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# Notes to Accompany 6<sup>th</sup> April 2008 46<sup>th</sup> Update

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## Coming into force

**The amendments included in this update come into force on 06 April 2008 with the following exceptions:**

### 14<sup>th</sup> January 2008

- Amendments to PD 49 relating to the Companies (Cross-Border Mergers) Regulations 2007; and
- PD 52, paragraph 2A.1

### 31<sup>st</sup> March 2008

- Amendments to Part 75 and the Accompanying Practice Direction.

### 01<sup>st</sup> April 2008

- Amendments to the Civil Recovery Proceedings Practice Direction; and
- PD 47, paragraph 49A.5(3).

## Introduction

The 46<sup>th</sup> Update to the Civil Procedure Rules introduces changes in a large number of areas:

**Part 3** is amended to extend the sanction of striking out a claim to include the non-payment of a hearing fee or court fee (where the claim proceeds on the counterclaim alone) and replace reference to ‘exemption or remission’ of court fees with ‘full or part remission’ of court fees to reflect amendments to the Civil Proceedings Fees Order 2004 (S.I. 2004/3121).

**Part 19** is amended to correct a couple of minor inconsistencies occurring after procedure consequential on the Companies Act 2006 was implemented in the 45<sup>th</sup> update.

**Part 52** is amended to correct a typographical error appearing in the heading to one of the Sections.

**Part 54** is amended to reflect an amendment to the Supreme Court Act 1981 that allows the High Court to substitute its own decision for that of inferior courts and tribunals in judicial review proceedings. A number of rules in this Part relating to statutory appeals under section 101 of the Nationality Immigration and Asylum Act 2002 have been revoked as this section of the Act has now been repealed.

**Part 57** is amended to bring it in line with the new concepts created by the Mental Capacity Act and changes to the rules in the 45<sup>th</sup> update.

**Part 75** and the accompanying practice direction is amended as a consequence of regulations relating to parking enforcement made by the Department for Transport and the Welsh Assembly Government under section 82 of the Traffic Management Act 2004 (Traffic Enforcement provisions).

**Part 76** is amended to deal with drafting comments made by the Joint Committee on Statutory Instruments on the rules governing control order court procedures.

**A new part 77** introduces procedures to enable applications for, or relating to serious crime prevention orders introduced by the Serious Crime Act 2007. A new practice direction supports the new rules dealing with these applications.

**RSC Order 96** is revoked. This scheduled rule has been incorporated into part 8 in the 45<sup>th</sup> update to allow for modernisation.

**PD3D** is created to deal with court procedure for mesothelioma claims.

**PD8** is amended to include reference to proceedings under the Trustee Act 1925 in the table specifying the Division to which an application is assigned for applications in the High Court.

**PD16** is amended to correct a typographical error where the wrong paragraph is referenced in the text.

**PD19C** is amended to ensure consistency with the rules governing procedure for derivative claims.

**PD47** and the **Civil Recovery Proceedings PD** is amended as a result of the abolition of the Asset Recovery Agency by the Serious Crime Act 2007.

**PD 49** is amended to incorporate provisions of the Companies Act 2006 coming into force in April 2008, and to provide a new High Court procedure to deal with the cross border merger of limited liability companies under the Companies (Cross-Border Mergers) Regulations 2007.

**PD52** is amended to enable third parties to make representations in applications for, or relating to serious crime prevention orders and table 1 has been amended to clarify the appeal routes for final decisions in Part 7 and Part 8 claims.

**PD55B** has been amended to remove the temporary provision inserted in the 45<sup>th</sup> update to ensure that claimants were informed of where they should be including details of statutory grounds on possession claims.

**PD69** has been amended to include reference to the Insolvency Practitioners Regulations 2005 which replace the similarly titled 1990 regulations.

The PD **Governing Proceedings under Enactments Relating to Discrimination** is amended as a consequence of the Equality Act 2006.

The PD **(Bills of Sale)**, supplementing RSC Order 95 is revoked as the relevant contents of RSC Order 95 were incorporated into practice direction 8 in the 45<sup>th</sup> update.

## **Rules**

### **Part 3**

Rule 3.7(1), new text inserted, substituted and omitted.  
Rule 3.7(2), new text substituted.  
Rule 3.7(4), new text substituted.  
Rule 3.7(5), new text substituted.  
Rule 3.7(7), new text substituted.  
Rule 3.7A(1), new text substituted.  
Rule 3.7A(2), new text substituted.  
Rule 3.7A(4), new text substituted.  
Rule 3.7A(5), new text substituted.  
Rule 3.7A(7), new text substituted .

### **Part 19**

Rule 19.9(1), new text substituted.  
Rule 19.9A(1), new text substituted.  
Rule 19.9C(5), new text substituted.  
Rule 19.9D, new text substituted.  
Rule 19.9F, new text substituted.

### **Part 52**

New text substituted in the heading following Rule 52.17.

### **Part 54**

Text omitted in the table of contents.  
Rule 54.19(2), new text substituted.  
Rule 54.19(3) and the parenthesis following that rule omitted.  
Heading omitted following Rule 54.20.  
Rules 54.21 to 54.27 omitted.

### **Part 57**

Rule 57.7(4), new text substituted.

### **Part 75**

Rule 75.1, new text inserted.  
New text inserted in the parenthesis following 75.1(1)(b).  
Rule 75.1(2), new text inserted and substituted.  
Rule 75.2(2), new text substituted.  
Rule 75.3(2), new text inserted.  
Rule 75.3(3), new text substituted.  
Rule 75.3(4), new text substituted.  
Rule 75.3(5), new text substituted.  
Rule 75.3(6) omitted.  
Rule 75.5(1), new text inserted.  
Rule 75.6, new text substituted.  
Rule 75.8, new text inserted.  
Rule 75.9, new text substituted.  
Rule 75.10, new text substituted.  
Rule 75.11, new text substituted.

### **Part 76**

Rule 76.1(3), text omitted.  
Rule 76.14(1), new text inserted, substituted and omitted.  
Rule 76.23, new text substituted.  
Rule 76.25(3), new text substituted.  
Rule 76.29(2), new text inserted.  
Rule 76.33(4), new text substituted.

### **Part 77**

New part inserted.

## **Practice Directions**

### **Practice Direction 3D**

New practice direction 3D inserted after practice direction 3C

### **Practice Direction 8**

New text inserted in table at paragraph 9.

### **Practice Direction 16**

New text substituted at paragraph 10.5

<b>Practice Direction 19C</b>	New text substituted at paragraph 1(b) New text substituted in the forms at the end of the practice direction
<b>Practice Direction 47</b>	Text deleted and new text inserted at paragraph 31.1 New text substituted at paragraph 49A.5(3)
<b>Practice Direction 49</b>	New text substituted and inserted in the table of contents New text substituted and inserted at paragraph 1 Text deleted, and new text substituted and inserted at paragraph 2 Text deleted, and new text substituted and inserted at paragraph 4(1) New text inserted in the heading to paragraph 5 New paragraph (3) inserted after paragraph 5(2) Text deleted at paragraph 6(2) New text inserted in the heading to paragraph 7 New text substituted in the heading to paragraph 8 New paragraph substituted at paragraph 10(2) New paragraph substituted at paragraph 11(2) New text substituted at paragraph 12 New headings and paragraphs 12A to 12D inserted after paragraph 12 New text substituted at paragraph 13 New text substituted at paragraph 14 Text deleted at paragraph 15(2) New text substituted at paragraph 16(1) New paragraph 16(1A) inserted after paragraph 16(1) New text inserted at paragraph 16(2)(c)(ii) New text inserted at paragraph 16(3) New text substituted at paragraph 16(4) New heading and paragraph 16A inserted after paragraph 16(4) New text inserted at paragraph 17(1) New headings and paragraphs 17A to 17D inserted after paragraph 17(5) New text substituted and inserted at paragraph 18(1)(a) Paragraph 21(2) deleted
<b>Practice Direction 52</b>	New table 1 substituted at paragraph 2A.1 New paragraph 21.13 inserted after the parenthesis following paragraph 21.12
<b>Practice Direction 55B</b>	Text omitted from paragraph 6.2A Parenthesis following paragraph 6.2A omitted
<b>Practice Direction 69</b>	New text inserted at paragraph 1.1(3) New text substituted and inserted at paragraph 7.2(1)
<b>Practice Direction 75</b>	New text substituted at paragraph 1.1(6) New paragraphs (7) to (10) inserted after paragraph 1.1(6) Text deleted and new text substituted and inserted at paragraph 1.2 New paragraphs 1.2(8) to (11) inserted after paragraph 1.2(7) Text deleted and new text substituted and inserted at paragraph 1.3 New paragraph substituted at 3.1 New paragraph 3A.1 inserted after paragraph 3.1 Text deleted and new text inserted at paragraph 4.1 New text inserted in the heading to paragraph 5.1 New paragraph substituted at 5.1 New text inserted at paragraph 5.2(1) New text substituted at paragraph 5.2(2) and in the following

parenthesis  
New text inserted at paragraph 5.3  
New text inserted at paragraph 5.4  
New text substituted at paragraph 5.6  
New paragraph 6.3 inserted after paragraph 6.2  
New text substituted at paragraph 7.2  
New text inserted in the parenthesis following paragraph 8.1(2)  
**Practice Direction 77** New practice direction inserted to supplement Part 77

## **Schedule 1**

### **RSC O.95 Practice Direction**

Revoked.

### **RSC O.96**

Revoked.

## **Other Practice Directions**

### **Civil Recovery Proceedings**

New text substituted at paragraph 1.1  
New paragraph substituted at 1.2  
New text inserted at paragraph 1.3  
Text deleted and new text substituted and inserted at paragraph 1.5  
Text deleted and new text substituted at paragraph 2.1  
New paragraph substituted at 2.2  
Text deleted in the heading to paragraph 3.1  
New text substituted and inserted at paragraph 3.1  
New text substituted at paragraph 4.1  
New text substituted at paragraph 4.3  
New text substituted at paragraph 4.4  
New heading substituted for the heading above paragraph 5.1  
New text inserted at paragraph 5.1  
Text deleted and new text substituted and inserted at paragraph 5.2  
Text deleted and new text substituted at paragraph 5.3  
New paragraph 5.3(3) inserted after paragraph 5.3(2)  
New text substituted and inserted at paragraph 5.5  
New paragraph 5.5A inserted after paragraph 5.5  
New text substituted at paragraph 5.6  
New text substituted at paragraph 5A  
New text inserted in the heading over paragraph 6.1  
New paragraph substituted at paragraph 6.1  
New text inserted at paragraph 6.2(1)  
Text deleted and new text substituted in the heading above paragraph 7.1  
New text substituted and inserted at paragraph 7.1  
New text inserted at paragraph 7.2  
New text substituted at paragraph 7.3  
Text deleted and new text inserted at paragraph 7B.2  
New text inserted in the heading to Section III  
Text deleted and new text inserted at paragraph 8.1  
New text substituted and inserted at paragraph 9.3  
New text substituted in the parenthesis following paragraph 9.3  
New text substituted at paragraph 10.2

New text substituted at paragraph 12.1(1)  
New text substituted at paragraph 12.3  
New text inserted at paragraph 14.1  
New text substituted at paragraph 14.2  
New text substituted and inserted at paragraph 14.4(3)  
New text substituted at paragraph 14.6 and the following parenthesis  
New text substituted at paragraph 14.7  
New text substituted at paragraph 15.1  
New text substituted at paragraph 15.2(2)  
New text substituted at paragraph 15.3  
New text substituted at paragraph 16.3  
New text substituted and inserted in the annex to the practice  
direction

**Proceedings Under Enactments Relating to Discrimination**

New paragraph substituted at 1.2  
New text substituted at paragraph 1.3  
Text deleted and new text substituted and inserted at paragraph 2.1  
New text substituted at paragraph 3  
New text substituted and inserted at paragraph 4.1  
Text deleted and new text substituted and inserted at paragraph 5.1  
Text deleted and new text substituted and inserted at paragraph 5.2  
Text deleted and new text substituted at paragraph 6.1  
New text substituted at paragraph 6.2  
New text substituted at paragraph 6.3(a)  
Text deleted in the heading above paragraph 7.1  
Paragraph s 7.1 and 7.1 deleted