

2009 No. 3390 (L. 31)

**SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment No.2) Rules 2009

Made - - - - - *22nd December 2009*

Laid before Parliament *30th December 2009*

Coming into force in accordance with rule 1

The Civil Procedure Rule Committee, in exercise of the power conferred by section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, makes the following Rules—

Citation, commencement and interpretation

- 1.—(1) These Rules may be cited as the Civil Procedure (Amendment No.2) Rules 2009.
- (2) Except as provided in paragraphs (3), (4) and (5), these Rules come into force on 6th April 2010.
- (3) Rules 3(a), 5(a) and 26(c) of these Rules come into force on 1st February 2010.
- (4) Rules 28(d) and 29(a) and (c) of these Rules comes into force on 15th February 2010.
- (5) Rules 3(b) and 6(f) of these Rules comes into force on 1st April 2010.
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(b); and
- (b) a reference to an Order by number and prefixed “RSC” means the RSC Order so numbered in Schedule 1 to those Rules.

Amendments to the Civil Procedure Rules 1998

3. In Part 2—
- (a) in rule 2.3(1), for the definition of “legal representative” substitute—
- ““legal representative” means a—
- (a) barrister;
- (b) solicitor;

(a) 1997 c. 12. Section 2 was amended by the Constitutional Reform Act 2005 (c.4), section 15(1) and Schedule 4, Part 1, paragraphs 261, 263(1) and (2).

(b) S.I. 1998/3132. There are relevant amendments in S.I. 1999/1008, 2000/221, 2000/1317, 2000/2092, 2001/256, 2001/1388, 2001/2792, 2001/4015, 2002/2058, 2002/3219, 2003/2113, 2003/3361, 2004/1306, 2004/2072, 2004/3129, 2004/3419, 2005/352, 2005/656, 2005/2292, 2005/3515, 2006/1689, 2006/3132, 2006/3435, 2007/2204, 2007/3543, 2008/2178, 2008/3327 and 2009/2092.

- (c) solicitor’s employee;
- (d) manager of a body recognised under section 9 of the Administration of Justice Act 1985^(a); or
- (e) person who, for the purposes of the Legal Services Act 2007^(b), is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act),

who has been instructed to act for a party in relation to proceedings;” and

- (b) in rule 2.8(5), for “When the period specified—” substitute “Subject to the provisions of Practice Direction 5C, when the period specified—”

4. In Part 5—

- (a) in the parenthesis below rule 5.4(2), for “The practice direction” substitute “Practice Direction 5A”;
- (b) in rule 5.4B(1), for “the Practice Direction” substitute “Practice Direction 5A”; and
- (c) in the parenthesis below rule 5.4C(1A), for “The Practice Direction to this Part” substitute “Practice Direction 5A”.

5. In Part 6—

- (a) in rule 6.2, for sub-paragraph (d) substitute—
 - “(d) “solicitor” includes any other person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act).”;
- (b) in—
 - (i) rules 6.3(1)(b), 6.3(1)(d), 6.20(1)(b), 6.20(1)(d), 6.23(5) and 6.23(6); and
 - (ii) the parenthesis below rules 6.5(3) and 6.26,
 for “Practice Direction A supplementing this Part” substitute “Practice Direction 6A”;
- (c) in rule 6.6(1), after “rule” insert “6.7(2) or”;
- (d) for rule 6.7 substitute—

“Service of the claim form on a solicitor within the jurisdiction or in any EEA state

6.7.—(1) Subject to rule 6.5(1), where—

- (a) the defendant has given in writing the business address within the jurisdiction of a solicitor as an address at which the defendant may be served with the claim form; or
- (b) a solicitor acting for the defendant has notified the claimant in writing that the solicitor is instructed by the defendant to accept service of the claim form on behalf of the defendant at a business address within the jurisdiction,

the claim form must be served at the business address of that solicitor.

(‘Solicitor’ has the extended meaning set out in rule 6.2(d).)

(2) Subject to rule 6.5(1) and the provisions of Section IV of this Part, where—

- (a) the defendant has given in writing the business address within any EEA state of a solicitor as an address at which the defendant may be served with the claim form; or
- (b) a solicitor acting for the defendant has notified the claimant in writing that the solicitor is instructed by the defendant to accept service of the claim form on behalf of the defendant at a business address within any EEA state,

(a) 1985 c. 61.
 (b) 2007 c. 29.

the claim form must be served at the business address of that solicitor.

(‘Solicitor’ has the extended meaning set out in rule 6.2(d).)’

- (e) in the parenthesis below rule 6.10(b), for “The practice direction supplementing Part 66” substitute “Practice Direction 66”;
- (f) in rule 6.23(2)(a)—
 - (i) after “address” insert “either”; and
 - (ii) after “United Kingdom” insert “or any other EEA state”;
- (g) in—
 - (i) rules 6.35(5), 6.36, 6.37(1)(a), 6.37(2), 6.42(3) and 6.43(2)(c);
 - (ii) the parenthesis below rules 6.37(5) and 6.42(3); and
 - (iii) the first parenthesis below rule 6.41,
for “Practice Direction B supplementing this Part” substitute “Practice Direction 6B”; and
- (h) in the parenthesis below rules 6.6(2) and 6.23(1), for “the practice direction supplementing Part 16” substitute “Practice Direction 16”.

6. In Part 7—

- (a) in rule 7.1, for “the relevant practice direction” substitute “the relevant practice directions supplementing this Part”;
- (b) in the third parenthesis below rule 7.2(2), for “costs practice direction” substitute “Costs Practice Direction”;
- (c) in rule 7.2A, for “The practice direction supplementing this Part” substitute “Practice Direction 7A”;
- (d) in rule 7.4(3)—
 - (i) in sub-paragraph (a), for “the Practice Direction (Production Centre) supplementing Part 7” substitute “Practice Direction 7C”; and
 - (ii) in sub-paragraph (b), for “the Practice Direction (Money Claim Online) supplementing Part 7” substitute “Practice Direction 7E”;
- (e) in rules 7.10(2) and 7.10(3), for “The relevant practice direction” substitute “Practice Direction 7C”; and
- (f) after rule 7.12 insert—

“(Practice Direction 5C deals with electronic issue of claims started or continued under the Electronic Working scheme.)”.

7. In—

- (a) the third parenthesis below rule 8.2; and
- (b) the first parenthesis below rule 8.3,

for “costs practice direction” substitute “Costs Practice Direction”.

8. Omit the parenthesis below rule 9.2(c).

9. In rule 10.3(2)(c), for “Practice Direction B supplementing Part 6” substitute “Practice Direction 6B”.

10. In rule 14.1A(2), for “the Practice Direction to this Part” substitute “Practice Direction 14”.

11. In the second parenthesis below rule 15.6, for “costs practice direction” substitute “Costs Practice Direction”.

12. In the second parenthesis below rule 16.2, for “costs practice direction” substitute “Costs Practice Direction”.

13. In Part 19—

- (a) in the parenthesis below 19.4A, for “A practice direction” substitute “Practice Direction 19A”;
- (b) in rule 19.9A(4)(a), for “the practice direction supplementing this rule” substitute “Practice Direction 19C”; and
- (c) in the parenthesis below rule 19.11(1), for “The practice direction” substitute “Practice Direction 19B”.

14. In rules 27.4(3)(a)(ii), 27.14(2)(b), 27.14(2)(e) and 27.14(2)(f), for “the relevant practice direction” substitute “Practice Direction 27”.

15. In Part 30—

- (a) in rule 30.1(2), for “The practice direction may make” substitute “Practice Direction 30 makes”; and
- (b) in the parenthesis below rule 30.6 omit “(Administrative Court (Venue))”.

16. In rules 32.8 and 32.16, for “the relevant practice direction” substitute “Practice Direction 32”.

17. In rules 34.7(b), 34.8(6)(b) and 34.22(a), for “the relevant practice direction” substitute “Practice Direction 34A”.

18. In—

- (a) the parenthesis below rule 35.4(3A); and
- (b) rule 35.10(1),

for “practice direction” substitute “Practice Direction”.

19. In the parenthesis below rule 36.5(7), for “A practice direction supplementing Part 41” substitute “Practice Direction 41B”.

20. In Part 40—

- (a) in the parenthesis below rule 40.2(4), for “the Practice Direction supplementing Part 52” substitute “Practice Direction 52”; and
- (b) in the parenthesis below rule 40.18, for “practice direction relating to Part 44” substitute “Costs Practice Direction”.

21. In rules 41.7, 41.9(2)(b) and 41.10, for “the practice direction” substitute “Practice Direction 41B”.

22. In Part 44—

- (a) in—
 - (i) rule 44.3B(1)(d)(i);
 - (ii) the parenthesis below rules 44.7 and 44.17; and
 - (iii) the first parenthesis below rule 44.15(3),
for “costs practice direction” substitute “Costs Practice Direction”; and
- (b) in rule 44.19(3)(a)(i), for “Practice Direction supplementing this rule” substitute “Costs Practice Direction”.

23. In Part 45—

- (a) in the parenthesis below rule 45.1(2) for “The practice direction supplementing rule 7.9” substitute “Practice Direction 7B”;
- (b) in rule 45.9(2)(a) for “relevant practice direction” substitute “Costs Practice Direction”; and
- (c) in the parenthesis below rule 45.23 for “Practice Direction supplementing Part 45” substitute “Costs Practice Direction”.

24. In rule 46.3—

- (a) in the first parenthesis below paragraph (2A); and
- (b) in paragraph (5)(b),

for “costs practice direction” substitute “Costs Practice Direction”.

25. In Part 47—

- (a) in rules 47.6(2) and 47.11(3); and
- (b) in the parenthesis below rules 47.1, 47.3, 47.4(1), 47.6(3), 47.9(3), 47.11(1), 47.12(4), 47.13, 47.14, 47.16(5), 47.19(2),

for “costs practice direction” substitute “Costs Practice Direction”.

26. In Part 48—

- (a) in—
 - (i) rule 48.5(3); and
 - (ii) the parenthesis below rules 48.3(1) and 48.6(3)(c),for “costs practice direction” substitute “Costs Practice Direction”;
- (b) in rule 48.6(4)(b), for “practice direction” substitute “Costs Practice Direction”; and
- (c) in rule 48.6(6)(b), for “or other authorised litigator (as defined in the Courts and Legal Services Act 1990)” substitute “, manager of a body recognised under section 9 of the Administration of Justice Act 1985 or a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act)”.

27. In rule 51.1, for “A practice direction shall make” substitute “Practice Direction 51A makes”.

28. In Part 52—

- (a) in the table of contents, for “Parties to comply with practice direction” substitute “Parties to comply with Practice Direction 52”;
- (b) in—
 - (i) rule 52.2 in the heading; and
 - (ii) rule 52.17(8),for “the practice direction” substitute “Practice Direction 52”;
- (c) in rules 52.2, 52.3(1)(b) and 52.6(2)(b), for “the relevant practice direction” substitute “Practice Direction 52”; and
- (d) in rule 52.7(b), for “Asylum and Immigration Tribunal” substitute “Immigration and Asylum Chamber of the Upper Tribunal”.

29. In Part 54—

- (a) in the table of contents, omit—
 - (i) the entry “III APPLICATIONS FOR STATUTORY REVIEW UNDER SECTION 103A OF THE NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002”; and
 - (ii) the entries relation to rules 54.28 to 54.35;
- (b) in rule 54.6(2), for “the relevant practice direction” substitute “Practice Direction 54A”; and
- (c) omit Section III.

30. In Part 55—

- (a) in rule 55.3(3), for “The practice direction” substitute “Practice Direction 55A”;

- (b) in rules 55.3(5), 55.13(1)(a), 55.14(2), 55.22(2), 55.22(3)(a), 55.23(1)(c), 55.24(2) and 55.25(3), for “the relevant practice direction” substitute “Practice Direction 55A”; and
- (c) in the parenthesis below rule 55.4, for “The relevant practice direction and Part 16” substitute “Part 16 and Practice Direction 55A”.

31. In Part 56—

- (a) in rule 56.2(3), for “The practice direction” substitute “Practice Direction 56”; and
- (b) in the parenthesis below rule 56.3(4), for “The practice direction to this Part” substitute “Practice Direction 56”.

32. In Part 57—

- (a) in rule 57.4(3), for “Practice Direction B supplementing Part 6” substitute “Practice Direction 6B”;
- (b) in—
 - (i) the parenthesis below rule 57.5(3); and
 - (ii) rule 57.16(5),
 for “the practice direction” substitute “Practice Direction 57”;
- (c) in rules 57.12(3) and 57.13(4), for “The practice direction” substitute “Practice Direction 57”;
- (d) in rule 57.15(2), for “its practice direction” substitute “Practice Direction 40B”; and
- (e) in rule 57.16(4A), for “Practice Direction B supplementing Part 6” substitute “Practice Direction 6B”.

33. In Part 58—

- (a) in rule 58.1(2), for “its practice direction” substitute “Practice Direction 58”; and
- (b) in rule 58.13(3), for “the practice direction” substitute “Practice Direction 58”.

34. In Part 59—

- (a) in rule 59.1—
 - (i) in paragraph (3) for “its practice direction” substitute “Practice Direction 59”; and
 - (ii) in paragraph (3)(a) for “the Practice Direction” substitute “Practice Direction 59”; and
- (b) in rule 59.11(3), for “the practice direction” substitute “Practice Direction 59”.

35. In Part 60—

- (a) in rules 60.1(2), 60.1(2)(b) and 60.1(5)(b)(i), for “its practice direction” substitute “Practice Direction 60”;
- (b) in the parenthesis below rule 60.1(3), for “The Practice Direction” substitute “Practice Direction 60”;
- (c) in rule 60.4(c), for “the practice direction” substitute “Practice Direction 60”; and
- (d) in rule 60.6(2), for—
 - (i) “its practice direction” substitute Practice Direction 29”; and
 - (ii) “the practice direction to this Part” substitute “Practice Direction 60”.

36. In Part 61—

- (a) in rules 61.1(2)(i), 61.3(2), 61.3(5)(a), 61.4(5), 61.4(6)(a), 61.5(3)(b), 61.5(5)(a), 61.7(2), 61.8(2), 61.8(4)(c), 61.8(4)(d)(i), 61.9(3)(a)(i), 61.11(2), 61.11(7), 61.11(9)(a), 61.11(9)(b), 61.11(11)(a) and 61.11(12), for “the practice direction” substitute “Practice Direction 61”; and
- (b) in rule 61.5(2) for “The practice direction” substitute “Practice Direction 61”.

37. In rules 62.1(2)(f), 62.3(3) and 62.7(4), for “the practice direction” substitute “Practice Direction 62”.

38. In Part 63—

- (a) in rules 63.1(1)(b)(iv), 63.6, 63.8(3), 63.9, 63.13, 63.13(c), for “the practice direction” substitute “Practice Direction 63”; and
- (b) omit rule 63.1(2)(i).

39. In Part 64—

- (a) in rule 64.1(2), for “its practice directions” substitute “Practice Directions 64A and 64B”; and
- (b) in rule 64.6(2), for “the practice direction” substitute “Practice Direction 64A”.

40. In Part 65—

- (a) in rules 65.3(1), 65.3(2)(a), and 65.14(2), for “the relevant practice direction” substitute “Practice Direction 65”; and
- (b) in the parenthesis below rule 65.14(2), for “The relevant practice direction and Part 16” substitute “Part 16 and Practice Direction 65”.

41. In Part 67—

- (a) in the second parenthesis below rule 67.1 for “The practice direction supplementing Part 52” substitute “Practice Direction 52”; and
- (b) in the second parenthesis below rule 67.3(1)—
 - (i) after “contained in rule 47.4”, for “,” substitute “and”; and
 - (ii) omit “and the Costs Pilot Scheme Practice Direction supplementing Part 47”.

42. In rule 68.2(3), for “the practice direction supplementing this Part” substitute “Practice Direction 68”.

43. In Part 69—

- (a) in the parenthesis below rules 69.2, 69.6 and 69.8(1), for “The practice direction” substitute “Practice Direction 69”; and
- (b) in the parenthesis below rule 69.8(6), for “The practice direction supplementing Part 40” substitute “Practice Direction 40A”.

44. In Part 70—

- (a) in rule 70.2(1), for “The relevant practice direction” substitute “Practice Direction 70”; and
- (b) in rules 70.5(2A)(b), 70.5(5) and 70.5(8), for “the practice direction supplementing this Part” substitute “Practice Direction 70”.

45. In rule 71.2(3), for “the relevant practice direction” substitute “Practice Direction 71”.

46. In rules 72.3(2)(a) and 72.4(3)(b), for “the relevant practice direction” substitute “Practice Direction 72”.

47. In Part 73—

- (a) in—
 - (i) rules 73.3(4)(a) and 73.10(5); and
 - (ii) in the parenthesis below rule 73.17(2),

for “the relevant practice direction” substitute “Practice Direction 73”; and

- (b) in rule 73.22, for “The practice direction supplementing this Part” substitute “Practice Direction 73”.

48. In the parenthesis below rule 74.1(5) omit “European Enforcement Orders”.
49. In Part 75—
- (a) in rules 75.1(1) and 75.5, for “The practice direction supplementing this Part” substitute “Practice Direction 75”; and
 - (b) in rules 75.1(2)(f) and 75.3(2)(c)(v), for “the practice direction supplementing this Part” substitute “Practice Direction 75”.
50. In rules 76.12(3) and 76.16(3), for “the practice direction” substitute “Practice Direction 52”.
51. In Part 77—
- (a) in rules 77.2 and 77.3, for “the practice direction supplementing this Part” substitute “Practice Direction 77”; and
 - (b) in rule 77.5, “the Practice Direction supplementing this Part” substitute “Practice Direction 77”.
52. In rule 78.1(3)(a), for “the Practice Direction supplementing this Part” substitute “Practice Direction 78”.
53. In RSC Order 45, rules 2 and 12(1) to (4), for “the relevant Practice Direction” substitute “Practice Direction 4”.
54. In RSC Order 46, rule 8(3), for “the relevant Practice Direction” substitute “Practice Direction 4”.
55. In RSC Order 54, rules 6(4) and 10, for “the relevant Practice Direction” substitute “Practice Direction 4”.
56. In RSC Order 79, rule 9—
- (a) in paragraphs (2) and (10), for “the relevant practice direction” substitute “Practice Direction 4”; and
 - (b) in paragraphs (6), (7) and (13), for “the relevant Practice Direction” substitute “Practice Direction 4”.
57. In RSC Order 109, rule 4(4), for “the relevant practice direction” substitute “Practice Direction 4”.

Neuberger of Abbotsbury, M.R.
Martin Moore-Bick, L.J.
Rupert Jackson, L.J.
Launcelot Henderson, J.
HHJ Stephen Stewart Q.C.
District Judge Robert Hill
District Judge Suzanne Burn
David di Mambro
Nicholas Bacon
Katy Peters
Qasim Nawaz
David Grant

I allow these Rules
Signed by authority of the Lord Chancellor

22nd December 2009

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of these Rules)

These Rules amend the Civil Procedure Rules 1998 in that they—

- amend rules 2.3(1), 6.2(d) and 48.6(6)(b) as a consequence of the new regulatory framework for the provision of legal services being introduced by the Legal Services Act 2007;
- amend Part 5 to 10, 14 to 16, 19, 27, 30, 32, 34 to 36, 40, 41, 44 to 48, 51, 52, 54 to 65, 67 to 78 and RSC Orders 45, 46, 54, 79 and 109 as a consequence of the renaming of all practice directions;
- amend rule 2.8(5) as a consequence of the new Electronic Working scheme set out in new Practice Direction 5C;
- amend rules 6.6, 6.7 and 6.23 to provide for service on a solicitor within any EEA state so as to comply with EC Directive 2006/123/EC; and
- amend rule 52.7 and revoke Section III of Part 54 as a consequence of the abolition of the Asylum and Immigration Tribunal.

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STATUTORY INSTRUMENTS

2009 No. 3390 (L. 31)

**SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment No.2) Rules 2009

£5.50