

STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

PART 38

DISCONTINUANCE

Liability for costs

38.6.—(1) Unless the court orders otherwise, a claimant who discontinues is liable for the costs which a defendant against whom [^{F1}the claimant] discontinues incurred on or before the date on which notice of discontinuance was served on [^{F2}the defendant].

(2) If proceedings are only partly discontinued—

- (a) the claimant is liable under paragraph (1) for costs relating only to the [^{F3}discontinued] part of the proceedings ^{F4}...; and
- (b) unless the court orders otherwise, the costs which the claimant is liable to pay must not be assessed until the conclusion of the rest of the proceedings.

(3) This rule does not apply to claims allocated to the small claims track.

(Rule [^{F5}44.9] provides for the basis of assessment where [^{F6}the] right to costs arises on discontinuance [^{F7}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])

Textual Amendments

- F1** Words in rule 38.6(1) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **18(a)(i)**
- F2** Words in rule 38.6(1) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **18(a)(ii)**
- F3** Word in rule 38.6(2)(a) inserted (6.4.2023) by [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **21(6)(a)**
- F4** Words in rule 38.6(2)(a) omitted (6.4.2023) by virtue of [The Civil Procedure \(Amendment\) Rules 2023](#) (S.I. 2023/105), rules 1(1), **21(6)(b)**
- F5** Word in rule 38.6 substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013](#) (S.I. 2013/1974), rules 2, **15(a)**
- F6** Word in rule 38.6 inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **18(b)(i)**
- F7** Words in rule 38.6 inserted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008](#) (S.I. 2008/2178), rules 1(2), **18(b)(ii)**

Commencement Information

- I1** [Rule 38.6](#) in force at 26.4.1999, see [Signature](#)

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 38.6.