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STATUTORY INSTRUMENTS

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**1998 No. 3132**

**The Civil Procedure Rules 1998**

**PART 44**

**GENERAL RULES ABOUT COSTS**

**Court's discretion and circumstances to be taken into account when exercising its discretion as to costs**

- 44.3.**—(1) The court has discretion as to—
- (a) whether costs are payable by one party to another;
  - (b) the amount of those costs; and
  - (c) when they are to be paid.
- (2) If the court decides to make an order about costs—
- (a) the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party; but
  - (b) the court may make a different order.
- (3) The general rule does not apply to the following proceedings—
- (a) proceedings in the Court of Appeal on an application or appeal made in connection with proceedings in the Family Division; or
  - (b) proceedings in the Court of Appeal from a judgment, direction, decision or order given or made in probate proceedings or family proceedings.
- (4) In deciding what order (if any) to make about costs, the court must have regard to all the circumstances, including—
- (a) the conduct of all the parties;
  - (b) whether a party has succeeded on part of his case, even if he has not been wholly successful; and
  - (c) any payment into court or admissible offer to settle made by a party which is drawn to the court's attention [<sup>F1</sup>, and which is not an offer to which costs consequences under Part 36 apply].

F2  
...

- (5) The conduct of the parties includes—
- (a) conduct before, as well as during, the proceedings and in particular the extent to which the parties followed any relevant pre-action protocol;
  - (b) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
  - (c) the manner in which a party has pursued or defended his case or a particular allegation or issue; and

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*Changes to legislation: There are currently no known outstanding effects for the  
The Civil Procedure Rules 1998, Section 44.3. (See end of Document for details)*

- (d) whether a claimant who has succeeded in his claim, in whole or in part, exaggerated his claim.
- (6) The orders which the court may make under this rule include an order that a party must pay—
- (a) a proportion of another party’s costs;
  - (b) a stated amount in respect of another party’s costs;
  - (c) costs from or until a certain date only;
  - (d) costs incurred before proceedings have begun;
  - (e) costs relating to particular steps taken in the proceedings;
  - (f) costs relating only to a distinct part of the proceedings; and
  - (g) interest on costs from or until a certain date, including a date before judgment.
- (7) Where the court would otherwise consider making an order under paragraph (6)(f), it must instead, if practicable, make an order under paragraph (6)(a) or (c).
- (8) Where the court has ordered a party to pay costs, it may order an amount to be paid on account before the costs are assessed.
- (9) Where a party entitled to costs is also liable to pay costs the court may assess the costs which that party is liable to pay and either—
- (a) set off the amount assessed against the amount the party is entitled to be paid and direct him to pay any balance; or
  - (b) delay the issue of a certificate for the costs to which the party is entitled until he has paid the amount which he is liable to pay.

#### **Textual Amendments**

- F1** Words in rule 44.3(4)(c) substituted (6.4.2007) by [The Civil Procedure \(Amendment No.3\) Rules 2006 \(S.I. 2006/3435\)](#), rules 1, **10(a)(i)**
- F2** Words in rule 44.3 omitted (6.4.2007) by virtue of [The Civil Procedure \(Amendment No.3\) Rules 2006 \(S.I. 2006/3435\)](#), rules 1, **10(a)(ii)**

#### **Modifications etc. (not altering text)**

- C1** Pt. 44 applied in part (with modifications) (26.4.1999) by [The Family Proceedings \(Miscellaneous Amendments\) Rules 1999 \(S.I. 1999/1012\)](#), rules 1, **4(1)(2)** (with rule 4(3))
- C2** Pt. 44 applied in part (with modifications) (1.10.2007) by [The Court of Protection Rules 2007 \(S.I. 2007/1744\)](#), rules 1, **160**
- C3** Rules 25.12-25.15 applied (with modifications) (1.10.2007) by [The Court of Protection Rules 2007 \(S.I. 2007/1744\)](#), rules 1, **25(7)**

#### **Commencement Information**

- I1** [Rule 44.3](#) in force at 26.4.1999, see [Signature](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 44.3.