PART 18 Amendments To Statements Of Case

PART 18

Amendments to statements of case 18.1 - 18.3

18.1

A party may amend his statement of case at any time before it has been served on any other party.

18.2

If his statement of case has been served, a party may amend it only:

(1) with the written consent of all the other parties; or

(2) with the permission of the Court.

18.3

If a statement of case has been served, an application to amend it by removing, adding or substituting a party must be made in accordance with Part 20.

Power of Court to disallow amendments made without permission 18.4 - 18.5

18.4

If a party has amended his statement of case where permission of the Court was not required, the Court may disallow the amendment.

18.5

A party may apply to the Court for an order under Rule 18.4 within 14 days of service of a copy of the amended statement of case on him.

Amendments to statements of case with the permission of the court 18.6 - 18.7

18.6

Where the Court gives permission for a party to amend his statement of case , it may give directions

as to:

(1) amendments to be made to any other statement of case ; and

(2) service of any amended statement of case .

18.7

The power of the Court to give permission under Rule 18.6 is subject to:

(1) Rules 20.6 to 20.9 (change of parties — general);

(2) Rules 20.27 to 20.29 (special provisions about adding or substituting parties after the end of a relevant limitation period); and

(3) Rule 18.8 (amendments of statement of case after the end of a relevant limitation period).

Amendments to statements of case after the end of a relevant limitation period 18.8 - 18.11

18.8

Rules 18.9 to 18.11 apply where:

(1) a party applies to amend his statement of case in one of the ways mentioned in Rule 18; and
(2) a period of limitation has expired under:

(a) the Court Law;

(b) the Contract Law 2004;

(c) the Law of Damages and Remedies 2005;

(d) the Law of Obligations 2005;

(e) the Trust Law 2005; or

(f) any other enactment which allows such an amendment, or under which such an amendment is allowed.

18.9

The Court may allow an amendment whose effect will be to add or substitute a new claim, but only if the new claim arises out of the same facts or substantially the same facts as a claim in respect of which the party applying for permission has already claimed a remedy in the proceedings.

18.10

The Court may allow an amendment to correct a mistake as to the name of a party, but only where the mistake was genuine and not one which would cause reasonable doubt as to the identity of the party in question.

18.11

The Court may allow an amendment to alter the capacity in which a party claims if the new capacity is one which that party had when the proceedings started or has since acquired.

Applications to amend where the permission of the Court is required 18.12 - 18.15

18.12

Questions of amendment, and consequential amendment, should wherever possible be dealt with by consent. A party should consent to a proposed amendment unless he has substantial grounds for objecting to it.

18.13

The application may be dealt with at a hearing or, if Rule 23.68 applies, without a hearing.

18.14

When making an application to amend a statement of case , the applicant should file with the Court:

(1) the application notice ;

(2) a copy of the statement of case with the proposed amendments; and

(3) any evidence submitted in support of the application.

18.15

Late amendments should be avoided and may be disallowed.

General 18.16 - 18.27

18.16

Where permission to amend has been given, the applicant should within 14 days of the date of the order, or within such other period as the Court may direct, file with the Court the amended

statement of case .

18.17

A copy of the order and the amended statement of case should be served on every party to the proceedings, unless the Court orders otherwise.

18.18

Where the Court's permission is not required the amended statement of case must be filed with the Court and served on every party to the proceedings.

18.19

The amended statement of case and the Court copy of it should be endorsed as follows:

(1) where the Court's permission was required:

"Amended [Particulars of Claim or as may be] by Order of [The Honourable Chief Justice, the Honourable Mr. Justice X, Mr. Registrar X, Deputy Registrar X or as may be] dated……..;

(2) Where the Court's permission was not required:

Amended [Particulars of Claim or as may be] under RDC [Rule 18.1 or 18.2(1)] dated…….

18.20

The statement of case in its amended form must show the original text, unless the Court orders otherwise.

18.21

Amendments may be shown by using footnotes or marginal notes, provided they identify precisely where and when an amendment has been made.

18.22

However, the Court may direct that the amendments should be shown either:

(1) by coloured amendments, either manuscript or computer generated, or

(2) by use of a numerical code in a monochrome computer generated document.

18.23

Where colour is used, the text to be deleted should be struck through in colour and any text replacing it should be inserted or underlined in the same colour.

18.24

The order of colours to be used for successive amendments is: (1) red, (2) green, (3) blue and (4) brown.

18.25

If there have been extensive amendments, it may be desirable to prepare a fresh version of the statement of case as amended. However, a copy of the statement of case showing where and when amendments have been made must also be made available.

18.26

All amendments to any statement of case must be verified by a statement of truth unless the Court orders otherwise.

18.27

A party applying for an amendment will usually be responsible for the costs of and arising from the amendment, but the Court will have regard to any failure of a party to consent to an amendment in accordance with Rule 18.12.