

# SCHEDULE 2 CCR ORDER 49 MISCELLANEOUS STATUTES

## **Rule 7 Injunctions to prevent environmental harm: Town and Country Planning Act 1990 etc.**

- (1) An injunction under –
  - (a) section 187B or 214A of the Town and Country Planning Act 1990;
  - (b) section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990; or
  - (c) section 26AA of the Planning (Hazardous Substances) Act 1990,
 may be granted against a person whose identity is unknown to the applicant; and in the following provisions of this rule such an injunction against such a person is referred to as ‘an injunction under paragraph (1)’, and the person against whom it is sought is referred to as ‘the respondent’.
- (2) An applicant for an injunction under paragraph (1) shall describe the respondent by reference to –
  - (a) a photograph;
  - (b) a thing belonging to or in the possession of the respondent; or
  - (c) any other evidence,
 with sufficient particularity to enable service to be effected, and the form of the claim form used shall be modified accordingly.
- (3) An applicant for an injunction under paragraph (1) shall file evidence by witness statement or affidavit –
  - (a) verifying that he was unable to ascertain, within the time reasonably available to him, the respondent’s identity;
  - (b) setting out the action taken to ascertain the respondent’s identity; and
  - (c) verifying the means by which the respondent has been described in the claim form and that the description is the best that the applicant is able to provide.
- (4) Paragraph (2) is without prejudice to the power of the court to make an order in accordance with CPR Part 6 for service by an alternative method or dispensing with service.

## **Rule 12 Mental Health Act 1983**

- (1) In this rule –
 

a section referred to by number means the section so numbered in the Mental Health Act 1983 and ‘Part II’ means Part II of that Act;

‘place of residence’ means, in relation to a patient who is receiving treatment as an in-patient in a hospital or other institution, that hospital or institution;

‘hospital authority’ means the managers of a hospital as defined in section 145(1).
- (2) An application to a county court under Part II shall be made by a claim form filed in the court for the district in which the patients’ place of residence is situated or, in the case of an application made under section 30 for the discharge or variation of an order made under section 29, in that court or in the court which made the order.

- (3) Where an application is made under section 29 for an order that the functions of the nearest relative of the patient shall be exercisable by some other person –
  - (a) the nearest relative shall be made a respondent to the application unless the application is made on the grounds set out in subsection (3)(a) of the said section or the court otherwise orders; and
  - (b) the court may order that any other person shall be made a respondent.
- (4) On the hearing of the application the court may accept as evidence of the facts stated therein any report made by a medical practitioner and any report made in the course of his official duties by –
  - (a) a probation officer; or
  - (b) an officer of a local authority or of a voluntary organisation exercising statutory functions on behalf of a local authority; or
  - (c) an officer of a hospital authority,
 

provided that the respondent shall be told the substance of any part of the report bearing on his fitness or conduct which the judge considers to be material for the fair determination of the application.
- (5) Unless otherwise ordered, an application under Part II shall be heard and determined by the court sitting in private.
- (6) For the purpose of determining the application the judge may interview the patient either in the presence of or separately from the parties and either at the court or elsewhere, or may direct the district judge to interview the patient and report to the judge in writing.

#### **Rule 15 Postal Services Act 2000**

- (1) An application under section 92 of the Postal Services Act 2000 for permission to bring proceedings in the name of the sender or addressee of a postal packet or his personal representatives shall be made by a claim form.
- (2) The respondents to the application shall be the universal service provider and the person in whose name the applicant seeks to bring proceedings.

#### **Rule 17 Sex Discrimination Act 1975, Race Relations Act 1976, disability discrimination act 1995 and Disability rights commission act 1999**

- (1) In this rule –
  - (a) ‘the Act of 1975’, ‘the Act of 1976’, ‘the Act of 1995’ and ‘the Act of 1999’ mean respectively the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and the Disability Rights Commission Act 1999;
  - (aa) ‘the Religion or Belief Regulations’ means the Employment Equality (Religion or Belief) Regulations 2003<sup>1</sup> and ‘the Sexual Orientation Regulations’ means the Employment Equality (Sexual Orientation) Regulations 2003<sup>2</sup>;
  - (b) in relation to proceedings under any of those Acts or Regulations, expressions which are used in the Act or Regulations concerned have the same meanings in this rule as they have in that Act or those Regulations;
  - (c) in relation to proceedings under the Act of 1976 ‘court’ means a designated county court and ‘district’ means the district assigned to such a court for the purposes of that Act.

<sup>1</sup> S.I. 2003/1660.

<sup>2</sup> S.I. 2003/1661.

- (2) A claimant who brings a claim under section 66 of the Act of 1975, section 57 of the Act of 1976 or section 25 of the Act of 1995 shall forthwith give notice to the Commission of the commencement of the proceedings and file a copy of the notice.
- (3) CPR Rule 35.15 shall have effect in relation to an assessor who is to be appointed in proceedings under section 66(1) of the Act of 1975.
- (4) Proceedings under section 66, 71 or 72 of the Act of 1975, section 57, 62 or 63 of the Act of 1976, regulation 31 of the Religion or Belief Regulations or regulation 31 of the Sexual Orientation Regulations, section 17B or 25 of the Act of 1995 or section 6 of the Act of 1999 may be commenced –
  - (a) in the court for the district in which the defendant resides or carries on business; or
  - (b) in the court for the district in which the act or any of the acts in respect of which the proceedings are brought took place.
- (5) An appeal under section 68 of the Act of 1975, section 59 of the Act of 1976 or paragraph 10 of Schedule 3 to the Act of 1999 against a requirement of a non-discrimination notice shall be brought in the court for the district in which the acts to which the requirement relates were done.
- (6) Where the claimant in any claim alleging discrimination has questioned the defendant under section 74 of the Act of 1975, section 65 of the Act of 1976, regulation 33 of the Religion or Belief Regulations or regulation 33 of the Sexual Orientation Regulations –
  - (a) either party may make an application to the court in accordance with CPR Part 23 to determine whether the question or any reply is admissible under that section; and
  - (b) CPR Rule 3.4 shall apply to the question and any answer as it applies to any statement of case.
- (7) Where in any claim the Commission claim a charge for expenses incurred by them in providing the claimant with assistance under section 75 of the Act of 1975, section 66 of the Act of 1976 or section 7 of the Act of 1999 –
  - (a) the Commission shall, within 14 days after the determination of the claim, give notice of the claim to the court and the claimant and thereafter no money paid into court for the benefit of the claimant, so far as it relates to any costs or expenses, shall be paid out except in pursuance of an order of the court; and
  - (b) the court may order the expenses incurred by the Commission to be assessed whether by the summary or detailed procedure as if they were costs payable by the claimant to his own solicitor for work done in connection with the proceedings.
- (8) Where an application is made for the removal or modification of any term of a contract to which section 77(2) of the Act of 1975, section 72(2) of the Act of 1976, section 26 of or Schedule 3A to the Act of 1995, paragraph 1(1) or (2) of Schedule 4 to the Religion or Belief Regulations or paragraph 1(1) or (2) of Schedule 4 to the Sexual Orientation Regulations applies, all persons affected shall be made respondents to the application, unless in any particular case the court otherwise directs, and the proceedings may be commenced –
  - (a) in the court for the district in which the respondent or any of the respondents resides or carries on business; or
  - (b) in the court for the district in which the contract was made.

#### **Rule 18A Telecommunications Act 1984**

CPR Rule 35.15 applies to proceedings under paragraph 5 of Schedule 2 to the Telecommunications Act 1984.

## **Rule 19 Trade Union and Labour Relations Consolidation Act 1992**

- (1)** Where a complainant desires to have an order of the Certification Officer under section 82 of the Trade Union and Labour Relations Consolidation Act 1992 recorded in the county court, he shall produce the order and a copy thereof to the court for the district in which he resides or the head or main office of the trade union is situate.
- (2)** The order shall be recorded by filing it, and the copy shall be sealed and dated and returned to the complainant.
- (3)** The sealed copy shall be treated as if it were the notice of issue in a claim begun by the complainant.
- (4)** The costs, if any, allowed for recording the order shall be recoverable as if they were payable under the order.
- (5)** The order shall not be enforced until proof is given to the satisfaction of the court that the order has not been obeyed and, if the order is for payment of money, of the amount remaining unpaid.