

2011 No. 3103 (L. 23)

SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES

The Civil Procedure (Amendment No.4) Rules 2011

<i>Made</i> - - - -	<i>21st December 2011</i>
<i>Laid before Parliament</i>	<i>5th January 2012</i>
<i>Coming into force</i> - -	<i>19th March 2012</i>

The Civil Procedure Rule Committee makes the following Rules in exercise of the power conferred by section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act—

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No.4) Rules 2011 and will come into force on 19th March 2012.

2. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(b).

Amendments to the Civil Procedure Rules 1998

3. In Part 2—

(a) in rule 2.3(1)—

(i) after the definition of ‘defendant’s home court’, insert—

“‘designated money claim’ means any claim which—

(a) is started in a county court under Part 7;

(b) is only a claim for either or both a specified amount of money or an unspecified amount of money; and

(c) is not a claim for which special procedures are provided in these rules;” and

(ii) after the definition of ‘litigation friend’, insert—

“‘preferred court’ means, if the claim is proceeding in a county court, the county court the claimant has specified in practice form N1 as the court to which the proceedings should be transferred if necessary;”.

(a) 1997 c.12. Section 2 was amended by the Constitutional Reform Act 2005 (c.4), section 15(1) and Schedule 4, Part 1, paragraphs 261, 263(1) and (2).

(b) S.I. 1998/3132. There are relevant amendments in S.I. 1999/1008, S.I. 2000/221, S.I. 2000/2092, S.I. 2001/4015, S.I. 2003/2113, S.I. 2004/2072, S.I. 2007/2204, S.I. 2008/2178, S.I. 2008/3085 and S.I. 2009/3390.

4. In Part 3—

- (a) in the table of contents—
 - (i) in the left hand column, after “Judgment without trial after striking out” insert “Automatic transfer”; and
 - (ii) in the right hand column, after “Rule 3.5” insert “Rule 3.5A”; and
- (b) after rule 3.5 insert—

“Automatic Transfer

3.5A. If—

- (a) a claimant files a request for judgment which includes an amount of money to be decided by the court in accordance with rule 3.5; and
- (b) the claim is a designated money claim,

the court will transfer the claim to the preferred court upon receipt of the request for judgment.”.

5. In Part 12—

- (a) in the table of contents—
 - (i) in the left hand column, after “Nature of judgment where default judgment obtained by filing a request” insert “Automatic transfer”; and
 - (ii) in the right hand column, after “Rule 12.5” insert “Rule 12.5A”; and
- (b) after rule 12.5 insert—

“Automatic transfer

12.5A. If—

- (a) a claimant files a request for judgment which includes an amount of money to be decided by the court in accordance with rules 12.4 and 12.5; and
- (b) the claim is a designated money claim,

the court will transfer the claim to the preferred court upon receipt of the request for judgment.”.

6. In Part 13—

- (a) in rule 13.4(1)(c), omit “under rule 14.12 (admission – determination of rate of payment by judge) or rule 26.2 (automatic transfer)”;
- (b) after rule 13.4(1), insert—
 - “(1B) Where—
 - (a) the claim is for a specified amount of money;
 - (b) the claim is a designated money claim;
 - (c) the claim has not been transferred to another court; and
 - (d) the defendant is not an individual,

the court will transfer an application by a defendant under this Part to set aside or vary the judgment to the preferred court.”.

7. In Part 14—

- (a) in the table of contents—
 - (i) in the left hand column, after “Admission of liability to pay claim for unspecified amount of money where defendant offers a sum in satisfaction of the claim”, insert “Automatic transfer”; and

- (ii) in the right hand column, after “Rule 14.7”, insert “Rule 14.7A”; and
- (b) after rule 14.7, insert—

“Automatic Transfer

14.7A. If—

- (a) a claimant files a request for judgment for an amount of money to be decided by the court in accordance with rule 14.6 or 14.7; and
- (b) the claim is a designated money claim,
the court will transfer the claim to the preferred court.”;
- (c) in rule 14.12—
 - (i) in paragraph (2), for “must” substitute “will”;
 - (ii) in paragraph (2)(c), omit “under rules 13.4 (application to set aside or vary default judgment-procedure) or rule 26.2 (automatic transfer)”;
 - (iii) at end of paragraph (2), omit “(Rule 2.3 explains which court is a defendant’s home court)”;
 - (iv) after paragraph (2), insert—

“(2A) Where the judge is to determine the time and rate of payment at a hearing, the proceedings will be transferred automatically to the preferred court if—

 - (a) the only claim is for a specified amount of money;
 - (b) the claim is a designated money claim;
 - (c) the defendant is not an individual; and
 - (d) the claim has not been transferred to another court.”; and
 - (v) in paragraph (3), for “must” substitute “will”; and
- (d) in rule 14.13—
 - (i) in paragraph (3), for “must” substitute “will”;
 - (ii) in paragraph (3)(c), omit “under rules 13.4 (application to set aside or vary default judgment-procedure) or rule 26.2 (automatic transfer)”;
 - (iii) after paragraph (3), insert—

“(3A) Where an application for re-determination is made, the proceedings will be transferred to the preferred court if—

 - (a) the only claim (apart from a claim for interest or costs) is for a specified amount of money;
 - (b) the claim is a designated money claim;
 - (c) the defendant is not an individual; and
 - (d) the claim has not been transferred to another court.”; and
 - (iv) after paragraph (3), omit “(Rule 2.3 explains which court is a defendant’s home court)”.

8. In Part 23—

- (a) in rule 23.2—
 - (i) in paragraph (4), for “If” substitute “Subject to paragraph (4A), if”; and
 - (ii) after paragraph (4), insert—

“(4A) If—

 - (a) an application is made before a claim has been started; and
 - (b) the claim is a designated money claim,

the application may be made in any county court.”.

9. In Part 26—

- (a) in the table of contents—
 - (i) in the left hand column, for “Automatic transfer” substitute “Automatic transfer – generally”;
 - (ii) in the left hand column, after “Automatic transfer” insert “Automatic transfer of designated money claims”; and
 - (iii) in the right hand column, after “Rule 26.2” insert “Rule 26.2A”;
- (b) in rule 26.2—
 - (i) in the heading to that rule, after “Automatic transfer” insert “– generally”; and
 - (ii) in paragraph (1)—
 - (aa) at the beginning, insert “This rule applies where rule 26.2A does not apply.”; and
 - (bb) in paragraph (1)(c), omit “under rule 13.4 (application to set aside or vary judgment - procedure) or rule 14.12 (admission - determination of rate of payment by judge)”;
- (c) after rule 26.2, insert—

“Automatic transfer of designated money claims

26.2A.—(1) This rule applies where the claim is a designated money claim.

(2) If at any time before the service of a notice by the court under rule 26.3(1A) a proper officer considers that the claim should be referred to a judge for directions, the proper officer may transfer the proceedings to the preferred court.

(3) Subject to paragraph (5), if the defendant is an individual and the claim is for a specified sum of money, the court will, at the relevant time, transfer the claim to the defendant’s home court (save that where there are two or more defendants, one or more of whom are individuals, the court will transfer the claim to the home court of the defendant who first files his defence).

(4) Subject to paragraph (5), in any other claim to which this rule applies, the court will, at the relevant time, transfer the claim to the preferred court.

(5) If a defendant under paragraph (3) or a claimant under paragraph (4) has specified a court other than the preferred court on their allocation questionnaire, the court will transfer the claim to that court.

(6) The relevant time for the purposes of this rule is when—

- (a) all parties have filed their allocation questionnaires; or
- (b) the period for filing allocation questionnaires has expired,

whichever occurs first, save that, where allocation questionnaires are not required, the relevant time is the time prescribed for filing the defence.”;

- (d) in rule 26.3—
 - (i) in paragraph (1)—
 - (aa) for “the court will serve” substitute “each party must file”; and
 - (bb) omit “on each party”;
 - (ii) after paragraph (1), insert—

“(1A) When a defendant files a defence, the court will serve a notice on each party—

 - (a) identifying the appropriate allocation questionnaire to be filed;
 - (b) stating the date by which the allocation questionnaire must be filed;
 - (c) stating the court to which the allocation questionnaire must be returned; and
 - (d) informing them how to obtain the allocation questionnaire.

(1B) The court will always serve on any unrepresented party the appropriate allocation questionnaire.”;

- (iii) in paragraph (2), for “allocation questionnaire under paragraph (1)” substitute “a notice under paragraph (1A)”;
- (iv) in paragraph (3), for “an allocation questionnaire” substitute “a notice under paragraph (1A)”;
- (v) in paragraph (4), for “an allocation questionnaire” substitute “a notice under paragraph (1A)”;
- (vi) in paragraph (6), for “specified in it” substitute “specified in the notice served under paragraph (1A)”.

10. In Part 30, in rule 30.1 omit “(Rule 26.2 provides for automatic transfer in certain cases)”.

Neuberger of Abbotsbury, M.R.
Launcelot Henderson, J.
Peter Coulson, J.
Master Barbara Fontaine
HHJ Stephen Stewart Q.C.
District Judge Robert Hill
District Judge Suzanne Burn
Nicholas Bacon Q.C.
Edward Pepperall
Katy Peters
Amanda Stevens

I allow these rules
Signed by authority of the Lord Chancellor

21st December 2011

Crispin Blunt
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules amend the Civil Procedure Rules 1998 (“the Rules”).

The amendments relate to the centralisation of some basic administrative functions at the National Civil Business Centre (“the Business Centre”) in respect of money claims issued in the county court under Part 7 of the Rules (how to start proceedings – the claim form). Northampton County Court will be the sole court of issue for all such claims. The Business Centre will act as its administrative office and will manage the preliminary stages of all such claims up to the filing by the parties of their completed allocation questionnaires.

Part 2 (application and interpretation of the rules) defines two new terms, namely “designated money claim” (i.e. a money claim issued in the county court under Part 7 of the Rules and to which no special procedures under the Rules apply) and “preferred court” (i.e. a county court specified by the claimant to which a money claim under Part 7 may be transferred in certain circumstances).

Amendments to Parts 3 (the court’s case management powers), 12 (default judgment), 13 (setting aside or varying default judgment), 14 (admissions) and 26 (case management – preliminary stage) provide for the automatic transfer of claims from the Business Centre to a county court other than Northampton County Court. Further amendments to Part 26 provide that the Business Centre will no longer automatically serve an allocation questionnaire on a party, unless that party is unrepresented.

Amendments to Part 23 (general rules about applications for court orders) make provision in respect of those instances where an application for a court order includes a designated money claim. A minor amendment is also made to Part 30 (transfer).

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STATUTORY INSTRUMENTS

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