

**2021 No. 855 (L. 12)**

**SENIOR COURTS OF ENGLAND AND WALES**

**COUNTY COURT, ENGLAND AND WALES**

**The Civil Procedure (Amendment No. 4) Rules 2021**

*Made* - - - - *15th July 2021*

*Laid before Parliament* *16th July 2021*

*Coming into force in accordance with rule 1*

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 No. 4) Rules 2021 and come into force on 1st October 2021, except as provided by paragraph (2).

(2) The amendment made by rule 12 of these Rules comes into force on 7th August 2021.

(3) 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).

**Amendments to the Civil Procedure Rules 1998**

**2.** The Civil Procedure Rules 1998 are amended in accordance with rules 3 to 13 of these Rules.

**Amendment of Part 2**

**3.** In rule 2.3(1)—

(a) at the end of the definition of “summary judgment”, for the full stop substitute a semi-colon; and

(b) after the definition of “summary judgment” insert—

““tape recorded” includes (as do references to tape recording and tape recorders) recording by the use or means of any other instrument or device.”.

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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. 1999/1008, S.I. 2000/2092, S.I. 2001/2792, S.I. 2001/4015, S.I. 2005/3515, S.I. 2007/2204, S.I. 2008/3327, S.I. 2009/3390, S.I. 2014/407, S.I. 2014/3299, S.I. 2015/670, S.I. 2016/234, S.I. 2016/788, S.I. 2017/95 and S.I. 2019/342.

## **Amendment of Part 21**

### **4.—(1) In rule 21.10(2)—**

- (a) in sub-paragraph (a), for “the settlement of the claim” substitute “a settlement or compromise or a payment (including any voluntary interim payment) which relates to the claim”; and
- (b) in sub-paragraph (b)—
  - (i) for “compromise of the claim” substitute “compromise or a payment (including any voluntary interim payment) which relates to the claim”; and
  - (ii) at the end of paragraph (ii), insert “or payment (including any voluntary interim payment)”.

### **(2) In rule 21.12(1A)—**

- (a) at the end of sub-paragraph (a), delete “or”;
- (b) at the end of sub-paragraph (b), for the full stop substitute “; or”; and
- (c) after sub-paragraph (b) insert—

“(c) costs incurred where a detailed assessment of costs has been dispensed with under rule 46.4(3) in the circumstances set out in Practice Direction 46.”.

## **Amendment of Part 24**

### **5. In rule 24.3, for paragraph (2) substitute—**

“(2) The court may give summary judgment against a defendant in any type of proceedings except proceedings for possession of residential premises against—

- (a) a mortgagor; or
- (b) a tenant or a person holding over after the end of the tenancy whose occupancy is protected within the meaning of the Rent Act 1977(a) or the Housing Act 1988(b).”.

## **Amendment of Part 25**

### **6. In rule 25.11—**

- (a) in the heading—
  - (i) after “claim” insert “or counterclaim”; and
  - (ii) after “out” insert “for non-payment of fees”;
- (b) in paragraph (1)(a), after “interim injunction<sup>(GL)</sup>” insert “in a claim to a claimant”;
- (c) after paragraph (1) insert—

“(1A) If—

  - (a) the court has granted an interim injunction in a counterclaim to a defendant who has brought the counterclaim; and
  - (b) the counterclaim is struck out under rule 3.7A (sanctions for non-payment of certain fees by the defendant) or rule 3.7AA (sanctions for non-payment of the trial fee by the defendant),

the interim injunction shall cease to have effect 14 days after the date on which the counterclaim is struck out, unless paragraph (2) applies.”; and
- (d) in paragraph (2), after “paragraph (1),” insert “or the defendant applies to reinstate the counterclaim before the interim injunction ceases to have effect under paragraph (1A),”.

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(a) 1977 c. 42.

(b) 1988 c. 50.

### **Amendment of Part 27**

7. In rule 27.2(1)(h), for “and rule 39.8 (communications with the court)” substitute “, rule 39.8 (communications with the court) and rule 39.9 (recording and transcription of proceedings)”.

### **Amendment of Part 40**

8. In rule 40.2(3), at the end insert “or any adjournment of that hearing”.

### **Amendment of Part 52**

9.—(1) In rule 52.3(2)(a), after “made” insert “or any adjournment of that hearing”.

(2) In rule 52.12(2)(a), after “lower court” insert “at the hearing at which the decision to be appealed was made or any adjournment of that hearing”.

(3) In rule 52.13(4)(a), after “lower court” insert “at the hearing at which the decision to be appealed was made or any adjournment of that hearing”.

### **Amendment of Part 61**

10. In rule 61.10(2)—

- (a) for “If” substitute “Unless the court is satisfied that there is good reason not to do so, if”;
- (b) for “may” substitute “must set”;
- (c) in sub-paragraph (a), omit “set”; and
- (d) in sub-paragraph (b), for “such notice” substitute “that time limit”.

### **Amendment of Part 70**

11. For “Practice Direction 70” where it occurs in the following places—

- (a) rule 70.2(1);
- (b) in rule 70.5—
  - (i) paragraph (2A)(b);
  - (ii) paragraph (5);
  - (iii) paragraph (8),

substitute “Practice Direction 70A”.

### **Amendment of Part 83**

12. In rule 83.8A, for paragraph (2) substitute—

“(2) Subject to paragraph (5)—

- (a) a notice of eviction must be delivered to the premises not less than 14 days before the writ or warrant is executed; but
- (b) if full execution of the writ or warrant has not taken place on the day specified in a notice of eviction delivered pursuant to sub-paragraph (a) relating to the writ or warrant, a further notice of eviction must be delivered to the premises not less than 7 days before the writ or warrant is or is further executed.”.

### **Amendment of the Glossary**

13. In the Glossary at the end of the Rules, for the meaning of “Defence of tender before claim” substitute “A defence that, before the claimant started proceedings, the defendant unconditionally offered to the claimant the amount due.”.

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

I allow these Rules

*David Wolfson*  
Parliamentary Under-Secretary of State for Justice  
Ministry of Justice

15th July 2021

#### **EXPLANATORY NOTE**

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

These Rules amend the Civil Procedure Rules 1998 (S.I. 1998/3132) by—

- amending Part 2 to provide for “tape recorded” and cognate terms to have a broad meaning encompassing recordings made using or by means of devices other than tape recorder;
- amending Part 21 to make it clear—
  - that applications for approval of voluntary and interim payments in cases involving children or protected parties should be made under Part 8; and
  - that the court is able to order payment of costs to the child’s litigation friend in a case where detailed assessment of costs has been dispensed with under rule 46.4(3);
- amending Part 24 to remove admiralty proceedings *in rem* from the categories of cases in which summary judgment may not be given against a defendant;
- amending Part 25 to clarify the position where a defendant who has brought a counterclaim is granted an interim injunction in the counterclaim, but the counterclaim is struck out for non-payment of fees;
- amending Part 27 to provide that rule 39.9 (recording and transcription of proceedings) applies in relation to proceedings on the small claims track;
- amending Part 40 and Part 52 to cover cases where a hearing at which a judgment or order is made is adjourned, so that an application for permission to appeal (or, for example, for extension of time for filing of an appellant’s notice) may be applied for not only at the hearing, but on the adjournment of it;
- amending Part 61 to make it clear that when the court in an Admiralty claim *in rem* makes an order for sale, the court’s power to set a time period within which notice of claims against the proceeds of sale must be filed is to be exercised unless the court is satisfied that there is good reason not to;
- amending Part 70 to amend references to Practice Direction 70 so that they refer to Practice Direction 70A, following the addition of a second Practice Direction supporting Part 70 and the renumbering of Practice Direction 70 as Practice Direction 70A (the new Practice Direction being Practice Direction 70B);

- amending Part 83 to provide that if an eviction does not take place following a notice of eviction which specifies the time and date for the eviction, a further notice of eviction, giving at least 7 days’ notice of the new time and date for the eviction, must be delivered before the eviction can proceed; and
- amending the Glossary to update the meaning given for the term “defence of tender before claim”.

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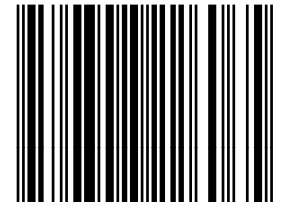




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