

PART 19

ADDITION AND SUBSTITUTION OF PARTIES

CONTENTS OF THIS PART

Change of parties – general	Rule 19.1
Provisions applicable where two or more persons are jointly entitled to a remedy	Rule 19.2
Procedure for adding and substituting parties	Rule 19.3
Special provisions about adding or substituting parties after the end of a relevant limitation period	Rule 19.4

CHANGE OF PARTIES – GENERAL

- 19.1 |
- (1) This rule applies where a party is to be added or substituted except where the case falls within rule 19.4 (special provisions about changing parties after the end of a relevant limitation period^(GL)).
 - (2) The court may order a person to be added as a new party if –
 - (a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings; or
 - (b) there is an issue involving the new party and an existing party which is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so that the court can resolve that issue.
 - (3) The court may order any person to cease to be a party if it is not desirable for that person to be a party to the proceedings.
 - (4) The court may order a new party to be substituted for an existing one if –
 - (a) the existing party's interest or liability has passed to the new party; and
 - (b) it is desirable to substitute the new party so that the court can resolve the matters in dispute in the proceedings.

PROVISIONS APPLICABLE WHERE TWO OR MORE PERSONS ARE JOINTLY ENTITLED TO A REMEDY

- 19.2 |
- (1) Where a claimant claims a remedy to which some other person is jointly entitled with him, all persons jointly entitled to the remedy must be parties unless the court orders otherwise.
 - (2) If any person does not agree to be a claimant, he must be made a defendant, unless the court orders otherwise.
 - (3) This rule does not apply in probate proceedings.

PROCEDURE FOR ADDING AND SUBSTITUTING PARTIES

- 19.3 |
- (1) An application for permission to remove, add or substitute a party may be made by –
 - (a) an existing party; or
 - (b) a person who wishes to become a party.
 - (2) An application for an order under rule 19.1(4) (substitution of new party where existing party's interest or liability has passed) –
 - (a) may be made without notice; and
 - (b) must be supported by evidence.
 - (3) Nobody may be added or substituted as a claimant unless –
 - (a) he has given his consent in writing; and
 - (b) that consent has been filed with the court.
 - (4) An order for the removal, addition or substitution of a party must be served on –
 - (a) all parties to the proceedings; and
 - (b) any other person affected by the order.
 - (5) When the court makes an order for the removal, addition or substitution of a party, it may give consequential directions about –
 - (a) filing and serving the claim form on any new defendant;
 - (b) serving relevant documents on the new party; and
 - (c) the management of the proceedings.

SPECIAL PROVISIONS ABOUT ADDING OR SUBSTITUTING PARTIES AFTER THE END OF A RELEVANT LIMITATION PERIOD

- 19.4 |
- (1) This rule applies to a change of parties after the end of a period of limitation under –
 - (a) the Limitation Act 1980⁽²²⁾;

(22) 1980 c.58.

- (b) the Foreign Limitation Periods Act 1984⁽²³⁾;
 - (c) section 190 of the Merchant Shipping Act 1995⁽²⁴⁾; or
 - (d) any other statutory provision.
- (2) The court may add or substitute a party only if –
- (a) the relevant limitation period^(GL) was current when the proceedings were started; and
 - (b) the addition or substitution is necessary.
- (3) The addition or substitution of a party is necessary only if the court is satisfied that –
- (a) the new party is to be substituted for a party who was named in the claim form in mistake for the new party;
 - (b) the claim cannot properly be carried on by or against the original party unless the new party is added or substituted as claimant or defendant; or
 - (c) the original party has died or had a bankruptcy order made against him and his interest or liability has passed to the new party.
- (4) In addition, in a claim for personal injuries the court may add or substitute a party where it directs that –
- (a) (i) section 11 (special time limit for claims for personal injuries); or
 - (ii) section 12 (special time limit for claims under fatal accidents legislation),
of the Limitation Act 1980 shall not apply to the claim by or against the new party; or
 - (b) the issue of whether those sections apply shall be determined at trial.

(Rule 17.4 deals with other changes after the end of a relevant limitation period^(GL))

(Other rules about parties can be found –

- (a) in Schedule 1, in the following RSC – O.15 (proceedings against estates; relator and representative parties); O.17 (interpleader); O.81 (partners); O.85 (administration claims); O.93 (proceedings under the Administration of Justice Act 1985); O.97 (Landlord and Tenant Acts); O.98 (proceedings under the Local Government Finance Act 1982); O.106 (proceedings under the Solicitors Act 1974); and

(23) 1984 c.16.

(24) 1995 c.21.

- (b) in Schedule 2, in the following CCR – O.5 (representative proceedings; representation of person or class; representation of estate where no personal representative; proceedings against estates; partners; defendant carrying on business in another name; failure to proceed after death of party; claim to money in court where change in parties after judgment))