

SCHEDULE 2

Rule 10

“PART 28

THE FAST TRACK AND THE INTERMEDIATE TRACK

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*SECTION I*

*General Provisions Applying to Both Fast Track and Intermediate Track*

**Scope of this Part**

**28.1.** This section contains general provisions about the management of cases allocated to the fast and intermediate tracks. Section II contains further provisions about the management of cases allocated to the fast track, other than for cases of noise induced hearing loss. Section

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III contains provisions about the management of noise induced hearing loss cases allocated to the fast track. Section IV contains further provisions about the management of cases allocated to the intermediate track.

(Part 27 sets out the procedure for claims allocated to the small claims track.)

(Part 29 sets out the procedure for claims allocated to the multi-track.)

### **General provisions**

**28.2.**—(1) When it allocates a case to the fast track or intermediate track, the court shall give directions for the management of the case and set a timetable for the steps to be taken between the giving of the directions and the trial.

(2) When it gives directions, the court shall—

- (a) make an order in relation to disclosure; and
- (b) either—
  - (i) fix the trial date; or
  - (ii) fix a period, not exceeding 3 weeks, within which the trial is to take place.

(3) In claims within Section II and Section IV of this Part, other than in respect of claims which include a claim for personal injury, the court shall decide, having regard to the overriding objective and the need to limit disclosure to that which is necessary to deal with the case justly, which of the following orders to make in relation to disclosure—

- (a) an order dispensing with disclosure;
- (b) an order that a party disclose the documents on which it relies, and at the same time request any specific disclosure it requires from any other party;
- (c) an order that directs, where practicable, the disclosure to be given by each party on an issue-by-issue basis;
- (d) an order that each party disclose any documents which it is reasonable to suppose may contain information which enables that party to advance its own case or to damage that of any other party, or which leads to an enquiry which has either of those consequences;
- (e) an order that a party give standard disclosure;
- (f) any other order in relation to disclosure that the court considers appropriate.

(Rule 31.6 explains what is meant by standard disclosure.)

(4) Unless the court otherwise orders, disclosure under Section II and Section IV of this Part in respect of claims which include a claim for personal injury shall be standard disclosure.

(5) The trial date or trial period shall be specified in the notice of allocation.

### **Variation of case management timetable**

**28.3.**—(1) A party must apply to the court if they wish to vary any date which the court has fixed for—

- (a) any case management conference;
- (b) any pre-trial review;
- (c) filing the pre-trial check list;
- (d) the trial; or
- (e) the trial period.

(2) Any date set by the court or these Rules for doing any act may not be varied by the parties if the variation would make it necessary to vary any of the dates mentioned in paragraph (1). (Rule 2.11 allows the parties to vary a date by written agreement except where the rules provide otherwise or the court orders otherwise.)

#### **Pre-trial check list (listing questionnaire)**

**28.4.**—(1) The court shall send the parties a pre-trial check list (listing questionnaire) for completion and return by the date specified in the notice of allocation unless it considers that the claim can proceed to trial without the need for a pre-trial check list.

(2) The date specified for filing a pre-trial check list shall not be more than 8 weeks before the trial date or the beginning of the trial period.

(3) If no party files the completed pre-trial check list by the date specified, the court shall order that unless a completed pre-trial check list is filed within 7 days from service of that order, the claim, defence and any counterclaim shall be struck out without further order of the court.

(4) If—

- (a) a party files a completed pre-trial check list but another party does not;
- (b) a party has failed to give all the information requested by the pre-trial check list; or
- (c) the court considers that a hearing is necessary to enable it to decide what directions to give in order to complete preparation of the case for trial,

the court may give such directions as it thinks appropriate.

#### **Fixing or confirming the trial date and giving directions**

**28.5.**—(1) As soon as practicable after the date specified for filing a completed pre-trial check list the court shall—

- (a) fix the date for the trial, unless it has already done so;
- (b) give any directions for the trial, including a trial timetable, which it considers appropriate; and
- (c) specify any further steps that need to be taken before trial.

(2) The court shall give the parties at least 3 weeks' notice of the date of the trial unless, in exceptional circumstances, the court directs that shorter notice be given.

#### **Conduct of trial**

**28.6.** Unless the trial judge otherwise directs, the trial shall be conducted in accordance with any order previously made.

### *SECTION II*

#### *Provisions Applying Only to Cases Allocated to the Fast Track*

#### **Directions**

**28.7.**—(1) The matters to be dealt with by directions under rule 28.2(1) include—

- (a) disclosure of documents;
- (b) service of witness statements; and
- (c) expert evidence.

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(Rules 28.2(3) and (4) deal with orders for disclosure.)

(Rule 26.9(6) deals with limitations in relation to expert evidence and the likely length of trial in fast track cases.)

(2) Directions to be given under rule 28.2(1) shall be in the form set out at <http://www.justice.gov.uk/courts/procedure-rules/civil>, unless the court orders otherwise.

#### **Costs**

**28.8.** The court's power to award costs is limited in accordance with Section VI and Section IX of Part 45.

### *SECTION III*

#### *Provisions Applying Only to Noise Induced Hearing Loss Cases Allocated to the Fast Track*

#### **Directions**

**28.9.** Directions to be given under rule 28.2(1) shall be in the form set out at <http://www.justice.gov.uk/courts/procedure-rules/civil>, unless the court orders otherwise.

#### **Limitation**

**28.10.—**(1) The court may order a preliminary trial on limitation if satisfied that it is necessary in the interests of justice to do so.

(2) If any party seeks a direction for a preliminary trial on limitation, this must be identified in that party's directions questionnaire.

(3) Where a preliminary trial on limitation is ordered in respect of one or more, but not all, defendants, the claims against all the other defendants shall be stayed until determination of the preliminary issue.

#### **Costs**

**28.11.** The court's power to award costs is limited in accordance with Section VIII and Section IX of Part 45.

### *SECTION IV*

#### *Provisions Applying Only to Cases Allocated to the Intermediate Track*

#### **Case management conference**

**28.12.** The court shall fix a case management conference and may fix a pre-trial review.

#### **Agreement of directions**

**28.13.** The parties must endeavour to agree appropriate directions for the management of the proceedings and submit agreed directions, or their respective proposals to the court at least seven days before any case management conference. Where the court approves agreed directions, or issues its own directions, the parties shall be so notified by the court and the case management conference will be vacated accordingly.

## **Directions**

- 28.14.**—(1) The matters to be dealt with by directions under rule 28.2(1) include—
- (a) disclosure of documents;
  - (b) service of witness statements;
  - (c) expert evidence;
  - (d) whether to fix a pre-trial review; and
  - (e) listing the case for trial.
- (2) The following provisions apply in respect of directions in the intermediate track—
- (a) oral expert evidence is limited to one witness per party, save where the oral evidence of a second expert for any party is reasonably required and is proportionate; and
  - (b) the trial time estimate must not exceed 3 days.
- (3) The following provisions apply in respect of directions in the intermediate track, unless the court orders otherwise—
- (a) rules 28.2(3) and (4) apply in respect of disclosure;
  - (b) the total length of all the permitted witness statements and witness summaries of a party shall not exceed 30 pages; and
  - (c) any expert report shall not exceed 20 pages, excluding any necessary photographs, plans and academic or technical articles attached to the report.

## **Costs**

**28.15.** The court’s power to award costs is limited in accordance with Section VII and Section IX of Part 45.”