

NOTES TO ACCOMPANY SEPTEMBER 2003 33rd SUPPLEMENT

Introduction

The 33rd update of the Civil Procedure Rules introduces the following new rules in the Civil Procedure Rules 1998:

- Section III of Part 34, sets out the procedure for requesting evidence to be taken in a Member State of the European Union to which Council Regulation (EC) No 1206/2001 on co-operation between the courts of the Member States of the European Union in the taking of evidence in civil or commercial matters applies, and for dealing with requests by the courts of Regulation States for evidence to be taken in England and Wales;
- Section II of Part 45, provides that for road traffic accident disputes:
- occurring on or after 6th October 2003;
- where costs-only proceedings are issued under rule 44.12A;
- which are settled for an amount of agreed damages not exceeding £10,000;

only specified fixed costs are recoverable, other than in exceptional circumstances, in

Section III of Part 52, which sets down the procedure for applications to the Court of Appeal or the High Court to reopen the final determination of an appeal or application for permission to appeal; and Section IV of RSC Order 115, which sets down the procedure for the registration in the High Court for enforcement of orders of the International Criminal Court for the payment of fines, forfeitures and reparations.

A number of minor and consequential amendments to the rules and practice directions have been made and certain provisions of the RSC and CCR rules in Schedules 1 and 2 have been revoked.

A full list of the changes is set out below:

Rules

Part 20

In rule 20.7, after paragraph (2) cross-reference inserted

In rule 20.8(1), in sub-paragraph (a), after 'counterclaim', 'against an existing party only' is inserted; in sub-paragraph (b) 'for the party making the Part 20 claim files his defence' replaced by 'the Part 20 claim is issued by the court'.

Part 30

In rule 30.1, at the beginning, (1) inserted

In rule 30.1 after paragraph (1) but before the cross-reference, new sub-paragraph (2) inserted

Part 34

In Part 34, at the end of the table of contents, new text inserted

In rule 34.13 paragraph (1) replaced by new text

Rule 34.16 replaced by new text

After Section II of Part 34, new Section III 'Taking of Evidence – Member States of the European Union' inserted

Part 43

In rule 43.2, in sub-paragraph (1)(j) 'Section 1 of' is inserted before 'Part 45'

Part 44

In rule 44.12A –

In paragraph (1), sub-paragraph (c) has been replaced by new text

After paragraph (1) new paragraph (1A) inserted

In paragraph (4) 'In' has been replaced by 'Except as provided in paragraph (4A), in'

Part 45	<p>After paragraph (4) new paragraph (4A) inserted</p> <p>Existing table of contents replaced by new table of contents</p> <p>In the heading of rule 45.1, 'Part' replaced by 'Section'</p> <p>In rule 45.1, in each place that it occurred, 'Part' replaced by 'Section'</p> <p>Cross-reference following paragraph (1) deleted</p> <p>After rule 45.6, new Section II 'Road Traffic Accidents – Fixed Recoverable Costs In Costs Only Proceedings' inserted</p>
Part 52	New Section III – 'Provisions about reopening appeals, Reopening of final appeals' inserted.
Part 57	In rule 57.2, sub-paragraph (3) replaced with new text
Part 70	<p>In rule 70.5, paragraph (1),</p> <p>In sub paragraph (a), 'or other decision' is inserted after 'money'. In sub-paragraph (b), new text inserted at the end</p> <p>In paragraph (2), at the end of sub-paragraph (a), 'or' is deleted</p> <p>After sub-paragraph (b), '; or (c) any order to which RSC Order 115 applies' inserted</p> <p>After cross-reference following paragraph (2), further cross-reference inserted</p> <p>In paragraph (3), 'the award' replaced by 'an award of a sum of money'</p> <p>Paragraph 8 replaced with new text</p>

Schedules

Schedule 1

RSC Order 91	Revoked
RSC Order 115	After Part III, new Part IV 'International Criminal Court Act 2001: fines, forfeitures and reparation orders' inserted

Schedule 2

CCR Order 4	Rule 3 revoked
CCR Order 48D	Revoked
CCR Order 49	Rules 4A, 5 and 18B revoked

Practice Directions

Practice Direction 2	<p>In paragraph 2.1(2), 'Principal Probate Registry' replaced by 'Principal Registry of the Family Division'</p> <p>Postcode changed from 'WC1A 6HA' to 'WC1V 6NP'</p>
Practice Direction 2B	In paragraph 5.1, sub-paragraph (g) replaced by new text
Practice Direction 5B	This Practice Direction has been replaced by new text
Practice Direction 6	In paragraph 2.2, 'unless the contrary is proved' has been deleted
Practice Direction 21	<p>Existing paragraph 6.4 has been re-numbered as 6.5</p> <p>New paragraph 6.4 has been inserted after paragraph 6.3</p>
Practice Direction 22	<p>In paragraph 1.1, sub-paragraph (6) deleted</p> <p>Paragraph 1.4 has been replaced by new text</p>
Practice Direction 27	Paragraphs 5.1–5.8 replaced by new paragraphs 5.1–5.5
Practice Direction 27B	This Practice Direction has been withdrawn, owing to expiry
Practice Direction 29	New paragraph 3A inserted after paragraph 3
Practice Direction 30	New paragraphs 8.1–8.8 inserted
Practice Direction 33B	This Practice Direction has been deleted
Practice Direction 34	In the heading of paragraph 5, at the end, new text inserted '(where the Taking of Evidence Regulation does not apply)'

In paragraph 5.3, sub-paragraph (4) replaced by new text
 In paragraph 5.3, at the end of sub-paragraph (5), 'and' deleted
 In paragraph 5.3, sub-paragraph (6) deleted
 At the end of paragraph 5.3, new sentence inserted.
 In the heading of paragraph 6, at the end, new text inserted
 In paragraph 6.7, the words in brackets have been deleted
 After paragraph 6, new paragraphs 7–11 inserted
 Existing heading for Annex A replaced with new heading
 Existing Annex B has been replaced by new Annex B 'Taking of Evidence Regulation'

Practice Direction 39 Paragraph 6.1 replaced by new text
 In paragraph 6.3 and in paragraph 6.4, the words 'trial or' have been deleted
Practice Direction 40C Existing Practice Direction replaced by new text

Practice Directions 43–48
(Costs Practice Direction) Paragraph 5.13 replaced by new text

Practice Direction 52 At the end of the directions relating to Part 45, new section 25A inserted
 Existing paragraph 1.1 replaced by new text
 Paragraphs 8.1–8.10 replaced by new text (paragraphs 8.1–8.14)
 In paragraph 20.3, in the table headed 'Appeals to the High Court', new entry inserted below 'the Land Registration Act 1925', i.e. 'Land Registration Act 2002 23.2, 23.8B'
 In paragraph 23.2 (9), 'and' deleted
 After 23.2 (10), new sub-paragraphs (11)–(17) inserted
 After 23.8(A), new sub-paragraph 23.8 (B) 'Appeal against a decision of the adjudicator under section III of the Land Registration Act 2002' inserted
 New Section IV 'Provisions About Reopening Appeals' inserted

Practice Direction 55 Paragraph 5.5 deleted

Practice Direction 56 New paragraph 13.6 inserted

Practice Direction 70 In the title of the Practice Direction, 'for the payment of money' deleted
 Paragraph 5 replaced by new text (including title of Paragraph 5)

Practice Direction 73 In paragraph 4.3(4), 'so far as is known' replaced by 'so far as the claimant is able to identify'
 After paragraph 4.3(5) new sub-paragraphs (6) and (7) inserted
 After paragraph 4.3 new paragraph 4.4 inserted
 Existing paragraph 4.4 renumbered as 4.5

Protocols

Disease and Illness

Protocol

Coming into force 8th December 2003
 Publication September 2003

Housing Disrepair

Protocol

Coming into force 8th December 2003
 Publication September 2003

Other Practice Directions

Schedule 1 RSC Order

91 PD

This Practice Direction has been removed.

Proceeds of Crime Act

2002 Civil Recovery

Practice Direction

In paragraph 2.1, 'made to' replaced by 'issued in'
 After paragraph 2.1, new paragraph 2.2. inserted

Protocols Practice

Direction

At the end of the table in paragraph 5.1, details of new protocols on 'Disease and Illness' and 'Housing Disrepair' inserted.

Coming into force

All rule changes come into force on 6th October, with the exception of :

- Part 34 changes on 1st January 2004
- Part 20 changes on 1st April 2004
- PD27b expired on 21st February and has therefore been withdrawn in this update

All PD changes come into force, as follows:

6th October

PD2

PD6

PD21, PD27, PD29, PD30, PD39, PD40C, Costs PD, PD52 (all changes save those relating to the Land Registration Act 2002 - see below), PD56, PD70

Revocation of PD RSC O.91

Proceeds of Crime Act 2002 Civil Recovery PD

PD5B

13th October

PD2B

Revocation of PD33B

PD52 (Paragraphs relating to the Land Registration Act 2002; i.e. 23.2 sub-paragraph 17 and 23B)

PD55

8th December

PD22

PD73

Protocols PD and new protocols

1st January 2004

PD34