

# PART 2

## APPLICATION AND INTERPRETATION OF THE RULES

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### APPLICATION OF THE RULES

- 2.1 | (1) Subject to paragraph (2), these Rules apply to all proceedings in –
- (a) county courts;
  - (b) the High Court; and
  - (c) the Civil Division of the Court of Appeal.
- (2) These Rules do not apply to proceedings of the kinds specified in the first column of the following table (proceedings for which rules may be made under the enactments specified in the second column) except to the extent that they are applied to those proceedings by another enactment –

PROCEEDINGS	ENACTMENTS
1. Insolvency proceedings	Insolvency Act 1986 <sup>(1)</sup> , ss.411 and 412
2. Non-contentious or common form probate proceedings	Supreme Court Act 1981 <sup>(2)</sup> , s.127
3. Proceedings in the High Court when acting as a Prize Court	Prize Courts Act 1894 <sup>(3)</sup> , s.3
4. Proceedings before the judge within the meaning of Part VII of the Mental Health Act 1983 <sup>(4)</sup>	Mental Health Act 1983, s.106
5. Family proceedings	Matrimonial and Family Proceedings Act 1984 <sup>(5)</sup> , s.40

## THE GLOSSARY

- 2.2 |
- (1) The glossary at the end of these Rules is a guide to the meaning of certain legal expressions used in the Rules, but is not to be taken as giving those expressions any meaning in the Rules which they do not have in the law generally.
  - (2) Subject to paragraph (3), words in these Rules which are included in the glossary are followed by ‘(GL)’.
  - (3) The words ‘counterclaim’, ‘damages’, ‘practice form’ and ‘service’, which appear frequently in the Rules, are included in the glossary but are not followed by ‘(GL)’.

## INTERPRETATION

- 2.3 |
- (1) In these Rules –
    - ‘child’ has the meaning given by rule 21.1(2);
    - ‘claim for personal injuries’ means proceedings in which there is a claim for damages in respect of personal injuries to the claimant or any other person or in respect of a person’s death, and ‘personal injuries’ includes any disease and any impairment of a person’s physical or mental condition;
    - ‘claimant’ means a person who makes a claim;
    - ‘CCR’ is to be interpreted in accordance with Part 50;
    - ‘court officer’ means a member of the court staff;
    - ‘defendant’ means a person against whom a claim is made;

(1) 1986 c.45.

(2) 1981 c.54.

(3) 1894 c.39

(4) 1983 c.20.

(5) 1984 c.42. Section 40 was amended by the Courts and Legal Services Act 1990 (c.41), Schedule 18, paragraph 50.

‘defendant’s home court’ means –

- (a) if the claim is proceeding in a county court, the county court for the district in which the defendant’s address for service, as shown on the defence, is situated; and
- (b) if the claim is proceeding in the High Court, the district registry for the district in which the defendant’s address for service, as shown on the defence, is situated or, if there is no such district registry, the Royal Courts of Justice;

(Rule 6.5 provides for a party to give an address for service)

‘filing’, in relation to a document, means delivering it, by post or otherwise, to the court office;

‘judge’ means, unless the context otherwise requires, a judge, Master or district judge or a person authorised to act as such;

‘jurisdiction’ means, unless the context requires otherwise, England and Wales and any part of the territorial waters of the United Kingdom adjoining England and Wales;

‘legal representative’ means a barrister or a solicitor, solicitor’s employee or other authorised litigator (as defined in the Courts and Legal Services Act 1990<sup>(6)</sup>) who has been instructed to act for a party in relation to a claim.

‘litigation friend’ has the meaning given by Part 21;

‘patient’ has the meaning given by rule 21.1(2);

‘RSC’ is to be interpreted in accordance with Part 50;

‘statement of case’ –

- (a) means a claim form, particulars of claim where these are not included in a claim form, defence, Part 20 claim, or reply to defence; and
- (b) includes any further information given in relation to them voluntarily or by court order under rule 18.1;

‘statement of value’ is to be interpreted in accordance with rule 16.3;

‘summary judgment’ is to be interpreted in accordance with Part 24.

- (2) A reference to a ‘specialist list’ is a reference to a list<sup>(GL)</sup> that has been designated as such by a relevant practice direction.
- (3) Where the context requires, a reference to ‘the court’ means a reference to a particular county court, a district registry, or the Royal Courts of Justice.

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(6) 1990 c.41.

## POWER OF JUDGE, MASTER OR DISTRICT JUDGE TO PERFORM FUNCTIONS OF THE COURT

- 2.4 | Where these Rules provide for the court to perform any act then, except where an enactment, rule or practice direction provides otherwise, that act may be performed –
- (a) in relation to proceedings in the High Court, by any judge, Master or district judge of that Court; and
  - (b) in relation to proceedings in a county court, by any judge or district judge.

## COURT STAFF

- 2.5 |
- (1) Where these Rules require or permit the court to perform an act of a formal or administrative character, that act may be performed by a court officer.
  - (2) A requirement that a court officer carry out any act at the request of a party is subject to the payment of any fee required by a fees order for the carrying out of that act.
- (Rule 3.2 allows a court officer to refer to a judge before taking any step)

## COURT DOCUMENTS TO BE SEALED

- 2.6 |
- (1) The court must seal<sup>(GL)</sup> the following documents on issue –
    - (a) the claim form; and
    - (b) any other document which a rule or practice direction requires it to seal.
  - (2) The court may place the seal<sup>(GL)</sup> on the document –
    - (a) by hand; or
    - (b) by printing a facsimile of the seal on the document whether electronically or otherwise.
  - (3) A document purporting to bear the court's seal<sup>(GL)</sup> shall be admissible in evidence without further proof.

## COURT'S DISCRETION AS TO WHERE IT DEALS WITH CASES

- 2.7 | The court may deal with a case at any place that it considers appropriate.

## TIME

- 2.8 |
- (1) This rule shows how to calculate any period of time for doing any act which is specified –
    - (a) by these Rules;
    - (b) by a practice direction; or
    - (c) by a judgment or order of the court.
  - (2) A period of time expressed as a number of days shall be computed as clear days.
  - (3) In this rule ‘clear days’ means that in computing the number of days –
    - (a) the day on which the period begins; and
    - (b) if the end of the period is defined by reference to an event, the day on which that event occurs
 are not included.

### Examples

- (i) Notice of an application must be served at least 3 days before the hearing.

An application is to be heard on Friday 20 October.

The last date for service is Monday 16 October.

- (ii) The court is to fix a date for a hearing.

The hearing must be at least 28 days after the date of notice.

If the court gives notice of the date of the hearing on 1 October, the earliest date for the hearing is 30 October.

- (iii) Particulars of claim must be served within 14 days of service of the claim form.

The claim form is served on 2 October.

The last day for service of the particulars of claim is 16 October.

- (4) Where the specified period –
  - (a) is 5 days or less; and
  - (b) includes –
    - (i) a Saturday or Sunday; or
    - (ii) a Bank Holiday, Christmas Day or Good Friday,
 that day does not count.

**Example**

Notice of an application must be served at least 3 days before the hearing.

An application is to be heard on Monday 20 October.

The last date for service is Tuesday 14 October.

- (5) When the period specified –
- (a) by these Rules or a practice direction; or
  - (b) by any judgment or court order,
- for doing any act at the court office ends on a day on which the office is closed, that act shall be in time if done on the next day on which the court office is open.

## **DATES FOR COMPLIANCE TO BE CALENDAR DATES AND TO INCLUDE TIME OF DAY**

- 2.9 |
- (1) Where the court gives a judgment, order or direction which imposes a time limit for doing any act, the last date for compliance must, wherever practicable –
    - (a) be expressed as a calendar date; and
    - (b) include the time of day by which the act must be done.
  - (2) Where the date by which an act must be done is inserted in any document, the date must, wherever practicable, be expressed as a calendar date.

## **MEANING OF 'MONTH' IN JUDGMENTS, ETC.**

- 2.10 |
- Where 'month' occurs in any judgment, order, direction or other document, it means a calendar month.

## **TIME LIMITS MAY BE VARIED BY PARTIES**

- 2.11 |
- Unless these Rules or a practice direction provide otherwise or the court orders otherwise, the time specified by a rule or by the court for a person to do any act may be varied by the written agreement of the parties.

(Rules 3.8 (sanctions have effect unless defaulting party obtains relief), 28.4 (variation of case management timetable – fast track); 29.5 (variation of case management timetable – multi-track) and RSC O.59 r.2C (appeals to the Court of Appeal) in Schedule 1, provide for time limits that cannot be varied by agreement between the parties)