

STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 28 **E+W**

COSTS

Costs **E+W**

28.1. The court may at any time make such order as to costs as it thinks just.

Application of other rules **E+W**

28.2.—(1) Subject to rule 28.3 ^{F1} ..., [^{F2}Parts 44 (except rules 44.2(2) and (3) and 44.10(2) and (3)), 46 and 47 and rule 45.8] of the CPR apply to costs in proceedings, with the following modifications—

[^{F3}(a) in the definition of “authorised court officer” in rule 44.1(1), for the words in subparagraph (i) substitute “the family court”];

^{F4}(b)

(c) in accordance with any provisions in Practice Direction 28A; and

(d) any other necessary modifications.

^{F5}(2)

Textual Amendments

F1 Words in rule 28.2(1) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 72\(a\)\(i\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

F2 Words in [rule 28.2\(1\)](#) substituted (1.4.2013) by [The Family Procedure \(Amendment\) Rules 2013 \(S.I. 2013/530\)](#), [rules 1, 3\(a\)\(i\)](#)

F3 [Rule 28.2\(1\)\(a\)](#) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 72\(a\)\(ii\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

F4 [Rule 28.2\(1\)\(b\)](#) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 72\(a\)\(iii\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

F5 [Rule 28.2\(2\)](#) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 72\(b\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Costs in financial remedy proceedings **E+W**

28.3.—(1) This rule applies in relation to financial remedy proceedings.

(2) Rule [^{F6}44.2](1), (4) and (5) of the CPR do not apply to financial remedy proceedings.

(3) [^{F7}Rules 44.2(6) to (8) and 44.12] of the CPR apply to an order made under this rule as they apply to an order made under rule 44.3 of the CPR.

(4) In this rule –

- (a) “costs” has the same meaning as in rule [F⁸44.1(1)(c)] of the CPR; and
- (b) “financial remedy proceedings” means proceedings for—
- (i) a financial order except an order for maintenance pending suit, an order for maintenance pending outcome of proceedings, an interim periodical payments order [F⁹, an order for payment in respect of legal services] or any other form of interim order for the purposes of rule 9.7(1)(a), (b), (c) and (e);
 - (ii) an order under Part 3 of the 1984 Act;
 - (iii) an order under Schedule 7 to the 2004 Act;
 - (iv) an order under section 10(2) of the 1973 Act ^{M1};
 - (v) an order under section 48(2) of the 2004 Act.
- (5) Subject to paragraph (6), the general rule in financial remedy proceedings is that the court will not make an order requiring one party to pay the costs of another party.
- (6) The court may make an order requiring one party to pay the costs of another party at any stage of the proceedings where it considers it appropriate to do so because of the conduct of a party in relation to the proceedings (whether before or during them).
- (7) In deciding what order (if any) to make under paragraph (6), the court must have regard to—
- (a) any failure by a party to comply with these rules, any order of the court or any practice direction which the court considers relevant;
- [F¹⁰(aa) any failure by a party, without good reason, to—
- (i) attend a MIAM (as defined in rule 3.1); or
 - (ii) attend non-court dispute resolution;]
 - (b) any open offer to settle made by a party;
 - (c) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
 - (d) the manner in which a party has pursued or responded to the application or a particular allegation or issue;
 - (e) any other aspect of a party's conduct in relation to proceedings which the court considers relevant; and
 - (f) the financial effect on the parties of any costs order.
- (8) No offer to settle which is not an open offer to settle is admissible at any stage of the proceedings, except as provided by rule 9.17.
- [F¹¹(9) For the purposes of this rule “financial remedy proceedings” do not include an application under rule 9.9A.]

Textual Amendments

- F6** Word in rule 28.3(2) substituted (1.4.2013) by [The Family Procedure \(Amendment\) Rules 2013 \(S.I. 2013/530\)](#), rules 1, **4(a)**
- F7** Words in rule 28.3(3) substituted (1.4.2013) by [The Family Procedure \(Amendment\) Rules 2013 \(S.I. 2013/530\)](#), rules 1, **4(b)**
- F8** Word in rule 28.3(4)(a) substituted (1.4.2013) by [The Family Procedure \(Amendment\) Rules 2013 \(S.I. 2013/530\)](#), rules 1, **4(c)**
- F9** Words in rule 28.3(4)(b)(i) inserted (8.7.2013) by [The Family Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/1472\)](#), rules 1, **6**

F10 Rule 28.3(7)(aa) inserted (29.4.2024) by The Family Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/1324), rules 1(3)(b), **19**

F11 Rule 28.3(9) inserted (3.10.2016) by The Family Procedure (Amendment No. 2) Rules 2016 (S.I. 2016/901), rules 1, **8**

Marginal Citations

M1 Section 10(2) has been prospectively repealed by section 66(3) of and Schedule 10 to the Family Law Act 1996.

Wasted costs orders in the magistrates' court: appeals **E+W**

^{F12}**28.4.**

Textual Amendments

F12 Rule 28.4 omitted (22.4.2014) by virtue of The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **73** (with rule 137); S.I. 2014/954, **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the The Family Procedure Rules 2010, PART 28.