
STATUTORY INSTRUMENTS

2004 No. 3419

The Civil Procedure (Amendment No. 4) Rules 2004

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No. 4) Rules 2004 and shall come into force on 1 April 2005.

2. In these Rules—

- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(1);
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

Amendment to the Civil Procedure Rules 1998

3. In rule 21.10, after paragraph (2), insert—

“21.10

(3) In proceedings to which Section II of Part 45 applies, the court shall not make an order for detailed assessment of the costs payable to the child or patient but shall assess the costs in the manner set out in that Section.”.

4.—(1) In rule 22.1(1)—

- (a) at the end of sub-paragraph (e), omit “and”; and
- (b) for sub-paragraph (f), substitute—
 - “(f) a certificate of service; and
 - (g) any other document where a rule or practice direction requires.”.

(2) In rule 22.1(4)—

- (a) at the end of sub-paragraph (a), omit “or”; and
- (b) in sub-paragraph (b), after “the maker of the witness statement”—
 - (i) omit the comma; and
 - (ii) insert—
 - “;or
 - (c) in the case of a certificate of service, the person who signs the certificate,”.

5. In rule 25.7—

(1) S.I.1998/3132. There are relevant amendments in S.I. 2000/221, S.I. 2000/1317, S.I. 2001/1769, S.I. 2001/4015, S.I. 2002/2058, S.I. 2002/3219, S.I. 2003/2113, S.I. 2004/1306 and S.I. 2004/2072

- (a) for paragraph (1) substitute—
 - “(1) The court may only make an order for an interim payment where any of the following conditions are satisfied—
 - (a) the defendant against whom the order is sought has admitted liability to pay damages or some other sum of money to the claimant;
 - (b) the claimant has obtained judgment against that defendant for damages to be assessed or for a sum of money (other than costs) to be assessed;
 - (c) it is satisfied that, if the claim went to trial, the claimant would obtain judgment for a substantial amount of money (other than costs) against the defendant from whom he is seeking an order for an interim payment whether or not that defendant is the only defendant or one of a number of defendants to the claim;
 - (d) the following conditions are satisfied—
 - (i) the claimant is seeking an order for possession of land (whether or not any other order is also sought); and
 - (ii) the court is satisfied that, if the case went to trial, the defendant would be held liable (even if the claim for possession fails) to pay the claimant a sum of money for the defendant’s occupation and use of the land while the claim for possession was pending; or
 - (e) in a claim in which there are two or more defendants and the order is sought against any one or more of those defendants, the following conditions are satisfied—
 - (i) the court is satisfied that, if the claim went to trial, the claimant would obtain judgment for a substantial amount of money (other than costs) against at least one of the defendants (but the court cannot determine which); and
 - (ii) all the defendants are either—
 - (a) a defendant that is insured in respect of the claim;
 - (b) a defendant whose liability will be met by an insurer under section 151 of the Road Traffic Act 1988 or an insurer acting under the Motor Insurers Bureau Agreement, or the Motor Insurers Bureau where it is acting itself; or
 - (c) a defendant that is a public body.”; and
 - (b) omit paragraphs (2) and (3).
- 6. In rule 40.1, after “any other of these Rules” insert “or a practice direction”.
- 7. In rule 41.3, omit paragraph (6).
- 8. In rule 44.12A—
 - (a) at the beginning of sub-paragraph (1)(c), omit “except as referred to in paragraph (1A)”;
 - (b) omit paragraph (1A); and
 - (c) at the end of paragraph (1), omit the cross-reference to rule 21.10.
- 9. In Part 45—
 - (a) for the table of contents for Section I, substitute the table of contents as set out in Part I of Schedule 1 to these Rules; and
 - (b) for Section I of Part 45, substitute the text as set out in Part II of Schedule 1 to these Rules.

10. In Part 45, in the table of contents and in the heading for Section II, “Road Traffic Accidents - Fixed Recoverable Costs in Costs-Only Proceedings”, omit “in Costs-Only Proceedings”.

11. In rule 45.7—

(a) for paragraph (1) substitute—

“(1) This Section sets out the costs which are to be allowed in—

(a) costs-only proceedings under the procedure set out in rule 44.12A; or

(b) proceedings for approval of a settlement or compromise under rule 21.10(2),

in cases to which this Section applies.”; and

(b) at the end of paragraph (1), omit the cross-reference to 44.12A.

12. In rule 45.14, in the heading, after “Costs of the costs-only proceedings”, insert “or the detailed assessment”.

13. For rule 45.18(2)(c) substitute—

“(c) the parties agree damages of £500,000 or less and it is reasonable to expect that if the court had made an award of damages, it would have awarded damages greater than £500,000, disregarding any reduction the court may have made in respect of contributory negligence.”

14. For rule 48.5(2)(b) substitute—

“(b) on an assessment under paragraph (a), the court must also assess any costs payable to that party in the proceedings, unless—

(i) the court has issued a default costs certificate in relation to those costs under rule 47.11; or

(ii) the costs are payable in proceedings to which Section II of Part 45 applies.”.

15. In rule 63.13—

(a) omit paragraph (2); and

(b) in paragraph (3), for “Other claims” substitute “Claims”.

16. After Part 65, insert Part 67 as set out in Schedule 2 to these Rules.

17. The following provisions are revoked—

(a) RSC Order 62;

(b) RSC Order 106; and

(c) CCR Order 38.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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I allow these Rules

Dated 30th December 2004

Falconer of Thoroton C.