

Rules of Court (Amendment No. 2) Rules 2001

Table of Contents

Enacting Formula

1 Citation and commencement

2 Amendment of Order 5

3 Amendment of Order 12

4 Amendment of Order 23

5 Amendment of Order 55D

6 Amendment of Order 57

7 Amendment of Order 59

8 Amendment of Order 63A

9 Amendment of Order 71

10 Deletion and substitution of Order 87A

11 New Order 90B

12 Amendments of Appendix A

No. S 612

SUPREME COURT OF JUDICATURE ACT (CHAPTER 322)

RULES OF COURT (AMENDMENT NO. 2) RULES 2001

In exercise of the powers conferred on us by section 80 of the Supreme Court of Judicature Act and all other powers enabling us under any other written law, we, the Rules Committee, hereby make the following Rules:

Citation and commencement

1.—(1) These Rules may be cited as the Rules of Court (Amendment No. 2) Rules 2001 and shall come into operation on 15th December 2001.

(2) Rules 3, 9, 10 and 12 shall apply to proceedings commenced on or after 15th December 2001.

(3) Rules 5, 6 and 11 shall apply to appeals in respect of which a notice of appeal is filed on or after 15th December 2001.

Amendment of Order 5

2. Order 5, Rule 2 of the Rules of Court (R 5) (referred to in these Rules as the principal Rules) is amended —

- (a) by deleting the semi-colon at the end of paragraph (d) and substituting a full stop; and
- (b) by deleting paragraph (e).

Amendment of Order 12

3. Order 12, Rule 4 of the principal Rules is amended by deleting the words “(including the day of service)” in paragraph (a).

Amendment of Order 23

4. Order 23, Rule 1 of the principal Rules is amended by deleting paragraph (3) and substituting the following paragraphs:

“(3) Where, on the application of a defendant to an action or other proceeding in the Court, it appears to the Court —

- (a) that a party, who is not a party to the action or proceeding (referred to hereinafter as a “non-party”), has assigned the right to the claim to the plaintiff with a view to avoiding his liability for costs; or
- (b) that the non-party has contributed or agreed to contribute to the plaintiff’s costs in return for a share of any money or property which

the plaintiff may recover in the action or proceeding, and the non-party is a person against whom a costs order may be made, then, if, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order the non-party to give such security for the defendant's costs of the action or other proceeding as the Court thinks just.

(4) An application for an order under paragraph (3) shall be made by summons, which must be served on the non-party personally and on every party to the proceedings.

(5) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(6) The references in paragraphs (1), (2) and (3) to a plaintiff and a defendant shall be construed as references to the person (howsoever described on the record) who is in the position of plaintiff or defendant, as the case may be, in the proceeding in question, including a proceeding on a counterclaim.”.

Amendment of Order 55D

5. Order 55D of the principal Rules is amended —

- (a) by deleting the words “including the affidavits of the evidence in chief” in Rule 5(4); and
- (b) by inserting, immediately after sub-paragraph (c) of Rule 6(2), the following sub-paragraph:

“(ca) the affidavits of evidence in chief;”.

Amendment of Order 57

6. Order 57 of the principal Rules is amended —

- (a) by deleting the words “including the affidavits of the evidence in chief” in Rule 5(3);
- (b) by inserting, immediately after sub-paragraph (c) of Rule 9(2), the following sub-paragraph:

“(ca) the affidavits of evidence in chief;”;

- (c) by deleting sub-paragraph (b) of Rule 9(2A); and
- (d) by inserting, immediately after the words “notes of evidence” in Rule 9(2A)(c), the word “, pleadings”.

Amendment of Order 59

7. Order 59 of the principal Rules is amended by inserting, immediately after Rule 6, the following Rule:

“Costs due to unnecessary claims or issues (O. 59, r. 6A)

(6A) In addition to and not in derogation of any other provision in this Order, where a party has failed to establish any claim or issue which he has raised in any proceedings, and has thereby unnecessarily or unreasonably protracted, or added to the costs or complexity of those proceedings, the Court may order that the costs of that party shall not be allowed in whole or in part, or that any costs occasioned by that claim or issue to any other party shall be paid by him to that other party, regardless of the outcome of the cause or matter.”.

Amendment of Order 63A

8. Order 63A, Rule 11 of the principal Rules is amended by deleting paragraphs (3) and (4) and substituting the following paragraph:

“(3) If the Registrar’s notification referred to in paragraphs (1) and (2) is received in the computer account or the service bureau respectively on a day other than a working day, it shall be deemed for the purpose of this Rule to have been received on the next working day.”.

Amendment of Order 71

9. Order 71 of the principal Rules is amended by deleting the words “inclusive of the day of such service” in the 3rd line of paragraph (10) and in the 4th line of paragraph (11) of Rule 37 and in the 2nd line of Rule 41 (6).

Deletion and substitution of Order 87A

10. The principal Rules are amended by deleting Order 87A and substituting the following Order:

ORDER 87A

PATENTS ACT

Interpretation (O. 87A, r. 1)

1. In this Order —

“Act” means the Patents Act (Chapter 221);

“journal” means the journal published pursuant to the rules made under section 115(4) of the Act;

“patent” means a patent granted under the Act or a patent in force by virtue of section 116(3) of the Act;

“Registrar” means the Registrar of Patents;

“Registry” means the Registry of Patents established under the Act.

Action for infringement (O. 87A, r. 2)

2.—(1) Notwithstanding anything in Order 5, Rule 4, proceedings in which a claim is made by the plaintiff in respect of the infringement of a patent shall be begun by writ.

(2) The plaintiff in such an action must serve with his statement of claim particulars of the infringement relied on, showing which of the claims in the specification of the patent are alleged to be infringed and giving at least one instance of each type of infringement alleged.

(3) If a defendant in such an action alleges, as a defence to the action, that at the time of the infringement there was in force a contract or licence relating to the patent made by or with the consent of the plaintiff and containing a condition or term void by virtue of section 51 of the Act, he must serve on the plaintiff particulars of the date of, and parties to, each such contract or licence and particulars of each such condition or term.

Objections to validity of patent (O. 87A, r. 3)

3.—(1) A party to an action who puts in issue the validity of a patent by way of defence or counterclaim must serve his defence or counterclaim (as the case may be) together with particulars of the objections to the validity of the patent on which he relies within 42 days after service upon him of the statement of claim, provided that he gives prior notice of his intention to put in issue the validity of the patent within 14 days after service upon him of the statement of claim.

(2) Particulars given pursuant to paragraph (1) must state every ground on which the validity of the patent is put in issue and must include such particulars as will clearly define every issue which it is intended to raise.

(3) If the grounds stated in the particulars of objections include want of novelty or want of any inventive step, the particulars must state the manner, time and place of every prior publication or user relied upon and, if prior user is alleged, must —

- (a) specify the name of every person alleged to have made such user;
- (b) state whether such user is alleged to have continued until the priority date of the claim in question or of the invention, as may be appropriate, and, if not, the earliest and latest date on which such user is alleged to have taken place;
- (c) contain a description accompanied by drawings, if necessary, sufficient to identify such user; and
- (d) if such user relates to machinery or apparatus, state whether the machinery or