
STATUTORY INSTRUMENTS

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 [^{F1}, 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 [^{F3}the Practice Direction (Pre-Action Conduct) or] any relevant pre-action protocol;
 - (b) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;

Status: Point in time view as at 31/08/2009. This version of this provision has been superseded.

*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)*

- (c) the manner in which a party has pursued or defended his case or a particular allegation or issue; and
 - (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)**
- F3** Words in rule 44.3(5)(a) inserted (6.4.2009) by [The Civil Procedure \(Amendment No.3\) Rules 2008 \(S.I. 2008/3327\)](#), rules 1, **9(b)**

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**

Commencement Information

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

Status:

Point in time view as at 31/08/2009. This version of this provision has been superseded.

Changes to legislation:

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