

NOTES TO ACCOMPANY FEBRUARY 2003 30th SUPPLEMENT

Introduction

The 30th update of the Civil Procedure Rules introduces Part 63 which governs the procedure for claims for intellectual property rights, in particular patents, registered designs and registered trade marks. This replaces the provisions in Practice Direction 49E from 1 April 2002.

The update also contains a number of PD changes. The most notable changes are:

- a replacement Practice Direction 5B on the pilot scheme for communication and filing of documents by e-mail coming into force on 1 April;
- amendments to Practice Direction 37 providing for the payment of money into court to be sent to the Court Funds Office coming into force on 1 April;
- changes to Practice Direction 52 to take account of changes in appeal procedures for health care professionals coming into force on 1 April;
- a new Practice Direction 63 to supplement the above new part coming into force on 1 April;
- a new Practice Direction on Restraint Orders and appointment of receivers in connection with criminal proceedings and investigations to supplement RSC Order 115 coming into force on 17 February;
- a new Practice Direction on anti-social behaviour which makes provision for an application in existing proceedings in a county court for an order (including an interim order) under the Crime and Disorder Act 1998 by a relevant authority coming into force on 1 April;
- a new Practice Direction containing general provisions about proceedings in the High Court under Parts 5 and 8 of the Proceeds of Crime Act 2002 which will come into force on the commencement of Chapter 2 of Part 5 and Chapter 2 of Part 8 of the Act;
- amendments to the practice direction on protocols to include a number of additional provisions designed to encourage parties to act reasonably in exchanging information and documents at an early stage and generally to seek to settle their dispute without recourse to litigation.

Amendments to existing material are included as follows:

Rules

Part 25	Rule 25.13(2) Existing sub-paragraph (a) replaced by new text. Sub-paragraph (b) omitted.
Part 36	Rule 36.6 Existing paragraph (3) replaced by new text. Paragraph (4) omitted.
Part 37	Rule 37.1 Existing paragraph (1) replaced by new text.
Part 49	Rule 49.2 Sub-paragraph (d) revoked.
Part 56	Rule 56.4 'and' omitted at the end of sub-paragraph (c). New sub-paragraph (e) inserted.
Part 63	New part inserted on patents and intellectual property claims. These replace Practice Direction 49E.

Practice Directions

Practice Direction 5B	Existing PD replaced by new PD.
Practice Direction 28	In paragraph 2.1(2) 'listing questionnaire' replaced by 'pre-trial check lists'.
Practice Direction 29	In paragraph 2.4 'listing questionnaire' replaced by 'pre-trial check lists'.
Practice Direction 31	In paragraph 8 the reference to 'paragraph 27' replaced by 'paragraphs 28.1–28.3'.
Practice Direction 36	Existing paragraph 4.1 replaced by new wording. New paragraph 4.2 inserted. Existing paragraphs 8.1 8.3 replaced by new wording.
Practice Direction 37	Existing paragraphs 1.1 1.2 replaced by new wording. Existing paragraph 2.1 replaced by new paragraphs 2.1 and 2.1A. New paragraphs 11.1–11.5 inserted.
Practice Direction 43–48	In paragraph 3.3 '13.6' replaced by '13.5'.
Practice Direction 49E	Revoked (replaced by provisions in Part 63 and accompanying PD).
Practice Direction 52	New entries inserted in the table in paragraph 20. Title and text of paragraph 22.3 amended.
Practice Direction 55	New paragraphs 1.7 and 1.8 inserted.
Practice Direction 58	New paragraph 4.4 inserted.
Practice Direction 60	New paragraph 5.3 inserted.
Practice Direction 62	Existing Paragraph 2.3 replaced by new wording. New paragraphs 12.4–12.6 inserted.
Practice Direction 63	New Practice Direction on 'Patents and Other Intellectual Property Claims' inserted to supplement new Part 63 rules.
Practice Direction 75	New paragraphs 1.1(4), 1.2(5), 1.2(6) inserted. Existing paragraphs 1.3(2)(b) and (c) replaced by new paragraphs 1.3(2)(b), (c) and (d). Existing paragraphs 1.3(3)(c) and (d) replaced by 1.3(3)(c) to (f). Existing paragraphs 3.1 and 4.1 replaced by new text. Existing paragraphs 5.1(2) and (3) replaced by new paragraphs 5.1(2) to 5.1(4).

Other Practice Directions

Schedule 1

RSC Order 115	New Practice Direction inserted on the subject of Restraint orders and the appointment of receivers in connection with criminal proceedings and investigations.
Practice Direction	
Directors	Paragraphs 11.4 33.9 amended by replacing 'listing questionnaires' with 'pre-trial check lists (listing questionnaire)'.
Disqualification	
Anti-social behaviour	New Practice Direction inserted on bringing applications in a county court for an order under section 1B(4) of the Crime and Disorder Act 1998.
Civil Recovery	New Practice Direction inserted containing general provisions about proceedings in the High Court under Parts 5 and 8 of the Proceeds of Crime Act 2002.
Protocols Practice	New paragraphs 3.3–3.5 inserted. Paragraph 4 re-numbered as 4.1. New paragraphs 4.2–4.10 inserted.
Direction	
Judicial Review	
Pre-Action Protocol	Judicial Review Management Unit address amended.

Forms

New forms inserted as follows:

N242	Notice of payment into court (under order - Part 37)
N243B	Notice of instruction to Court Funds Office

The following forms are issued to replace existing forms:

Ex140	Record of Examination (individual)
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Ex141	Record of Examination (officer, etc)
N211C	Notes for Defendant (CPR Part 20)
N242A	Notice of payment into court (in settlement - Part 36)
N243A/F201	Notice of acceptance and request for payment (Part 36)
N292	Order on settlement on behalf of child or patient

Coming into force

All changes come into force on 1 April 2003 with the exception of the following:

- The new Practice Direction on Restraint Orders and Appointment of Receivers in Connection with Criminal Proceedings and Investigations will come into effect on 17 February 2003.
- The amendments to the Part 75 Practice Direction will come into effect on 17 February 2003.
- The Practice Direction on the Proceeds of Crime Act 2002 Parts 5 and 8: Civil Recovery will come into effect on the commencement of Chapter 2 of Part 5 and Chapter 2 of Part 8 of the Proceeds of Crime Act 2002.