his expenses in travelling to and from the court, unless such a sum was paid to him at the time of service of the judgment summons.

(90) 1971 c. 32; section 23(1) was amended by the Administration of Justice Act 1982 (c. 53), section 53(2).

Textual Amendments

F234 Sch. 2 CCR Order 28 rule 4(1A)(1B) inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(d)**

[^{F235}Evidence

Rule 5.—(1) No person may be committed on an application for a judgment summons unless—

- (a) the order is made under section 110(2) of the Act; or
- (b) the judgment creditor proves that the debtor—
 - (i) has or has had since the date of the judgment or order the means to pay the sum in respect of which he has made default; and
 - (ii) has refused or neglected or refuses or neglects to pay that sum.

(2) The debtor may not be compelled to give evidence.]

Textual Amendments

F235 Sch. 2 CCR Order 28 rule 5 substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(e)**

Suspension of committal order

Rule 7.—(1) If on the hearing of a judgment summons a committal order is made, the judge may direct execution of the order to be suspended to enable the debtor to pay the amount due.

(2) A note of any direction given under paragraph (1) shall be entered in the records of the court and notice of the suspended committal order shall be sent to the debtor.

(3) Where a judgment summons is issued in respect of one or more but not all of the instalments payable under a judgment or order for payment by instalments and a committal order is made and suspended under paragraph (1), the judgment or order shall, unless the judge otherwise orders, be suspended for so long as the execution of the committal order is suspended.

(4) Where execution of a committal order is suspended under paragraph (1) and the debtor subsequently desires to apply for a further suspension, the debtor shall attend at or write to the court office and apply for the suspension he desires, stating the reasons for his inability to comply with the terms of the original suspension, and the court shall fix a day for the hearing of the application by the judge and give at least 3 days' notice thereof to the judgment creditor and the debtor.

(5) The district judge may suspend execution of the committal order pending the hearing of an application under paragraph (4).

New order on judgment summons

Rule 8.—(1) Where on the hearing of a judgment summons, the judge makes a new order for payment of the amount of the judgment debt remaining unpaid, there shall be included in the amount payable under the order for the purpose of any enforcement proceedings, otherwise than by judgment summons, any amount in respect of which a committal order has already been made and the debtor imprisoned.

(2) No judgment summons under the new order shall include any amount in respect of which the debtor was imprisoned before the new order was made, and any amount subsequently paid shall be appropriated in the first instance to the amount due under the new order.

*Status: Point in time view as at 02/12/2002.
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Notification of order on judgment of High Court

Rule 9.—(1) Notice of the result of the hearing of a judgment summons on a judgment or order of the High Court shall be sent by the county court to the High Court.

[^{F236}(2) If a committal order or a new order for payment is made on the hearing, the office copy of the judgment or order filed in the county court shall be deemed to be a judgment or order of the court in which the judgment summons is heard.]

Textual Amendments
F236 Sch. 2 CCR Order 28 rule 9(2) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **17** (with rule 24)

Costs on judgment summons

Rule 10.—(1) No costs shall be allowed to the judgment creditor on the hearing of a judgment summons unless—

- (a) a committal order is made; or
 - (b) the sum in respect of which the judgment summons was issued is paid before the hearing.
- (2) Where costs are allowed to the judgment creditor,
- (a) there may be allowed—
 - (i) a charge of the judgment creditor’s solicitor for attending the hearing and, if the judge so directs, for serving the judgment summons;
 - (ii) a fee to counsel if the court certifies that the case is fit for counsel;
 - (iii) any travelling expenses paid to the debtor, and
 - (iv) the court fee on the issue of the judgment summons;
 - (b) the costs may be fixed and allowed without detailed assessment under CPR Part 47.

^{F237}(3)

Textual Amendments
F237 Sch. 2 CCR Order 28 rule 10(3) omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **39(f)**

Issue of warrant of committal

Rule 11.—(1) A judgment creditor desiring a warrant to be issued pursuant to a committal order shall file a request in that behalf.

(2) Where two or more debtors are to be committed in respect of the same judgment or order, a separate warrant of committal shall be issued for each of them.

(3) Where a warrant of committal is sent to a foreign court for execution, that court shall indorse on it a notice as to the effect of section 122 (3) of the Act addressed to the governor of the prison of that court.

Notification to foreign court of part payment before debtor lodged in prison

Rule 12 Where, after a warrant of committal has been sent to a foreign court for execution but before the debtor is lodged in prison, the home court is notified that an amount which is less than

the sum on payment of which the debtor is to be discharged has been paid, the home court shall send notice of the payment to the foreign court.

Payment after debtor lodged in prison

Rule 13.—(1) Where, after the debtor has been lodged in prison under a warrant of committal, payment is made of the sum on payment of which the debtor is to be discharged, then—

- (a) if the payment is made to the court responsible for the execution of the warrant, [^{F238}the court officer] shall make and sign a certificate of payment and send it by post or otherwise to the gaoler;
- (b) if the payment is made to the court which issued the warrant of committal after the warrant has been sent to a foreign court for execution, the home court shall send notice of the payment to the foreign court, [^{F239}and the court officer at the foreign court shall make] and sign a certificate of payment and send it by post or otherwise to the gaoler;
- (c) if the payment is made to the gaoler, he shall sign a certificate of payment and send the amount to the court which made the committal order.

(2) Where, after the debtor has been lodged in prison under a warrant of committal, payment is made of an amount less than the sum on payment of which the debtor is to be discharged, then subject to paragraph (3), paragraph (1)(a) and (b) shall apply with the substitution of references to a notice of payment for the references to a certificate of payment and paragraph (1)(c) shall apply with the omission of the requirement to make and sign a certificate of payment.

(3) Where, after the making of a payment to which paragraph (2) relates, the balance of the sum on payment of which the debtor is to be discharged is paid, paragraph (1) shall apply without the modifications mentioned in paragraph (2).

Textual Amendments

F238 Words in Sch. 2 CCR Order 28 rule 13(1)(a) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **68(a)**

F239 Words in Sch. 2 CCR Order 28 rule 13(1)(b) substituted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **68(b)**

Discharge of debtor otherwise than on payment

Rule 14.—(1) Where the judgment creditor lodges with the district judge a request that a debtor lodged in prison under a warrant of committal may be discharged from custody, the district judge shall make an order for the discharge of the debtor in respect of the warrant of committal and the court shall send the gaoler a certificate of discharge.

(2) Where a debtor who has been lodged in prison under a warrant of committal desires to apply for his discharge under section 121 of the Act, the application shall be made to the judge in writing and without notice showing the reasons why the debtor alleges that he is unable to pay the sum in respect of which he has been committed and ought to be discharged and stating any offer which he desires to make as to the terms on which his discharge is to be ordered, and Order 27, rule 8 (3) and (4), shall apply, with the necessary modifications, as it applies to an application by a debtor for his discharge from custody under section 23 (7) of the Attachment of Earnings Act 1971(**91**).

(3) If in a case to which paragraph (2) relates the debtor is ordered to be discharged from custody on terms which include liability to re-arrest if the terms are not complied with, the judge may, on the application of the judgment creditor if the terms are not complied with, order the debtor to be

(91) 1971 c. 32.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

re-arrested and imprisoned for such part of the term of imprisonment as remained unserved at the time of discharge.

(4) Where an order is made under paragraph (3), a duplicate warrant of committal shall be issued, indorsed with a certificate signed by the court officer as to the order of the judge.

CCR ORDER 29

COMMITTAL FOR BREACH OF ORDER OR UNDERTAKING

Enforcement of judgment to do or abstain from doing any act

Rule 1.—(1) Where a person required by a judgment or order to do an act refuses or neglects to do it within the time fixed by the judgment or order or any subsequent order, or where a person disobeys a judgment or order requiring him to abstain from doing an act, then, subject to the Debtors Acts 1869 and 1878(92) and to the provisions of these rules, the judgment or order may be enforced, by order of the judge, by a committal order against that person or, if that person is a body corporate, against any director or other officer of the body.

(2) Subject to paragraphs (6) and (7), a judgment or order shall not be enforced under paragraph (1) unless—

- (a) a copy of the judgment or order has been served personally on the person required to do or abstain from doing the act in question and also, where that person is a body corporate, on the director or other officer of the body against whom a committal order is sought, and
- (b) in the case of a judgment or order requiring a person to do an act, the copy has been so served before the expiration of the time within which he was required to do the act and was accompanied by a copy of any order, made between the date of the judgment or order and the date of service, fixing that time.

(3) Where a judgment or order enforceable by committal order under paragraph (1) has been given or made, the court officer shall, if the judgment or order is in the nature of an injunction, at the time when the judgment or order is drawn up, and in any other case on the request of the judgment creditor, issue a copy of the judgment or order, indorsed with or incorporating a notice as to the consequences of disobedience, for service in accordance with paragraph (2).

(4) If the person served with the judgment or order fails to obey it, the judgment creditor may issue a claim form or, as the case may be, an application notice seeking the committal for contempt of court of that person and subject to paragraph (7), the claim form or application notice shall be served on him personally.

(4A) The claim form or application notice (as the case may be) shall:—

- (a) identify the provisions of the injunction or undertaking which it is alleged have been disobeyed or broken;
- (b) list the ways in which it is alleged that the injunction has been disobeyed or the undertaking has been broken.
- (c) be supported by an affidavit stating the grounds on which the application is made, and unless service is dispensed with under paragraph (7), a copy of the affidavit shall be served with the claim form or application notice.

(5) If a committal order is made, the order shall be for the issue of a warrant of committal and, unless the judge otherwise orders—

(92) 1869 c. 62; 1878 c. 54.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (a) a copy of the order shall be served on the person to be committed either before or at the time of the execution of the warrant; or
 - (b) where the warrant has been signed by the judge, the order for issue of the warrant may be served on the person to be committed at any time within 36 hours after the execution of the warrant.
- (6) A judgment or order requiring a person to abstain from doing an act may be enforced under paragraph (1) notwithstanding that service of a copy of the judgment or order has not been effected in accordance with paragraph (2) if the judge is satisfied that, pending such service, the person against whom it is sought to enforce the judgment or order has had notice thereof either—
- (a) by being present when the judgment or order was given or made, or
 - (b) by being notified of the terms of the judgment or order whether by telephone, telegram or otherwise.
- (7) Without prejudice to its powers under Part 6 of the CPR, the court may dispense with service of a copy of a judgment or order under paragraph (2) or a claim form or application notice under paragraph (4) if the court thinks it just to do so.
- (8) Where service of the claim form or application notice has been dispensed with under paragraph (7) and a committal order is made in the absence of the respondent, the judge may on his own initiative fix a date and time when the person to be committed is to be brought before him or before the court.

Undertaking given by party

Rule 1A Rule 1 (except paragraph (6)) shall apply to undertakings as it applies to orders with the necessary modifications and as if—

- (a) for paragraph (2) of that rule there were substituted the following—
 - “(2) A copy of the document recording the undertaking shall be delivered by the court officer to the party giving the undertaking—
 - (a) by handing a copy of the document to him before he leaves the court building; or
 - (b) where his place of residence is known, by posting a copy to him at his place of residence; or
 - (c) through his solicitor,and, where delivery cannot be effected in this way, the court officer shall deliver a copy of the document to the party for whose benefit the undertaking is given and that party shall cause it to be served personally as soon as is practicable.”
- (b) in paragraph (7), the words from “a copy of” to “paragraph (2) or” were omitted.

Solicitor’s undertaking

Rule 2.—(1) An undertaking given by a solicitor in relation to any proceeding in a county court may be enforced, by order of the judge of that court, by committal order against the solicitor.

(2) Where it appears to the judge that a solicitor has failed to carry out any such undertaking, he may of his own initiative direct the court officer to issue a notice calling on the solicitor to show cause why he should not be committed to prison.

(3) Where any party to the proceedings desires to have the undertaking enforced by committal order, the court officer shall, on the application of the party supported by an affidavit setting out the facts on which the application is based, issue such a notice as is referred to in paragraph (2).

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Discharge of person in custody

Rule 3.—(1) Where a person in custody under a warrant or order, other than a warrant of committal to which Order 27, rule 8, or Order 28, rule 4 or 14, relates, desires to apply to the court for his discharge, he shall make his application in writing attested by the governor of the prison (or any other officer of the prison not below the rank of principal officer) showing that he has purged or is desirous of purging his contempt and shall, not less than one day before the application is made, serve notice of it on the party, if any, at whose instance the warrant or order was issued.

(2) If the committal order—

- (a) does not direct that any application for discharge shall be made to a judge; or
- (b) was made by the district judge under section 118 of the Act(93),

any application for discharge may be made to the district judge.

(3) Nothing in paragraph (1) shall apply to an application made by the Official Solicitor in his official capacity for the discharge of a person in custody.

CCR ORDER 30

GARNISHEE PROCEEDINGS

Attachment of debt due to judgment debtor

^{F240}**Rule 1**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Application for order

^{F240}**Rule 2**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Preparation, service and effect of order to show cause

^{F240}**Rule 3**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), [Sch. 5](#) (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

(93) Section 118 was amended by the Statute Law (Repeals) Act 1986 (c. 12); and by the Courts and Legal Services Act 1990 (c. 41), section 74(6).

Notice by deposit-taking institution denying indebtedness

^{F240}Rule 5

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Order where no notice given etc.

^{F240}Rule 7

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Directions where dispute as to notice under rule 5

^{F240}Rule 8

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Determination of liability in other cases

^{F240}Rule 9

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Transfer of proceedings

^{F240}Rule 10

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Discharge of garnishee

^{F240}Rule 11

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Money in court

^{F240}**Rule 12**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Costs of judgment creditor

^{F240}**Rule 13**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Attachment of debt owed by firm

^{F240}**Rule 14**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Powers of district judge

^{F240}**Rule 15**

Textual Amendments

F240 Sch. 2 CCR Order 30 revoked (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

CCR ORDER 31 CHARGING ORDERS

Application for charging order

^{F241}Rule 1

Textual Amendments

F241 Sch. 2 CCR Order 31 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Order on further consideration of application for charging order

^{F241}Rule 2

Textual Amendments

F241 Sch. 2 CCR Order 31 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Effect of charging order etc.

^{F241}Rule 3

Textual Amendments

F241 Sch. 2 CCR Order 31 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

Enforcement of charging order by sale

^{F241}Rule 4

Textual Amendments

F241 Sch. 2 CCR Order 31 revoked (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rule 1(c), **Sch. 5** (with savings in rule 24 and S.I. 2001/4015, rules 1(c), **43(2)**)

CCR ORDER 33 INTERPLEADER PROCEEDINGS

Part I Under Execution

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Notice of claim

Rule 1.—(A1) In this Part of this Order “the interpleader claimant” means any person making a claim to or in respect of goods seized in execution or the proceeds or value thereof and “the interpleader claim” means that claim.

(1) The interpleader claimant shall deliver to the bailiff holding the warrant of execution, or file in the office of the court for the district in which the goods were seized, notice of his claim stating—

- (a) the grounds of the interpleader claim or, in the case of a claim for rent, the particulars required by section 102 (2) of the Act; and
- (b) the interpleader claimant’s full name and address.

(2) On receipt of an interpleader claim made under this rule, the court shall—

- (a) send notice thereof to the execution creditor; and
- (b) except where the interpleader claim is to the proceeds or value of the goods, send to the interpleader claimant a notice requiring him to make a deposit or give security in accordance with section 100 of the Act.

Reply to interpleader claim

Rule 2.—(1) Within 4 days after receiving notice of an interpleader claim under rule 1 (2) the execution creditor shall give notice to the court informing him whether he admits or disputes the interpleader claim or requests the district judge to withdraw from possession of the goods or money claimed.

(2) If, within the period aforesaid, the execution creditor gives notice to the court admitting the interpleader claim or requesting the district judge to withdraw from possession of the goods or money claimed, the execution creditor shall not be liable to the district judge for any fees or expenses incurred after receipt of the notice.

Order protecting district judge

Rule 3 Where the execution creditor gives the court such a notice as is mentioned in rule 2 (2), the district judge shall withdraw from possession of the goods or money claimed and may apply to the judge, on notice to the interpleader claimant, for an order restraining the bringing of a claim against the district judge for or in respect of his having taken possession of the goods or money and on the hearing of the application the judge may make such order as may be just.

Issue of interpleader proceedings

Rule 4.—(1) Where the execution creditor gives notice under rule 2 (1) disputing an interpleader claim made under rule 1 or fails, within the period mentioned in rule 2 (1), to give the notice required by that rule, the district judge shall, unless the interpleader claim is withdrawn, issue an interpleader notice to the execution creditor and the interpleader claimant.

(2) On the issue of an interpleader notice under paragraph (1) the court officer shall enter the proceedings in the records of the court, fix a day for the hearing by the judge and prepare sufficient copies of the notice for service under this rule.

(3) Subject to paragraph (4) the notice shall be served on the execution creditor and the interpleader claimant in the manner [F242 set out in CPR rule 6.2].

(4) Service shall be effected not less than 14 days before the return day.

Textual Amendments

F242 Words in Sch. 2 CCR Order 33 rule 4(3) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **18** (with rule 24)

Claim for damages

Rule 5 Where in interpleader proceedings under an execution the interpleader claimant claims from the execution creditor or the district judge, or the execution creditor claims from the district judge, damages arising or capable of arising out of the execution—

- (a) the party claiming damages shall, within 8 days after service of the notice on him under rule 4(3), give notice of this claim to the court and to any other party against whom the claim is made, stating the amount and the grounds of the claim; and
- (b) the party from whom damages are claimed may pay money into court in satisfaction of the claim as if the interpleader proceedings were a claim brought in accordance with CPR Part 7 by the person making the claim.

Part II— Otherwise than under Execution

Application for relief

Rule 6.—(1) Where a person (in this Part of this Order called “the applicant”) is under a liability in respect of a debt or any money or goods and he is, or expects to be, sued for or in respect of the debt, money or goods by two or more persons making adverse claims thereto (“the interpleader claimants”), he may apply to the court, in accordance with these rules, for relief by way of interpleader.

(2) The application shall be made to the court in which the claim is pending against the applicant or, if no claim is pending against him, to the court in which he might be sued.

(3) The application shall be made by filing a witness statement or affidavit showing that—

- (a) the applicant claims no interest in the subject-matter in dispute other than for charges or costs;
- (b) the applicant does not collude with any of the interpleader claimants; and
- (c) the applicant is willing to pay or transfer the subject-matter into court or to dispose of it as the court may direct,

together with as many copies of the witness statement or affidavit as there are interpleader claimants.

Relief in pending claim

Rule 7 Where the applicant is a defendant in a pending claim—

- (a) the witness statement or affidavit and copies required by rule 6 (3) shall be filed within 14 days after service on him of the claim form;
- (b) the return day of the application shall be a day fixed for the pre-trial review of the claim including the interpleader proceedings and, if a day has already been fixed for the pre-trial review or hearing of the claim, the court shall, if necessary, postpone it;
- (c) the interpleader claimant, the applicant and the claimant in the claim shall be given notice of the application, which shall be prepared by the court together with sufficient copies for service;

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (d) the notice to the interpleader claimant shall be served on him, together with a copy of the witness statement or affidavit filed under rule 6 (3) and of the claim form and particulars of claim in the claim, not less than 21 days before the return day in the same manner as an interpleader notice in accordance with rule 4(3);
- (e) the notices to the applicant and the claimant shall be sent to them by the court and the notice to the claimant shall be accompanied by a copy of the said witness statement or affidavit.

Relief otherwise than in pending claim

Rule 8 Where the applicant is not a defendant in a pending claim—

- (a) the court shall enter the proceedings in the records of the court;
- (b) the court shall fix a day for the pre-trial review or, if the court so directs, a day for the hearing of the proceedings and shall prepare and issue an interpleader notice, together with sufficient copies for service;
- (c) the notice together with a copy of the witness statement or affidavit filed under rules 6 (3), shall be served on each of the claimants not less than 21 days before the return day in the same manner as an interpleader notice to be served under rule 4(3); and
- (d) the court shall deliver or send a notice of issue to the applicant.

Payment into court etc.

Rule 9 Before or after the court officer proceeds under rule 7 or 8 the district judge may direct the applicant to bring the subject-matter of the proceedings into court, or to dispose of it in such manner as the district judge thinks fit, to abide the order of the court.

Reply by interpleader claimant

Rule 10.—(1) An interpleader claimant shall, within 14 days after service on him of the notice under rule 7 (c) or the interpleader notice under rule 8 (c), file—

- (a) a notice that he makes no interpleader claim; or
- (b) particulars stating the grounds of his interpleader claim to the subject matter,

together in either case with sufficient copies for service under paragraph (2).

(2) The court shall send to each of the other parties a copy of any notice or particulars filed under paragraph (1).

(3) The court may, if it thinks fit, hear the proceedings although no notice or particulars have been filed.

Order barring interpleader claim etc.

Rule 11.—(1) Where an interpleader claimant does not appear on any day fixed for a pre-trial review or the hearing of interpleader proceedings, or fails or refuses to comply with an order made in the proceedings, the court may make an order barring his interpleader claim.

(2) If, where the applicant is a defendant in a pending claim, the claimant does not appear on any day fixed for a pre-trial review or the hearing of the interpleader proceedings, the claim including the interpleader proceedings may be struck out.

(3) In any other case where a day is fixed for the hearing of interpleader proceedings, the court shall hear and determine the proceedings and give judgment finally determining the rights and claims of the parties.

(4) Where the court makes an order barring the interpleader claim of an interpleader claimant, the order shall declare the interpleader claimant, and all persons claiming under him, for ever barred from prosecuting his interpleader claim against the applicant and all persons claiming under him, but unless the interpleader claimant has filed a notice under rule 10 that he makes no interpleader claim, such an order shall not affect the rights of the interpleader claimants as between themselves.

CCR ORDER 34

PENAL AND DISCIPLINARY PROVISIONS

Issue and service of summons for offence under s.14, 92 or 124 of the Act

Rule 1 Where—

- (a) it is alleged that any person has committed an offence under [^{F243}section 14, 92 or 118] of the Act by assaulting an officer of the court while in the execution of his duty, or by rescuing or attempting to rescue any goods seized in execution, [^{F244}or by wilfully insulting a judge, juror, witness or any officer of the court,] and the alleged offender has not been taken into custody and brought before the judge; or
- (b) a complaint is made against an officer of the court under section 124 of the Act for having lost the opportunity of levying execution,

the court officer shall issue a summons, which shall be served on the alleged offender personally not less than 8 days before the return day appointed in the summons.

Textual Amendments

F243 Words in Sch. 2 CCR Order 34 rule 1(a) substituted (14.1.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **40(a)**

F244 Words in Sch. 2 CCR Order 34 rule 1(a) inserted (14.1.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(a), **40(b)**

Committal under s.14, 92 or 118 of the Act

Rule 1A Rule 1 (5) of Order 29 shall apply, with the necessary modifications, where an order is made under section 14, 92 or 118 of the Act committing a person to prison.

Notice to show cause before or after fine under s.55 of the Act

Rule 2 Before or after imposing a fine on any person under section 55 of the Act for disobeying a witness summons or refusing to be sworn or give evidence, the judge may direct the court officer to give to that person notice that if he has any cause to show why a fine should not be or should not have been imposed on him, he may show cause in person or by witness statement or affidavit or otherwise on a day named in the notice, and the judge after considering the cause shown may make such order as he thinks fit.

Non-payment of fine

Rule 3.—(1) If a fine is not paid in accordance with the order imposing it, the court officer shall forthwith report the matter to the judge.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) Where by an order imposing a fine, the amount of the fine is directed to be paid by instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default had been made in payment of the whole of the fine.

(3) If the judge makes an order for payment of a fine to be enforced by warrant of execution, the order shall be treated as an application made to the district judge for the issue of the warrant at the time when the order was received by him.

Repayment of fine

Rule 4 If, after a fine has been paid, the person on whom it was imposed shows cause sufficient to satisfy the judge that, if it had been shown at an earlier date, he would not have imposed a fine or would have imposed a smaller fine or would not have ordered payment to be enforced, the judge may order the fine or any part thereof to be repaid.

F245 CCR ORDER 35

**ENFORCEMENT OF COUNTY COURT
JUDGMENTS OUTSIDE ENGLAND AND WALES**

Textual Amendments

F245 Sch. 2 CCR Order 35 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Part I—Enforcement outside United Kingdom

Interpretation of Part I

F245 **Rule 1**

Application under s.10 of the Act of 1933 for certified copy of county court judgment

F245 **Rule 2**

Application under s.12 of the Act of 1982 for certified copy of county court judgment

F245 **Rule 3**

Application under Article 54 of the Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

F245 **Rule 3A.**

Part II—Enforcement in other parts of the United Kingdom

Interpretation of Part II

F245 **Rule 4**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Application for certificate of money provision

^{F245}**Rule 5**

Application for certified copy of judgment containing non-money provision

^{F245}**Rule 6**

^{F246}**CCR ORDER 37...**

REHEARING, SETTING ASIDE AND APPEAL FROM DISTRICT JUDGE

Textual Amendments

^{F246} **Sch. 2** CCR Order 37 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

Rehearing

^{F246}**Rule 1**

Appeal from district judge

^{F246}**Rule 6**

Imposition of terms and stay of execution

^{F246}**Rule 8**

CCR ORDER 38

COSTS

Fixed costs

Rule 18.—(1) Appendix B shall effect for the purpose of showing the total amount which, in the several cases to which Appendix B applies, shall be allowed to the solicitor for the claimant as fixed costs without assessment (whether by the summary or the detailed procedure), unless the court otherwise orders.

(2) In a claim to which Appendix B or CPR Part 45 does not apply no amount shall be entered on the claim form for the charges of the claimant’s solicitor, but the words “to be assessed” shall be inserted.

APPENDIX B

PART I

Claims for the Recovery of Property ^{F247} ...

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments
F247 Words in Sch. 2 CCR Order 38 Appendix B Pt. 1 heading omitted (25.3.2002) by virtue of The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(c), **42(a)(i)** (with rule 43(1))

Directions

1. The Tables in this Part of this Appendix show the amount to be entered on the claim form or application in respect of solicitors' charges—

- (c) in a claim for the recovery of property, including land, with or without a claim for a sum of money (other than a claim to which CPR Part 45 applies), for the purpose of Part II of this Appendix or of fixing the amount which the plaintiff may receive in respect of solicitors' charges without assessment whether by the detailed or summary procedure in the event of the defendant giving up possession and paying the amount claimed, if any, and costs;

^{F248}(e)

Textual Amendments
F248 Sch. 2 CCR Order 38 Appendix B Pt. 1 para. 1(e) omitted (25.3.2002) by virtue of The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(c), **42(a)(ii)** (with rule 43(1))

2. In addition to the amount entered in accordance with the relevant Table the appropriate court fees shall be entered on the application.

3. In the Tables the expression “claim” means—

- (a) the sum of money claimed, or
- (b) in relation to a claim for the recovery of land (with or without a claim for a sum of money), a sum exceeding £600 but not exceeding £2,000;
- (c) in relation to a claim for the recovery of property other than money or land, the value of the property claimed or in the case of goods supplied under a hire purchase agreement, the unpaid balance of the total price.

4. The Tables do not apply where the application or the claim form is to be served out of England and Wales or where service by an alternative method is ordered.

Textual Amendments
F248 Sch. 2 CCR Order 38 Appendix B Pt. 1 para. 1(e) omitted (25.3.2002) by virtue of The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(c), **42(a)(ii)** (with rule 43(1))

Tables of Fixed Costs

TABLE I

Where claim exceeds £25 but does not exceed £250

<i>Amount of charges</i>	<i>£</i>
(a) (a) Where service is not by solicitor	30.75
(b) (b) Where service is by solicitor	35.00

TABLE II

Where claim exceeds £250 but does not exceed £600

<i>Amount of charges</i>		<i>£</i>
(a)	(a) Where service is not by solicitor	41.00
(b)	(b) Where service is by solicitor	48.50

TABLE III

Where claim exceeds £600 but does not exceed £2,000

<i>Amount of charges</i>		<i>£</i>
(a)	(a) Where service is not by solicitor	69.50
(b)	(b) Where service is by solicitor	77.00

TABLE IV

Where claim exceeds £2,000

<i>Amount of charges</i>		<i>£</i>
(a)	(a) Where service is not by solicitor	75.50
(b)	(b) Where service is by solicitor	82.00

Part II

Judgments

Directions

Where an amount in respect of solicitors' charges has been entered on the claim form under Part I of this Appendix and judgment is given in the circumstances mentioned in paragraph (d) in column 1 of the following Table, the amount to be included in the judgment in respect of the solicitors' charges shall, be the amount entered on the application or the claim form together with the amount shown in column 2 of the Table under the sum of money by reference to which the amount entered on the application or the claim form was fixed. Where judgment is given for a sum less than the amount claimed or for the delivery of goods of which the value or the balance of the total price is a sum less than the amount claimed, the foregoing paragraph shall, unless the court otherwise directs, have effect as if the amount entered on the application or the claim form had been fixed by reference to that sum.

Fixed Costs on Judgments

<i>Column 1</i>	<i>Column 2</i>		
	<i>Sum of money</i>		
	<i>A exceeding £25 but not exceeding £600</i>	<i>B exceeding £600 but not exceeding £3000</i>	<i>C exceeding £3000</i>
	<i>£</i>	<i>£</i>	<i>£</i>
(d) (d) Where judgment is	38.50	57.25	70.75

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>		
	<i>Sum of money</i>		
	<i>A exceeding £25 but not exceeding £600</i>	<i>B exceeding £600 but not exceeding £3000</i>	<i>C exceeding £3000</i>
	£	£	£
given in a fixed date action for—			
(i) delivery of goods where goods are not subject to a regulated agreement; or			
[^{F249} (ii) possession of land, where one of the grounds for possession is arrears of rent (whether or not the order for possession is suspended on terms) and the defendant has neither delivered a defence, admission or counterclaim, nor			

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>		
	<i>Sum of money</i>		
	<i>A exceeding £25 but not exceeding £600</i>	<i>B exceeding £600 but not exceeding £3000</i>	<i>C exceeding £3000</i>
	£	£	£
otherwise denied liability]			

Textual Amendments

F249 Words in [Sch. 2 CCR Order 38 Appendix B Pt. 2](#) Table substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), [rules 1\(c\)](#), [42\(b\)](#) (with [rule 43\(1\)](#))

(Delivery of goods claims subject to a regulated agreement are dealt with by CPR Part 45)

Textual Amendments

F249 Words in [Sch. 2 CCR Order 38 Appendix B Pt. 2](#) Table substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), [rules 1\(c\)](#), [42\(b\)](#) (with [rule 43\(1\)](#))

PART III

Miscellaneous Proceedings

The following Table shows the amount to be allowed in respect of solicitors' charges in the circumstances mentioned. The appropriate court fee shall be allowed in addition.

<i>Amount to be allowed</i>	<i>£</i>
3. For filing a request for the issue of a warrant of execution for a sum exceeding £25	£2.25
4. For service of any document required to be served personally (other than an application for an attachment of earnings order or a judgment summons unless allowed under Order 27, rule 9(1)(a), or Order 28, rule 10(2)(a)(i)), including copy and preparation of certificate of service	£8.50
5. For service by an alternative method, including attendances, making appointments to serve claim forms, preparing and attending to swear and file affidavits and to obtain order, and the fees paid for oaths	£25.00
6. For each attendance on the hearing of an application for an attachment of earnings order or a judgment summons where costs are allowed under Order 27, rule 9, or Order 28, rule 10	£8.50
F250 7. . . .	

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

<i>Amount to be allowed</i>	<i>£</i>
^{F250} 8. . . .	
9. For obtaining a certificate of judgment where costs allowed under Order 35, rule 5(3)(d)	£8.00
10. Where an order for possession is made under [^{F251} Section II of CPR Part 55 (Possession claims)] without the attendance of the claimant, for preparing and filing the application, the documents attached to the application and the request for possession	£79.50
^{F250} 11. . . .	

Textual Amendments

F250 Sch. 2 CCR Order 38, Appendix B Pt. 3 Table paras. 7, 8, 11 omitted (25.3.2002) by virtue of [The Civil Procedure \(Amendment No. 5\) Rules 2001 \(S.I. 2001/4015\)](#), rules 1(c), **42(c)** (with rule 43(1))

F251 Words in Sch. 2 CCR Order 38, Appendix B Pt. 3 para. 10 substituted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rules 1(d), **29**

CCR ORDER 39

ADMINISTRATION ORDERS

Exercise of powers by district judge

Rule 1 Any powers conferred on the court by Part VI of the Act, section 4 of the Attachment of Earnings Act 1971⁽⁹⁴⁾ or this Order may be exercised by the district judge or, in the circumstances mentioned in this Order, by the court officer.

Request and list of creditors

Rule 2.—(1) A debtor who desires to obtain an administration order under Part VI of the Act shall file a request in that behalf in the court for the district in which he resides or carries on business.

(2) Where on his examination under [^{F252}CPR Part 71], or otherwise, a debtor furnishes to the court on oath a list of his creditors and the amounts which he owes to them respectively and sufficient particulars of his resources and needs, the court may proceed as if the debtor had filed a request under paragraph (1).

(3) Where a debtor is ordered to furnish a list under section 4 (1)(b) of the said Act of 1971, then, unless otherwise directed, the list shall be filed within 14 days after the making of the order.

⁽⁹⁴⁾ 1971 c. 32; section 4 was amended by the Insolvency Act 1976 (c. 60), section 13(2); and by the County Courts Act 1984 (c. 28), section 148(1), schedule 2, Part V, paragraph 40.

Textual Amendments

F252 Words in Sch. 2 CCR Order 39 rule 2(2) substituted (25.3.2002) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(c), 19 (with rule 24)

Verification on oath

Rule 3 The statements in the request mentioned in rule 2 (1) and the list mentioned in rule 2 (3) shall be verified by the debtor on oath.

Orders made by the court officer

Rule 5.—(1) The question whether an administration order should be made, and the terms of such an order, may be decided by the court officer in accordance with the provisions of this rule.

(2) On the filing of a request or list under rule 2, the court officer may, if he considers that the debtor's means are sufficient to discharge in full and within a reasonable period the total amount of the debts included in the list, determine the amount and frequency of the payments to be made under such an order ("the proposed rate") and—

- (a) notify the debtor of the proposed rate requiring him to give written reasons for any objection he may have to the proposed rate within 14 days of service of notification upon him;
- (b) send to each creditor mentioned in the list provided by the debtor a copy of the debtor's request or of the list together with the proposed rate;
- (c) require any such creditor to give written reasons for any objection he may have to the making of an administration order within 14 days of service of the documents mentioned in sub-paragraph (b) upon him.

Objections under sub-paragraph (c) may be to the making of an order, to the proposed rate or to the inclusion of a particular debt in the order.

(3) Where no objection under paragraph (2)(a) or (c) is received within the time stated, the court officer may make an administration order providing for payment in full of the total amount of the debts included in the list.

(4) Where the debtor or a creditor notifies the court of any objection within the time stated, the court officer shall fix a day for a hearing at which the district judge will decide whether an administration order should be made and the court officer shall give not less than 14 days' notice of the day so fixed to the debtor and to each creditor mentioned in the list provided by the debtor.

(5) Where the court officer is unable to fix a rate under paragraph (2) (whether because he considers that the debtor's means are insufficient or otherwise), he shall refer the request to the district judge.

(6) Where the district judge considers that he is able to do so without the attendance of the parties, he may fix the proposed rate providing for payment of the debts included in the list in full or to such extent and within such a period as appears practicable in the circumstances of the case.

(7) Where the proposed rate is fixed under paragraph (6), paragraphs (2) to (4) shall apply with the necessary modifications as if the rate had been fixed by the court officer.

(8) Where the district judge does not fix the proposed rate under paragraph (6), he shall direct the court officer to fix a day for a hearing at which the district judge will decide whether an administration order should be made and the court officer shall give not less than 14 days' notice of the day so fixed to the debtor and to each creditor mentioned in the list provided by the debtor.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(9) Where an administration order is made under paragraph (3), the court officer may exercise the power of the court under section 5 of the Attachment of Earnings Act 1971 to make an attachment of earnings order to secure the payments required by the administration order.

Notice of objection by creditor

Rule 6.—(1) Any creditor to whom notice has been given under rule 5 (8) and who objects to any debt included in the list furnished by the debtor shall, not less than 7 days before the day of hearing, give notice of his objection, stating the grounds thereof, to the court officer, to the debtor and to the creditor to whose debt he objects.

(2) Except with the permission of the court, no creditor may object to a debt unless he has given notice of his objection under paragraph (1).

Procedure on day of hearing

Rule 7 On the day of the hearing—

- (a) any creditor, whether or not he is mentioned in the list furnished by the debtor, may attend and prove his debt or, subject to rule 6, object to any debt included in that list;
- (b) every debt included in that list shall be taken to be proved unless it is objected to by a creditor or disallowed by the court or required by the court to be supported by evidence;
- (c) any creditor whose debt is required by the court to be supported by evidence shall prove his debt;
- (d) the court may adjourn proof of any debt and, if it does so, may either adjourn consideration of the question whether an administration order should be made or proceed to determine the question, in which case, if an administration order is made, the debt, when proved, shall be added to the debts scheduled to the order;
- (e) any creditor whose debt is admitted or proved, and, with the permission of the court, any creditor the proof of whose debt has been adjourned, shall be entitled to be heard and to adduce evidence on the question whether an administration order should be made and, if so, in what terms.

Direction for order to be subject to review

Rule 8.—(1) The court may, on making an administration order or at any subsequent time, direct that the order shall be subject to review at such time or at such intervals as the court may specify.

(2) Where the court has directed that an administration order shall be subject to review, the court officer shall give to the debtor and to every creditor who appeared when the order was made not less than 7 days' notice of any day appointed for such a review.

(3) Nothing in this rule shall require the court officer to fix a day for a review under rule 13A.

Service of order

Rule 9 Where an administration order is made, the court officer shall send a copy to—

- (a) the debtor;
- (b) every creditor whose name was included in the list furnished by the debtor;
- (c) any other creditor who has proved his debt; and
- (d) every other court in which, to the knowledge of the district judge, judgment has been obtained against the debtor or proceedings are pending in respect of any debt scheduled to the order.

Subsequent objection by creditor

Rule 10.—(1) After an administration order has been made, a creditor who has not received notice under rule 5 and who wishes to object to a debt scheduled to the order, or to the manner in which payment is directed to be made by instalments, shall give notice to the court officer of his objection and of the grounds thereof.

(2) On receipt of such notice the court shall consider the objection and may—

- (a) allow it;
- (b) dismiss it; or
- (c) adjourn it for hearing on notice being given to such persons and on such terms as to security for costs or otherwise as the court thinks fit.

(3) Without prejudice to the generality of paragraph (2), the court may dismiss an objection if it is not satisfied that the creditor gave notice of it within a reasonable time of his becoming aware of the administration order.

Subsequent proof by creditor

Rule 11.—(1) Any creditor whose debt is not scheduled to an administration order, and any person who after the date of the order became a creditor of the debtor, shall, if he wishes to prove his debt, send particulars of his claim to the court officer, who shall give notice of it to the debtor and to every creditor whose debt is so scheduled.

(2) If neither the debtor nor any creditor gives notice to the court officer, within 7 days after receipt of notice under paragraph (1), that he objects to the claim, then, unless it is required by the court to be supported by evidence, the claim shall be taken to be proved.

(3) If the debtor or a creditor gives notice of objection within the said period of 7 days or the court requires the claim to be supported by evidence, the court officer shall fix a day for consideration of the claim and give notice of it to the debtor, the creditor by whom the claim was made and the creditor, if any, making the objection, and on the hearing the court may either disallow the claim or allow it in whole or in part.

(4) If a claim is taken to be proved under paragraph (2) or allowed under paragraph (3), the debt shall be added to the schedule to the order and a copy of the order shall then be sent to the creditor by whom the claim was made.

Permission to present bankruptcy petition

Rule 12 An application by a creditor under section 112 (4) of the Act(95) for permission to present or join in a bankruptcy petition shall be made on notice to the debtor in accordance with CPR Part 23, but the court may, if it thinks fit, order that notice be given to any other creditor whose debt is scheduled to the administration order.

Conduct of order

Rule 13.—(1) The court manager or such other officer of the court as the court making an administration order shall from time to time appoint shall have the conduct of the order and shall take all proper steps to enforce the order (including exercising the power of the court under section 5 of the Attachment of Earnings Act 1971 to make an attachment of earnings order to secure payments required by the administration order) or to bring to the attention of the court any matter which may make it desirable to review the order.

(95) Section 112 was amended by the Insolvency Act 1985 (c. 65), section 220(2).

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) Without prejudice to section 115 of the Act, any creditor whose debt is scheduled to the order may, with the permission of the court, take proceedings to enforce the order.

(3) The debtor or, with the permission of the court, any such creditor may apply to the court to review the order.

(4) When on a matter being brought to its attention under paragraph (1) the court so directs or the debtor or a creditor applies for the review of an administration order, rule 8 (2) shall apply as if the order were subject to review under that rule.

(5) Nothing in this rule shall require the court officer to fix a day for a review under rule 13A.

Review by court officer in default of payment

Rule 13A.—(1) Where it appears that the debtor is failing to make payments in accordance with the order, the court officer shall (either of his own initiative or on the application of a creditor whose debt is scheduled to the administration order) send a notice to the debtor—

- (a) informing him of the amounts which are outstanding; and
- (b) requiring him (within 14 days of service of the notice upon him) to
 - (i) make the payments as required by the order; or
 - (ii) explain his reasons for failing to make the payments; and
 - (iii) make a proposal for payment of the amounts outstanding, or
 - (iv) make a request to vary the order.

(2) If the debtor does not comply with paragraph (1)(b) within the time stated, the court officer shall revoke the administration order.

(3) The court officer shall refer a notice given by a debtor under paragraph (1)(b)(ii), (iii) or (iv) to the district judge who may—

- (a) without requiring the attendance of the parties—
 - (i) revoke the administration order or vary it so as to provide for payment of the debts included in the order in full or to such extent and within such a period as appears practicable in the circumstances of the case; or
 - (ii) suspend the operation of the administration order for such time and on such terms as he thinks fit; or
- (b) require the court officer to fix a day for the review of the administration order and to give to the debtor and to every creditor whose debt is scheduled to the administration order not less than 8 days' notice of the day so fixed.

(4) Any party affected by an order made under paragraph (2) or (3)(a) may, within 14 days of service of the order on him and giving his reasons, apply on notice for the district judge to consider the matter afresh and the court officer shall fix a day for the hearing of the application before the district judge and give to the debtor and to every creditor whose debt is scheduled to the administration order not less than 8 days' notice of the day so fixed.

(5) On hearing an application under paragraph (4), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.

Review of order

Rule 14.—(1) On the review of an administration order the court may—

- (a) if satisfied that the debtor is unable from any cause to pay any instalment due under the order, suspend the operation of the order for such time and on such terms as it thinks fit;

- (b) if satisfied that there has been a material change in any relevant circumstances since the order was made, vary any provision of the order made by virtue of section 112 (6) of the Act;
- (c) if satisfied that the debtor has failed without reasonable cause to comply with any provision of the order or that it is otherwise just and expedient to do so, revoke the order, either forthwith or on failure to comply with any condition specified by the court; or
- (d) make an attachment of earnings order to secure the payments required by the administration order or vary or discharge any such attachment of earnings order already made.

(2) The court officer shall send a copy of any order varying or revoking an administration order to the debtor, to every creditor whose debt is scheduled to the administration order and, if the administration order is revoked, to any other court to which a copy of the administration order was sent pursuant to rule 9.

Discharge of attachment of earnings order

Rule 16 On the revocation of an administration order any attachment of earnings order made to secure the payments required by the administration order shall be discharged.

Declaration of dividends

Rule 17.—(1) The officer having the conduct of an administration order shall from time to time declare dividends and distribute them among the creditors entitled to them.

(2) When a dividend is declared, notice shall be sent by the officer to each of the creditors.

Creditors to rank equally

Rule 18 All creditors scheduled under section 113 (d) of the Act⁽⁹⁶⁾ before an administration order is superseded under section 117 (2) of the Act shall rank equally in proportion to the amount of their debts subject to the priority given by the said paragraph (d) to those scheduled as having been creditors before the date of the order, but no payment made to any creditor by way of dividend or otherwise shall be disturbed by reason of any subsequent proof by any creditor under the said paragraph (d).

Change of debtor's address

Rule 19.—(1) A debtor who changes his residence shall forthwith inform the court of his new address.

(2) Where the debtor becomes resident in the district of another court, the court in which the administration order is being conducted may transfer the proceedings to that other court.

CCR ORDER 42

PROCEEDINGS BY AND AGAINST THE CROWN

Application and interpretation

Rule 1.—(1) These rules apply to any proceedings, so far as they are civil proceedings to which the Crown is a party, subject to the following rules of this Order.

(96) Section 113 was amended by the Administration of Justice Act 1985 (c. 61), section 67(2), schedule 8, Part II.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) Except where the context otherwise requires, references in these rules to a claim for the recovery of land or other property shall be construed as including references to proceedings against the Crown for an order declaring that the claimant is entitled as against the Crown to the land or property or to the possession of it.

(3) In this Order—

“the Act of 1947” means the Crown Proceedings Act 1947⁽⁹⁷⁾;

“civil proceedings by the Crown” and “civil proceedings against the Crown” and “civil proceedings by or against the Crown” have the same respective meanings as in Part II of the Act of 1947 and do not include any of the proceedings specified in section 23 (3) of that Act;

“civil proceedings to which the Crown is a party” has the same meaning as it has for the purposes of Part IV of the Act of 1947 by virtue of section 38 (4) of that Act.

Particulars of claim in claim against the Crown

Rule 4 The particulars of claim shall, in the case of civil proceedings against the Crown, include a statement of the circumstances in which the Crown’s liability is said to have arisen and as to the government department and officers of the Crown concerned.

Subsequent procedure in claim

Rule 5.—(1) If in a claim against the Crown the defendant considers that the particulars of claim do not contain a sufficient statement as required by rule 4, he may, before the time for delivering a defence has expired, file two copies of a demand for further information as specified in the demand and thereupon the court officer shall serve one copy on the claimant.

(2) Where the defendant files a demand under paragraph (1), the time for delivering a defence shall not expire until 4 days after the defendant has given notice to the court and the claimant that the defendant is satisfied with the information supplied in compliance with the demand or 4 days after the court has, on the application of the claimant of which not less than 7 days’ notice has been given to the defendant, decided that no further information as to the matters referred to in rule 4 is reasonably required.

(3) Except with the permission of the court, no default judgment shall be entered under CPR Part 12 in a claim against the Crown.

(4) An application for permission under paragraph (3) shall be made on not less than 7 days’ notice to the defendant.

(5) No application against the Crown shall be made under CPR Part 24 (summary judgment).

Subsequent procedure in fixed date claim

Rule 6.—(1) In the case of a fixed date claim against the Crown, on the filing of the claim form the court shall—

(a) enter a plaint in the records of the court and deliver to the claimant a notice of issue omitting any reference to a return day;

(b) serve on the defendant a copy of the particulars of claim if they are filed with the claim form and the notice of issue and of the effect of paragraphs (3) and (5).

(2) Upon the service of the notice mentioned in paragraph (1)(b) all further proceedings in the claim shall be stayed except as provided in this rule.

(97) 1947 c. 44.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(3) If the defendant considers that the particulars of claim do not contain a sufficient statement as required by rule 4, he may, within 21 days after service on him of the particulars of claim, file in the court office two copies of a demand for further information as specified in the demand and thereupon the court shall serve one copy on the claimant.

(4) If within the said period the defendant does not file two copies of such a demand, then, subject to paragraph (5), the stay of proceedings provided for by paragraph (2) shall cease to have effect at the end of that period.

(5) If within the said period the defendant files a statement that no such demand will be made, the stay of proceedings provided for by paragraph (2) shall cease to have effect forthwith.

(6) If within the said period the defendant files two copies of such a demand, the stay of proceedings provided for by paragraph (2) shall cease to have effect when the defendant gives notice to the court and the claimant that the defendant is satisfied with the information supplied in compliance with the demand or when the court decides, on the application of the claimant of which not less than 7 days' notice has been given to the defendant, that no further information as to the matters referred to in rule 4, is reasonably required.

(7) When the stay of proceedings provided for by paragraph (2) ceases to have effect, the court shall fix a return day and give notice of it to the claimant and shall proceed to issue the claim form.

Service on the Crown

Rule 7.—(1) [^{F253}Section III of CPR Part 6] and any other provision of these rules relating to service of process out of England and Wales shall apply in relation to civil proceedings by the Crown but shall not apply in relation to civil proceedings against the Crown.

(2) Personal service of any document which is to be served on the Crown for the purpose of or in connection with civil proceedings by or against the Crown shall not be requisite.

(3) Any such document may be served on the Crown—

- (a) by leaving the document at the office of the person to be served in accordance with section 18 of the Act of 1947, or any agent whom he has nominated for the purpose, but in either case with a member of the staff of that person or agent; or
- (b) by posting it in a prepaid envelope addressed to the person to be served in accordance with the said section 18 or to any such agent as aforesaid.

Textual Amendments

F253 Words in [Sch. 2 CCR Order 42 rule 7\(1\)](#) substituted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), [rules 1\(b\)](#), [36](#)

Special provisions regarding orders made by the Court of its own initiative against the Crown

Rule 8.—(2) No order shall be made against the Crown by the court of its own initiative—

- (a) (i) requiring the Crown to file or serve any statement of case or give any particulars which the court thinks necessary for defining the issues in the proceedings; and
- (ii) at the same or any subsequent time directing that the claim be dismissed or the defendant be debarred from defending altogether or that anything in any statement of case of which particulars have been ordered be struck out unless the order is obeyed;
- (b) ordering one or more questions or issues to be tried before the others; or
- (c) at a hearing other than the trial.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Counterclaim in proceedings by or against the Crown

Rule 9.—(1) In proceedings by the Crown for the recovery of taxes, duties or penalties the defendant shall not be entitled to avail himself of any set-off or counterclaim and accordingly the claim form to be served on the defendant and the forms for defending the claim, admitting the claim and acknowledging service, to accompany the claim form shall omit any reference to a counterclaim.

(2) In proceedings of any other nature by the Crown the defendant shall not be entitled to avail himself of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties.

(3) In any proceedings by the Crown the defendant shall not be entitled, and in any proceedings against the Crown the Crown shall not be entitled, without the permission of the court to be obtained on application of which not less than 7 days' notice has been given to the claimant, to make any counterclaim or claim in his statements of case to be entitled to any set-off if—

- (a) the Crown sues or is sued in the name of a Government department and the subject-matter of the set-off or counterclaim does not relate to that department; or
- (b) the Crown sues or is sued in the name of the Attorney-General.

Adjustment of liability under judgment for taxes

Rule 10 Where the Crown has obtained a judgment for taxes but subsequently the tax liability is reduced, whether by reason of an appeal against an assessment or otherwise, and the Crown has given notice of the reduction to the court and to the debtor, the sum remaining unsatisfied under the judgment shall be reduced accordingly, but the amount of the reduction shall not rank as a payment under the judgment.

Part 20 claim against the Crown where the Crown is not already a party

Rule 11.—(1) A Part 20 claim for service on the Crown where the Crown is not already a party shall not be issued without the permission of the court to be obtained on application in accordance with CPR Part 23

(1A) An application notice under paragraph (1) must be served on the Crown and the claimant at least 7 days before the hearing.

(2) Permission shall not be granted under paragraph (1) unless the court is satisfied that the Crown is in possession of all such information as it reasonably requires as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned.

Disclosure against the Crown

Rule 12.—(2) Where in any proceedings an order of the court directs that a list of documents made in answer to an order for disclosure against the Crown shall be verified by witness statement or affidavit, the witness statement or affidavit shall be made by such officer of the Crown as the court may direct.

(3) The court may direct which officer of the Crown shall make the disclosure statement required by CPR rule 31.10(5).

Execution and satisfaction of orders against the Crown

Rule 13.—^{F254}(1) Nothing in—

- (a) CPR Parts ^{F255}69] to 73; ^{F256}or]
- (b) Orders 25 to 29; ^{F257}...

^{F258}(c)

shall apply in respect of any order against the Crown.]

(2) A certificate issued under section 25 (1) of the Act of 1947 shall be in the form used under Order 22, rule 8, with such variations as the circumstances of the case may require.

Textual Amendments

- F254** Sch. 2 CCR Order 42 rule 13(1) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **20(a)** (with rule 24)
- F255** Word in Sch. 2 CCR Order 42 rule 13(1)(a) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **33(a)(i)**
- F256** Word in Sch. 2 CCR Order 42 rule 13(1)(a) inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **33(a)(ii)**
- F257** Word in Sch. 2 CCR Order 42 rule 13(1)(b) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **33(a)(iii)**
- F258** Sch. 2 CCR Order 42 rule 13(1)(c) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **33(a)(iv)**

Attachment of debts etc.

Rule 14.—(1) No order for the attachment of a debt [^{F259}under CPR Part 72] or for the appointment of a receiver under [^{F260}CPR Part 69] shall be made or have effect in respect of any money due or accruing due, or alleged to be due or accruing due, from the Crown.

(2) Where such an order could have been obtained in a county court if the money had been due or accruing due from a subject, an application may be made to that county court in accordance with CPR Part 23 for an order under section 27 of the Act of 1947(98) restraining the person to whom the money is payable by the Crown from receiving the money and directing payment to the applicant or to the receiver.

(3) The application shall be supported by a witness statement or affidavit setting out the facts giving rise to it and in particular identifying the particular debt from the Crown in respect of which it is made.

(4) Notice of the application together with a copy of the witness statement or affidavit shall be served on the Crown and, unless the court otherwise directs, on the person to be restrained or his solicitor at least 7 days before the day fixed for the hearing.

[^{F261}(5) CPR rule 72.8 shall apply, with the necessary modifications, in relation to an application under the said section 27, as it applies in relation to an application under CPR rule 72.2 for a third party debt order, except that the court shall not have the power to order enforcement to issue against the Crown.]

Textual Amendments

- F259** Words in Sch. 2 CCR Order 42 rule 14(1) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **20(b)(i)** (with rule 24)
- F260** Words in Sch. 2 CCR Order 42 rule 14(1) substituted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **33(b)**
- F261** Sch. 2 CCR Order 42 rule 14(5) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), rules 1(c), **20(b)(ii)** (with rule 24)

(98) 1947 c. 44; section 27(1) was amended by the Supreme Court Act 1981 (c. 54), section 139(1) and schedule 7.

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

CCR ORDER 43

THE LANDLORD AND TENANT ACTS 1927, 1954, 1985 AND 1987

Interpretation

^{F262}**Rule 1**

Textual Amendments

F262 [Sch. 2](#) CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Commencement of proceedings and answer

^{F262}**Rule 2**

Textual Amendments

F262 [Sch. 2](#) CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Claim for compensation in respect of improvement

^{F262}**Rule 3**

Textual Amendments

F262 [Sch. 2](#) CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Proceedings under Part I of the Act of 1927

^{F262}**Rule 4**

Textual Amendments

F262 [Sch. 2](#) CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Proceedings under Part I of the Act of 1954

^{F262}**Rule 5**

Textual Amendments

F262 [Sch. 2](#) CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Application for new tenancy under section 24 of the Act of 1954

^{F262}Rule 6

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Answer to application for new tenancy under section 24 of the Act of 1954

^{F262}Rule 7

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Order dismissing application under section 24 which is successfully opposed

^{F262}Rule 8

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Other applications under Part II of the Act of 1954

^{F262}Rule 9

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Service of order in proceedings under Part II of the Act of 1954

^{F262}Rule 10

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Proof of determination of rateable value

^{F262}Rule 11

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Provisions as to assessors

F262 **Rule 13**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

District judge’s jurisdiction

F262 **Rule 15**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Application under section 12 (2) of the Act of 1985

F262 **Rule 16**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Transfer to leasehold valuation tribunal

F262 **Rule 16A**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Application under section 19 of the Act of 1987

F262 **Rule 17**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Application for order under section 24 of the Act of 1987

F262 **Rule 18**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Application for acquisition order under section 29 of the Act of 1987

F262 **Rule 19**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Application for order under section 38 or section 40 of the Act of 1987

F262 **Rule 20**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Service of documents in proceedings under the Act of 1987

F262 **Rule 21**

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Tenants' associations

F262 **Rule 22**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F262 Sch. 2 CCR Order 43 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

CCR ORDER 44

THE AGRICULTURAL HOLDINGS ACT 1986

Order to arbitrator to state case

Rule 1.—(1) An application under paragraph 26 of Schedule 11 to the Agricultural Holdings Act 1986⁽⁹⁹⁾ for an order directing an arbitrator to state, in the form of a special case for the opinion of the court, a question of law arising in the course of the arbitration shall include a concise statement of the question of law.

(2) The arbitrator shall not be made a respondent to the application, but if the judge grants the application, a copy of the order shall be served on the arbitrator.

Special case stated by arbitrator

Rule 2.—(1) Where, pursuant to the said paragraph 26, an arbitrator states, in the form of a special case for the opinion of the court, any question of law arising in the course of the arbitration, the case shall contain a statement of such facts and reference to such documents as may be necessary to enable the judge to decide the question of law.

(2) The case shall be signed by the arbitrator and shall be lodged in the court office by the arbitrator or any party to the arbitration, together with a copy for the use of the judge.

(3) The court officer shall fix a day for the hearing of the special case and give notice thereof to the parties.

(4) On the hearing the judge shall be at liberty to draw any inferences of fact from the case and the documents referred to therein.

(5) The judge may remit the case to the arbitrator for restatement or further statement.

(6) A copy of the order made by the judge on the hearing shall be served on the parties to the arbitration and on the arbitrator.

Removal of arbitrator or setting aside award

Rule 3.—(1) An application under paragraph 27 of Schedule 11 to the said Act of 1986 for the removal of an arbitrator on the ground of his misconduct or for an order setting aside an award on the ground that the arbitrator has misconducted himself or that an arbitration or award has been improperly procured or that there is an error of law on the face of the award shall be made within 21 days after the date of the award.

(2) The arbitrator and all parties to the arbitration, other than the applicant, shall be made respondents.

⁽⁹⁹⁾ 1986 c. 5.

Enforcement of order imposing penalty

Rule 4.—(1) When taking any proceedings for the enforcement in a county court of an order under section 27 of the Agricultural Holdings Act 1986, the party in whose favour the order was made shall file—

- (a) a certified copy of the order; and
- (b) a certificate specifying the amount due under the order and stating whether any previous proceedings have been taken for its enforcement and, if so, the nature of the proceedings and their result.

(2) Where it is desired to enforce the order by warrant of execution, the proceedings may be taken in any court in the district of which execution is to be levied.

CCR ORDER 45

THE REPRESENTATION OF THE PEOPLE ACT 1983

Application for detailed assessment of returning officer's account

Rule 1.—(1) An application by the Secretary of State under section 30 of the Representation of the People Act 1983(**100**) for the detailed assessment of a returning officer's account shall be made by claim form and on issuing the claim form the court will fix a day for the hearing which shall be a day for proceeding with the detailed assessment if the application is granted.

(2) Where on the application the returning officer desires to apply to the court to examine any claim made against him in respect of matters charged in the account, the application shall be made in writing and filed, together with a copy thereof, within 7 days after service on the returning officer of the copy of the application for detailed assessment.

(3) On the filing of an application under paragraph (2) the court officer shall fix a day for the hearing and give notice thereof to the returning officer, and a copy of the application and of the notice shall be served on the claimant in the manner [^{F263}set out in CPR rule 6.2].

(4) The examination and detailed assessment may, if the court thinks fit, take place on the same day, but the examination shall be determined before the detailed assessment is concluded.

(5) The application for detailed assessment and any application under paragraph (2) may be heard and determined by the district judge and a copy of the order made on the application shall be served on the Secretary of State and the returning officer and, in the case of an application under paragraph (2), on the claimant.

Textual Amendments

F263 Words in [Sch. 2 CCR Order 45 rule 1\(3\)](#) substituted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001 \(S.I. 2001/2792\)](#), [rules 1\(c\)](#), [21](#) (with [rule 24](#))

Appeal from decision of registration officer

Rule 2.—(1) Where notice of appeal from a decision of a registration officer is given pursuant to regulations made under section 53 of the said Act of 1983, the registration officer shall, within 7 days after receipt of the notice by him, forward the notice by post to the court in which the appeal is required to be brought, together with the statement mentioned in those regulations.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(2) The appeal shall be brought in the court for the district in which the qualifying premises are situated.

In this paragraph “qualifying premises” means the premises in respect of which—

- (a) the person whose right to be registered in the register of electors is in question on the appeal is entered on the electors' list or is registered or claims to be entitled to be registered; or
- (b) the person whose right to vote by proxy or by post is in question on the appeal is or will be registered in the register of electors; or
- (c) the elector whose proxy's right to vote by post is in question on the appeal is or will be registered in the register of electors,

as the case may be.

(3) The respondents to the appeal shall be the registration officer and the party (if any) in whose favour the decision of the registration officer was given.

(4) On the hearing of the appeal—

- (a) the statement forwarded to the court by the registration officer and any document containing information furnished to the court by the registration officer pursuant to the regulations mentioned in paragraph (1) shall be admissible as evidence of the facts stated therein; and
- (b) the judge shall have power to draw all inferences of fact which might have been drawn by the registration officer and to give any decision and make any order which ought to have been given or made by the registration officer.

(5) A respondent to an appeal other than the registration officer shall not be liable for or entitled to costs, unless he appears before the court in support of the decision of the registration officer.

Selected appeals

Rule 3.—(1) Where two or more appeals to which rule 2 relates involve the same point of law, the judge may direct that one appeal shall be heard in the first instance as a test case and thereupon the court shall send a notice of the direction to the parties to the selected appeal and the parties to the other appeals.

(2) If within 7 days after service of such notice on him any party to an appeal other than the selected appeal gives notice to the court that he desires the appeal to which he is a party to be heard—

- (a) the appeal shall be heard after the selected appeal is disposed of;
- (b) the court shall give the parties to the appeal notice of the day on which it will be heard;
- (c) the party giving notice under this paragraph shall not be entitled to receive any costs occasioned by the separate hearing of the appeal to which he is a party, unless the judge otherwise orders.

(3) If no notice is given under paragraph (2) within the time limited—

- (a) the decision on the selected appeal shall bind the parties to each other appeal without prejudice to their right to appeal to the Court of Appeal;
- (b) an order similar to the order in the selected appeal shall be made in each other appeal without further hearing;
- (c) the party to each other appeal who is in the same interest as the unsuccessful party to the selected appeal shall be liable for the costs of the selected appeal in the same manner and to the same extent as the unsuccessful party to that appeal and an order directing him to pay such costs may be made and enforced accordingly.

CCR ORDER 46

THE LEGITIMACY ACT 1976

Manner of application

Rule 1.—(1) An application to a county court under section 45 (2) of the Matrimonial Causes Act 1973(**101**) for a declaration of legitimation by virtue of the Legitimacy Act 1976(**102**) shall be made by claim form stating—

- (a) the grounds on which the applicant relies;
- (b) the date and place of birth of the applicant and the maiden name of his mother and, if it be the case, that the applicant is known by a name other than that which appears in the certificate of his birth; and
- (c) particulars of every person whose interest may be affected by the proceedings and his relationship, if any, to the applicant, including any person other than the applicant's father to whom his mother was married at the date of his birth.

(2) The application may be filed in the court for the district in which the applicant resides or the marriage leading to the legitimation was celebrated, or if neither the residence of the applicant nor the place of the marriage is in England or Wales, then in the Westminster County Court.

(3) The applicant shall file with the claim form—

- (a) a witness statement or affidavit by him (or, if he is a child, by his litigation friend) verifying the application; and
- (b) any birth, death or marriage certificate intended to be relied on at the hearing.

Preliminary consideration and service

Rule 2.—(1) On the filing of the documents mentioned in rule 1, the court officer shall fix a day for a case management hearing and give notice thereof to the Attorney-General.

(2) It shall not be necessary to serve the application on the Attorney-General otherwise than by delivering a copy of it to him in accordance with section 45 (6) of the Matrimonial Causes Act 1973.

(3) At the case management hearing the court shall give directions as to the persons, if any, other than the Attorney-General, who are to be made respondents to the application.

(4) Where in the opinion of the court it is impracticable to serve a respondent other than the Attorney-General in accordance with the rules relating to service or it is otherwise necessary or expedient to dispense with service of the claim form on any such respondent, the court may make an order dispensing with service on him.

Answer

Rule 3.—(1) The Attorney-General may file an answer to the application within 14 days after directions have been given at the case management hearing.

(2) Any other respondent who wishes to oppose the application or to dispute any of the facts alleged in it shall, within 14 days after service of the application on him, file an answer to the application.

(101) 1973 c. 18; section 45 was amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); section 89, schedule 2, paragraph 39; by the Matrimonial and Family Proceedings Act 1984 (c. 42), section 46(1), schedule 1, paragraph 15; and by the Family Law Act 1986 (c. 55), section 68(1), schedule 1, paragraph 14.

(102) 1976 c. 31.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(3) A respondent who files an answer shall file with it as many copies as there are other parties to the proceedings and the court shall send one of the copies to each of those parties.

CCR ORDER 47

DOMESTIC AND MATRIMONIAL PROCEEDINGS

Family Law Reform Act 1969

Rule 5.—(1) In this rule—

“^{F264}bodily samples” and “^{F265}scientific tests” have the meanings assigned to them by section 25 of the Family Law Reform Act 1969(**103**); and

“direction” means a direction for the use of ^{F265}scientific tests] under section 20 (1) of that Act.

(2) Except with the permission of the court, an application in any proceedings for a direction shall be made on notice to every party to the proceedings (other than the applicant) and to any other person from whom the direction involves the taking of ^{F264}bodily samples].

(3) Where an application is made for a direction involving the taking of ^{F264}bodily samples] from a person who is not a party to the proceedings in which the application is made, the application notice shall be served on him personally and the court may at any time direct him to be made a party to the proceedings.

(4) Where an application is made for a direction in respect of a person (in this paragraph referred to as a person under disability) who is either—

(a) under 16; or

(b) suffering from mental disorder within the meaning of the Mental Health Act 1983(**104**) and incapable of understanding the nature and purpose of ^{F265}scientific tests],

the notice of application shall state the name and address of the person having the care and control of the person under disability and shall be served on him instead of on the person under disability.

(5) Where the court gives a direction in any proceedings, the court officer shall send a copy to every party to the proceedings and to every other person from whom the direction involves the taking of ^{F264}bodily samples], and, unless otherwise ordered, the proceedings shall stand adjourned until the court receives a report pursuant to the direction.

(6) On receipt by the court of a report made pursuant to a direction, the court officer shall send a copy to every party to the proceedings and to every other person from whom the direction involved the taking of ^{F264}bodily samples].

Textual Amendments

F264 Words in Sch. 2 CCR Order 47 rule 5 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **30(a)**

F265 Words in Sch. 2 CCR Order 47 rule 5 substituted (1.4.2001) by The Civil Procedure (Amendment) Rules 2001 (S.I. 2001/256), rules 1(c), **30(b)**

(**103**) 1969 c. 46; section 25 was amended by the Human Fertilisation and Embryology Act 1990 (c. 37), section 49(5), schedule 4, paragraph 1; and section 20 by the Children Act 1989 (c. 41), section 89; and by the Courts and Legal Services Act 1990 (c. 41), section 116, schedule 16, Part I, paragraph 3.

(**104**) 1983 c. 20.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

^{F266}CCR ORDER 48B
[^{F267}Enforcement of traffic penalties]

Textual Amendments

F266 Sch. 2 CCR Order 48B revoked (1.10.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(a), **35**

F267 Sch. 2 CCR Order 48B heading substituted (1.6.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(a), **17(a)**

Application and interpretation

^{F266}Rule 1

Establishment of the [^{F268}traffic enforcement centre]

^{F266}Rule 1A

Textual Amendments

F268 Words in Sch. 2 CCR Order 48B substituted (1.6.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(a), **17(b)**

Requests for orders

^{F266}Rule 2

Documents

^{F266}Rule 3

Functions of court officer

^{F266}Rule 4

Enforcement of orders

^{F266}Rule 5

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

[^{F269}CCR ORDER 48D

ENFORCEMENT OF FIXED PENALTIES UNDER THE ROAD TRAFFIC (VEHICLE EMISSIONS) (FIXED PENALTY) REGULATIONS 1997

Textual Amendments

F269 Sch. 2 CCR Order 48D inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, 72, Appendix 2

Application and interpretation

1.—(1) This Order applies for the recovery of fixed penalties as defined in regulations 2(1)(b) and 9 of the 1997 Regulations.

(2) In this order, unless the context otherwise requires—

“authority” means a participating authority as defined in regulation 2(1)(f) of the 1997 Regulations;

“order” means an order made under regulation 10(1) of the 1997 Regulations;

“the Order” means the Enforcement of Road Traffic Debts Order 1993;

“respondent” means the person on whom the fixed penalty notice was served;

“specified debts” means the ^{F270}...debts specified in article 2(1)(a) of the Order;

“the 1997 Regulations” means the Road Traffic (Vehicle Emissions) (Fixed Penalty) Regulations 1997.

(3) Unless the context otherwise requires, expressions which are used in the 1997 Regulations have the same meaning in this Order as they have in those Regulations.

Textual Amendments

F270 Words in [Sch. 2 CCR Order 48D rule 1\(2\)](#) omitted (1.6.2001) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(a), 18(b)

The [^{F271}traffic enforcement centre]

2. The [^{F271}traffic enforcement centre] established in rule 1A of Order 48B shall have such functions relating to proceedings under this Order and other related matters as the Lord Chancellor may direct.

Textual Amendments

F271 Words in [Sch. 2 CCR Order 48D](#) substituted (1.6.2001) by [The Civil Procedure \(Amendment No. 2\) Rules 2001 \(S.I. 2001/1388\)](#), rules 1(a), 18(a)

Requests for Orders and Warrants of Execution

3.—(1) An authority which wishes to take proceedings under this Order shall give notice to the court officer and, where the court officer so allows, a combined request for an order and a warrant of

execution may be made, and such an order may be enforced and a warrant executed in accordance with the following provisions of this Order.

(2) An authority shall file a combined request for an order and a warrant of execution in the appropriate form or in another manner approved by the court officer scheduling the fixed penalties in respect of which an order and warrant of execution are sought.

(3) The authority shall in the request or in another manner approved by the court officer—

- (a) certify—
 - (i) that 56 days have elapsed since the issue of the fixed penalty notice,
 - (ii) the amount due under the fixed penalty notice and the date on which it was issued, and
 - (iii) that the amount due remains unpaid;
- (b) give the number of the fixed penalty notice;
- (c) specify (whether by reference to the appropriate code or otherwise) the grounds stated in the fixed penalty notice and in regulation 2(1)(d) of the 1997 Regulations on which the authorised person who issued the fixed penalty notice believed that a fixed penalty was payable with respect to that vehicle;
- (d) state—
 - (i) the name and address of the respondent and where known, his title;
 - (ii) the registration number of the vehicle concerned;
 - (iii) (whether by reference to the appropriate fixed penalty notice number or otherwise) the authority's address for service;
 - (iv) the court fee.

(4) If satisfied that the combined request is in order, the court officer shall order that the fixed penalty (together with the court fee) may be recovered as if it were payable under a county court order by sealing the request and returning it to the authority.

(5) When the court officer so orders and on receipt of the sealed request, the authority shall, within 7 days of the sealing of the request, prepare the warrant in the appropriate form.

Documents

4.—(1) Rule 3 of Order 48B shall apply to this Order with the modification referred to in paragraph (2).

(2) The reference to rule 2(2) in rule 3(1) of Order 48B shall be a reference to rule 3(2) of this Order.

Enforcement of Orders

5.—(1) Rule 5 of Order 48B shall apply to this Order with the modifications referred to in paragraphs (2), (3) and (4).

(2) Paragraphs (3), (4) and (7) of rule 5 shall not apply.

(3) Sub-paragraphs (c) and (d) of rule 5(9) shall not apply.

(4) In paragraph (11) of rule 5, the references to the words “charge certificate” shall be references to the words “fixed penalty notice”.

(5) Where a fixed penalty notice is withdrawn under regulation 12 of the 1997 Regulations—

- (a) any order made or warrant issued in respect of that fixed penalty notice is deemed to be revoked;

Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

- (b) any execution issued on the order shall cease to have effect, and
- (c) the authority shall forthwith inform any bailiff instructed to levy execution of the withdrawal of the warrant.]

CCR ORDER 49

MISCELLANEOUS STATUTES

Access to Neighbouring Land Act 1992(105)

^{F272}**Rule 1**

Textual Amendments

F272 Sch. 2 CCR Order 49 rule 1 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Administration of Justice Act 1970(106)

^{F273}**Rule 1A**

Textual Amendments

F273 Sch. 2 CCR Order 49 rule 1A revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Chancel Repairs Act 1932(107)

^{F274}**Rule 2**

Textual Amendments

F274 Sch. 2 CCR Order 49 rule 2 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Consumer Credit Act 1974(108)

^{F275}**Rule 4**

Textual Amendments

F275 Sch. 2 CCR Order 49 rule 4 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

(105) 1992 c. 23.
(106) 1970 c. 31.
(107) 1932 c. 20.
(108) 1974 c. 39.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Applications under section 114, 204 and 231 of the Copyright, Designs and Patents Act 1988(109)

Rule 4A The CPR Patents Courts practice direction shall apply with the necessary modifications to proceedings brought under sections 114 (1), 204 (1) and 231 (1) of the Copyright, Designs and Patents Act 1988.

Fair Trading Act 1973(110)

Rule 5.—(1) In this rule a section referred to by number means the section so numbered in the Fair Trading Act 1973 and “the Director” means the Director General of Fair Trading.

(2) Proceedings in a county court under section 35, 38 or 40 shall be started by a claim form.

(3) The respondent shall file an answer.

(4) Where in any proceedings under section 35 or 38 the Director intends to apply for a direction under section 40 (2) that any order made against a body corporate (in this rule referred to as the “respondent body”) which is a member of a group of interconnected bodies corporate shall be binding on all members of the group, he shall file notice of his intention together with as many copies of the claim form and of the notice as are required for the purposes of paragraph (5).

(5) A copy of any notice under paragraph (4) shall be served on the respondent body and a copy of the notice together with a copy of the claim form and a notice of the return day shall be served on each of the bodies corporate specified in the notice under paragraph (4).

(6) The respondent body may at any time serve on the Director a notice containing particulars of any interconnected body corporate not mentioned in a notice under paragraph (4).

(7) With a view to deciding whether or in respect of which bodies notice should be given under paragraph (4) the Director may serve on the respondent body a notice requiring that body to give to him within 14 days after service of the notice particulars of any interconnected bodies corporate belonging to the same group as the respondent body and a copy of any such notice shall be filed.

(8) An application under section 40 (3) shall be made on notice to the respondent body and every interconnected body belonging to the same group.

Housing Act 1988: assured tenancies

^{F276}**Rule 6**

Textual Amendments
F276 Sch. 2 CCR Order 49 rule 6 revoked (2.10.2000) by [The Civil Procedure \(Amendment No. 4\) Rules 2000 \(S.I. 2000/2092\)](#), rules 1, **27**

Housing Act 1988: assured shorthold tenancies

^{F277}**Rule 6A**

Textual Amendments
F277 Sch. 2 CCR Order 49 rule 6A revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Housing Act 1996: injunctions ^{F278} ...

Rule 6B.—(1) An application for an injunction under section 152 of the Housing Act 1996⁽¹¹¹⁾ may be made by a claim in the appropriate prescribed form and shall be commenced in the court for the district in which the respondent resides or the conduct complained of occurred.

(2) Every application shall—

- (a) state the terms of the injunction applied for; and
- (b) be supported by a witness statement or affidavit in which the grounds on which the application is made are set out.

(3) Every application made on notice must be served, together with a copy of the witness statement or affidavit, by the applicant on the respondent personally not less than 2 days before the date on which the application will be heard.

(4) Where an application is made without giving notice, the [^{F279}witness statement or] affidavit in support shall explain why notice was not given and the application and witness statement or affidavit shall be served (with a copy of any order made by the court), on the respondent personally without delay.

(5) Unless otherwise directed, every application made on notice shall be heard in public.

(6) Where in exercise of the powers conferred by section 152 (6) or 153 (1) of the Housing Act 1996, a power of arrest is attached to any provision of an injunction (“a relevant provision”)—

- (a) each relevant provision shall be set out in a separate clause of the injunction and no such clause shall refer to any form of conduct which would not entitle a constable to arrest the respondent under paragraph (a), (b) or (c) of section 152(1) or under paragraph (a), (b) or (c) of section 153 (5) of the Housing Act 1996; and
- (b) the applicant shall deliver a copy of the relevant provisions to the police officer for the time being in charge of any police station for the area where the conduct occurred.

(7) Where an order is made varying or discharging any relevant provision of an injunction to which a power of arrest has been attached, the court shall—

- (a) immediately inform the police officer for the time being in charge of the police station to which a copy of the relevant provisions was delivered under paragraph (6); and
- (b) deliver a copy of the order to any police officer so informed.

[^{F280}(7A) An application for a warrant of arrest under section 155(3) of the Housing Act 1996 must be made in accordance with Part 23 and may be made without notice.

Section 155(4) of the Housing Act 1996 provides that a warrant shall not be issued unless the application is substantiated on oath)]

[^{F281}(8) The judge before whom a person is brought following his arrest may—

- (a) deal with the matter; or
- (b) adjourn the proceedings.]

[^{F282}(8A) Where the proceedings are adjourned the judge may remand the arrested person in accordance with section 155(2)(b) or (5) of the Housing Act 1996.

(8B) Where the proceedings are adjourned and the arrested person is released—

- (a) the matter must be dealt with (whether by the same or another judge) within 14 days of the day on which he was arrested; and
- (b) the arrested person must be given not less than 2 days' notice of the hearing.

(111) 1996 c. 52.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(8C) An application notice under Order 29, rule 1(4) may be issued even if the arrested person is not dealt with within the period mentioned in paragraph (8B)(a).]

[^{F283}(9) Order 29, rule 1 shall apply where an application is made to commit a person for breach of an injunction as if references in that rule to the judge included references to a district judge.]

[^{F284}(10) A person against whom a committal order has been made may apply to the court under Order 29, rule 3 for his discharge and, if he does so, must, not less than 1 day before the hearing, serve the application notice on the person who made the application for committal.]

[^{F285}(11) Where, in accordance with paragraph 2(2)(b) of Schedule 15 to the Housing Act 1996, the court fixes the amount of any recognizance with a view to it being taken subsequently, the recognizance may be taken by—

- (a) a judge;
- (b) a justice of the peace;
- (c) a justices' clerk;
- (d) a police officer of the rank of inspector or above or in charge of a police station; or
- (e) where the arrested person is in his custody, the governor or keeper of a prison,

with the same consequences as if it had been entered into before the court.]

[^{F286}(11A) The person having custody of an applicant for bail must release him if satisfied that the required recognizances have been taken.

(11B) In paragraph (8) “arrest” means the arrest of a person pursuant to—

- (a) a power of arrest which, in exercise of the powers conferred by section 152(6) or 153(1) of the Housing Act 1996, has been attached to an injunction; or
- (b) a warrant of arrest issued under section 155 of that Act.]

(12) The jurisdiction of the court under sections 152 to 157 of the Housing Act 1996 may be exercised by a district judge

Textual Amendments

- F278** Words in Sch. 2 CCR Order 49 rule 6B heading omitted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(a)** (with rule 24)
- F279** Words in Sch. 2 CCR Order 49 rule 6B(4) inserted (26.4.1999) by The Civil Procedure (Amendment) Rules 1999 (S.I. 1999/1008), rules 1, **73(d)**
- F280** Sch. 2 CCR Order 49 rule 6B(7) (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(b)** (with rule 24)
- F281** Sch.2 CCR Order 49 rule 6B(8) substituted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(c)** (with rule 24)
- F282** Sch. 2 CCR Order 49 rule 6B(8A)-(8C) inserted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(d)** (with rule 24)
- F283** Sch. 2 CCR Order 49 rule 6B(9) substituted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(e)** (with rule 24)
- F284** Sch. 2 CCR Order 49 rule 6B(10) substituted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(f)** (with rule 24)
- F285** Sch. 2 CCR Order 49 rule 6B(11) substituted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(g)** (with rule 24)
- F286** Sch. 2 CCR Order 49 rule 6B(11A)(11B) inserted (15.10.2001) by The Civil Procedure (Amendment No. 4) Rules 2001 (S.I. 2001/2792), rules 1(b), **23(h)** (with rule 24)

*Status: Point in time view as at 02/12/2002.
Changes to legislation: There are currently no known outstanding effects
for the The Civil Procedure Rules 1998. (See end of Document for details)*

Injunctions to prevent environmental harm: Town and Country Planning Act 1990 etc.

Rule 7.—(1) An injunction under—

- (a) section 187B or 214A of the Town and Country Planning Act 1990(**112**),
- (b) section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990(**113**), or
- (c) section 26AA of the Planning (Hazardous Substances) Act 1990(**114**),

may be granted against a person whose identity is unknown to the applicant; and in the following provisions of this rule such an injunction against such a person is referred to as “an injunction under paragraph (1)”, and the person against whom it is sought is referred to as “the respondent”.

(2) An applicant for an injunction under paragraph (1) shall, describe the respondent by reference to—

- (a) a photograph,
- (b) a thing belonging to or in the possession of the respondent, or
- (c) any other evidence,

with sufficient particularity to enable service to be effected, and the form of the claim form used shall be modified accordingly.

(3) An applicant for an injunction under paragraph (1) shall file evidence by witness statement or affidavit—

- (a) verifying that he was unable to ascertain, within the time reasonably available to him, the respondent’s identity.
- (b) setting out the action taken to ascertain the respondent’s identity and
- (c) verifying the means by which the respondent has been described in the claim form and that the description is the best that the applicant is able to provide.

(4) Paragraph (2) is without prejudice to the power of the court to make an order in accordance with CPR Part 6 for service by an alternative method or dispensing with service.

Leasehold Reform Act 1967(115)

^{F287}**Rule 8**

Textual Amendments
F287 Sch. 2 CCR Order 49 rule 8 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

Leasehold Reform, Housing and Urban Development Act 1993(116)

^{F288}**Rule 9**

- (112) [1990 c. 8](#); section 187B was amended by the Planning and Compensation Act [1991 \(c. 34\)](#), section 3; and section 214A was amended by the section 23(7) of that Act.
- (113) [1990 c. 9](#); section 44A was amended by the Planning and Compensation Act [1991 \(c. 34\)](#), section 25, schedule 3, Part 1, paragraph 7.
- (114) [1990 c. 10](#); section 26AA was inserted by the Planning and Compensation Act [1991 \(c. 34\)](#), section 25, schedule 3, Part I, paragraph 15.
- (115) [1967 c. 88](#); section 11 was amended by the [Rentcharges Act 1977 \(c. \)](#), section 17(2), schedule 2. Section 21 was amended by the [Housing Act 1980 \(c. 51\)](#), sections 142, 152, schedule 22, Part II, paragraph 8, schedule 26; by the [County Courts Act 1984 \(c. 28\)](#), section 148(1), schedule 2, Part V, paragraph 31; by the [Leasehold Reform, Housing and Urban Development Act 1993 \(c. 28\)](#), section 187(1), schedule 21, paragraph 4; and by the [Housing Act 1996 \(c. 52\)](#), sections 115, 116, schedule 11, paragraph 1(2).
- (116) [1993 c. 28](#); section 26 was amended by the [Housing Act 1996 \(c. 52\)](#).

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Textual Amendments

F288 Sch. 2 CCR Order 49 rule 9 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), **Sch. 3**

Local Government Finance Act 1982(117)

^{F289}**Rule 10**

Textual Amendments

F289 Sch. 2 CCR Order 49 rule 10 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Local Government (Miscellaneous Provisions) Act 1976(118)

^{F290}**Rule 11**

Textual Amendments

F290 Sch. 2 CCR Order 49 rule 11 revoked (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rule 1(b), **Sch. 8** (with rule 39(b)) (as amended by S.I. 2000/940, rules 1, 2)

Mental Health Act 1983(119)

Rule 12.—(1) In this rule— a section referred to by number means the section so numbered in the Mental Health Act 1983 and “Part II” means Part II of that Act;

“place of residence” means, in relation to a patient who is receiving treatment as an in-patient in a hospital or other institution, that hospital or institution;

“hospital authority” means the managers of a hospital as defined in section 145 (1).

(2) An application to a county court under Part II shall be made by a claim form filed in the court for the district in which the patients' place of residence is situated or, in the case of an application made under section 30 for the discharge or variation of an order made under section 29, in that court or in the court which made the order.

(3) Where an application is made under section 29 for an order that the functions of the nearest relative of the patient shall be exercisable by some other person—

- (a) the nearest relative shall be made a respondent to the application unless the application is made on the grounds set out in subsection (3)(a) of the said section or the court otherwise orders, and

(117) **1982 c. 32**; sections 19 and 20 were amended by the National Health Service and Community Care Act 1990 (c. 19), section 20, schedule 4, paragraphs 9 and 10; by the Education Reform Act 1988 (c. 40), section 237(2), schedule 13, Part I; by the Police and Magistrates' Courts Act 1994 (c. 29), section 43, schedule 4, Part I, paragraphs 26 and 27; by the Police Act 1996 (c. 16), section 103(1), schedule 7, Part I, paragraph 1, and by the Police Act 1997 (c. 50), section 88, schedule 6, paragraphs 19 and 21; and by S.I. 1991/724 and 1996/3141.

(118) **1976 c. 57**; section 23 was amended by S.I. 1996/3071. Section 35 was amended by the Local Government Act 1985 (c. 51), section 102(2), schedule 17 and by S.I. 1996/3071.

(119) **1983 c. 20**; section 145(1) was amended by the Health Authorities Act 1995 (c. 17), section 2(1), schedule 1, Part III, paragraph 107; by the National Health Service and Community Care Act 1990 (c. 19), section 66(1), schedule 9, paragraph 24(9); and by the Mental Health (Amendment) Act 1994 (c. 6), section 1.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(b) the court may order that any other person, not being the patient, shall be made a respondent.

(4) On the hearing of the application the court may accept as evidence of the facts stated therein any report made by a medical practitioner and any report made in the course of his official duties by—

- (a) a probation officer, or
- (b) an officer of a local authority or of a voluntary organisation exercising statutory functions on behalf of a local authority, or
- (c) an officer of a hospital authority:

Provided that the respondent shall be told the substance of any part of the report bearing on his fitness or conduct which the judge considers to be material for the fair determination of the application.

(5) Unless otherwise ordered, an application under Part II shall be heard and determined by the court sitting in private.

(6) For the purpose of determining the application the judge may interview the patient either in the presence of or separately from the parties and either at the court or elsewhere, or may direct the district judge to interview the patient and report to the judge in writing.

Mobile Homes Act 1983(120)

^{F291}**Rule 13**

Textual Amendments
F291 Sch. 2 CCR Order 49 rule 13 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 3](#)

[^{F292}**Postal Services Act 2000**]

Rule 15.—(1) An application under [^{F293}section 92 of the Postal Services Act 2000] for permission to bring proceedings in the name of the sender or addressee of a postal packet or his personal representatives shall be made by a claim form.

(2) The respondents to the application shall be the [^{F294}universal service provider] and the person in whose name the applicant seeks to bring proceedings.

Textual Amendments
F292 Sch. 2 CCR Order 49 rule 15 heading substituted (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), art. 1(2), [Sch. 1 para. 123\(3\)\(a\)](#)
F293 Words in Sch. 2 CCR Order 49 rule 15(1) substituted (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), art. 1(2), [Sch. 1 para. 123\(3\)\(b\)](#)
F294 Words in Sch. 2 CCR Order 49 rule 15(2) substituted (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), art. 1(2), [Sch. 1 para. 123\(3\)\(c\)](#)

Rentcharges Act 1977(121)

^{F295}**Rule 16**

(120) 1983 c. 34.
(121) 1977 c. 30.

Textual Amendments

F295 Sch. 2 CCR Order 49 rule 16 revoked (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001](#) (S.I. 2001/256), rule 1(d), **Sch. 3**

[^{F296}Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995 and Disability Rights Commission Act 1999]

Rule 17.—(1) In this rule—

- [^{F297}(a) “the Act of 1975”, “the Act of 1976 ”, “the Act of 1995” and “the Act of 1999” mean respectively the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and the Disability Rights Commission Act 1999;]
- (b) in relation to proceedings under either of those Acts expressions which are used in the Act concerned have the same meanings in this rule as they have in that Act;
- (c) in relation to proceedings under the Act of 1976 “court” means a designated county court and “district” means the district assigned to such a court for the purposes of that Act.

(2) A claimant who brings a claim under section 66 of the Act of [^{F298}1975,] section 57 of the Act of 1976 [^{F299}or section 25 of the Act of 1995] shall forthwith give notice to the Commission of the commencement of the proceedings and file a copy of the notice.

(3) CPR Rule 35.15 shall have effect in relation to an assessor who is to be appointed in proceedings under section 66 (1) of the Act of 1975.

(4) Proceedings under section 66, 71 or 72 of the Act of [^{F300}1975,] section 57, 62 or 63 of the Act of 1976 [^{F301}, section 25 of the Act of 1995 or section 6 of the Act of 1999] may be commenced—

- (a) in the court for the district in which the defendant resides or carries on business; or
- (b) in the court for the district in which the act or any of the acts in respect of which the proceedings are brought took place.

(5) An appeal under section 68 of the Act of [^{F302}1975,] section 59 of the Act of 1976 [^{F303}or paragraph 10 of Schedule 3 to the Act of 1999] against a requirement of a non-discrimination notice shall be brought in the court for the district in which the acts to which the requirement relates were done.

(6) Where the claimant in any claim alleging discrimination has questioned the defendant under section 74 of the Act of 1975 or section 66 of the Act of 1976—

- (a) either party may make an application to the court in accordance with CPR Part 23 to determine whether the question or any reply is admissible under that section; and
- (b) CPR Rule 3.4, shall apply to the question and any answer as it applies to any statement of case.

(7) Where in any claim the Commission claim a charge for expenses incurred by them in providing the claimant with assistance under section 75 of the Act of [^{F304}1975,] section 66 of the Act of 1976 [^{F305}or section 7 of the Act of 1999] —

- (a) the Commission shall, within 14 days after the determination of the claim, give notice of the claim to the court and the claimant and thereafter no money paid into court for the benefit of the claimant, so far as it relates to any costs or expenses, shall be paid out except in pursuance of an order of the court, and
- (b) the court may order the expenses incurred by the Commission to be assessed whether by the summary or detailed procedure as if they were costs payable by the claimant to his own solicitor for work done in connection with the proceedings.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

(8) Where an application is made for the removal or modification of any term of a contract to which section 77 (2) of the Act of [^{F306}1975,] section 72 (2) of the Act of 1976 [^{F307}or section 26 of the Act of 1995] applies, all persons affected shall be made respondents to the application, unless in any particular case the court otherwise directs, and the proceedings may be commenced—

- (a) in the court for the district in which the respondent or any of the respondents resides or carries on business; or
- (b) in the court for the district in which the contract was made.

Textual Amendments

- F296** Sch. 2 CCR Order 49 rule 17 heading substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(a)** (with rule 39)
- F297** Sch. 2 CCR Order 49 rule 17(1)(a) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(b)** (with rule 39)
- F298** Word in Sch. 2CCR Order 49 rule 17(2) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(c)(i)** (with rule 39)
- F299** Words in Sch. 2CCR Order 49 rule 17(2) inserted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(c)(ii)** (with rule 39)
- F300** Word in Sch. 2CCR Order 49 rule 17(4) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(d)(i)** (with rule 39)
- F301** Words in Sch. 2CCR Order 49 rule 17(4) inserted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(d)(ii)** (with rule 39)
- F302** Word in Sch. 2CCR Order 49 rule 17(5) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(e)(i)** (with rule 39)
- F303** Words in Sch. 2CCR Order 49 rule 17(5) inserted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(e)(ii)** (with rule 39)
- F304** Word in Sch. 2CCR Order 49 rule 17(7) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(f)(i)** (with rule 39)
- F305** Words in Sch. 2CCR Order 49 rule 17(7) inserted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(f)(ii)** (with rule 39)
- F306** Word in Sch. 2CCR Order 49 rule 17(8) substituted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(g)(i)** (with rule 39)
- F307** Words in Sch. 2CCR Order 49 rule 17(8) inserted (3.7.2000) by [The Civil Procedure \(Amendment No. 3\) Rules 2000 \(S.I. 2000/1317\)](#), rules 1, **38(g)(ii)** (with rule 39)

Solicitors Act 1974(122)

^{F308}**Rule 18**

Textual Amendments

- F308** Sch. 2 CCR Order 49 rule 18 omitted (26.4.1999) by virtue of [The Civil Procedure \(Amendment\) Rules 1999 \(S.I. 1999/1008\)](#), rules 1, **73(f)**

Telecommunications Act 1984(123)

Rule 18A.—(1) CPR Rule 35.15 applies to proceedings under paragraph 5 of Schedule 2 to the Telecommunications Act 1984.

(122)1974 c. 47.
(123)1984 c. 12.

Status: Point in time view as at 02/12/2002.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998. (See end of Document for details)

Applications under section 19 of the Trade Marks Act 1994(124)

Rule 18B The CPR Patents Court Practice direction shall apply with the necessary modifications to proceedings brought under section 19 of the Trade Marks Act 1994 in a county court.

Trade Union and Labour Relations Consolidation Act 1992(125)

Rule 19.—(1) Where a complainant desires to have an order of the Certification Officer under section 82 of the Trade Union and Labour Relations Consolidation Act 1992 recorded in the county court, he shall produce the order and a copy thereof to the court for the district in which he resides or the head or main office of the trade union is situate.

(2) The order shall be recorded by filing it, and the copy shall be sealed and dated and returned to the complainant.

(3) The sealed copy shall be treated as if it were the notice of issue in a claim begun by the complainant.

(4) The costs, if any, allowed for recording the order shall be recoverable as if they were payable under the order.

(5) The order shall not be enforced until proof is given to the satisfaction of the court that the order has not been obeyed and, if the order is for payment of money, of the amount remaining unpaid.

Trustee Act 1925, s.63(126)

^{F309}**Rule 20**

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Textual Amendments
F309 Sch. 2 CCR Order 49 rule 20 revoked (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rule 1(b), **Sch. 10**

(124)1994 c. 26.

(125)1992 c. 52.

(126)1925 c. 19; section 63 was amended by the Administration of Justice Act 1965 (c. 2), section 36(4), schedule 3.

Status:

Point in time view as at 02/12/2002.

Changes to legislation:

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