
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

PART 3

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

[^{F1}SECTION III

Costs Capping

[^{F1}Costs capping orders – General

3.19.—[^{F2}(1) For the purposes of this Section—

- (a) ‘costs capping order’ means an order limiting the amount of future costs (including disbursements) which a party may recover pursuant to an order for costs subsequently made; and
- (b) ‘future costs’ means costs incurred in respect of work done after the date of the costs capping order but excluding the amount of any additional liability.

(2) This Section does not apply to judicial review costs capping orders under Part 4 of the Criminal Justice and Courts Act 2015 or to protective costs orders.

(Rules 46.16 to 46.19 make provision for judicial review costs capping orders under Part 4 of the Criminal Justice and Courts Act 2015.)]

^{F3}(3)

(4) A costs capping order may be in respect of –

- (a) the whole litigation; or
- (b) any issues which are ordered to be tried separately.

(5) The court may at any stage of proceedings make a costs capping order against all or any of the parties, if—

- (a) it is in the interests of justice to do so;
- (b) there is a substantial risk that without such an order costs will be disproportionately incurred; and
- (c) it is not satisfied that the risk in subparagraph (b) can be adequately controlled by—
 - (i) case management directions or orders made under this Part; and
 - (ii) detailed assessment of costs.

(6) In considering whether to exercise its discretion under this rule, the court will consider all the circumstances of the case, including—

- (a) whether there is a substantial imbalance between the financial position of the parties;

Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, Section 3.19. (See end of Document for details)

- (b) whether the costs of determining the amount of the cap are likely to be proportionate to the overall costs of the litigation;
 - (c) the stage which the proceedings have reached; and
 - (d) the costs which have been incurred to date and the future costs.
- (7) A costs capping order, once made, will limit the costs recoverable by the party subject to the order unless a party successfully applies to vary the order. No such variation will be made unless—
- (a) there has been a material and substantial change of circumstances since the date when the order was made; or
 - (b) there is some other compelling reason why a variation should be made.]

Textual Amendments

- F1** Pt. 3 Sections 2, 3 inserted (1.4.2013) by The Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262), rules 2, **5(h)** (with rule 22)
- F2** Rule 3.19(1)(2) substituted (8.8.2016) by The Civil Procedure (Amendment No. 2) Rules 2016 (S.I. 2016/707), rules 2, **4(a)** (with rule 6); S.I. 2016/717, art. 3(d)
- F3** Rule 3.19(3) omitted (8.8.2016) by virtue of The Civil Procedure (Amendment No. 2) Rules 2016 (S.I. 2016/707), rules 2, **4(b)** (with rule 6); S.I. 2016/717, art. 3(d)

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 3.19.