
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

PART 3 **E+W**

THE COURT'S CASE [^{F1}AND COSTS] MANAGEMENT POWERS

[^{F1}SECTION I

Case Management]

Textual Amendments

- F1** Pt. 3 Section 1 heading inserted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 5(c) (with rule 22)

The court's general powers of management **E+W**

3.1.—(1) The list of powers in this rule is in addition to any powers given to the court by any other rule or practice direction or by any other enactment or any powers it may otherwise have.

(2) Except where these Rules provide otherwise, the court may —

- (a) extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired);
- (b) adjourn or bring forward a hearing;
- [^{F2}(bb) require that any proceedings in the High Court be heard by a Divisional Court of the High Court;]
- (c) require a party or a party's legal representative to attend the court;
- (d) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;
- (e) direct that part of any proceedings (such as a counterclaim) be dealt with as separate proceedings;
- (f) stay^(GL) the whole or part of any proceedings or judgment either generally or until a specified date or event;
- (g) consolidate proceedings;
- (h) try two or more claims on the same occasion;
- (i) direct a separate trial of any issue;
- (j) decide the order in which issues are to be tried;
- (k) exclude an issue from consideration;
- (l) dismiss or give judgment on a claim after a decision on a preliminary issue;

Status: Point in time view as at 14/08/2023.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I. (See end of Document for details)

[^{F3}(ll) order any party to file and [^{F4}exchange a costs budget];]

(m) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective [^{F5}, including hearing an Early Neutral Evaluation with the aim of helping the parties settle the case].

(3) When the court makes an order, it may —

- (a) make it subject to conditions, including a condition to pay a sum of money into court; and
- (b) specify the consequence of failure to comply with the order or a condition.

[^{F6}(3A) Where the court has made a direction in accordance with paragraph (2)(bb) the proceedings shall be heard by a Divisional Court of the High Court and not by a single judge.]

(4) Where the court gives directions it [^{F7}will] take into account whether or not a party has complied with [^{F8}the Practice Direction (Pre-Action Conduct) and] any relevant pre-action protocol^(GL).

(5) The court may order a party to pay a sum of money into court if that party has, without good reason, failed to comply with a rule, practice direction or a relevant pre-action protocol.

(6) When exercising its power under paragraph (5) the court must have regard to—

- (a) the amount in dispute; and
- (b) the costs which the parties have incurred or which they may incur.

[^{F9}(6A) Where a party pays money into court following an order under paragraph (3) or (5), the money shall be security for any sum payable by that party to any other party in the proceedings^{F10}....^{F11}...]

(7) A power of the court under these Rules to make an order includes a power to vary or revoke the order.

[^{F12}(8) The court may contact the parties from time to time in order to monitor compliance with directions. The parties must respond promptly to any such enquiries from the court.]

Textual Amendments

- F2** Rule 3.1(2)(bb) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/889), rules 1(1), **3(a)**
- F3** Rule 3.1(2)(ll) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **3**
- F4** Words in rule 3.1(2)(ll) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **4(a)**
- F5** Words in rule 3.1(2)(m) inserted (1.10.2015) by [The Civil Procedure \(Amendment No. 4\) Rules 2015](#) (S.I. 2015/1569), rules 1(2), **4**
- F6** Rule 3.1(3A) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/889), rules 1(1), **3(b)**
- F7** Word in rule 3.1(4) substituted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008](#) (S.I. 2008/3327), rules 1, **3(a)**
- F8** Words in rule 3.1(4) inserted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008](#) (S.I. 2008/3327), rules 1, **3(b)**
- F9** Rule 3.1(6A) and words inserted (26.4.1999) by [The Civil Procedure \(Amendment\) Rules 1999](#) (S.I. 1999/1008), rules 1, **4**
- F10** Words in rule 3.1(6A) omitted (6.4.2007) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2006](#) (S.I. 2006/3435), rules 1, **3(a)**

- F11** Words in rule 3.1(6A) omitted (6.4.2007) by virtue of The Civil Procedure (Amendment No.3) Rules 2006 (S.I. 2006/3435), rules 1, **3(b)**
- F12** Rule 3.1(8) inserted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **5(d)** (with rule 22)

Modifications etc. (not altering text)

- C1** Rule 3.1(2)(a) applied (7.10.2001) by The Railway Administration Order Rules 2001 (S.I. 2001/3352), rules 1.1, **9.8(2)**
- C2** Rule 3.1(2)(a) applied (1.11.2009) by The Water Industry (Special Administration) Rules 2009 (S.I. 2009/2477), rules 2, **121(2)**
- C3** Rule 3.1(2)(a) applied (30.6.2011) by The Investment Bank Special Administration (England and Wales) Rules 2011 (S.I. 2011/1301), rules 2, **324(2)** (with rule 5)
- C4** Rule 3.1(2)(a) applied (31.1.2014) by The Postal Administration Rules 2013 (S.I. 2013/3208), rules 1, **199(2)** (with rules 3, 210)
- C5** Rule 3.1(2)(a) applied (6.4.2017) by The Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024), rule 1, **Sch. 5 para. 3** (with rule 3(3), Sch. 2 Sch. 5 para. 3)
- C6** Rule 3.1(2)(a) applied (5.7.2018) by The Housing Administration (England and Wales) Rules 2018 (S.I. 2018/719), rules 1.1, **7.1(3)** (with rules 1.2, 7.1(4))
- C7** Rule 3.1(2)(a) applied (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rules 1, **7.1(3)(4)** (with rule 1.2)
- C8** Rule 3.1(2)(a) applied (1.8.2020) by The Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 (S.I. 2020/629), rules 1, **193(3)** (with rules 4(1), 193(4))
- C9** Rule 3.1(2)(a) applied (12.11.2021) by The Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021 (S.I. 2021/1178), rules 2, **285(2)**
- C10** Rule 3.1(2)(a) applied (18.7.2023) by The Relevant Licensee Nuclear Company Administration (England and Wales) Rules 2023 (S.I. 2023/712), rules 1(2)(a), **181(3)(4)** (with rule 2)

Commencement Information

- I1** Rule 3.1 in force at 26.4.1999, see **Signature**

[^{F13}Case management – unrepresented parties **E+W**

3.1A.—(1) This rule applies in any proceedings where at least one party is unrepresented.

(2) When the court is exercising any powers of case management, it must have regard to the fact that at least one party is unrepresented.

(3) Both the parties and the court must, when drafting case management directions in the multi-track and fast track, take as their starting point any relevant standard directions which can be found online at www.justice.gov.uk/courts/procedure-rules/civil and adapt them as appropriate to the circumstances of the case.

(4) The court must adopt such procedure at any hearing as it considers appropriate to further the overriding objective.

(5) At any hearing where the court is taking evidence this may include—

- (a) ascertaining from an unrepresented party the matters about which the witness may be able to give evidence or on which the witness ought to be cross-examined; and
- (b) putting, or causing to be put, to the witness such questions as may appear to the court to be proper.]

Status: Point in time view as at 14/08/2023.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I . (See end of Document for details)

Textual Amendments

F13 Rule 3.1A inserted (1.10.2015) by [The Civil Procedure \(Amendment No. 4\) Rules 2015 \(S.I. 2015/1569\)](#), rules 1(2), 5

Court officer's power to refer to a judge **E+W**

3.2 Where a step is to be taken by a court officer—

- (a) the court officer may consult a judge before taking that step;
- (b) the step may be taken by a judge instead of the court officer.

Commencement Information

I2 Rule 3.2 in force at 26.4.1999, see [Signature](#)

Court's power to make order of its own initiative **E+W**

3.3.—(1) Except where a rule or some other enactment provides otherwise, the court may exercise its powers on an application or of its own initiative.

(Part 23 sets out the procedure for making an application)

(2) Where the court proposes to make an order of its own initiative—

- (a) it may give any person likely to be affected by the order an opportunity to make representations; and
- (b) where it does so it must specify the time by and the manner in which the representations must be made.

(3) Where the court proposes—

- (a) to make an order of its own initiative; and
- (b) to hold a hearing to decide whether to make the order,

it must give each party likely to be affected by the order at least 3 days' notice of the hearing.

(4) The court may make an order of its own initiative without hearing the parties or giving them an opportunity to make representations.

(5) Where the court has made an order under paragraph (4)—

- (a) a party affected by the order may apply to have it set aside^(GL), varied or stayed^(GL); and
- (b) the order must contain a statement of the right to make such an application.

(6) An application under paragraph (5)(a) must be made—

- (a) within such period as may be specified by the court; or
- (b) if the court does not specify a period, not more than 7 days after the date on which the order was served on the party making the application.

[^{F14}(7) If the court of its own initiative strikes out a statement of case or dismisses an application [^{F15}(including an application for permission to appeal or for permission to apply for judicial review)], and it considers that the claim or application is totally without merit—

- (a) the court's order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.]

Textual Amendments

- F14** Rule 3.3(7) inserted (1.10.2004) by [The Civil Procedure \(Amendment No.2\) Rules 2004 \(S.I. 2004/2072\)](#), rules 1(b), 4
- F15** Words in rule 3.3(7) inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), 4

Commencement Information

- I3** Rule 3.3 in force at 26.4.1999, see [Signature](#)

Power to strike out a statement of case **E+W**

3.4.—(1) In this rule and rule 3.5, reference to a statement of case includes reference to part of a statement of case.

- (2) The court may strike out^(GL) a statement of case if it appears to the court—
- (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;
 - (b) that the statement of case is an abuse of the court’s process or is otherwise likely to obstruct the just disposal of the proceedings; or
 - (c) that there has been a failure to comply with a rule, practice direction or court order.
- (3) When the court strikes out a statement of case it may make any consequential order it considers appropriate.
- (4) Where—
- (a) the court has struck out a claimant’s statement of case;
 - (b) the claimant has been ordered to pay costs to the defendant; and
 - (c) before the claimant pays those costs, [^{F16}the claimant] starts another claim against the same defendant, arising out of facts which are the same or substantially the same as those relating to the claim in which the statement of case was struck out,

the court may, on the application of the defendant, stay^(GL) that other claim until the costs of the first claim have been paid.

- (5) Paragraph (2) does not limit any other power of the court to strike out^(GL) a statement of case.

[^{F17}(6) If the court strikes out a claimant’s statement of case and it considers that the claim is totally without merit—

- (a) the court’s order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.]

[^{F18}(7) If a defendant applies to strike out all or part of the claim form or particulars of claim, that defendant need not file a defence before the hearing.]

Textual Amendments

- F16** Words in [rule 3.4\(4\)\(c\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(a)**; [S.I. 2014/954](#), **art. 2(a)**
- F17** [Rule 3.4\(6\)](#) inserted (1.10.2004) by [The Civil Procedure \(Amendment No.2\) Rules 2004 \(S.I. 2004/2072\)](#), rules 1(b), 5

Status: Point in time view as at 14/08/2023.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I . (See end of Document for details)

F18 Rule 3.4(7) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(1)**

Commencement Information

I4 [Rule 3.4](#) in force at 26.4.1999, see [Signature](#)

Judgment without trial after striking out **E+W**

3.5.—(1) This rule applies where—

- (a) the court makes an order which includes a term that the statement of case of a party shall be struck out if the party does not comply with the order; and
 - (b) the party against whom the order was made does not comply with it.
- (2) A party may obtain judgment with costs by filing a request for judgment if—
- (a) the order referred to in paragraph (1)(a) relates to the whole of a statement of case; and
 - (b) where the party wishing to obtain judgment is the claimant, the claim is for—
 - (i) a specified amount of money;
 - (ii) an amount of money to be decided by the court;
 - (iii) delivery of goods where the claim form gives the defendant the alternative of paying their value; or
 - (iv) any combination of these remedies.

[^{F19}(3) Where judgment is obtained under this rule in a case to which paragraph (2)(b)(iii) applies, it will be judgment requiring the defendant to deliver the goods, or (if [^{F20}the defendant] does not do so) pay the value of the goods as decided by the court (less any payments made).]

[^{F21}(4)] The request must state that the right to enter judgment has arisen because the court's order has not been complied with.

[^{F22}(5)] A party must make an application in accordance with Part 23 if [^{F23}they wish] to obtain judgment under this rule in a case to which paragraph (2) does not apply.

Textual Amendments

- F19** [Rule 3.5\(3\)](#) inserted (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **3(c)**
- F20** Words in [rule 3.5\(3\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(c)(i)**; S.I. 2014/954, art. 2(a)
- F21** [Rule 3.5\(3\)](#) renumbered as [rule 3.5\(4\)](#) (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **3(a)**
- F22** [Rule 3.5\(4\)](#) renumbered as [rule 3.5\(5\)](#) (2.5.2000) by [The Civil Procedure \(Amendment\) Rules 2000 \(S.I. 2000/221\)](#), rules 1(b), **3(b)**
- F23** Words in [rule 3.5\(5\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(c)(ii)**; S.I. 2014/954, art. 2(a)

Commencement Information

I5 [Rule 3.5](#) in force at 26.4.1999, see [Signature](#)

[^{F24}Judgment without trial after striking out a claim in the [^{F25}Civil National Business Centre] **E+W**

3.5A.—(1) If a claimant files a request for judgment in the [^{F26}Civil National Business Centre] in accordance with rule 3.5, in a claim which includes an amount of money to be decided by the court, the claim will be sent to the preferred hearing centre.

(2) If a claim is sent to a preferred hearing centre pursuant to paragraph (1), any further correspondence should be sent to, and any further requests should be made at, the hearing centre to which the claim was sent.]

Textual Amendments

F24 Rule 3.5A substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **6(d)**; S.I. 2014/954, art. 2(a)

F25 Words in rule 3.5A heading substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **3(3)**

F26 Words in rule 3.5A(1) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **3(3)**

Setting aside judgment entered after striking out **E+W**

3.6.—(1) A party against whom the court has entered judgment under rule 3.5 may apply to the court to set the judgment aside.

(2) An application under paragraph (1) must be made not more than 14 days after the judgment has been served on the party making the application.

(3) If the right to enter judgment had not arisen at the time when judgment was entered, the court must set aside^(GL) the judgment.

(4) If the application to set aside^(GL) is made for any other reason, rule 3.9 (relief from sanctions) shall apply.

Commencement Information

I6 [Rule 3.6](#) in force at 26.4.1999, see [Signature](#)

[^{F27}**3.6A.** If—

- (a) a party against whom judgment has been entered under rule 3.5 applies to set the judgment aside;
- (b) the claim is for a specified sum;
- (c) the claim was started in the [^{F28}Civil National Business Centre]; and
- (d) the claim has not been sent to a County Court hearing centre,

the claim will be sent to—

- (i) if the defendant is an individual, the defendant's home court; and
- (ii) if the defendant is not an individual, the preferred hearing centre.]

Status: Point in time view as at 14/08/2023.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I . (See end of Document for details)

Textual Amendments

- F27** Rule 3.6A inserted (22.4.2014) by The Civil Procedure (Amendment) Rules 2014 (S.I. 2014/407), rules 2(1), 6(e); S.I. 2014/954, art. 2(a)
- F28** Words in rule 3.6A(c) substituted (14.8.2023) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rules 1(2), 3(4)

Sanctions for non—payment of certain fees [F29 by the claimant] E+W

3.7.—[F30(1) [F31Except where rule 3.7A1 applies, this rule applies to fees payable by the claimant where—]

- F32(a)
- F32(b)
- F32(c)

(d) the court has made an order giving permission to proceed with a claim for judicial review [F33, or]

[F34(e) the fee payable for a hearing specified by the [F35Civil Proceedings Fees Order 2008 (Fees Order 2008)] is not paid.]

F36 ...

(Rule 54.12 provides for the service of the order giving permission to proceed with a claim for judicial review)

(2) The court will serve a notice on the claimant requiring payment of the fee specified in the [F37Fees Order 2008] if, at the time the fee is due, the claimant has not paid it or made an application for [F38full or part] remission.]

(3) The notice will specify the date by which the claimant must pay the fee.

(4) If the claimant does not—

- (a) pay the fee; or
- (b) make an application for [F39full or part] remission of the fee,

by the date specified in the notice—

- (i) [F40the claim will automatically be struck out without further order of the court]; and
- (ii) the claimant [F41will] be liable for the costs which the defendant has incurred unless the court orders otherwise.

(Rule [F4244.9] provides for the basis of assessment where a right to costs arises under this rule [F43and contains provisions about when a costs order is deemed to have been made and applying for an order under section 194(3) of the Legal Services Act 2007])

[F44(5) Where an application for—

- (a) full or part remission of a fee is refused, the court will serve notice on the claimant requiring payment of the full fee by the date specified in the notice; or
- (b) part remission of a fee is granted, the court will serve notice on the claimant requiring payment of the balance of the fee by the date specified in the notice.]

(6) If the claimant does not pay the fee by the date specified in the notice—

- (a) [F45the claim will automatically be struck out without further order of the court]; and

- (b) the claimant [^{F46}will] be liable for the costs which the defendant has incurred unless the court orders otherwise.

[^{F47}(7) If—

- (a) a claimant applies to have the claim reinstated; and
(b) the court grants relief,

the relief [^{F48}will] be conditional on the claimant either paying the fee or filing evidence of [^{F49}full or part] remission of the fee within the period specified in paragraph (8).

(8) The period referred to in paragraph (7) is—

- (a) if the order granting relief is made at a hearing at which a claimant is present or represented, 2 days from the date of the order;
(b) in any other case, 7 days from the date of service of the order on the claimant.]

Textual Amendments

- F29** Words in rule 3.7 heading inserted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(2)** (with rule 13(1)(2))
- F30** Rule 3.7(1)(2) substituted (2.10.2000) by The Civil Procedure (Amendment No. 4) Rules 2000 (S.I. 2000/2092), rules 1, **4**
- F31** Words in rule 3.7(1) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(a)** (with rule 13(1)(2))
- F32** Rules 3.7(1)(a)-(c) omitted (6.3.2017) by virtue of The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(b)** (with rule 13(1)(2))
- F33** Word in rule 3.7(1)(d) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(b)**
- F34** Rule 3.7(1)(e) inserted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(c)**
- F35** Words in rule 3.7(1)(e) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(c)** (with rule 13(1)(2))
- F36** Words in rule 3.7(1) omitted (6.3.2017) by virtue of The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(3)(d)** (with rule 13(1)(2))
- F37** Words in rule 3.7(2) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(4)** (with rule 13(1)(2))
- F38** Words in rule 3.7(2) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(d)**
- F39** Words in rule 3.7(4)(b) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(e)**
- F40** Words in rule 3.7(4)(i) substituted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **5(a)**
- F41** Word in rule 3.7(4)(ii) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(a)**
- F42** Word in rule 3.7 substituted (1.10.2013) by The Civil Procedure (Amendment No.7) Rules 2013 (S.I. 2013/1974), rules 2, **4(b)**
- F43** Words in rule 3.7(4)(ii) inserted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(b)**
- F44** Rule 3.7(5) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **3(f)**
- F45** Words in rule 3.7(6)(a) substituted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **5(b)**
- F46** Word in rule 3.7(6)(b) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **4(c)**

Status: Point in time view as at 14/08/2023.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I. (See end of Document for details)

- F47** Rule 3.7(7)(8) substituted for rule 3.7(7) (2.6.2003) by [The Civil Procedure \(Amendment No. 2\) Rules 2003 \(S.I. 2003/1242\)](#), rules 1, 4
- F48** Word in rule 3.7(7) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), 4(d)
- F49** Words in rule 3.7(7) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), 3(g)

Commencement Information

- I7** [Rule 3.7](#) in force at 26.4.1999, see [Signature](#)

[^{F50}Sanctions for non-payment of the trial fee by the claimant **E+W**]

3.7A1.—(1) In this rule and in rule 3.7AA—

- (a) “Fees Order 2008” means the Civil Proceedings Fees Order 2008;
- (b) “fee notice” means a notice of—
 - (i) the amount of a trial fee;
 - (ii) the trial fee payment date; and
 - (iii) the consequences of non-payment of the trial fee;
- (c) “trial date” means the date of the trial in relation to which the trial fee is payable, and if the trial in relation to which the trial fee is payable is scheduled to commence during the course of a specified period, “trial date” means the date of the Monday of the first week of that specified period;
- (d) “trial fee” means fee 2.1 set out in the Table in Schedule 1 to the Fees Order 2008 and payable for the trial of a case on the multi-track, fast track or small claims track;
- (e) “trial fee payment date” means the date by which the trial fee must be paid, calculated in accordance with the Fees Order 2008;
- (f) “revised trial fee payment date” means, if an application for fee remission is denied in whole or part, the revised date by which the fee or part of it is to be paid, calculated in accordance with the Fees Order 2008.

(2) This rule applies in relation to trial fees where that fee is to be paid by the claimant and the court notifies the parties in writing of the trial date.

(3) When the court notifies the parties in writing of the trial date, the court must also send a fee notice to the claimant.

(4) The fee notice may be contained in the same document as the notice of trial date, or may be a separate document.

(5) Where an application for full or part remission of a trial fee is refused, when the court sends written notice to the claimant of the refusal, the court must also notify the claimant in writing—

- (a) that the claimant is required to pay the full trial fee by the revised trial fee payment date; and
- (b) of the consequences of non-payment of the trial fee.

(6) Where part remission of a fee is granted, when the court sends written notice to the claimant of the part remission, the court must also notify the claimant in writing—

- (a) that the claimant is required to pay the balance of the trial fee by the revised trial fee payment date; and
- (b) of the consequences of non-payment of the balance of the trial fee.

(7) If—

- (a) the claimant has had notice in accordance with this rule to pay the trial fee;
- (b) the claimant has not applied to have the trial fee remitted in whole or part; and
- (c) the trial fee has not been paid on or before the trial fee payment date,

the claim will automatically be struck out without further order of the court, and unless the court orders otherwise, the claimant will be liable for the costs which the defendant has incurred.

(8) If—

- (a) the claimant has had notice in accordance with this rule to pay the trial fee;
- (b) the claimant has applied to have the trial fee remitted in whole or part;
- (c) remission is refused or only part remission of the trial fee is granted;
- (d) following the decision on remission, the claimant has had notice in accordance with this rule to pay the full trial fee or balance of it; and
- (e) the full trial fee or balance of it (as appropriate) has not been paid on or before the revised trial fee payment date,

the claim will automatically be struck out without further order of the court, and, unless the court orders otherwise, the claimant will be liable for the costs which the defendant has incurred.

(Rule 44.9 provides for the basis of assessment where a right to costs arises under this rule and contains provisions about when a costs order is deemed to have been made and applying for an order under section 194(3) of the Legal Services Act 2007.)

(9) If—

- (a) a claimant applies to have the claim reinstated; and
- (b) the court grants relief,

the relief must be conditional on the claimant either paying the trial fee or filing evidence of full or part remission of that fee within the period specified in paragraph (10).

(10) The period referred to in paragraph (9) is—

- (a) if the order granting relief is made at a hearing at which the claimant is present or represented, 2 days from the date of the order;
- (b) in any other case, 7 days from the date of service of the order on the claimant.

(11) If a fee is not paid for a claim where there is also a counterclaim, the counterclaim will still stand.]

Textual Amendments

F50 Rule 3.7A1 inserted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(5)** (with rule 13(1)(2))

[^{F51}Sanctions for non-payment of certain fees by the defendant] **E+W**

[^{F52}**3.7A.**—[^{F53}(1) [^{F54}Except where rule 3.7AA applies, this rule applies to fees payable by the defendant where—]

- (a) a defendant files a counterclaim without—
 - (i) payment of the fee specified by the [^{F55}Civil Proceedings Fees Order 2008 (Fees Order 2008)]; or
 - (ii) making an application for full or part remission of the fee; or
- (b) the proceedings continue on the counterclaim alone and—

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- ^{F56}(i)
- ^{F56}(ii)
- ^{F56}(iii)

(iv) the fee payable for a hearing specified by the [^{F57}Fees Order 2008] is not paid.]

(2) The court will serve a notice on the defendant requiring payment of the fee specified in the [^{F58}Fees Order 2008] if, at the time the fee is due, the defendant has not paid it or made an application for [^{F59}full or part] remission.

(3) The notice will specify the date by which the defendant must pay the fee.

(4) If the defendant does not—

- (a) pay the fee; or
- (b) make an application for [^{F60}full or part] remission of the fee,

by the date specified in the notice, the counterclaim will automatically be struck out without further order of the court.

[^{F61}(5) Where an application for—

- (a) full or part remission of a fee is refused, the court will serve notice on the defendant requiring payment of the full fee by the date specified in the notice; or
- (b) part remission of a fee is granted, the court will serve notice on the defendant requiring payment of the balance of the fee by the date specified in the notice.]

(6) If the defendant does not pay the fee by the date specified in the notice, the counterclaim will automatically be struck out without further order of the court.

(7) If—

- (a) the defendant applies to have the counterclaim reinstated; and
- (b) the court grants relief,

the relief will be conditional on the defendant either paying the fee or filing evidence of [^{F62}full or part] remission of the fee within the period specified in paragraph (8).

(8) The period referred to in paragraph (7) is—

- (a) if the order granting relief is made at a hearing at which the defendant is present or represented, 2 days from the date of the order;
- (b) in any other case, 7 days from the date of service of the order on the defendant.]

Textual Amendments

- F51** Rule 3.7A heading inserted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(6)** (with rule 13(1)(2))
- F52** Rule 3.7A inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **6**
- F53** Rule 3.7A(1) substituted (6.4.2008) by [The Civil Procedure \(Amendment No.2\) Rules 2007 \(S.I. 2007/3543\)](#), rules 1(b), **4(a)**
- F54** Words in rule 3.7A(1) substituted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(7)(a)** (with rule 13(1)(2))
- F55** Words in rule 3.7A(1)(a)(i) substituted (6.3.2017) by [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(7)(b)** (with rule 13(1)(2))
- F56** Rules 3.7A(1)(b)(i)-(iii) omitted (6.3.2017) by virtue of [The Civil Procedure \(Amendment\) Rules 2017 \(S.I. 2017/95\)](#), rules 2(b), **5(7)(c)(i)** (with rule 13(1)(2))

- F57** Words in rule 3.7A(1)(b)(iv) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(7)(c)(ii)** (with rule 13(1)(2))
- F58** Words in rule 3.7A(2) substituted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), **5(8)** (with rule 13(1)(2))
- F59** Words in rule 3.7A(2) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(b)**
- F60** Words in rule 3.7A(4)(b) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(c)**
- F61** Rule 3.7A(5) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(d)**
- F62** Words in rule 3.7A(7) substituted (6.4.2008) by The Civil Procedure (Amendment No.2) Rules 2007 (S.I. 2007/3543), rules 1(b), **4(e)**

[^{F63}Sanctions for non-payment of the trial fee by the defendant, where proceedings continue on the counterclaim alone **E+W**

3.7AA.—(1) This rule applies in relation to trial fees where that fee is to be paid by the defendant and the court notifies the defendant in writing of the trial date.

(Definitions contained in rule 3.7A1(1) apply to this rule also.)

(2) When the court notifies the parties in writing of the trial date, the court must also send a fee notice to the defendant.

(3) The fee notice may be contained in the same document as the notice of trial date, or may be a separate document.

(4) Where an application for full or part remission of a trial fee is refused, when the court sends written notice to the defendant of the refusal, the court must also notify the defendant in writing—

- (a) that the defendant is required to pay the full trial fee by the revised trial fee payment date; and
- (b) of the consequences of non-payment of the trial fee.

(5) Where part remission of a fee is granted, when the court sends written notice to the defendant of the part remission, the court must also notify the defendant in writing—

- (a) that the defendant is required to pay the balance of the trial fee by the revised trial fee payment date; and
- (b) of the consequences of non-payment of the balance.

(6) If—

- (a) the defendant has had notice in accordance with this rule to pay the trial fee;
- (b) the defendant has not applied to have the trial fee remitted in whole or part; and
- (c) the trial fee has not been paid on or before the trial fee payment date,

the counterclaim will automatically be struck out without further order of the court.

(7) If—

- (a) the defendant has had notice in accordance with this rule to pay the trial fee;
- (b) the defendant has applied to have the trial fee remitted in whole or part;
- (c) remission is refused or only part remission of the trial fee is granted;
- (d) following the decision on remission, the defendant has had notice in accordance with this rule to pay the full trial fee or balance of it; and
- (e) the full trial fee or balance of it (as appropriate) has not been paid on or before the revised trial fee payment date,

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the counterclaim will automatically be struck out without further order of the court.

(8) If—

- (a) a defendant applies to have the counterclaim reinstated; and
- (b) the court grants relief,

the relief will be conditional on the defendant either paying the trial fee or filing evidence of full or part remission of the fee within the period specified in paragraph (9).

(9) The period referred to in paragraph (8) is—

- (a) if the order granting relief is made at a hearing at which the defendant is present or represented, 2 days from the date of the order;
- (b) in any other case, 7 days from the date of service of the order on the defendant.]

Textual Amendments

F63 Rule 3.7AA inserted (6.3.2017) by The Civil Procedure (Amendment) Rules 2017 (S.I. 2017/95), rules 2(b), 5(9) (with rule 13(1)(2))

[^{F64}Sanctions for dishonouring cheque **E+W**

3.7B.—(1) This rule applies where any fee is paid by cheque and that cheque is subsequently dishonoured.

(2) The court will serve a notice on the paying party requiring payment of the fee which will specify the date by which the fee must be paid.

(3) If the fee is not paid by the date specified in the notice—

- (a) where the fee is payable by the claimant, the claim will automatically be struck out without further order of the court;
- (b) where the fee is payable by the defendant, the defence will automatically be struck out without further order of the court,

and the paying party shall be liable for the costs which any other party has incurred unless the court orders otherwise.

(Rule [^{F65}44.9] provides for the basis of assessment where a right to costs arises under this rule)

(4) If—

- (a) the paying party applies to have the claim or defence reinstated; and
- (b) the court grants relief,

the relief shall be conditional on that party paying the fee within the period specified in paragraph (5).

(5) The period referred to in paragraph (4) is—

- (a) if the order granting relief is made at a hearing at which the paying party is present or represented, 2 days from the date of the order;
- (b) in any other case, 7 days from the date of service of the order on the paying party.

(6) For the purposes of this rule, “claimant” includes a [^{F66}claimant in a counterclaim or other additional claim] and “claim form” includes a [^{F67}counterclaim or other additional claim].]

Textual Amendments

- F64** Rule 3.7B inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), 7
- F65** Word in rule 3.7B substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, 4(c)
- F66** Words in rule 3.7B(6) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 4(1)(a)
- F67** Words in rule 3.7B(6) substituted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023 \(S.I. 2023/105\)](#), rules 1(1), 4(1)(b)

Sanctions have effect unless defaulting party obtains relief **E+W**

3.8.—(1) Where a party has failed to comply with a rule, practice direction or court order, any sanction for failure to comply imposed by the rule, practice direction or court order has effect unless the party in default applies for and obtains relief from the sanction.

(Rule 3.9 sets out the circumstances which the court [^{F68}will] consider on an application to grant relief from a sanction)

(2) Where the sanction is the payment of costs, the party in default may only obtain relief by appealing against the order for costs.

(3) Where a rule, practice direction or court order—

- (a) requires a party to do something within a specified time, and
- (b) specifies the consequence of failure to comply,

the time for doing the act in question may not be extended by agreement between the parties [^{F69}except as provided in paragraph (4)].

[^{F70}(4) In the circumstances referred to in paragraph (3) and unless the court orders otherwise, the time for doing the act in question may be extended by prior written agreement of the parties for up to a maximum of 28 days, provided always that any such extension does not put at risk any hearing date]

Textual Amendments

- F68** Word in rule 3.8(1) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, 5(f) (with rule 22)
- F69** Words in rule 3.8(3) inserted (5.6.2014) by [The Civil Procedure \(Amendment No. 5\) Rules 2014 \(S.I. 2014/1233\)](#), rules 1, 3(a)
- F70** Rule 3.8(4) inserted (5.6.2014) by [The Civil Procedure \(Amendment No. 5\) Rules 2014 \(S.I. 2014/1233\)](#), rules 1, 3(b)

Commencement Information

- I8** Rule 3.8 in force at 26.4.1999, see [Signature](#)

Relief from sanctions **E+W**

3.9.—[^{F71}(1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order, the court will consider all the circumstances of the case, so as to enable it to deal justly with the application, including the need—

- (a) for litigation to be conducted efficiently and at proportionate cost; and

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- (b) to enforce compliance with rules, practice directions and orders.]
 (2) An application for relief must be supported by evidence.

Textual Amendments

F71 Rule 3.9(1) substituted (1.4.2013) by [The Civil Procedure \(Amendment\) Rules 2013 \(S.I. 2013/262\)](#), rules 2, **5(g)** (with rule 22)

Commencement Information

I9 Rule 3.9 in force at 26.4.1999, see [Signature](#)

General power of the court to rectify matters where there has been an error of procedure **E** **+W**

3.10 Where there has been an error of procedure such as a failure to comply with a rule or practice direction—

- (a) the error does not invalidate any step taken in the proceedings unless the court so orders; and
- (b) the court may make an order to remedy the error.

Commencement Information

I10 Rule 3.10 in force at 26.4.1999, see [Signature](#)

[^{F72}Orders restraining civil proceedings] **E+W**

3.11.—^{F73}(1) A “civil proceedings order” and an “all proceedings order” under section 42(1A) of the Senior Courts Act 1981 shall include provision for applying to begin, continue or make any application in any civil proceedings.]

^{F74}(2) A practice direction may set out—

- (a) the circumstances in which the court has the power to make a civil restraint order against a party to proceedings;
- (b) the procedure where a party applies for a civil restraint order against another party; and
- (c) the consequences of the court making a civil restraint order.

Textual Amendments

F72 Rule 3.11 heading substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(3)(a)**

F73 Rule 3.11(1) inserted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(3)(b)**

F74 Rule 3.11 renumbered as rule 3.11(2) (1.10.2022) by virtue of [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **4(3)(c)**

Status:

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Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTIONI .