

CHAPTER 100. RULES OF CONSTRUCTION

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Rule 51. Title and Citation of Rules.

These rules shall be known as the Pennsylvania Rules of Civil Procedure and may be cited as “Pa. R.C.P. No.”

Official Note: The rules of civil procedure are not applicable in the magisterial district courts. Civil actions and proceedings in magisterial district courts are governed by the Rules of Civil Procedure for Magisterial District Judges, Pa.R.C.P.M.D.J. 201 et seq.

Source

The provisions of this Rule 51 adopted May 1, 1939, effective November 6, 1939; amended March 28, 1973, effective July 1, 1973; amended June 23, 1975, effective immediately, 5 Pa.B. 1819; amended November 14, 1978, effective December 2, 1978, 8 Pa.B. 3410; amended July 8, 2005, effective September 1, 2005, 35 Pa.B. 4087; amended immediately preceding text appears at serial page (22232).

Rule 52. Effective Date. Application to Pending Actions.

(a) A rule or an amendment to a rule shall be effective upon the date specified by the Supreme Court.

(b) If no effective date is specified, the rule or amendment shall be effective on the first day of July or January following the thirtieth day after its adoption, whichever is earlier.

(c) Unless the Supreme Court specifies otherwise, a rule or an amendment to a rule shall apply to actions pending on the effective date.

Source

The provisions of this Rule 52 amended through April 5, 1982, effective July 1, 1982, 12 Pa.B. 1225. Immediately preceding text appears at serial pages (40012) and (65222).

Rule 76. Definitions.

The following words and phrases when used in the Rules of Civil Procedure shall have the following meanings, respectively, unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

Administrator—A fiduciary appointed under authority of law by a register of wills or other public authority to administer the estate of a decedent.

Adult—An individual eighteen years of age or over.

Affidavit—A statement in writing of a fact or facts signed by the person making it, that either (1) is sworn to or affirmed before an officer authorized by law to administer oaths, or before a particular officer or individual designated by law as one before whom it may be taken, and officially certified to in the case of an officer under seal of office, or (2) is unsworn and contains a statement that it is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

As now provided by law—A reference to the Acts of Assembly and rules in force at the time the rule containing the phrase was promulgated.

As provided by law—A reference to the Acts of Assembly and rules in force at the particular time when the rule containing the phrase is applied.

Attorney at law—An individual admitted to practice law by a court of record of this Commonwealth.

Attorney of record—An attorney at law who is entered on the docket or record of a court as appearing for or representing a party in a legal proceeding.

Child or children—Includes children by birth or adoption.

Commonwealth—The Commonwealth of Pennsylvania.

Competent adult—An individual eighteen years of age or older who is neither a party to the action nor an employee or a relative of a party.

Creditor—One to whom the performance of an obligation is owed.

Debtor—One who owes to another the performance of an obligation.

Decedent—Either a testator or person dying intestate.

Executor—A fiduciary named in a will to execute its provisions and administer the estate of the testator.

Facsimile copy—A copy of a document transmitted and received by facsimile equipment.

Fiduciary—An executor, administrator, guardian, committee, receiver, trustee, assignee for the benefit of creditors, and any other person, association, partnership, or corporation, acting in any similar capacity.

General rule—A Rule of Civil Procedure promulgated by the Supreme Court of Pennsylvania under the authority of Article V, Section 10(c) of the Constitution of 1968 or of any Act of Assembly.

Grantee—One to whom any estate or interest in real property other than a leasehold passes by conveyance.

Grantor—One from or by whom any estate or interest in real property other than a leasehold passes by conveyance.

Guardian—A fiduciary legally entrusted with the care and management of the person, or the estate, or both, of a person under a legal disability.

Ad litem—A fiduciary who is appointed to represent in legal proceedings a person under a legal disability.

Hereafter—A reference to the time after the time when the rule containing such word becomes effective.

Heretofore—A reference to the time previous to the time when the rule containing such word becomes effective.

Judicial sale—A sale conducted by an officer or person authorized for the purpose by some competent tribunal.

Local rule—A rule of civil procedure promulgated by a court of common pleas.

Majority—When used in reference to age, means of the age of eighteen years or over.

Minor—An individual under the age of eighteen years.

Month—A calendar month.

Notary—A notary public.

Oath—Includes affirmation.

Person—Includes a corporation, partnership and association, as well as a natural person.

Personal representative—The executor or administrator of a decedent.

Political subdivision—Any county, city, borough, incorporated town, township, school district, vocational school district, county institution district or municipal or other local authority.

Official Note: The definition of the term “political subdivision in this rule has no bearing upon whether a particular entity is or is not a political subdivision for substantive matters.

Property—Includes both real and personal property.

Prothonotary—Includes any officer exercising the powers and performing the duties of the office of prothonotary as set forth in the Judicial Code, and includes the analogous officer in those counties which do not have a prothonotary.

Publish or published or as applied to the publication of a newspaper of general circulation—Means the place where such newspaper is originally issued and circulated.

Registered mail—Either registered mail or certified mail.

Rule—A Rule of Civil Procedure promulgated by the Supreme Court under the authority of Article V, Section 10(c) of the Constitution of 1968, or of any Act of Assembly.

Savings account—An account in a bank, building and loan association, savings and loan association or other savings institution, in which money is deposited at interest, and subject to withdrawal in whole or in part without notice or after a specified period of notice or at a specified date, and evidenced by a passbook, receipt, certificate of deposit or other muniment of title.

Signature—Includes

(1) mark when the individual cannot write, the individual's name being written near it, and witnessed by another who writes his or her own name,

(2) when used in reference to documents produced by a court of the Unified Judicial System, a handwritten signature, a copy of a handwritten signature, a computer generated signature or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization unless otherwise provided in these rules.

Sworn—Includes affirmed.

Verified—When used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Year—A calendar year.

Source

The provisions of this Rule 76 adopted May 1, 1939, effective November 6, 1939; amended March 27, 1956, effective July 1, 1956; amended, effective December 22, 1972; amended March 28, 1973, effective July 1, 1973; amended, effective June 23, 1975, 5 Pa.B. 1819; amended November 14, 1978, effective December 2, 1978; amended October 16, 1981, effective October 16, 1981, 11 Pa.B. 3687; amended March 11, 1991, effective July 1, 1991, 21 Pa.B. 1274; amended August 3, 1998, effective January 1, 1999, 28 Pa.B. 3928; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended December 29, 2000, effective July 1, 2001, 31 Pa.B. 137; amended August 19, 2005, effective October 1, 2005, 35 Pa.B. 4914. Immediately preceding text appears at serial pages (255146) and (272393) to (272395).

Rule 101. Principles of Interpretation.

In the construction of any rule, the principles set forth in Rules 102 to 108 shall be observed, unless the application of such principles would result in a construction inconsistent with the manifest intent of the Supreme Court.

Source

The provisions of this Rule 101 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 102. Number. Gender. Tense.

The singular shall include the plural, and the plural, the singular. Words used in the past or present tense shall include the future.

Source

The provisions of this Rule 102 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820; amended April 12, 1999, effective July 1, 1999, 29 Pa.B. 2266. Immediately preceding text appears at serial page (246937).

Rule 103. Words and Phrases.

(a) Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning or as are expressly defined by rule shall be construed according to such peculiar and appropriate or express meaning or definition.

(b) General words shall be construed to take their meanings and be restricted by preceding particular words.

Source

The provisions of this Rule 103 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1828.

Rule 104. Numerals.

The Roman numerals and Arabic numerals shall be deemed parts of the English language.

Source

The provisions of this Rule 104 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 105. Bonds.

A rule requiring a bond or undertaking with sureties to be given by any person, shall be construed to permit in lieu thereof a bond given by any indemnity or surety company authorized to do business in this Commonwealth, and approved by the proper authority.

Source

The provisions of this Rule 105 adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 106. Computation of Time.

(a) When any period of time is referred to in any rule, such period in all cases, except as otherwise provided in Rules 107 and 108, shall be so computed as to exclude the first and include the last day of such period.

(b) Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended May 27, 1964, effective June 30, 1964; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 107. Time. Publication for Successive Weeks.

Whenever in any rule providing for the publishing of notices, the phrase “successive weeks” is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in “successive weeks” shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 108. Time. Computation of Months.

Whenever in any rule the lapse of a number of months after or before a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of such month.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 126. Liberal Construction and Application of Rules.

The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 127. Construction of Rules. Intent of Supreme Court Controls.

(a) The object of all interpretation and construction of rules is to ascertain and effectuate the intention of the Supreme Court.

(b) Every rule shall be construed, if possible, to give effect to all its provisions. When the words of a rule are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.

(c) When the words of a rule are not explicit, the intention of the Supreme Court may be ascertained by considering, among other matters (1) the occasion and necessity for the rule; (2) the circumstances under which it was promulgated; (3) the mischief to be remedied; (4) the object to be attained; (5) the prior practice, if any, including other rules and Acts of Assembly upon the same or similar subjects; (6) the consequences of a particular interpretation; (7) the contemporaneous history of the rule; and (8) the practice followed under the rule.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 128. Presumptions in Ascertaining the Intent of the Supreme Court.

In ascertaining the intention of the Supreme Court in the promulgation of a rule, the courts may be guided by the following presumptions among others:

(a) That the Supreme Court does not intend a result that is absurd, impossible of execution or unreasonable;

(b) That the Supreme Court intends the entire rule or chapter of rules to be effective and certain;

(c) That the Supreme Court does not intend to violate the Constitution of the United States or of this Commonwealth;

(d) That if the Supreme Court has construed the language used in a rule or statute, the Supreme Court in promulgating a rule on the same subject matter which employs the same language intends the same construction to be placed upon such language;

(e) That the Supreme Court intends to favor the public interest as against any private interest;

(f) That no rule shall be construed to confer a right to trial by jury where such right does not otherwise exist.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended March 22, 1962, effective April 2, 1962; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 129. Construction of Rules. Titles, Provisos, Exceptions and Headings. Use of Notes and Explanatory Comments.

(a) The title or heading of a rule may be considered in construing the rule.

(b) Provisos shall be construed to limit rather than to extend the operation of the clauses to which they refer.

(c) Exceptions expressed in a rule shall be construed to exclude all others.

(d) The title or heading prefixed to a chapter of rules shall not be considered to control but may be used in construing the rules.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 130. Rules in Derogation of the Common Law.

The principle that laws in derogation of the common law are to be strictly construed, shall have no application to the rules promulgated by the Supreme Court.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 131. Rules in Pari Materia.

Rules or parts of rules are in *pari materia* when they relate to the same proceedings or class of proceedings. Rules in *pari materia* shall be construed together, if possible, as one rule or one chapter of rules.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 132. Particular Controls General.

Whenever a general provision in a rule shall be in conflict with a particular provision in the same or another rule, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions is irreconcilable, the particular provisions shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be promulgated later and it shall be the manifest intention of the Supreme Court that such general provision shall prevail.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 133. Rules Inconsistent with Laws.

All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968.

Official Note: See Article V, Section 10(c) of the Constitution of 1968 and Section 1722(a)(1) of the Judicial Code, 42 Pa.C.S. § 1722(a)(1).

Source

The provisions of this Rule 133 adopted June 3, 1994, effective July 1, 1994, 24 Pa.B. 3010.

Rule 151. [Rescinded].**Source**

The provisions of this Rule 151 rescinded April 5, 1982, effective April 16, 1982, 12 Pa.B. 1225. Immediately preceding text appears at serial page (22240).

Rule 152. Construction of Amendatory Rules.

Whenever a rule or part of a rule is amended, the amendment shall be construed to merge into the original rule, become a part thereof, and replace the part amended. The remainder of the original rule and amendment shall be read together and viewed as one rule promulgated at one time; but the portions of the rule which were not altered by the amendment shall be construed as effective from the time of their original promulgation and the new provisions shall be construed as effective only from the date when the amendment became effective.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

Rule 153. Merger of Subsequent Amendments.

Whenever a rule has been more than once amended, the latest amendment shall be read into the original rule as previously amended and not into such rule as originally promulgated.

Official Note: Adopted May 1, 1939, effective November 6, 1939; amended April 18, 1975, effective immediately, 5 Pa.B. 1820.

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