

When can an order be amended under the slip rule? (IC v RC)

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Family analysis: The court considered the circumstances in which an error or omission after the order has been drawn may be corrected pursuant to the ‘slip rule’ (per Family Procedure Rules 2010 (FPR 2010), SI 2010/2955, 29.16) in circumstances where the husband argued that the order had ceased to have effect. The court held that a slip rule amendment can be made at any stage to enable the court to properly reflect what was intended and to enable a fair resolution of proceedings, consistent with the interests of justice. Rachael Goodall, barrister at 3PB Barristers, examines the judgment and its practical implications.

IC v RC [\[2020\] EWHC 2997 \(Fam\)](#), [\[2020\] All ER \(D\) 74 \(Nov\)](#)

What are the practical implications of this case?

This decision reinforces the importance of carefully checking the drafting of orders, particularly if practitioners refer to the parties in the order as the ‘applicant’ and ‘respondent’. While the standard order precedents provide for a definition of who the applicant and respondent are, this can often change within proceedings when subsequent applications are made (as was the situation in this case, where the wife was the original applicant for financial remedies but the husband then became the applicant when he applied for a variation). It may be far clearer, and safer, to use the parties’ full names within orders or express them as the ‘applicant husband/wife’ and ‘respondent wife/husband’.

While the ‘slip rule’ provision in FPR 2010, [SI 2010/2955, r 29.16](#) enables the court to rectify errors or omissions, this can prove to be a costly exercise, particularly if both parties do not agree and a contested hearing is required. It is incumbent on legal advisers to properly check orders, especially as parties may have a valid negligence claim against their advisers if errors are not spotted and immediately rectified before the order is drawn.

The authority also gives useful guidance on the court’s approach when dealing with applications for permission to appeal out of time (which is not covered in the ambit of this analysis).

What was the background?

A financial remedies consent order was approved by the court providing for the husband to pay periodical payments to the wife during their joint lives. The husband applied to vary the order due to a reduction in his income. The wife cross-applied to enforce the order. The district judge at the final hearing accepted that the husband’s income had reduced, and the periodical payments were varied downwards.

Counsel for the wife (the husband was unrepresented) drafted the order, which the court approved and sealed. The order read that one of the triggers for the periodical payments ending was the ‘applicant’s remarriage’. The husband was the applicant in his variation application. The husband later remarried and stopped payments; he stated that he understood the order to mean that the payments would stop upon his marriage. He refused to agree to a correction to the order to read the ‘respondent’s remarriage’. The wife issued an application under the slip rule to correct the order. The district judge corrected the order as suggested by the wife, without notice, providing an

opportunity for an application to set aside, vary or stay that order within seven days. The husband asked for a review, which was done at another hearing when the district judge confirmed her order.

The husband applied to vary the periodical payments order. However, before this was listed he instructed direct access counsel and then applied for permission to appeal (out of time) the decision of the district judge to amend the order under the slip rule.

What did the court decide?

It was held that the court can amend an order pursuant to FPR 2010, [SI 2010/2955, r 29.16](#) to correct a genuine error, accidental slip or omission in order to properly reflect the intention of the court (following *Mubarak v Mubarik* [\[2007\] EWHC 220 \(Fam\)](#), [\[2007\] 2 FLR 364](#) and applying *Swindale v Forder* [\[2007\] EWCA Civ 29](#), [\[2007\] 1 FLR 1905](#)). Judge Knowles stated at para [32] that:

‘[The] [c]orrection of accidental slips or omissions at any time is thus consistent with the interests of justice and the fair resolution of proceedings.’

Knowles J rejected the husband’s argument that the court had no power, authority or jurisdiction to amend the order under the slip rule, as the order had ceased to have effect following the husband’s remarriage. The reason for this was that FPR 2010, [SI 2010/2955, r 29.16](#) states that ‘the court may at any time correct an accidental slip or omission in a judgment or order’ and it was held that the words ‘at any time’ applied equally to orders that were no longer extant, or the rule would have specified the exclusion of such. It was recognised that, if the court accepted this submission, the husband would benefit from an error in the order in a manner which the court never intended, which would be ‘profoundly unjust’ to the wife (at para [34]).

The court held at para [47] that ‘...save in the most unusual of circumstances, the interests of justice in correcting an inaccurate order are likely to prevail over other considerations.’

Case details:

- Court: Family Division, High Court of Justice
- Judge: Mrs Justice Knowles
- Date of judgment: 12 November 2020

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