

**2021 No. 117 (L. 2)**

**SENIOR COURTS OF ENGLAND AND WALES**

**COUNTY COURT, ENGLAND AND WALES**

**The Civil Procedure (Amendment) Rules 2021**

*Made* - - - - - *28th January 2021*

*Laid before Parliament* *3rd February 2021*

*Coming into force* - - - *6th April 2021*

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules under section 1 of and Schedule 1 to that Act and after fulfilling the requirements of section 2(6) of that Act, makes the following Rules.

**Citation, commencement and interpretation**

**1.**—(1) These Rules may be cited as the Civil Procedure (Amendment) Rules 2021 and come into force on 6th April 2021.

(2) In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(b).

**Transitional and saving provision**

**2.** The amendments made by rules 15, 17(1) and (3), 18, 19(1) to (6) and (8), 20 and 21 do not apply to applications—

- (a) in relation to contempt of court; or
- (b) in relation to a writ of sequestration,

that are made before 6th April 2021.

**Amendments to the Civil Procedure Rules 1998**

**3.** The Civil Procedure Rules 1998 are amended in accordance with rules 4 to 20 of these Rules.

**Amendment of Part 1**

**4.**—(1) In the list of contents at the beginning of Part 1, after the entry for rule 1.5 insert—

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(a) 1997 c.12. Section 2(1) was substituted by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, Part 1. Section 1(3) was substituted by section 82(1) of the Courts Act 2003 (c. 39) and further amended by the Constitutional Reform Act 2005, sections 15 and 146 and Schedule 4, Part 1, paragraphs 261 and 262 and Schedule 18. Section 1(1) was amended by the Crime and Courts Act 2013 (c. 22), section 17(5) and Schedule 9, Part 3, paragraph 67(a).

(b) S.I. 1998/3132. There are relevant amendments in S.I.2001/2792, S.I. 2001/4015S.I. 2010/1953, S.I. 2012/2208, S.I. 2014/3299, S.I. 2019/521. S.I. 2014/407, S.I. 2014/867, S.I. 2016/234.

“Participation of vulnerable parties or witnesses                      Rule 1.6”.

(2) In rule 1.1(2)(a), after “footing” insert “and can participate fully in proceedings, and that parties and witnesses can give their best evidence”.

(3) After rule 1.5 insert—

**“Participation of vulnerable parties or witnesses**

**1.6.** Practice Direction 1A makes provision for how the court is to give effect to the overriding objective in relation to vulnerable parties or witnesses.”.

**Amendment of Part 3**

**5.** In rule 3.17(3)(a), for “before” substitute “up to and including”.

**Amendment of Part 6**

**6.** In rule 6.33, for paragraph (2B) substitute—

“(2B) The claimant may serve the claim form on a defendant outside the United Kingdom where, for each claim made against the defendant to be served and included in the claim form—

- (a) the court has power to determine that claim under the 2005 Hague Convention and the defendant is a party to an exclusive choice of court agreement conferring jurisdiction on that court within the meaning of Article 3 of the 2005 Hague Convention; or
- (b) a contract contains a term to the effect that the court shall have jurisdiction to determine that claim.”.

**Amendment of Part 12**

**7.** In rule 12.11(4)(a), after “2005 Hague Convention” insert “or made in respect of a contract where the contract contains a term to the effect that the court shall have jurisdiction to determine each claim made against the defendant to be served”.

**Amendment of Part 32**

**8.—(1)** In rule 32.12, after paragraph (2) insert—

“(3) This rule applies to affidavits in the same way as it applies to witness statements.”.

(2) At the end of rule 32.15 insert—

“(Rule 32.12 makes provision about the use of affidavits for purposes other than the proceedings in which they are served.)”.

**Amendment of Part 36**

**9.** In rule 36.5, after paragraph (4) insert—

“(5) A Part 36 offer to accept a sum of money may make provision for accrual of interest on such sum after the date specified in paragraph (4). If such an offer does not make any such provision, it shall be treated as inclusive of all interest up to the date of acceptance if it is later accepted.”.

**Amendment of Part 40**

**10.** At the end of rule 40.14A insert—

“(Rule 83.19 provides for what happens where a request for a certificate of judgment is made under this rule for the purpose of enforcing a judgment or order in the High Court, including (under rule 83.19(4)) that where certain proceedings are pending, the request for the certificate will not be dealt with until those proceedings are determined.)”.

#### **Amendment of Part 44**

**11.**—(1) In rule 44.3(5)—

- (a) at the end of sub-paragraph (d), omit “and”;
- (b) at the end of sub-paragraph (e) insert “; and”; and
- (c) after sub-paragraph (e) insert—

“(f) any additional work undertaken or expense incurred due to the vulnerability of a party or any witness.”.

#### **Amendment of Part 51**

**12.**—(1) Omit rule 51.1.

(2) After rule 51.2 insert—

##### **“Temporary modifications for coronavirus or other emergency**

**51.3.** Practice directions may modify or disapply any provision of these rules—

- (a) for specified periods; and
- (b) in relation to proceedings in specified courts,

in order to address issues for the work of the courts arising from the coronavirus (SARS-CoV-2) outbreak or any other public emergency.”.

#### **Amendment of Part 55**

**13.** In the list of contents at the beginning of Part 55, in the entry for the rule headed “Coronavirus – temporary provision”, for “Rule 34.7A” substitute “Rule 55.A1”.

#### **Amendment of Part 61**

**14.** In rule 61.9—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (a), after “if” insert “at the date on which judgment is entered”; and
  - (ii) in sub-paragraph (b), after “if” insert “at the date on which judgment is entered”; and
- (b) in paragraph (2), after “if” insert “at the date on which judgment is entered”.

#### **Amendment of Part 65**

**15.**—(1) In rule 65.47, for paragraph (4) substitute—

“(4) A contempt application may be issued even if the arrested person is not dealt with within the period in sub-paragraph (3)(a).”.

#### **Amendment of Part 70**

**16.**—(1) In the list of contents at the beginning of Part 70, after the entry for rule 70.6 insert—

“Debt respite scheme Rule 70.7”.

(2) In rule 70.1(2), after sub-paragraph (c) insert—

“(ca) “judgment or order” also includes an award enforceable under the Judgments Regulation (Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(a)) as if it were an order or judgment of the court, and in relation to such an award “the court which made the judgment or order” means the county court or the High Court.”.

(3) After rule 70.6 insert—

#### **“Debt respite scheme**

**70.7.**—(1) A practice direction may make provision for procedure relating to any debt respite scheme established under section 7 of the Financial Guidance and Claims Act 2018(b).

(2) The practice direction may modify or disapply any provision of these Rules as appropriate in relation to such a debt respite scheme.”.

#### **Amendment of Part 71**

**17.**—(1) In rule 71.2(7), for “imprisoned or fined, or your assets may be seized” substitute “punished by a fine, imprisonment, confiscation of assets or other punishment under the law”.

(2) In rule 71.7, for “judgment debtor” substitute “person ordered to attend court”.

(3) In rule 71.8, for paragraphs (2) to (4) substitute—

“(2) That judge may, provided the judgment creditor has complied with rules 71.4 and 71.5, hold the person in contempt of court and make an order punishing them by a fine, imprisonment, confiscation of assets or other punishment under the law.

(3) If such an order is made, the judge will direct that—

(a) the order shall be suspended, provided that the person—

(i) attends court at a time and place specified in the order; and

(ii) complies with all the terms of that order and the original order; and

(b) if the person fails to comply with any term on which the order is suspended, they shall be brought before a judge to consider whether the order should be discharged.”.

#### **Amendment of Part 74**

**18.** In rule 74.48, omit “Section II of”.

#### **Amendment of Part 83**

**19.** —(1) In the list of contents at the beginning of Part 83—

(a) omit the entry for rule 83.2A;

(b) after the entry for rule 83.14 insert—

“Rule 83.14A

Application for permission to issue writ of sequestration”; and

(c) in the entry for rule 83.27 for “committal” substitute “contempt proceedings”.

(2) After rule 83.1(2) insert—

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(a) OJ No. L 351, 20.12.2012, p.1. For application of the recast Judgments Regulation to Denmark, see also the Official Journal of the European Union at OJ No. L 79, 21.3.2013, p.4.

(b) 2018 c. 10.

“(3) This Part does not apply where an application is made seeking confiscation of assets as a punishment for contempt of court. Any such application must be made under Part 81 and not under this Part.”.

(3) At the end of rule 83.2(3)(e) omit “or”.

(4) At the end of rule 83.2(3)(f) for the full stop substitute—

“; or

(g) an application is made for a writ of sequestration.

(Rule 83.14A makes provision for applications for permission to issue a writ of sequestration.)”.

(5) Rule 83.2A is revoked.

(6) After rule 83.14 insert—

#### **“Application for permission to issue writ of sequestration**

**83.14A.**—(1) An application for permission to issue a writ of sequestration must be made—

(a) to a judge of the Division of the High Court in which the case is proceeding or, in any other case, to a judge of the Queen’s Bench Division;

(b) by filing an application notice under Part 23.

(2) The application notice must set out the grounds of the application and must be supported by evidence.

(3) The supporting evidence must be by affidavit or affirmation unless and to the extent that the court directs otherwise.

(4) The application must be served personally on the other party or parties unless the court directs otherwise in accordance with Part 6.”.

(7) In rule 83.19(4)(b), for “under either rule 39.3(3) or rule 13.4” substitute “to set aside or vary the judgment”.

(8) For rule 83.27 substitute—

#### **“Saving for enforcement by contempt proceedings**

**83.27.** Nothing in rules 83.23 and 83.26 prejudices any right to bring contempt proceedings under Part 81.”.

#### **Amendment of Part 89**

**20.**—(1) In the list of contents at the beginning of Part 89, in the entry for rule 89.1 before “Interpretation” insert “Scope and”.

(2) At the start of the heading to rule 89.1, insert “Scope and”.

(3) Renumber the existing text of rule 89.1 as paragraph (2) of that rule.

(4) Before paragraph (2) of rule 89.1 (as renumbered by paragraph (3) of this Rule), insert—

“(1) Part 81 does not apply to proceedings under this Part.”.

#### **Amendment of the Civil Procedure (Amendment No. 3) Rules 2020**

**21.** In rule 2 of the Civil Procedure (Amendment No. 3) Rules 2020(a), omit paragraph (1).

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(a) S.I. 2020/747.

*The Right Honourable Sir Geoffrey Vos, MR  
Mr Justice Birss  
Mr Justice Kerr  
Mr Justice Trower  
Master Cook  
District Judge Cohen  
District Judge Parker  
Isabel Hitching QC  
Tom Montagu-Smith QC  
Brett Dixon  
David Marshall  
Lizzie Iron*

I allow these Rules  
Signed by authority of the Lord Chancellor

*Chris Philp*  
Parliamentary Under-Secretary of State for Justice  
Ministry of Justice

28th January 2021

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Civil Procedure Rules 1998 (SI 1998/3132) by—

- amending Part 1 (the overriding objective) to make it clear that dealing with a case justly includes ensuring, so far as practicable, that the parties can participate fully and that parties and witnesses can give their best evidence; and to introduce a new practice direction making provision for how the court is to give effect to the overriding objective in relation to vulnerable parties and witnesses;
- amending rule 3.17(3)(a) to provide that the court may not approve costs incurred up to and including the date of any costs management hearing (rather than, as previously worded, costs incurred before that date);
- amending rule 6.33 so that permission of the court is not required to serve out of the jurisdiction a claim where jurisdiction is based on a choice of court agreement (with consequential amendment in Part 12);
- amending Part 32 to make it clear that the restriction on collateral use of witness statements outside the proceedings in which they are served applies equally to such use of affidavits;
- amending rule 36.5 to add a new paragraph (5) making express provision for the position in respect of interest accrued after the expiry of the period for accepting a Part 36 offer;
- amending Part 40 to insert an explanatory cross-reference to the change made to rule 83.19(4)(b);
- amending Part 44 to enable additional work undertaken or expense incurred due to the vulnerability of a party or any witness to be taken into account in assessing whether costs are proportionate;
- amending Part 51 to remove spent transitional provisions and to insert a new rule allowing for practice directions to make temporary modifications to the rules to address issues arising for the work of the courts due to the coronavirus outbreak or any other public emergency;
- amending Part 55 to correct a reference in the table of contents for the Part;

- amending rule 61.9 to mirror for Admiralty claims the amendments made (by S.I. 2020/82) to rule 12.3 for default judgments more generally;
- making the following changes to the rules in consequence of the introduction of new Part 81 – Applications and proceedings in relation to contempt of court by the Civil Procedure (Amendment No. 3) Rules 2020 (SI 2020/747)—
  - substituting rule 65.47(4), to update language;
  - amending rule 71.2(7), to be consistent with language of the new Part 81;
  - replacing rule 71.8(2)-(4), to be consistent with language of the new Part 81;
  - amending rule 74.48 to update a cross reference;
  - amending Part 83 (rules 83.1, 83.2, 83.2A, new 83.14A, 83.27) so that the court procedure for sequestration as a method of enforcement (as distinct from sequestration as sanction for contempt) is to be governed by Part 83 and in particular new rule 83.14A. (The procedure for sequestration as sanction for contempt is governed by Part 81.);
  - amending rule 89.1 to make it clear that proceedings under that Part are not contempt proceedings.
- amending Part 70 to clarify that for foreign judgments not requiring registration in order to be enforceable, such a judgment is to be treated for enforcement purposes as if it were a judgment of the High Court or County Court; and to insert a new rule enabling provision to be made in a practice direction for procedure in relation to any debt respite scheme established under section 7 of the Financial Guidance and Claims Act 2018;
- amending rule 71.7 to clarify its application;
- amending rule 83.19(4)(b) to make it clear that the provision it makes for suspending issue of a certificate of judgment extends to all cases where there is pending an application to set aside or vary the judgment in question.

These Rules also amend the Civil Procedure (Amendment No. 3) Rules 2020 (SI 2020/747) by revoking the transitional provision in relation to rule 83.2A (that rule 83.2A being revoked by these Rules.

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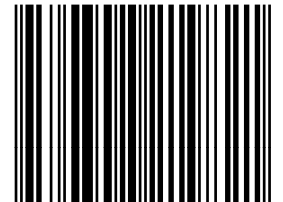
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

UK202102021016 02/2021 19585

<http://www.legislation.gov.uk/id/uksi/2021/117>

ISBN 978-0-34-821982-1



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