
STATUTORY INSTRUMENTS

2010 No. 1953

The Civil Procedure (Amendment No.2) Rules 2010

Citation, commencement and interpretation

- 1.—(1) These Rules may be cited as the Civil Procedure (Amendment No.2) Rules 2010.
(2) Except as provided in paragraph (3), these Rules come into force on 1st October 2010.
(3) Rules 3, 6 and 9 of and Schedule 3 to these Rules come into force on the date on which Part 4 of the Policing and Crime Act 2009(1) comes into force.
2. In these Rules—
- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(2);
 - (b) a reference to an Order by number and prefixed “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
 - (c) a reference to an Order by number and prefixed “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

Amendments to the Civil Procedure Rules 1998

3. For rule 30.3(2)(f) substitute—
- “(f) the facilities available to the court at which the claim is being dealt with, particularly in relation to—
- (i) any disabilities of a party or potential witness;
 - (ii) any special measures needed for potential witnesses; or
 - (iii) security;”.

4. In Part 31—

 - (a) in the table of contents, at the end of the heading “Subsequent use of disclosed documents” insert “and completed Electronic Documents Questionnaires”;
 - (b) in the heading to rule 31.22, after “documents” insert “and completed Electronic Documents Questionnaires”; and
 - (c) after rule 31.22(3) insert—

“(4) For the purpose of this rule, an Electronic Documents Questionnaire which has been completed and served by another party pursuant to Practice Direction 31B is to be treated as if it is a document which has been disclosed.”.

5. In Part 45—

 - (a) in the table of contents—
 - (i) after “Alternative percentage increase Rule 45.22” insert—

(1) 2009 c. 26.

(2) S.I. 1998/3132. There are relevant amendments in S.I. 2000/2092, 2001/1388, 2007/3543 and 2009/2092.

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“SECTION V FIXED RECOVERABLE SUCCESS FEES IN EMPLOYER’S LIABILITY DISEASE CLAIMS	
Scope and Interpretation	Rule 45.23
Percentage increase of solicitors’ fees	Rule 45.24
Percentage increase of counsel’s fees	Rule 45.25
Alternative percentage increase	Rule 45.26 ; and”

(ii) after “Account of payment of Stage 1 fixed costs Rule 45.40” insert—

“SECTION VII SCALE COSTS FOR CLAIMS IN A PATENTS COUNTY COURT	
Scope and interpretation	Rule 45.41
Amount of scale costs	Rule 45.42
Summary assessment of the costs of an application where a party has behaved unreasonably	Rule 45.43 ; and”

(b) after rule 45.40 insert Section VII (Scale costs for claims in a patents county court) as set out in Schedule 1 to these Rules.

6. In Part 52—

- (a) in rule 52.4(3), for “Unless” substitute “Subject to paragraph (4) and unless”;
- (b) after rule 52.4(3) insert—

“(4) Where an appellant seeks permission to appeal against a decision to refuse to grant an interim injunction under section 41 of the Policing and Crime Act 2009(3) the appellant is not required to serve the appellant’s notice on the respondent.”; and

(c) after rule 52.5(6) insert—

“(7) This rule does not apply where rule 52.4(4) applies.”.

7. After rule 55.10(4) insert—

“(4A) An unauthorised tenant of residential property may apply to the court for the order for possession to be suspended.”.

8. In Part 63—

- (a) In the table of contents—
 - (i) omit “Patents judge Rule 63.4”; and
 - (ii) after “Appeals from decisions of the Comptroller or the registrar Rule 63.16” insert—

“V PATENTS COUNTY COURT	
Scope of this Section	Rule 63.17
Transfer of proceedings	Rule 63.18
Patents judge	Rule 63.19
Statements of case	Rule 63.20

Statement of truth	Rule 63.21
Defence and reply	Rule 63.22
Case management	Rule 63.23
Disclosure and inspection	Rule 63.24
Applications	Rule 63.25
Costs	Rule 63.26 ;”

- (b) omit rule 63.4; and
- (c) after rule 63.16, insert Section V (Patents county court) as set out in Schedule 2 to these Rules.

9. In Part 65—

- (a) in the table of contents, after “Evidence Rule 65.41” insert—

“VIII INJUNCTIONS UNDER THE POLICING AND CRIME ACT 2009	
Scope of this Section and interpretation	Rule 65.42
Applications for an injunction	Rule 65.43
Injunction containing provisions to which a power of arrest is attached	Rule 65.44
Application to vary or discharge an injunction	Rule 65.45
Application for warrant of arrest under section 44(2) of the 2009 Act	Rule 65.46
Proceedings following arrest under the 2009 Act	Rule 65.47
Recognizance	Rule 65.48
Applications for a power of arrest to be attached to any provision of an injunction	Rule ;” 65.49

- (b) in rule 65.1—
 - (i) in sub-paragraph (f), after “;” omit “and”; and
 - (ii) at the end of sub-paragraph (g) insert—
 - “; and
 - (h) in Section VIII, about injunctions under the Policing and Crime Act 2009.”; and
- (c) after rule 65.41 insert Section VIII (Injunctions under the Policing and Crime Act 2009) as set out in Schedule 3 to these Rules.

10. In Part 77—

- (a) in the table of contents—
 - (i) for “Scope and interpretation Rule 77.1” substitute—

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“Scope of this Part	Rule 77.1
SECTION 1 – SERIOUS CRIME PREVENTION ORDERS	
Interpretation	Rule 77.1A ; and”
(ii) after “Where to make an application Rule 77.5” insert—	
“SECTION 2 – APPLICATION TO QUASH AN ACQUITTAL	
Scope and interpretation	Rule 77.6
Time limit for making the application	Rule 77.7
Where to make the application	Rule 77.8
How to make the application	Rule 77.9
Notice to defendant (acquitted person)	Rule 77.10
Response to the application	Rule 77.11
Further evidence	Rule 77.12
Determination of the application to quash an acquittal (general provisions)	Rule 77.13
Application for a hearing to determine the application to quash an acquittal	Rule 77.14
Hearing to determine the application to quash an acquittal	Rule 77.15 ;”

(b) for rule 77.1 substitute—

“Scope of this Part

77.1. This Part contains rules about—

- (a) in Section 1, applications for a serious crime prevention order under section 8 of the Serious Crime Act 2007(4) and related applications under sections 9, 17 and 18 of that Act; and
- (b) in Section 2, applications under section 54(3) of the Criminal Procedure and Investigations Act 1996(5) for an order quashing an acquittal.

SECTION 1 – SERIOUS CRIME PREVENTION ORDERS

Interpretation

77.1A. In this Section—

- (a) “the 2007 Act” means the Serious Crime Act 2007; and
- (b) “SCPO” means a serious crime prevention order under section 1 or section 9 of the 2007 Act.”; and
- (c) after rule 77.5 insert Section 2 (Application to Quash an Acquittal) as set out in Schedule 4 to these Rules.

(4) 2007 c. 27.
 (5) 1996 c. 25.

- 11.—**(1) RSC Order 115 is amended as follows.
- (2) In rule 24—
- (a) renumber paragraph “(ba)” as paragraph “(c)”;
 - (b) renumber paragraph “(c)” as paragraph “(g)”;
 - (c) at the end of the paragraph renumbered as “(c)”—
 - (i) omit “and”; and
 - (ii) insert—
 - “(d) “domestic freezing order certificate” means a certificate made by the High Court under paragraph 11B of Schedule 4 in relation to property in a country other than the United Kingdom;
 - (e) “overseas freezing order” means an order made in accordance with paragraph 11D of Schedule 4 in relation to property in the United Kingdom;
 - (f) “British Islands order” means a Scottish order, a Northern Ireland order or an Islands order as defined in paragraph 12 of Schedule 4; and”.
- (3) In rule 25, for “paragraph 9” substitute “paragraph 13”.
- (4) In the heading to rule 26, after “restraint order” insert “and domestic freezing order certificate”.
- (5) In rule 26—
- (a) in paragraph (1), for “under paragraph 5” substitute “and, where relevant, a domestic freezing order certificate under paragraphs 5 and 11B”;
 - (b) in paragraph (2)(c)—
 - (i) for “the order” substitute “the restraint order and, where relevant, the domestic freezing order certificate”; and
 - (ii) for “;” substitute “.”;
 - (c) after paragraph (2) insert—
 - “(2A) An applicant who seeks a domestic freezing order certificate must—
 - (a) prepare a draft of the certificate in accordance with paragraph 11B of Schedule 4; and
 - (b) attach it to the application for the restraint order under paragraph (1).”;
 - (d) in paragraph 4, for “Court” substitute “court”.
- (6) In rule 27—
- (a) in paragraph (2), for “Court” substitute “court”; and
 - (b) after paragraph (3) insert—
 - “(4) Where a domestic freezing order certificate is made it must be served with the copies of the restraint order as provided for in paragraph (3).”.
- (7) In the heading to rule 28, for “order” substitute “a restraint order and a domestic freezing order certificate”.
- (8) In rule 28—
- (a) in paragraph 3(c), after “affected by the” insert “restraint”; and
 - (b) after paragraph (5) insert—
 - “(6) A reference in this rule to a restraint order also applies, where relevant, to a domestic freezing order certificate.

- (7) Where an order is made under paragraph (5) which discharges or varies a domestic freezing order certificate the applicant must notify the court or authority in accordance with paragraph 11C of Schedule 4.”.
- (9) In the heading to rule 29, after “Compensation” insert “in relation to a restraint order, domestic freezing order certificate or forfeiture order”.
- (10) In the heading to rule 30, after “registration” insert “of a British Islands order”.
- (11) In rule 30, for “Scottish order, a Northern Ireland order or an Islands order” substitute “British Islands order under paragraph 13(4) of Schedule 4”.
- (12) For the heading to rule 31 substitute “Evidence in support of an application for registration of a British Islands order”.
- (13) In rule 31(1), for “any such order as is mentioned in rule 30” substitute “a British Islands order”.
- (14) For the heading to rule 32 substitute “Register of all orders registered under the Act”.
- (15) In the heading to rule 33, after “Notice of registration” insert “of a British Islands order”.
- (16) In rule 33(1), for “an order” substitute “a British Islands order”.
- (17) In the heading to rule 34, for “set aside registration” substitute “cancel registration of a British Islands order”.
- (18) In rule 34—
- (a) for “set aside” substitute “cancel”; and
 - (b) for “an order” substitute “a British Islands order”.
- (19) In the heading to rule 35, for “order ” substitute “a British Islands order”.
- (20) In the title to rule 36, after “registration” insert “of a British Islands order”.
- (21) In rule 36, for “Scottish, Northern Ireland or Islands order” substitute “British Islands order”.
- (22) After rule 36 insert—

“Giving effect to an overseas freezing order – consideration by the court

- 36A.**—(1) Save in exceptional circumstances the court will consider an overseas freezing order the next business day after receipt of a copy of that order from the Secretary of State.
- (2) In any event the court will consider the order within 5 business days of receipt of it.
- (3) The court will not make an order giving effect to an overseas freezing order unless it is satisfied that the Director of Public Prosecutions has had the opportunity to make representations to the court in writing or at a hearing.
- (4) ‘Business day’ has the same meaning as in CPR rule 6.2.

Giving effect to an overseas freezing order – registration

36B. Where the court makes an order to give effect to an overseas freezing order the court will register that order in accordance with rule 32.

Notice of registration of an overseas freezing order

36C. Where the court gives effect to an overseas freezing order it will order the Director of Public Prosecutions to serve notice of registration of the order on any persons affected by it.

Application to cancel the registration of, or vary, an overseas freezing order

36D. An application under paragraph 11G(4) of Schedule 4 by the Director of Public Prosecutions or any person affected by an overseas freezing order must be made to the court in accordance with CPR Part 23.”.

12. Omit RSC Order 116.

13. In CCR Order 26, rule 17—

(a) in paragraph (2)—

(i) for “desiring” substitute “applying for”;

(ii) omit “to be issued”; and

(iii) for “request certifying” substitute “certificate”; and

(b) after paragraph (2) insert—

“(2A) When applying for a warrant of possession of a dwelling-house subject to a mortgage, the claimant must certify that notice has been given in accordance with the Dwelling Houses (Execution of Possession Orders by Mortgagees) Regulations 2010(6).”.

*Neuberger of Abbotsbury, M.R.
Martin Moore-Bick, L.J.
Launcelot Henderson, J.
Master Barbara Fontaine
HHJ Stephen Stewart Q.C.
District Judge Robert Hill
District Judge Suzanne Burn
William Featherby Q.C.
Nicholas Bacon Q.C.
David di Mambro
Katy Peters*

I allow these Rules

Signed by authority of the Lord Chancellor

29th July 2010

Nick Herbert
Minister of State
Ministry of Justice