

STATUTORY INSTRUMENTS

2021 No. 196

The Civil Procedure (Amendment No. 2) Rules 2021

Amendment of Part 26

5.—(1) In the list of contents at the beginning of Part 26, after the entry for rule 26.6, insert—

“Road traffic accident related personal injury claims	Rule 26.6A
Children and protected parties	Rule 26.6B”.

(2) In rule 26.3(1), for “If a defendant”, substitute “Subject to rule 26.5A, if a defendant”.

(3) In rule 26.5(1), for “The court”, substitute “Subject to rule 26.5A, the court”.

(4) After rule 26.5, insert—

“**26.5A.**—(1) This rule applies where—

(a) the parties have followed the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents; and

(b) proceedings have been started under Practice Direction 27B.

(2) Subject to paragraph (3), where this rule applies, the claim shall be treated as allocated to the small claims track when it is issued and rules 26.3, 26.4 and 26.5 will not apply.

(3) Where in any claim started or continued under Practice Direction 27B—

(a) the appropriate court form states that—

(i) the amount claimed is more than £10,000; or

(ii) the claim for personal injury damages is more than £5,000; or

(b) rule 26.6A applies,

a court officer must refer the claim to a judge for allocation to a track and to give directions.”.

(5) In rule 26.6—

(a) for paragraph (1)(a)(ii), substitute—

“(ii) the value of any claim for damages for personal injuries is not more than—

(aa) £5,000 in a claim for personal injuries arising from a road traffic accident, except as provided in sub-paragraph (bb);

(bb) £1,000 in a claim for personal injuries arising from a road traffic accident, in any of the circumstances specified in rule 26.6A; or

(cc) £1,000 in any other claim for personal injuries;”.

(b) after paragraph (2), insert—

“(2A) ‘Road traffic accident’ means an accident resulting in a bodily injury to any person caused by, or arising out of, the use of a motor vehicle on a road or other public place in England and Wales unless the injury was caused wholly or in part by a breach by

the defendant of one or more of the relevant statutory provisions as defined by section 53 of the Health and Safety at Work etc. Act 1974(1).”;

(c) after rule 26.6, insert—

“Road traffic accident related personal injury claims

26.6A. The circumstances referred to in rule 26(1)(a)(ii)(bb) are—

- (a) the accident occurred before 31st May 2021;
- (b) unless rule 26.6B applies, on the date that proceedings are started, the claimant is—
 - (i) a child; or
 - (ii) a protected party;
- (c) when the accident occurred, the claimant was—
 - (i) using a motor cycle;
 - (ii) a pillion passenger on, or a passenger in a sidecar attached to, a motor cycle;
 - (iii) using a wheelchair, a powered wheelchair or a mobility scooter(2);
 - (iv) using a bicycle or other pedal cycle;
 - (v) riding a horse; or
 - (vi) a pedestrian;
- (d) unless rule 26.6B applies, on the date that proceedings are started—
 - (i) the claimant is an undischarged bankrupt; or
 - (ii) the claimant or defendant acts as a personal representative of a deceased person; or
- (e) unless rule 26.6B applies, on the date of the accident, the defendant’s vehicle was registered outside the United Kingdom.

Children and protected parties

26.6B.—(1) The fast track is the normal track where a claim—

- (a) is for personal injuries arising from a road traffic accident which occurs on or after 31st May 2021;
- (b) is made by—
 - (i) a child or a protected party; or
 - (ii) a person who, on the date the claim was first presented via the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents, was a child; and
- (c) consists of, or includes, a claim for a whiplash injury.

(1) 1974 c. 37. Which has been amended by the Employment Protection Act 1975 (c. 71), sections 116 and 125(3), Schedule 15, paragraph 18, the Consumer Protection Act 1987 (c. 43), section 36, Schedule 3, S.I. 2008/960, articles 3 and 17(a) and (b), the Police (Health And Safety) Act 1997 (c. 42), section 6(1), the Local Government (Wales) Act 1994 (c. 19), sections 22(3) and 66(8), Schedule 9, paragraph 9 and Schedule 18, the Local Government Act 1985 (c. 51), section 102, Schedule 17, the Local Government etc (Scotland) Act 1994 (c. 39), section 180(1), Schedule 13 paragraph 93(3), the Energy Act 2013 (c. 32) section 116, Schedule 12, Part 1, paragraphs 1 and 12(a), (b) and (c), and the Railways Act 2005 (c. 14), section 2, Schedule 3, paragraph 15(3).

(2) As to the meaning of which, see references to “Class 1, 2 and 3 invalid carriages”, in regulation 3 of the Use of Invalid Carriages on Highways Regulations 1988 (S.I. 1988/2268).

(2) Where this rule applies, the claim must not be allocated to the small claims track.

(3) ‘Whiplash injury’ has the meaning ascribed to it by paragraph 1.2(38) of the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents.”.

(6) In rule 26.7, for “under rule 26.6”, substitute “under rules 26.6, 26.6A or 26.6B”.