

# NOTES TO ACCOMPANY NOVEMBER 2004 37<sup>th</sup> UPDATE

## Introduction

The 37<sup>th</sup> Update of the Civil Procedure Rules introduce a number of notable changes to procedures, including the following;

- A new Section II of Part 41 is inserted, making provision about the exercise of the court's powers under section 2(1) of the Damages Act 1996 to order that all or part of an award of damages in respect of personal injury is to take the form of periodical payments.
- Amendments have been made to Part 36 to ensure that the scheme for offers to settle and payments into court can work in cases in which periodical payments may be awarded.
- The Practice Direction supplementing Part 49 (Applications under the Companies Act etc.) is amended to make provision for two types of application.
- New paragraph 3B deals with applications relating to the formation of a European public limited-liability company (or Societas Europaea) by merger under Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE).
- New paragraph 14 deals with applications under section 59 of the Criminal Justice and Police Act 2001 relating to property seized in connection with a company investigation under Part XIV of the Companies Act 1985.

The Practice Direction supplementing Part 52 is amended by adding a new paragraph 23.8C dealing with appeals to the High Court against a decision of the Secretary of State or a national financial supervisory authority to oppose certain steps being taken in relation to a European public limited-liability company.

**A full list of the changes is set out below;**

## Rules

- Part 36** In rule 36.3, cross-reference inserted to take into account new rule 36.2A.  
New rule 36.2A inserted.  
In rule 36.4, cross-references inserted to take into account new rule 36.2A.  
In rule 36.10, new paragraph inserted (3A), and cross-references inserted to take account of new paragraph (3A).  
In rule 36.20, new paragraph inserted (1(c)).  
In rule 36.21, cross-reference inserted to take into account new rule 36.2A.  
In rule 36.23(4), reference to rule 36.20 amended to 36.20(1)(a), and new paragraph added (4A).
- Part 41** Table of contents amended to take into account new Section II.  
In rule 41.1, cross-reference inserted to take into account new Section II.  
New Section II inserted after rule 41.3.

## Practice Directions

- Practice Direction 21** In paragraph 6.1, heading amended and reference to paragraph 6.4 added to sub-paragraph (3).  
In paragraph 6.3, new sub-paragraph (3) inserted.  
Paragraph 6.4 replaced.  
After paragraph 6.5, new paragraphs 6.6–6.9 inserted.
- Practice Direction 29** Heading to paragraph 3A replaced with new text.  
Paragraph 3A replaced with new text.

<b>Practice Direction 36</b>	<p>In paragraph 1.7 cross-reference inserted to refer to new rule 36.2A.</p> <p>New paragraph 5.3A inserted after paragraph 5.3.</p> <p>New paragraph 7.2A inserted after paragraph 7.2.</p> <p>In paragraph 7.11, cross-reference inserted to refer to new rule 36.2A.</p> <p>New paragraph 12 inserted.</p>
<b>Practice Direction 40C</b>	Is revoked.
<b>Practice Direction 41B</b>	New practice direction inserted to deal with new periodical payments provisions of Part 41 – “Periodical Payments Under the Damages Act 1996”.
<b>Practice Direction 49B</b>	<p>The title of the Practice Direction is amended.</p> <p>In paragraph 1, new definitions of “the CJPA,” “the EC Regulation” and “SE” are inserted.</p> <p>In paragraph 2(1), references to the EC Regulation and CJPA are inserted.</p> <p>Paragraph 3 is amended to refer to all applications to which the Practice Direction applies.</p> <p>After paragraph 3A, a new paragraph 3B is inserted, setting out the procedures for applications relating to the formation of a European public limited-liability company.</p> <p>Paragraph 10 is amended to refer to all applications to which the Practice Direction applies.</p> <p>After paragraph 13, a new paragraph 14 is inserted, setting out the procedure for applications relating to property seized in connection with a company investigation.</p>
<b>Practice Direction 52</b>	<p>Paragraph 13.2 replaced with new text.</p> <p>Paragraph 13.5 replaced with new text.</p> <p>In paragraph 23.2, a new sub-paragraph (18) is inserted.</p> <p>After paragraph 23.8A, a new paragraph 23.8B is inserted, setting out the procedure for appeals against the opposition of the Secretary of State or a national financial supervisory authority to certain steps being taken in relation to a European public limited-liability company.</p>