

BTO solicitors LLP

On a general level I have found the rules to be helpful and clear. My views are as follows:

1. I found rule 26.A5. (8) and the use of the word “serve” confusing. I would have made that read “intimate”.

I do not follow the reason for the inclusion of para 26A.12.(1)(a).

I believe the provisions of rule 26A.14 relating to adding /taking out parties wishing to make a claim are less than ideal. The practice set out in our case in the interlocutor of 18 January 2024 in our case to deal with this have worked well. I think the rule should be replaced with a system that aligns with the practice set out in the said interlocutor.

Standing the importance that the service of the group register has to prescription it struck me that a rule should provide that the group register must be maintained with a column showing the dates each claim was commenced.

I believe the rules should require that any pursuer who seeks an award of damages to confirm the amount they claim (whether in the form of a spreadsheet or as part of the information detailed in the group register. In our case the summons seeks an order for payment of such sum as the court think fit but there is no way of knowing from the conclusions or the articles of condescendence what damages each group member wishes to claim or which heads of claim or indeed legal arguments each person wishes to press. I understand the need for brevity in pleadings but this seems to be taking things too far. I think it is beneficial for pursuers to be forced to consider and set out their position on the losses they wish to claim in any case.

2. I find the position with respect to tendering to be unclear. I propose to leave others who may have considered this in detail, to advise on what the rule may be.

3. The rules relating to the hearings and what is required and may happen work well.

4. Additional information could include pre action protocol requirements, the importance of regular Counsel to counsel discussions relative to disclosure and tendering.