

RULE 15 – CHANGE OF PARTIES

Party's death, bankruptcy, etc.

- (1) Where a party dies or becomes bankrupt, or a corporate party is wound up or otherwise ceases to exist, but the claim survives, the proceeding shall not abate by reason of the death or bankruptcy or the corporate party having been wound up or ceasing to exist.
- (2) Whether or not the claim survives, a proceeding shall not abate by reason of either party dying between the verdict or finding on the issues of fact and the entry of judgment, but judgment may be entered notwithstanding the death.

Assignment or conveyance of interest

- (3) Where by assignment, conveyance or death, an estate, interest or title devolves or is transferred, a proceeding relating thereto may be continued by or against the person upon whom or to whom that estate, interest or title has devolved or been transferred.

Change or transmission of interest or liability

- (4) Where a change or transmission of interest or liability of a party has taken place or a person interested comes into existence after the commencement of a proceeding and it becomes necessary or desirable
 - (a) that a person not already a party should be made a party, or
 - (b) that a person already a party should be made a party in another capacity,the court may order that the proceeding be carried on between the continuing parties and the new party.

Removing, adding or substituting party

- (5) (a) At any stage of a proceeding, the court on application by any person may
 - (i) order that a party, who is not or has ceased to be a proper or necessary party, cease to be a party,
 - (ii) order that a person, who ought to have been joined as a party or whose participation in the proceeding is necessary to ensure that all matters in the proceeding may be effectually adjudicated upon, be added or substituted as a party, and
 - (iii) order that a person be added as a party where there may exist, between the person and any party to the proceeding, a question or issue relating to or connected

(A) with any relief claimed in the proceeding, or

(B) with the subject matter of the proceeding,

which, in the opinion of the court, it would be just and convenient to determine as between the person and that party.

(b) No person shall be added or substituted as a plaintiff or petitioner without the person's consent.

Procedure where order made

(6) Unless the court otherwise orders, where an order is made under subrule (4) or (5) adding or changing a party,

(a) the originating process shall be amended, and a reference to the order and the date on which the amendment is made shall be endorsed upon the amended process,

(b) no further steps shall be taken against the person made a party under the order until the amended process and a copy of the order are served upon the person,

(c) the person made a party under the order may apply to the court to vary or discharge the order within 7 days after the expiry of the time for appearance, and

(d) the rules as to service and entering an appearance apply to the amended process.

Effect of order

(7) Unless the court otherwise orders, where a person becomes a party in substitution for a former party, all things done in the proceeding before the person became a party shall have the same effect in relation to that person as they had to the former party, but the substituted party shall enter an appearance.

Prosecution of action where plaintiff or petitioner dies

(8) Where a plaintiff or petitioner has died and the proceeding may be continued, the defendant or respondent may apply to the court for an order that the person entitled to proceed does proceed within the time that the court orders and that, in default, the proceeding be dismissed for want of prosecution.

(9) Where a proceeding is dismissed under subrule (8), an order for payment of costs may be made and enforced against the assets of the deceased's estate.