

NOTES TO ACCOMPANY MAY 2003 32nd SUPPLEMENT

Introduction

The 32nd update of the Civil Procedure Rules amends Part 43 rule 43.2 which, together with amendments to the Conditional Fee Agreements Regulations 2000 and the Collective Conditional Fee Agreement Regulations 2000, will abrogate the indemnity principle in relation to the type of conditional fee agreement covered by the amended regulations. Solicitors will to this extent be able to agree lawfully with their clients not to seek to recover by way of costs anything in excess of what the court awards, or what is agreed will be paid, and will no longer be prevented from openly contracting with their clients on such terms. The new CPR Rule 43.2(3) and (4) provides that costs whose recovery is limited in this way are nevertheless recoverable costs for the purposes of CPR Parts 44-48.

Minor amendments have been made to rule 2.1 to make clear that the Civil Procedure Rules do not apply directly to election petitions in the High Court (although they apply indirectly). Rule 3.7 ensures that where a claim is struck out for non-payment of a fee and the claimant applies to have the claim reinstated, the time allowed for payment of the fee does not expire before he has an opportunity to pay it.

A new Practice Direction 23B is introduced, to provide for a pilot scheme for telephone hearings to operate at Newcastle Combined Court Centre from 1 September 2003 to 27 February 2004. A number of Practice Direction amendments are also made including changes to Practice Direction 6 in relation to electronic service of documents. A full list of the changes is set out below:

Amendments to existing material are included as follows:

Rules

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| Part 2 | In rule 2.1, in the table at the end of paragraph (2), insertions are made as follows: (a) at the end of the first column, '7. Election petitions in the High Court' and (b) at the end of the second column, 'Representation of the People Act 1983 (c), s.182'. |
| Part 3 | In rule 3.7, new paragraph (7) substituted for existing sub-paragraph. New paragraph (8) inserted. |
| Part 43 | In rule 43.2, after paragraph (1), cross-reference has been deleted. After paragraph (2), new paragraphs (3) and (4) inserted. |
| Part 54 | In rule 54.22, paragraph (3), sub-paragraph (a) replaced by new text. In rule 54.22, sub-paragraph (5) deleted. |

Schedules

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| Schedule 2 | |
| CCR Order 6 | Rule 6 revoked. |

Practice Directions

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| Practice Direction 2 | Existing paragraph 2.1(2) replaced by new text. |
| Practice Direction 6 | Existing paragraphs 3.1-3.4 replaced by new text. |
| Practice Direction 6B | Typing errors corrected 'judicial' and 'extrajudicial'. |
| Practice Direction 16 | In paragraph 6.2 (1) '7.1' replaced by '6.1'. |
| Practice Direction 23B | Practice Direction on 'Pilot Scheme for Telephone Hearings' inserted. |
| Practice Direction 40 | Existing paragraph 15 replaced by new text. |
| Practice Direction 52 | Existing paragraph 2A.2 replaced by new text. In table in paragraph 20.3, under 'Appeals to the High Court', 'Nurses, Midwives and Health Visitors Act 1977' changed to '1997'. |
| Practice Direction 56 | Paragraph 6.1 - new paragraph inserted at the end of this paragraph (in brackets). Paragraph 9.6 - new paragraph inserted at the end of this paragraph (in brackets). Paragraph 13.3 - new paragraph inserted at the end of this paragraph (in brackets). Paragraph 14.6 - new paragraph inserted at the end of this paragraph (in brackets). New paragraph 15.1 inserted. |
| Practice Direction 57 | Paragraph 2.2 (3) - existing text replaced by new text. |
| Practice Direction 68 | European Court Information Note inserted as Annex to Practice Direction. NB This annex was omitted in error from update 29. |
| Practice Direction 75 | In paragraph 1.1 (3) 'the Vehicle Emissions Regulations' deleted and in its place 'the Vehicle Emissions (England) Regulations' inserted. In paragraph 1.1, the order of 1.1(3) and 1.1(4) swapped round so that the definition of 'the Road User Charging Regulations' appears before the definition of 'the Vehicle Emissions (England) Regulations'. New paragraph 1.1(5) inserted. In paragraph 1.2(4) '(England)' inserted between 'Emissions' and 'Regulations'. At the end of 1.2(5), 'and' has been deleted. After paragraph 1.2(6), 1.2(7) inserted. In paragraph 1.3(2)(c) '(England)' inserted between 'Emissions' and 'Regulations'. In paragraph 1.3(2), at the end of 1.3(2)(c), 'or' deleted. In paragraph 1.3(2), at the end of 1.3(2)(d), new sub-paragraph (e) inserted. In paragraph 1.3(3)(d) '(England)' inserted between 'Emissions' and 'Regulations'. In paragraph 1.3(3), at the end of 1.3(3)(e), 'or' deleted. In paragraph 1.3(3)(f), 'and' deleted and new sub-paragraph (g) inserted. In paragraph 4.1, paragraph 4.1(2) replaced by new text. In paragraph 5.1(3) '(England)' inserted between 'Emissions' and 'Regulations'. In paragraph 5.1, at the end of 5.1(3), 'or' deleted. In paragraph 5.1, at the end of 5.1(4), new sub-paragraph (5) inserted. |

Forms

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| N20 | Form N20 replaced. |
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Coming into force

All changes come into force on 2nd June 2003, with the exception of:

- Part 54 changes on 9th June.
- Practice Directions 2, 6, 40 and 57 on 31st July.
- Practice Direction 23B on 25th August.
- Practice Direction 52 on 1st April. This PD change accompanies the Civil Procedure (Modification of Enactments) Order 2003, which came into force on 1st April.

- Practice Direction 56 – The sections of the Commonhold and Leasehold Reform Act 2002 which affect the Practice Direction supporting Part 56 will come into force on 30th September 2003 in England and at a later, as yet undecided, date in Wales. Hence the transitional provisions included in this update.
- Changes to Practice Direction 75 came into force 1st May.