

NOTES TO ACCOMPANY MAY 2004 35th UPDATE

Introduction

The 35th Update of the Civil Procedure Rules introduces a number of notable changes to procedures including the following:

- A new Part 65 and accompanying Practice Direction is inserted containing rules about proceedings under various statutes relating to anti-social behaviour and harassment. Its coming into force date is set at 30 June 2004 to coincide with most of the provisions of the Anti-Social Behaviour Act 2003.
- Part 56 (landlord and tenant claims) is amended as a result of changes to the substantive law on renewal and termination of business tenancies in Part II of the Landlord and Tenant Act 1954 made in the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003.
- A new section is inserted into Part 45 providing for fixed recoverable success fees to apply in all road traffic accident disputes where the claimant is funded by a conditional fee agreement.
- A new rule 5.4A is inserted which will give the Attorney General the right to search for, inspect and take a copy of any documents within a court file for the purpose of an application under s.42 of the Supreme Court Act 1981 or s.33 of the Employment Tribunals Act 1996 to restrict vexatious proceedings.
- Amendments are made to the Practice Direction on EU Competition Law to extend certain of its provisions to claims raising domestic competition law issues relating to the application of Chapter I or II of Part I of the Competition Act 1998. Corresponding provisions are also inserted in Practice Direction 52 applying to appeals to the Court of Appeal which raise competition law issues.
- Amendments are made to the Practice Direction on Applications for a warrant under the Competition Act 1998 in consequence of recent amendments to the Act and other related legislation.
- A number of changes to Practice Direction 52 have been made including new provisions for appeal bundles, skeleton arguments and respondent's documentation. Also included in PD 52 are a number of provisions formerly included in practice notes and other non-CPR Practice Directions such as those dealing with the handing down of judgments and the short warned list in the Court of Appeal.
- The Insolvency Practice Direction has been amended to include provisions about bankruptcy restriction orders.

A full list of the changes is set out below:

Rules

Part 5	New rule 5.4A inserted after rule 5.4
Part 6	In rule 6.10 new wording 'state the details set out in the following table' substituted for existing wording.
Part 13	Rule 13.5 is revoked
Part 30	In rule 30.8 new wording substituted for existing wording.
Part 34	In rule 34.16 'another Regulation State' substituted for 'Regulation State'. In rule 34.23 'who is in another Regulation State' substituted for words 'who is' to the end.
Part 42	In rule 42.2(5) sub-paragraph (a) new wording substituted for existing wording.

- Part 45** New Section III ‘Fixed Percentage Increase In road Traffic Accident Claims’ inserted after Section II.
- Part 55** In rule 55.1 existing sub-paragraph (d) replaced by new sub-paragraphs (d) to (g).
New cross-reference inserted after paragraph 55.2 rule 1.
After rule 55.9 (d)
new sub-paragraph (e) inserted.
In rule 55.12 existing text numbered paragraph (1), new paragraph (2) added.
- Part 56** In rule 56.2 paragraph 1 ‘paragraphs (2) or (4) apply’ amended to ‘paragraph 2 applies’.
Paragraph 4 is revoked.
In rule 56.3 existing text replaced by new text.
- Part 57** In rule 57.16 ‘the time’ is replaced by ‘subject to paragraph (4A) the time’.
New paragraph (4A) inserted.
- Part 65** New Part 65 ‘Proceedings Relating to Anti-Social Behaviour and Harassment’ inserted.
- Part 69** In rule 69.10 existing text is renumbered as paragraph (1).
New paragraph (2) inserted.

Schedules

Schedule 1

- RSC Order 94** Rule 16 is revoked.
- RSC Order 98** Revoked
- CCR Order 49** Rule 6B is revoked

Practice Directions

- Practice Direction 2B** In paragraph 5.1 existing sub-paragraph (j) is replaced by new text.
New heading to paragraph 8 replaces existing heading.
In paragraph 8.1 new sub-paragraph (d) inserted.
New paragraph 8.1A inserted.
In paragraph 8.3 the words ‘section 3 of the Protection from Harassment Act’ are deleted.
In paragraph 11.1 sub-paragraph (a)(ii) new wording ‘or for the termination of a tenancy under section 29(2)’ inserted after ‘section 24’. In sub-paragraph (b) after ‘land’ new wording inserted. In sub-paragraph (d) ‘the consent of the parties and’ is deleted.
- Practice Direction 4** This Practice Direction has been amended to reflect the form changes set out below.
- Practice Direction 6B** In paragraph 1.2 existing text between ‘tenancies’ and ‘hear the claim’ replaced by new text.
In paragraph 1.3 existing text between words ‘agreement’ and ‘applies’ replaced by new text.
New paragraph 1.3D inserted after paragraph 1.3C.
In paragraph 1.4 the words ‘or 1.3C’ are replaced by ‘, 1.3C or 1.3D’
In paragraph 5.2 sub-paragraph (8) existing text replaced by new text.
- Practice Direction 7C** In sub-paragraph (4) ‘8.3’ replaced by ‘7.3’.
- Practice Direction 8** In paragraph 4.3 words ‘such as a consent application under section 38 of the Landlord and Tenant Act 1954’ deleted.

- Practice Direction 8B** In section B.1 paragraph (2) deleted.
In Table 2 the entries for RSC O.98 r.2(1), CCR O.49 r.5(1), CCR O.49 r.6B(1) and CCR O.49 r.10(3) are deleted.
Practice Direction 12
In paragraph 4.3(2) existing sub-paragraph (c) replaced by new text.
- Practice Direction 18** New paragraph 1.7 inserted.
- Practice Direction 22** In paragraph 1.1 new sub-paragraph (6) inserted.
- Practice Direction 26** In paragraph 8.1, sub-paragraph (1)(c) ‘those for possession’ replaced by new wording.
In paragraph 10.1 ‘The following paragraphs do not apply’ replaced by ‘Paragraph 10.2 does not apply’. In sub-paragraph (1) ‘where the defendant has filed a defence’ replaced by new wording.
- Practice Direction 26B** A new Practice Direction is included providing for a pilot mediation scheme to operate at the Central London Civil Justice Centre.
- Practice Direction 40B** In paragraph 9.1 ‘the penal notice’ replaced by ‘a penal notice’.
- Practice Direction 45** In paragraph 25A.6 ‘The areas referred to in rule 45.9(2) are’ is replaced by ‘The area referred to in rule 45.9(2) consists of’
- Practice Direction 52** Existing Section 1 replaced by new Section 1.
In the table at paragraph 20.1 headed ‘Appeals to the Court of Appeal’ ‘Articles 81 and 82 of the EC Treaty and Chapters I and II of Part I of the Competition Act 1998 21.10A’ inserted as the first entry.
After paragraph 21.10A new paragraph 21.10A inserted.
- Practice Direction 55** New paragraph 1.9 inserted.
In paragraph 2.2 ‘2.3 and 2.4’ are replaced by ‘2.3, 2.4 and 2.4A’
New paragraph 2.4A inserted.
New paragraph 2.7 inserted.
Paragraph 6.1 revoked.
- Practice Direction 56** At the beginning of paragraph 2.1 ‘The’; replaced by ‘Subject to paragraph 2.1A, the’
New paragraph 2.1A inserted.
In paragraph ‘or rule 56.2(4)’ deleted.
Existing paragraphs 3.1 to 3.8 are replaced by new paragraphs 3.1 to 3.19 ‘Claims for a new tenancy under section 24 and termination of a tenancy under section 29(2) of the 1954 Act’.
- Practice Direction 63** In paragraph 8.1 at the end of sub-paragraph (4) ‘and’ is omitted.
New sub-paragraph (6) inserted.
- Practice Direction 65** New Practice Direction ‘Anti-Social Behaviour and Harassment’ inserted to supplement new Part 65.
- Practice Direction 70** Paragraph 3 renumbered as paragraph 3.1. ‘sheriff’s return’ replaced by ‘relevant enforcement officer’s return’.
New paragraph 3.2 inserted.
In paragraph 7.2 ‘Sheriff’s Office’ replaced by ‘relevant enforcement officer’.

Other Practice Directions

CCR Order 49, Housing

Act 1996: Injunction Rule 6B revoked.

Anti-social Behaviour

(orders under section 1B(4) of the Crime and Disorder Act 1998)

Revoked.

Insolvency Proceedings

New section ‘16A Bankruptcy restrictions orders’ inserted after paragraph 16.8.

**Competition Law – Claims
Relating to the Application
of Articles 81 and 82 of
the EC Treaty
Application for a Warrant
under the Competition
Act 1998**

Existing Practice Direction replaced by new Practice Direction.

Existing practice Direction and annexes replaced.

Forms

**Existing forms have been
amended as follows:**

N5	Claim form for possession of property
N7	Notes for defendant (mortgaged residential property)
N7A	Notes for defendant (rented residential property)
N7B	Notes for defendant (forfeiture of the lease)
N11R	Defence form (rented residential premises)
N119	Particulars of claim for possession (rented residential premises)
N119A	Notes for guidance on completing particulars of claim
N215	Certificate of Service
N293A	Combined Certificate of Judgment Request for Writ of Fieri Facias
N322H	Request to register a High Court Judgment

**New forms are introduced
as follows:**

N6	Claim form for demotion of tenancy
N7D	Notes for defendant – demotion claim
N11D	Defence form (demotion of tenancy)
N16A	Application for Injunction (general form)
N122	Particulars of claim for demotion of tenancy
N206D	Notice of issue (demotion claim)

Coming into force

All changes come into force on 30 June with the following exceptions:

1st June 2004

Rule 5.4A

Rule 30.8

Rule 34.16 (1)

Rule 34.23

Rule 42.2

Part 45 Section III

Rule 56.2

Rule 56.3

PD 2B (amendments to paragraphs 5.1(j) and 11(1)(a)(ii) only)

PD 8

PD 45

PD 52 (amendment to paragraph 20.1 and insertion of paragraph 21.10A only)

PD 56

PD 70

Practice Direction – Insolvency Proceedings

Practice Direction – Competition Law – Claims relating to the application of Articles 81 and 82 of the EC Treaty and Chapters I and II of Part I of the Competition Act 1998

Practice Direction – Application for a warrant under the Competition Act 1998

1st April

Forms N293A N 215 N322H N7 N7B

PD26B

Transitional provisions

1. –i) In the circumstances where article 29(1) or (4) of the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003¹ applies –

- a. the amendments to Part 56 made by rules 15 and 16 of these Rules shall not apply; and
- b. Part 56 shall continue to apply on and after 1st June 2004 as if those amendments had not been made.

(2) Where an application for an injunction under Chapter III of Part V of the Housing Act 1996² has been issued before 30th June 2004 –

- a. Section I of Part 65 shall not apply in relation to that application; and CCR Order 49, rule 6B shall continue to apply on and after 30th June 2004 as if it had not been revoked.

1 S.I. 2003/3096.

2 1996 c.52.

