
Notes to Accompany – 1st October 2008 47th Update

Coming into force

All the amendments including in this update come into force on 1 October 2008 with the following exceptions:

Part 78 in relation to European Order for Payment comes into force on 12 December 2008, and

Part 78 in relation to European Small Claims Procedure comes into force on 1 January 2009.

Introduction

The 47th Update to the Civil Procedure Rules introduces changes in a large number of areas:

Part 6 Service

Part 6 of the CPR which deals with the service of documents has been reviewed as part of the ongoing programme of reviewing existing rules. All of Part 6 has been revised with the exception of documents to be served outside of the jurisdiction.

Service – Transitional arrangements

The new rules will apply to documents served after the commencement date of 1 October 2008.

Under the current rules the claimant has four months from the date of issue in which to serve a claim. If the claim has not been served by the last day of this period, it is then out of time. Under the new rules the claim can be **dispatched** on the last day of the four month period, in effect allowing the claimant further time for service.

Under the new provisions the time for service of a claim for a new tenancy or a possession claim under the Landlord and Tenant Act will move from two months to four months. So if the two months expires on 30 September and the claim has not been served it is out of time. However, if the two months run out on 1 October the claimant has a further two months to serve.

Under the new rules the deemed service of a claim form will be two business days after it is dispatched, by whatever means. As 1 October falls on a Wednesday there will be no issues around business/calendar days.

Part 36 Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008

These regulations allow for the recovery of lump sum payments where there is an offer to settle under Part 36.

Parts 43-47 Payments in respect of pro bono representation

Section 194 of the Legal Services Act 2007 enables the courts to make costs orders in civil cases where the successful party was represented (whether wholly or partly) by a lawyer(s) working free of charge (pro bono). These cases will be treated as normal fee paying cases, so preventing the losing party gaining the unintended benefit of escaping a costs order. Such costs orders will be directed to a charity prescribed by order made by the Lord Chancellor to those who provide, organise or facilitate the provision of free legal advice and assistance.

Part 52 Totally without merit applications in family proceedings

The rule is amended to enable the Court of Appeal where it refuses permission to appeal without a hearing in family proceedings to order, if it considers that the application to be totally without merit, that the person seeking permission may not request the decision to be reconsidered at a hearing.

Part 56 Applications under s.214 of the Housing Act 2004

This provides for applications to compel the landlord to repay the deposit or place it in an approved Tenancy Deposit Scheme.

Part 65 Drinking Banning Orders

Part 65 and the accompanying practice direction were amended to put in place procedures for obtaining a Drinking Banning Order under the Violent Crime Reduction Act 2006. However, the implementation of the Act has been delayed and the CPR has been amended to remove the redundant provisions.

Part 78 European Order for Payment and European Small Claims Procedure

Incorporation of two European regulations EC Nos 1896/2006 and 861/2007 coming into force in December 2008 and January 2009 are being considered by the committee. The first allows the recovery of uncontested money claims, the second is to simplify cross-border small claims litigation in civil and commercial matters.

PD 3D Standard interim payments – mesothelioma cases

A new practice direction was introduced in the previous update setting out guidelines for the management of mesothelioma cases. A further small amendment is the inclusion of the amount of the standard interim payment the judge may award in such cases.

PD7B Time Orders

The practice direction is amended to reflect implementation of s.16 of the Consumer Credit Act 2006 to provide for service of a notice of arrears and for notice to be given to the creditor/owner of a party's intention to apply for a time order and their proposals for payment. The time or applying for a time order is also amended.

PD40E Handing down Judgments

The practice direction PD40E has been amended to reflect the current practice of electronic distribution of judgments before handing down. Consequential changes have been made to the appeals practice direction (PD52).

PD 51 Pilot Study Automatic Orders

This allows for a pilot study, to run in five courts (York, Chelmsford, Tesside, Newcastle and Watford) for one year to assess the effect of amending rules to allow certain orders to be made administratively.

PD 52 Jurisdiction of Mold County Court

Mold County Court becomes a designed appeal court.

PD 52 is amended to allow appeals to the county court against a decision by the Secretary of State to impose a penalty under the provisions of the UK Borders Act 2007.

PD 77 Serious Crime Prevention Orders (SCPO)

The practice direction to Part 77 is to be amended to make provision for the claim form or applications to vary a SCPO to include details of any third party who is likely to be significantly adversely affected by the making or varying of a SCPO.

Rules

Part 2	New text substituted at Rule 2.3(1)
Part 3	New text substituted at Rule 3.7(4)(ii), Rule 3.7(6)(b) and Rule 3.7(7) New text inserted in the parenthesis below Rule 3.7(4)(ii)
Part 6	New part substituted
Part 7	New text inserted after the fourth parenthesis below Rule 7.2 New text substituted in Rule 7.4(3) Text omitted in Rule 7.4(3) Text omitted in parenthesis following Rule 7.4 New text substituted for Rule 7.5 and 7.6
Part 8	New text inserted after parenthesis below paragraph 8.1(6)
Part 10	New text substituted in Rule 10.3(2)(a)(b)(c) New text substituted in Rule 10.5(a) New text substituted in first parenthesis below Rule 10.5(b)
Part 12	New text substituted in second and third parenthesis below Rule 12.3(3) (c)(ii) New text substituted in Rule 12.4(4), Rule 12.10(b), Rule 12.10(b)(i), Rule 12.10(b)(ii), Rule 12.11(4)(a), Rule 12.11(6)(a)(ii), and Rule 12.11(6)(e) Insert new text in Rule 12.11(6)(d) Rule 12.11(6)(f) omitted
Part 13	New text substituted in second parenthesis below Rule 13.3(2)
Part 14	New text substituted in Rule 14.2(2)(a) and Rule 14.2(2)(b) New text inserted in Rule 14.2(2)(a)

Part 15	New text substituted in Rule 15.4(2)(a), Rule 15.4(2)(b), and Rule 15.4(2)(d) Next text inserted in Rule 15.4(2)(a)
Part 16	New text substituted in Rule 16.5(8) and in the second parenthesis below Rule 16.5(8)
Part 20	New text substituted in the parenthesis below Rule 20.13(2)
Part 21	New text substituted in the first parenthesis below Rule 21.1(2) New text inserted in Rule 21.5(4)(a) New text substituted in Rule 21.5(4)(b) New text substituted in parenthesis below Rule 21.5(4)(b) New text substituted in Rule 21.8(1)
Part 26	New text substituted in the second parenthesis below Rule 26.3(7)
Part 36	New text inserted in the table of contents New text substituted in Rule 36.9(3)(b) New text substituted in second parenthesis after Rule 36.9(3)(b) New text substituted in Rule 36.10(1), Rule 36.10(2) and Rule 36.10(5)(a) New text inserted below the parenthesis following Rule 36.10(3) New text substituted in Rule 36.15 (1), Rule 36.15(2), Rule 36.15(3)(a), and Rule 36.15(3)(b) Text omitted in Rule 36.15(5) New text substituted in Rule 36.15(6)(b), Rule 36.15(6)(c), Rule 36.15(7), and Rule 36.15(8) New text substituted in the parenthesis following Rule 36.15(8) New text substituted in Rule 36.15(9)
Part 38	New text substituted in Rule 38.6 (1) New text substituted in the parenthesis below Rule 38.6(3) New text substituted in Rule 38.8(1)(b) New text inserted in Rule 38.8(1)(c) and Rule 38.8(1)(c)(ii) New text substituted in Rule 38.8(2) New text inserted after Rule 38.8(2)
Part 40	New text substituted in parenthesis after Rule 40.4(2)(b)
Part 42	New text substituted in the first parenthesis below Rule 42.2(6)(b)(ii)
Part 43	New text substituted in Rule 43.2(1)(e), Rule 43.2(1)(k)(iii) and Rule 43.2(1)(o) Text omitted in Rule 43.2(1)(n) New text inserted after Rule 4.3(1)(o)
Part 44	New text inserted in table of contents New text substituted in Rule 44.1 New text inserted after Rule 44.3B New text inserted after Rule 44.12 New text substituted in Rule 44.13(1)(a) and Rule 44.13(1)(b)
Part 45	New text substituted below Table 4 in Rule 45.5
Part 47	New text substituted in Rule 47.5 and Rule 47.11(1) New text inserted after Rule 47.11(3) New text inserted after the parenthesis below Rule 47.12(4) New text inserted after Rule 47.15(3) New text inserted after the parenthesis before Rule 47.16(5) New text substituted in Rule 47.18(1) New text inserted after Rule 47.18(1)

Part 52	Text omitted in Rule 52.3(4A) and parenthesis following Rule 52.3(4A)
Part 54	New text substituted in Rule 54.28B(1), Rule 54.28B(2)(a), Rule 54.28B(2)(b)
Part 55	New text substituted in Rule 55.8(6) New text substituted in Rule 55.23(3)
Part 56	Text omitted in Rule 56.1(1)(d) New text substituted in Rule 56.1(1)(e) New text inserted after Rule 56.1(1)(e) New text substituted in Rule 56.2(2) New text inserted in Rule 56.3(3)(a)(ii) Text omitted paragraph in Rule 56.3(3)(b) New text substituted in Rule 56.3(4)
Part 57	New text substituted in Rule 57.4(3) New text substituted in Rule 57.16(4A)
Part 58	New text substituted in Rule 58.6(3), Rule 58.10(2)
Part 59	New text substituted in Rule 59.5(3), Rule 59.9(2)
Part 61	New text substituted in Rule 61.4(7), Rule 61.11(5) and Rule 61.11(7)
Part 62	New text substituted in Rule 62.5(3), Rule 62.16(3), Rule 62.18(8)(b) and Rule 62.20(1)(a)
Part 63	New text substituted in Rule 63.16(2)(a), Rule 63.16(2)(b) and Rule 63.16(2)(b)(i)
Part 65	Text omitted in table of contents and Rules 65.31 to Rule 65.36 Insert text in Rule 65.1(e) Rule 65.1(f) omitted New text substituted in Rule 65.18(5) Section VI omitted
Part 74	New text substituted in Rule 74.6(1)(a), Rule 74.6(1)(b) and Rule 74.6(2) New text substituted in Rule 74.31(2) and the two parentheses below that Rule New text inserted in Rule 74.32(2)(a), Rule 74.32(2)(b) New text substituted in Rule 74.32(3), Rule 74.33 Text omitted in Rule 74.33(1)
Part 78	Insert New Part
Practice Directions	
Practice Direction 2B	New text inserted in paragraph 8.1A(1) New text substituted in paragraph 8.1A(2) Text omitted in 8.1A(3)
Practice Direction 3D	New text substituted in paragraph 2 New text inserted in paragraph 2 and paragraph 6.7 Text omitted in paragraph 6.7
Practice Direction 5B	Text omitted in paragraph 3.3A New text substituted in second parenthesis below paragraph 3.3A
Practice Direction 6	New practice direction substituted for practice direction A
Practice Direction 6B	New practice direction substituted for practice direction B
Practice Direction 7	New text substituted in paragraph 3.5 Text omitted in paragraph 3.5A

	New text substituted in footnote to 'claim form' and footnote to 'jurisdiction'
	New text substituted in footnote to paragraph 6.1(2)
Practice Direction 7B	New text inserted in paragraph 4.3 and 7.3
	New text substituted in paragraph 7.3
	New text inserted after paragraph 7.3
Practice Direction 7C	New text substituted in paragraph 1.4(3)
Practice Direction 8	New text inserted in parenthesis below paragraph 20.5
Practice Direction 10	New text substituted in paragraph 3.1 and in footnote to 'document'
	New text substituted in paragraph 3.2
	New text substituted in parenthesis below 5.5
Practice Direction 12	New text substituted in paragraph 4.3(2)
Practice Direction 15	New text substituted in parenthesis below paragraph 3.4
Practice Direction 16	Text omitted in the first parenthesis below paragraph 2.6(e)
	New text substituted in footnote to 'claim form' and footnote to 'jurisdiction'
Practice Direction 18	New text inserted in paragraph 1.7
	New text substituted in paragraphs 3.1 to 3.3
Practice Direction 22	New text substituted in footnote to 'senior position'
	New text substituted in paragraph 3.4
Practice Direction 25	New text substituted in paragraph 4.1, 4.2 and 4.3
Practice Direction 36	New text substituted in paragraph 3.3(1)(b) and 3.3(i)(c)
	Text omitted in paragraph 3.3(2)
Practice Direction 40B	New text substituted in paragraph 5.1
	New text inserted after paragraph 5.1
Practice Direction 40E	New practice direction substituted
Practice Direction 42	New text substituted in paragraph 1.1
	New text substituted in paragraph 2.4 and new footnote
	New text substituted in paragraph 5.1
	New text substituted in first parenthesis below paragraph 5.1
	New text substituted in second parenthesis below paragraph 5.1
Practice Direction 43–48	
	New text substituted in paragraph 4.2, and paragraph 4.2(1)
	New text inserted after paragraph 4.2(1)
	New text substituted in paragraphs 4.2(2), 4.2(3), 4.2(4), 4.2(5) and 4.2(6)
	New text inserted after paragraph 5.20
	New text substituted in paragraph 6.2
	New text inserted after paragraph 10.2
	New text substituted in paragraph 32.9(2)
	New text substituted in 35.4(2)
Practice Direction 51B	New practice direction inserted
Practice Direction 52	New text substituted in paragraph 5.23
	New text inserted in table at 8.2
	New text substituted in heading above paragraph 15.12
	New text substituted at paragraph 15.2
	Paragraphs 15.13-15.21 omitted
	New text inserted after paragraph 20.3
	New text inserted after paragraph 24.6

Practice Direction 54	New text substituted in paragraph 6.2 New text substituted in paragraph 18.1(1)(a) New text substituted in paragraph 18.2(1)(b)(ii) New text substituted in paragraph 18.2(2) New text substituted in parenthesis below paragraph 18.2(2)
Practice Direction 58	New text substituted in paragraphs 5, 5(b) of the Appendix to the Practice Direction New text substituted in paragraph 4(b) of section headed 'Endorsement' in the Appendix to the Practice Direction
Practice Direction 61	New text substituted in paragraph 3.6(7)
Practice Direction 62	New text substituted in paragraph 3.1 New text substituted in parenthesis below paragraph 3.2
Practice Direction 65	Section VI omitted
Practice Direction 66	New text substituted in paragraph 2.1
Practice Direction 70	New text substituted in paragraph 6A.3
Practice Direction 71	New text substituted in paragraph 3
Practice Direction 74B	New text substituted in paragraphs 5.2 and 5.3 New text substituted in heading to paragraph 6.1 New text substituted in paragraphs 6.1, 6.1(1) and 7.1 Text omitted in paragraph 7.2(2) Paragraph 7.3 omitted
Practice Direction 77	Text omitted in paragraph 1.2 New text substituted in paragraph 1.2(2) New text inserted after paragraph 1.2(2) New text inserted in paragraphs 3.1(2), 3.1(3) and 3.1(4)
Practice Direction 78	New practice direction inserted
Schedule 1	
RSC O.115	New text substituted in Rule 17(1), Rule 17(2), and Rule 33(2)
Schedule 2	
CCR O.27	New text substituted in Rule 5(1) and Rule 17(3A)
CCR O.28	New text substituted in Rule 2(2) Text omitted in Rule 2(2) New text substituted in Rule 3(2) Text omitted in Rule 3(2) Text omitted in Rule 3(3)
CCR O.29	New text substituted in Rule 1(6), Rule 1(6)(b)
CCR O.33	New text substituted in Rule 4(3).

Forms

New versions of N5C, N56, N244, N149, N150, N151 are made available.

New form N510 is made available.

