

---

STATUTORY INSTRUMENTS

---

**2000 No. 2092**

**The Civil Procedure (Amendment No. 4) Rules 2000**

**Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment No. 4) Rules 2000 and shall come into force on 2nd October 2000.

2. In these Rules—

- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(1);
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

**Amendments to Civil Procedure Rules 1998**

3. For the definition of “defendant’s home court” in rule 2.3(1), substitute—

““defendant’s home court” means—

- (a) if the claim is proceeding in a county court, the county court for the district in which the defendant resides or carries on business; and
- (b) if the claim is proceeding in the High Court, the district registry for the district in which the defendant resides or carries on business or, where there is no such district registry, the Royal Courts of Justice;”.

4. For paragraphs (1) and (2) of rule 3.7, substitute—

“(1) This rule applies where—

- (a) an allocation questionnaire or a listing questionnaire is filed without payment of the fee specified by the relevant Fees Order;
- (b) the court dispenses with the need for an allocation questionnaire or a listing questionnaire or both;
- (c) these Rules do not require an allocation questionnaire or a listing questionnaire to be filed in relation to the claim in question; or
- (d) the court has made an order giving permission to proceed with a claim for judicial review.

(Rule 26.3 provides for the court to dispense with the need for an allocation questionnaire and rules 28.5 and 29.6 provide for the court to dispense with the need for a listing questionnaire)

(Rule 54.12 provides for the service of the order giving permission to proceed with a claim for judicial review)

(2) The court will serve a notice on the claimant requiring payment of the fee specified in the relevant Fees Order if, at the time the fee is due, the claimant has not paid it or made an application for exemption or remission.”.

5. After rule 6.5, insert—

“(Rule 42.1 provides that if the business address of his solicitor is given that solicitor will be treated as acting for that party)”.

6. After rule 7.10, insert—

**“Human Rights**

**7.11.**—(1) A claim under section 7(1)(a) of the Human Rights Act 1998(2) in respect of a judicial act may be brought only in the High Court.

(2) Any other claim under section 7(1)(a) of that Act may be brought in any court.”.

7. In rule 13.4, omit paragraph (1A).

8. After rule 19.4, insert—

**“Human Rights**

*Section 4 of the Human Rights Act 1998*

**19.4A.**—(1) The court may not make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998 unless 21 days' notice, or such other period of notice as the court directs, has been given to the Crown.

(2) Where notice has been given to the Crown a Minister, or other person permitted by that Act, shall be joined as a party on giving notice to the court.

(Only courts specified in section 4 of the Human Rights Act 1998 can make a declaration of incompatibility)

*Section 9 of the Human Rights Act 1998*

(3) Where a claim is made under that Act for damages in respect of a judicial act—

(a) that claim must be set out in the statement of case or the appeal notice; and

(b) notice must be given to the Crown.

(4) Where paragraph (3) applies and the appropriate person has not applied to be joined as a party within 21 days, or such other period as the court directs, after the notice is served, the court may join the appropriate person as a party.

(A practice direction makes provision for these notices)”.

9. In rule 24.3(2)—

(a) omit the word “and” at the end of sub-paragraph (b) and for the semi-colon after the word “rem” substitute a full stop; and

(b) omit sub-paragraph (c).

10. After rule 26.10, insert—

**“Trial with a jury**

**26.11** An application for a claim to be tried with a jury must be made within 28 days of service of the defence.

(Section 69 of the Supreme Court Act 1981<sup>(3)</sup> and section 66 of the County Courts Act 1984<sup>(4)</sup> specify when a claim may be tried with a jury”.

11. Rules 27.12 and 27.13 are revoked.
12. In rule 27.14(2)(c), omit “under rule 27.12”.
13. In rule 30.3(2)—
  - (a) for the full stop at the end of sub-paragraph (f) substitute a semi-colon; and
  - (b) after sub-paragraph (f), insert—
    - (g) whether the making of a declaration of incompatibility under section 4 of the Human Rights Act 1998 has arisen or may arise.”.
14. Rule 30.8 is revoked.
15. After rule 33.8, insert—

**“Human Rights**

**33.9.**—(1) This rule applies where a claim is—

- (a) for a remedy under section 7 of the Human Rights Act 1998 in respect of a judicial act which is alleged to have infringed the claimant’s Article 5 Convention rights; and
- (b) based on a finding by a court or tribunal that the claimant’s Convention rights have been infringed.

(2) The court hearing the claim—

- (a) may proceed on the basis of the finding of that other court or tribunal that there has been an infringement but it is not required to do so, and
- (b) may reach its own conclusion in the light of that finding and of the evidence heard by that other court or tribunal.”.

16. In rule 36.6(5), after “withdrawn” insert “or reduced”.
17. For rule 36.21(6), substitute—

“(6) Where the court awards interest under this rule and also awards interest on the same sum and for the same period under any other power, the total rate of interest may not exceed 10% above base rate<sup>(gl)</sup>.”.
18. In rule 39.3(4), omit “for an order to restore proceedings”.
19. In rule 47.17(3), after the words “in accordance with” insert “community legal service or”.
20. For rule 52.1(2), substitute—

“(2) This Part does not apply to an appeal in detailed assessment proceedings against a decision of an authorised court officer.”.
21. After rule 52.1(2), omit the words from “(Rules 27.12” to “small claims track))”.

---

(3) 1981 c. 54.

(4) 1984 c. 28 amended by the Housing (Consequential Provisions) Act 1985 (c. 71), Schedule 2, paragraph 57(2) and the Housing Act 1988 (c. 50), Schedule 17, paragraph 35(1).

22. After Part 53, insert Part 54 (judicial review) as set out in the Schedule to these Rules.
23. RSC Order 53 is revoked.
24. RSC Order 57 is revoked.
25. In RSC Order 64, rule 4, paragraph (b) is revoked.
26. In RSC Order 98, rule 2(3), omit “in accordance with Order 57, rule 2.”.
27. CCR Order 49, rule 6 is revoked.
28. After CCR Order 49, rule 6A(17), insert—
  - “(17A) Where the defendant seeks postponement of possession on the ground of exceptional hardship under section 89 of the Housing Act 1980(5), the judge may direct a hearing of that issue.
  - (17B) Where the judge directs a hearing under paragraph (17A) it must be held before the date on which possession is to be given up.
  - (17C) Where the judge is satisfied, on a hearing directed under paragraph (17A), that exceptional hardship would be caused by requiring possession to be given up by the date in the order of possession, he may vary the date on which possession must be given up.”.

#### **Transitional provisions**

29. Where a person has, before 2nd October 2000, filed a notice of appeal in a claim allocated to the small claims track—
  - (a) Part 52 shall not apply to the appeal to which that notice relates; and
  - (b) rules 27.12 and 27.13 shall apply to that appeal as if they had not been revoked.
30. Where a person has, before 2nd October 2000, filed an application for permission to make an application for judicial review in accordance with RSC Order 53—
  - (a) Part 54 shall not apply to that application for permission or the application for judicial review to which it relates; and
  - (b) RSC Order 53 shall apply to those applications as if it had not been revoked.

*Phillips of Worth Matravers, M.R.  
Andrew Morritt, V-C.  
Anthony May, L.J.  
Richard Holman  
Godfrey Gypps  
John Leslie  
Michael Black  
David Foskett  
Henrietta Manners  
David Greene  
Peter Haworth  
Peter Watson  
Harriet Kimbell  
Olivia Morrison-Lyons*

I allow these Rules

Dated 22nd July 2000

*Irvine of Lairg, C.*