

NOTES TO ACCOMPANY JANUARY 2004 34th UPDATE

Introduction

The 34th Update of the Civil Procedure Rules introduces a number of notable changes to procedures including the following:

- A new Practice Direction 5B replaces the existing one. It provides for deletion of the auto-response facility and issues a new section 2 which makes provision for use of the online forms service which may be used for both submission of forms and for submission of documents.
- A new rule 7.12 which provides for a practice direction to make provision for claims to be started electronically. The accompanying Practice Direction 7E will provide for the continuation of the service known as Money Claim Online which is presently operating as a pilot scheme.
- Practice Direction 23 is amended to extend the duration of the existing Telephone Hearings Pilot Scheme at Newcastle Combined Court Centre and to introduce the scheme at Bedford County Court and Luton County Court.
- A new rule 30.8 which requires any proceedings which raise an issue of competition law relating to the application of Article 81 or Article 82 of the EEC Treaty to be transferred to the Chancery Division.
- A new rule 34.13A which prescribes the procedure for applications to the High Court by a party to proceedings under Part 5 of the Proceeds of Crime Act 2002 for the issue of a letter of request for evidence to be taken abroad.
- The Costs Practice Direction 43-48 is amended to introduce a pilot scheme for detailed assessment by the Supreme Court Costs Office of costs of civil proceedings in London County Courts.
- A new rule 52.16(6A) which requires any request by a party to an appeal to the Court of Appeal for the review or reconsideration of a decision of a single judge or a court officer to be filed within 7 days after the party is served with notice of the decision.
- The Extradition Act 2003 comes into force on the 1st of January 2004 and sets out new arrangements for extradition cases. Practice Direction 52 of the Civil Procedure Rules has been amended with effect from 1 January 2004 to set out the new appeals procedures.
- A new RSC Order 52 rule 7A and a new CCR Order 29 rule 1(5A) providing that a warrant for the arrest of a person against whom an order of committal has been made (in the High Court) or a warrant of committal (in a county court) shall not, without further order of the court, be enforced more than 2 years after the date on which the warrant is issued.
- Rule 45.10 is amended to clarify that, in costs-only proceedings brought under Section II of Part 45 by a party funded by a body which indemnifies its members or other persons against liabilities for costs which they may incur in proceedings, the court may allow that party as a disbursement a sum not exceeding such amount as would be allowed under section 30 of the Access to Justice Act 1999.
- Rule 45.11 is amended to specify the amount of the success fee which a claimant may recover in proceedings under Section II of Part 45 if he has entered into a conditional fee agreement or a collective conditional fee agreement which provides for a success fee.
- Rule 52.12(1) is amended to clarify that the fact that a Part 36 offer or payment has been made must not be disclosed to a judge who is to hear or determine an application for permission to appeal.
- RSC Orders 45 to 47 (enforcement) and RSC Order 17 and CCR Order 16 (interpleader) are amended in consequence of the enactment of section 99 of and Schedule 7 to the Courts Act 2003, which abolish any rule of law requiring a writ of execution issued from the High Court to be directed to a sheriff and provide for the authorisation of High Court enforcement officers.

- CCR Order 49 rule 17 (proceedings relating to discrimination) is amended to apply certain provisions of that rule to proceedings under the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Sexual Orientation) Regulations 2003.
- A new Practice Direction is introduced dealing with EU Competition Law which applies to any claim relating to the application of Articles 81 and 82 of the EC Treaty.

A full list of the changes is set out below:

Rules

- Part 7** After rule 7.11, new paragraph 7.12 inserted
- Part 21** In rule 21.1, in sub-paragraph (2)(b), 'his own affairs' replaced by 'his property and affairs'
- Part 30** After rule 30.7, new paragraph 30.8 inserted
- Part 34** After rule 34.13, new sub-paragraph 34.13A inserted
In rule 34.23, at the beginning of paragraph (1) 'this' replaced by 'Subject to rule 34.13A, this'
- Part 45** In rule 45.10(2), in sub-paragraph (b), at the end, new text inserted
In rule 45.11, paragraph 2 replaced by new text
- Part 52** In rule 52.12, paragraph (1) replaced by new text
In rule 52.16, after paragraph (6) new sub-paragraph (6A) inserted
- Part 54** In rule 54.1, paragraph (2), sub-paragraphs (b), (c) and (d) deleted
In rule 54.3, paragraph (2)(i), after 'damages' where it first occurred, 'restitution?..due' inserted
In rule 54.3, paragraph (2), for 'damages' where it next occurred, 'such a remedy' inserted
In the cross-reference after paragraph (2), new text inserted after 'damages'
- Part 57** In rule 57.9, in sub-paragraph (4)(b), at the end, new text inserted
- Part 63** In rule 63.7, paragraph (3), sub-paragraph (a), 'and pre-trial reviews' deleted.
In sub-paragraph (c), 'rule 295.(1)(c) replaced by 'paragraph (1)(b) and (c)'
In rule 63.9, in the heading 'of' replaced by 'to'
Rule 63.16 replaced by new text
- Part 74** In rule 74.19, sub-paragraph (a), at the end of sub-paragraph (iii), 'or' deleted. After sub-paragraph (iv) 'or' and sub-paragraph (v) inserted

Schedules

Schedule 1

- RSC Order 17** In rule 1, in paragraph (2), for the words from 'including' to the end of the paragraph, new text inserted
- RSC Order 45** At the beginning new paragraphs on interpretation inserted
In rule 2, after 'the Sheriff or his officer', 'or the relevant enforcement officer' inserted
In rule 8, 'an order of mandamus' deleted
- RSC Order 46** In rule 8, in paragraph (3), after 'directed' new text inserted. In paragraph (4), after 'sheriff' new text inserted
In rule 9, in paragraph (1), after 'directed' new text inserted. In paragraph (2), after 'sheriff', in both places that it occurs, 'or enforcement officer' inserted
- RSC Order 47** Rule 2 is revoked
In rule 4, after 'sheriff', 'or enforcement officer' inserted
In rule 5, in paragraph (1) after 'the writ was directed' new text inserted

In rule 6, paragraph (1) replaced by new text. Paragraph (3) replaced by new text. In paragraph (4), 'the sheriff's list' replaced by 'the list under paragraph (3)'. Paragraph (5) replaced by new text. In paragraph (6), 'the sheriff's list' replaced by 'the list under paragraph (3)'

RSC Order 52

After rule 7 new paragraph 7A inserted

RSC Order 79

In rule 9(11), 'an order for certiorari' replaced by 'a quashing order'

RSC Order 93

In rule 22, 'application for mandamus' replaced by 'applications for a mandatory order'

Schedule 2

CCR Order 16

In rule 7, after paragraph (1), new sub-paragraph (1A) inserted

CCR Order 29

In rule 1, after paragraph (5), new sub-paragraph (5A) inserted

CCR Order 49

In rule 17, in paragraph (1), after sub-paragraph (a), new sub-paragraph (aa) inserted. In paragraph (1) sub-paragraph (b) replaced by new text. In paragraph (4), 'or section 57, 62 or 63 of the Act of 1976' replaced by new text. In paragraph (6), 'or section 66 of the Act of 1976' replaced by new text. In paragraph (8) 'or section 26 of the Act of 1995' replaced by new text

Practice Directions

Practice Direction 5B

Existing PD5B replaced by new text

Practice Direction 7E

Existing paragraph 1.1 replaced by new text

Practice Direction 19

Existing annex to PD19 replaced by new text

Practice Direction 21

In paragraph 1.1, 'his own affairs' replaced by 'his property and affairs'

Practice Direction 23B

Existing paragraph 1.1 replaced by new text. At the end of the practice direction, new appendix inserted

Practice Direction 34

In paragraph 5.3(4) sub-paragraphs (a) and (b) deleted. (Please note that these should have been deleted in update 33 but were inadvertently left in).

Practice Direction 37

In paragraph 9.2, 'witness statement' replaced by 'application notice'

Practice Direction 39B

In paragraph 2.5, 'sheriff's interpleader' replaced by 'interpleader by a sheriff or High Court enforcement officer'

Supplement to the PD has been deleted, i.e. Court Sittings in 2002

**Costs Practice Direction
43-48**

Existing paragraph 8.2 replaced by new text

Existing paragraph 19.4(3) replaced by new text

In paragraph 25A.9 'exceptional' replaced by 'particular'

Costs Pilot Scheme

Practice Direction

New Practice Direction inserted after the Costs Practice Direction

Practice Direction 52

Existing paragraphs 19.1 and 19.2 deleted

In paragraph 20.3, in the table headed 'Appeals to the High Court', new entry inserted, i.e. 'Extradition Act 2003 22.6A'

New paragraph 22.6A inserted

In paragraph 21.7(2), '28 days' replaced by '14 days'

Practice Direction 63

Existing paragraph 4.8 replaced by new text

Existing paragraph 4.9 replaced by new text

In paragraph 5.1, after 'if, before' 'or at the same time as' inserted

In paragraph 11.1, in the heading, 'of' replaced by 'to'

In paragraph 11.1(1) 'claim form' replaced by 'statement of case'

In paragraph 11.1(2) 'claim form', in each place that it occurs, replaced by 'statement of case'

In paragraph 11.3, in the opening words, 'validity of a patent' replaced by 'the validity of a patent or a registered design'

In paragraph 11.3(1), at the end, 'and' deleted

In paragraph 11.3(2) '.' replaced by '; or'
After paragraph 11.3(2), new sub-paragraph (3) inserted
In paragraph 11.4, in the opening words, 'paragraph 11.3(1)' replaced by
'paragraphs 11.3(1) and 11.3(3)'
In paragraph 11.4(1), after 'of matter' 'or a design' inserted
In paragraph 11.4(2), after 'of matter' 'or a design' inserted
In paragraph 11.5, in the opening words, 'the' inserted before 'validity'
In paragraph 11.5(1) 'claim form' replaced by 'statement of case'
In paragraph 25.1, in the heading, after '97(2)' 'or section 229(3)' inserted
In paragraph 25.1, in the opening words, after 97(2) 'or section 229(3)'
inserted
In paragraph 26.1, in the opening words, '195 or 204' replaced by '195, 204,
230 or 231'

Practice Direction 75

In paragraph 1.1, at the end of sub-paragraph (5), full stop replaced by semi-
colon
In paragraph 1.1 after sub-paragraph (5) new sub-paragraph (6) inserted
After paragraph 5.5, new paragraph 5.6 inserted
In paragraph 8.1, the note at the end has been replaced by a new note

Other Practice Directions

EU Competition law

Practice Direction New Practice Direction inserted

Forms

Existing forms have been

amended as follows:N251 This has been revised to include insurance policy numbers and insurers
address

N243A/F201 This has been amended to correct a typographical error but also to clarify the
position regarding who should sign the form.

Coming into force

All changes come into force as follows:

Immediate Effect

PD19

30th December 2003

PD75

1st January 2004

PD52 (extradition)

6th January 2004

Costs pilot scheme PD

1st February 2004

Part 7

Part 34

Part 45

PD7E

PD23B

PD37

Part 45.10(2)

Costs PD (amendments to paragraphs 8.2 and 25A.9)

PD52 (amendment to paragraph 21.7 – IAT appeals)

Part 52.16

CCR Order 49

1st March 2004

Part 45.11

Form N243A/F201

1st April 2004

Part 21

PD21 (definition of 'patient')

PD39B (vacation applications before QB Masters)

Costs PD (amendment to paragraph 19.4(3))

Part 52.12

Part 57

Part 63

PD63 (patents and other intellectual property claims)

Part 74

RSC Order 17

RSC Order 45 (rule 1A and rule 2)

RSC Order 46

RSC Order 47

RSC Order 52

CCR Order 16

CCR Order 29

Form N251

1st May 2004

Part 30

Part 54.1

Part 54.3

PD5B (electronic communication and filing of documents)

EU Competition Law PD

RSC Order 45 (rule 8)

RSC Order 79

RSC Order 93