

Statutory Document No. 2019/0071

*High Court Act 1991*

RULES OF THE HIGH COURT OF JUSTICE (AMENDMENT) 2019

Laid before Tynwald: 19 March 2019
Coming into Operation: 01 April 2019

The Deemsters make the following Rules under section 25 of the High Court Act 1991¹.

1 Title

These Rules are the Rules of the High Court of Justice (Amendment) 2019.

2 Commencement

These Rules come into operation on 01 April 2019.

3 Interpretation

In these Rules, “the principal Rules” mean the Rules of the High Court of Justice 2009².

4 Deemed discontinuance

(1) After rule 7.80 of the principal Rules add –

Chapter 8A: Deemed discontinuance

7.80A: Deemed discontinuance

(1) The rules in this Chapter set out the circumstances in which a claim is deemed to have been discontinued where no final judgment or order has been given or made in respect of that claim.

(2) This Chapter is additional to any other rule or inherent jurisdiction under which a claim may or shall be stayed or struck out or discontinued and is without prejudice to any rule or inherent jurisdiction enabling application to be made for relief from sanctions.

¹ 1991 c.12

² SD 352/09 (as amended by SD686/09, SD222/10, SD1025/10, SD549/11, SD558/11, SD954/11, SD2014/0027)

(3) For the purposes of this rule, ‘the relevant date’ means 1 September 2009.

(4) Subject to paragraphs (6) and (7), a claim is deemed to have been discontinued if it is apparent from records maintained by the court or the court office in relation to any claim commenced prior to the relevant date that no party to the claim has, since the relevant date, taken any step in the proceedings.

(5) Subject to paragraphs (6) and (7), a claim is deemed to have been discontinued if it is apparent from records maintained by the court or the court office in relation to any claim:

i commenced prior to the relevant date in which any step in the proceedings has taken place on or since the relevant date, or

ii commenced on or after the relevant date

(a) that a period of at least 7 years (or such period as may have been ordered) has elapsed since any party to the claim has taken any step in the proceedings since the making of an order to stay or adjourn the proceedings (which order remains in force) or since a stay was imposed by Rules of Court, or

(b) without prejudice to sub-paragraph (a), that a period of at least 5 years (or such extended period as the court may allow) has elapsed since any party to the claim has taken any step in the proceedings.

(6) For the purposes of paragraphs (4) and (5) the expression “claim” includes an additional claim but does not include:

(a) any proceedings of a type referred to in rule 2.62 (2)(a) (in relation to minors or patients (whilst they remain such)); or

(b) any proceedings of a type referred to in rule 2.62 (2)(d) (in relation to funds in court) where there are still funds held by the court; or

(c) any proceedings where the court has granted an interim remedy which remains in force; or

(d) any proceedings where a party has given an undertaking to the court which has not expired.

(7) The court may, on an application by any party made before the expiration of the periods referred to in paragraph (5) or of any extended period allowed under paragraph (5), direct that this rule shall not apply to the proceedings.


(8) Where a claim has been deemed to have been discontinued, the deemed discontinuance is without prejudice to any prior liability or obligation of a party to pay costs to another party and does not prevent any proceedings to deal with or enforce any question of costs.

(9) Any party may apply within 28 days of the date of deemed discontinuance (a) to set aside such discontinuance and reinstate the proceedings or (b) for costs relating to the discontinued proceedings and the court may make such an order as it thinks fit.

(10) A party whose claim is deemed to have been discontinued needs the permission of the court to make another claim against the same defendant where the new claim arises out of facts which are the same or substantially the same as those relating to the discontinued claim, and must at the time of submitting such an application give full disclosure of the details of such previous claim.

(11) Where in this rule any reference is made to a claim, or a procedure of the High Court, it shall be construed as having the same effect in relation to like processes or procedures which existed prior to the relevant date.

(2) For rule 7.78(3) of the principal Rules substitute –

“(3) This rule does not apply to claims allocated to the small claims procedure or claims deemed to have been discontinued under rule 7.80A of Chapter 8A of this Part 7.”

MADE 11 FEBRUARY 2019

A T K CORLETT

Her Majesty's First Deemster

J A NEEDHAM

Her Majesty's Second Deemster

EXPLANATORY NOTE***(This note is not part of the Rules)***

These Rules amend the Rules of the High Court of Justice 2009. A new rule provides for certain types of proceedings to be deemed to have been discontinued where no party has taken any step in the proceedings for at least five or (in certain cases) seven years.