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STATUTORY INSTRUMENTS

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**2013 No. 1974**

**The Civil Procedure (Amendment No.7) Rules 2013**

**Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment No.7) Rules 2013.
2. These Rules shall come into force on 1<sup>st</sup> October 2013.
3. 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<sup>(1)</sup>;
  - (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 by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

**Amendments to the Civil Procedure Rules 1998**

4. In Part 3—
  - (a) in rule 3.1(2)(II), for “serve an estimate of costs” substitute “exchange a costs budget”;
  - (b) in rule 3.7, in the words in parentheses that follow paragraph (4), for “44.12” substitute “44.9”; and
  - (c) in rule 3.7B, in the words in parentheses that follow paragraph (3), for “44.12” substitute “44.9”.
5. In rule 7.2, omit the words in the third and fourth sets of parentheses that follow paragraph (2).
6. In Part 8—
  - (a) in rule 8.2, omit the words in the third and fourth sets of parentheses that follow subparagraph (e); and
  - (b) in rule 8.3, omit the words in the two sets of parentheses that follow paragraph (3).
7. In Part 15—
  - (a) in rule 15.6, omit the words in the second and third sets of parentheses that follow the rule; and
  - (b) for rule 15.8, substitute—

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(1) [S.I. 1998/3132](#). There are relevant amendments in [S.I. 2000/221](#) rules 13, 18(4) Schedule 3 Part II, Schedule 4 Part II; [S.I. 2000/1317](#) rules 4, 5, 6, 7, 8, 11; [S.I. 2001/256](#) rule 17 Schedule 1; [S.I. 2001/4015](#), rule 29(e) Schedule 6; [S.I. 2002/2058](#) rules 8, 26, Schedule 6; [S.I. 2002/3219](#) rule 8, Schedule; [S.I. 2004/3419](#) rule 16, Schedule 2; [S.I. 2005/2292](#), rules 3, 7; [S.I. 2006/3435](#) rule 7(1), Schedule; [S.I. 2007/2204](#) rule 8, Schedule 2; [S.I. 2008/2178](#) rules 4(b), 17(c)(iii), 18(b); [S.I.S.I. 2009/2092](#) rules 12, 14, Schedule 1; [2009/3390](#) rules 6(b), 7(a), 7(b), 11, 12, 20(b), 38, 41(b), 42; [S.I. 2010/621](#) rules 5(c), 6(d), (g), (h); [S.I. 2010/1953](#) rule 8(c), Schedule 2; [S.I. 2011/1043](#) article 4(1); [S.I. 2012/2208](#) rules 2, 10; [S.I. 2013/262](#), rules 5(h), 7(b)(ii)(aa), 9(c), 10(d), 16, 19, Schedule; [S.I. 2013/534](#) regulation 14, Schedule, Part 2, paragraph 13; [S.I. 2013/789](#) rule 3; and [S.I. 2013/1695](#) rules 6, 7, Schedule.

**“Reply to defence**

**15.8.** If a claimant files a reply to the defence, the claimant must

- (a) file the reply with a directions questionnaire; and
- (b) serve the reply on the other parties at the same time as it is filed.

(Rule 26.3(1) and (6) requires the parties to file directions questionnaires and specifies the period for doing so).

(Part 22 requires a reply to be verified by a statement of truth).”.

**8.** In rule 16.2, omit the words in the second and third sets of parentheses that follow paragraph (5).

**9.** In Part 21—

- (a) in rule 21.1, in the words in the second set of parentheses following paragraph (2), for “48.5” substitute “46.4”; and
- (b) in rule 21.12, in the words in the parentheses following paragraph (3), for “44.1(1)(a)” substitute “44.1(1)”.

**10.** In rule 25.14, in the words in the parentheses following paragraph (2)(b), for “48.2” substitute “46.2”.

**11.** In rule 28.2(5), for “Part 46” substitute “Section VI of Part 45”.

**12.** In Part 29, in the title to rule 29.8, omit “fixing or”.

**13.** In Part 31, in the heading to rule 31.5, omit “limited to standard disclosure”.

**14.** In Part 36—

- (a) in rule 36.1, in the words in parentheses that follow paragraph (2), for “44.3” substitute “44.2”;
- (b) in rule 36.10—
  - (i) in the words in the first set of parentheses that follows paragraph (3), for “44.4(2)” substitute “44.3(2)”; and
  - (ii) in the words in the second set of parentheses that follows paragraph (3), for “44.12” substitute “44.9”; and
- (c) in rule 36.14—
  - (i) in paragraph (2)(a), omit “his”; and
  - (ii) in the words in parentheses that follow paragraph (6), for “44.3” substitute “44.2”.

**15.** In Part 38—

- (a) in rule 38.6, in the words in parentheses after paragraph (3), for “44.12” substitute “44.9”; and
- (b) in rule 38.8, in the words in parentheses after paragraph (2) for “44.3C and 44.12” substitute “44.9 and 46.7”.

**16.** In rule 39.4, in the words in parentheses following the reference to rule 29.8, omit “fixing or”.

**17.** In rule 40.18, in the words in parentheses following paragraph (2), for “the Costs Practice Direction” substitute “paragraph 5.2 of Practice Direction 44.”.

**18.** In rule 42.2, omit the words in the second set of parentheses that follow paragraph (6).

**19.** After rule 44.9(1)(a), insert-

- “(a1) rule 3.7B (sanctions for dishonouring cheque);”.
- 20.** In Part 45—
- (a) In the index to that Part, in the entry for Section IV, for “A PATENTS COUNTY COURT” substitute “THE INTELLECTUAL PROPERTY ENTERPRISE COURT”;
  - (b) in rule 45.18(6), for “value added tax (VAT)” substitute “VAT”;
  - (c) in the heading to Section IV, for “A PATENTS COUNTY COURT” substitute “THE INTELLECTUAL PROPERTY ENTERPRISE COURT”;
  - (d) in rule 45.29E, in Table D, in part A, in the entry for fixed costs where the agreed damages are more than £5,000, but less than £10,000, in subparagraph (b), for “10.5%” substitute “10%”;
  - (e) in rule 45.29H(3)—
    - (i) for “if” substitute “If”; and
    - (ii) for “; and” substitute “.”;
  - (f) in rule 45.30—
    - (i) in paragraph (1), for “a patents county court” substitute “the Intellectual Property Enterprise Court”; and
    - (ii) in paragraph (2)(b), after “certified by a court” insert “or by the Comptroller-General of Patents, Designs and Trade Marks”;
  - (g) in rule 45.31—
    - (i) after paragraph (4) insert—

“(4A) Subject to assessment where appropriate, the following may be recovered in addition to the amount of the scale costs set out in Practice Direction 45 – Fixed Costs—

      - (a) court fees;
      - (b) costs relating to the enforcement of any court order; and
      - (c) wasted costs.”; and
    - (ii) in paragraph (5), for “value added tax (VAT)” substitute “VAT”; and
  - (h) at the end of rule 45.38(3)(a)(ii), for “.” substitute “; and”.
- 21.** In Part 46—
- (a) for rule 46.6(4), substitute—

“(4) The general rule is that a group litigant who is the paying party will, in addition to any liability to pay the receiving party, be liable for—

    - (a) the individual costs of that group litigant’s claim; and
    - (b) an equal proportion, together with all the other group litigants, of the common costs.”; and
  - (b) in rule 46.7(1)(a), for “he” substitute “the”.
- 22.** In rule 47.15, for paragraph (5) substitute—

“(5) In proceedings which do not go beyond provisional assessment, the maximum amount the court will award to any party as costs of the assessment (other than the costs of drafting the bill of costs) is £1,500 together with any VAT thereon and any court fees paid by that party.”.
- 23.** In rule 52.1, in the words in parentheses that follow paragraph 2, for “47.20 to 47.23” substitute “47.21 to 47.24”.

24. In rule 55.9(3), for “46.2” substitute “45.38”.
25. In rule 62.7(1), for “an allocation questionnaire” substitute “a directions questionnaire”.
26. In Part 63—
- (a) in the index to the Part—
    - (i) in the entry for Section V, for “PATENTS COUNTY COURT” substitute “INTELLECTUAL PROPERTY ENTERPRISE COURT”; and
    - (ii) for the entry for rule 63.19 substitute “Enterprise judges and district judges”;
  - (b) in rule 63.1(2)—
    - (i) for subparagraph (g) substitute—
      - “(g) ‘Intellectual Property Enterprise Court’ means a specialist list established within the Chancery Division of the High Court;”;
    - (ii) for subparagraph (h) substitute—
      - “(h) ‘enterprise judge’ means a judge authorised by the Chancellor of the High Court to sit in the Intellectual Property Enterprise Court;”;
    - (iii) in subparagraph (j)—
      - (aa) in sub-subparagraph (iv), for “40/94” substitute “207/2009”;
      - (bb) in sub-subparagraph (v), at the end omit “and”;
      - (cc) in sub-subparagraph (vi), at the end insert “and”; and
      - (dd) after sub-subparagraph (vi), insert—
        - “(vii) Community plant variety rights maintained by the Community Plant Variety Right Office under Article 87 of Council Regulation (EC) No. 2100/94; and”;
  - (c) in rule 63.1(3), after “allocated to the multi-track.” insert “Rule 26.3(1) applies save for the modification that the court will send the parties a notice requiring the parties to file proposed directions by the date specified in the notice. For a claim which is allocated to the multi-track by this rule, rule 26.3(1B) and rules 26.4 to 26.10 do not apply.”;
  - (d) in rule 63.2, in paragraph (2)(b), for “a patents county court” substitute “the Intellectual Property Enterprise Court”;
  - (e) in rule 63.3, for “and a patents county court form specialist lists” substitute “form a specialist list”;
  - (f) in rule 63.8—
    - (i) in paragraph (1), for “an allocation questionnaire” substitute “a directions questionnaire”; and
    - (ii) in paragraph (2)(b), for the words in parentheses, substitute “(the parties must endeavour to agree case management directions)”;
  - (g) in rule 63.13(b), for “a patents county court” substitute “the Intellectual Property Enterprise Court”;
  - (h) in Section V, for the heading to that Section, substitute “INTELLECTUAL PROPERTY ENTERPRISE COURT”;
  - (i) in rule 63.17, for “a patents county court” substitute “the Intellectual Property Enterprise Court”;
  - (j) after rule 63.17 insert—

“**63.17A.**—(1) In proceedings in the Intellectual Property Enterprise Court in which a claim is made for damages or an account of profits, the amount or value of that claim shall not exceed £500,000.

(2) In determining the amount or value of a claim for the purpose of paragraph (1), a claim for—

- (a) interest, other than interest payable under an agreement; or
- (b) costs,

shall be disregarded.

(3) Paragraph (1) shall not apply if the parties agree that the Intellectual Property Enterprise Court shall have jurisdiction to award damages or profits in excess of £500,000.”;

(k) for rule 63.18 substitute—

“**63.18.**—(1) Rule 30.5 applies save for the modifications—

- (a) a judge sitting in the County Court or the general Chancery Division may order proceedings to be transferred to the Intellectual Property Enterprise Court; and
- (b) an application for the transfer of proceedings from the County Court or the general Chancery Division to the Intellectual Property Enterprise Court may be made to a judge sitting in the County Court or the general Chancery Division respectively.

(2) When considering whether to transfer proceedings to or from the Intellectual Property Enterprise Court, the court will have regard to the provisions of Practice Direction 30.”;

(l) in rule 63.19—

- (i) for the heading to the rule, substitute “Enterprise judges and district judges”;
- (ii) in paragraph (1), for the words “a patents county court” to the end, substitute “the Intellectual Property Enterprise Court will be dealt with by an enterprise judge.”;
- (iii) after paragraph (1) insert—

“(1A) For the purposes of the Practice Direction 52A – Appeals: General Provisions, a decision of the enterprise judge shall be treated as a decision by a circuit judge hearing a specialist claim in the County Court.”; and

(iv) for paragraph (2) substitute—

“(2) Unless the court otherwise orders, the following matters will be dealt with by a district judge—

- (a) allocation of claims to the small claims track or multi-track in accordance with rule 63.27(3);
- (b) claims allocated to the small claims track; and
- (c) all proceedings for the enforcement of any financial element of an Intellectual Property Enterprise Court judgment.

(3) For the purposes of the Practice Direction 52A – Appeals: General Provisions, a decision of a district judge shall be treated as a decision by a district judge hearing a specialist claim in the County Court. An appeal from such a decision shall be heard by an enterprise judge.”;

(m) in rule 63.22—

- (i) in paragraph (2), after “the period for filing a defence” insert “where the defendant files an acknowledgment of service under Part 10”; and
- (ii) in paragraph (3), after “the period for filing a defence” insert “where the defendant files an acknowledgment of service under Part 10”;
- (n) in rule 63.23(2), for “consider an application by” substitute “permit”;
- (o) in rule 63.25(4), for “High Court” substitute “Patents Court or general Chancery Division”
- (p) in rule 63.26—
  - (i) in paragraph (2), for “will” substitute “may”; and
  - (ii) in paragraph (3), for “Section VII” substitute “Section IV”;
- (q) in rule 63.27—
  - (i) in paragraph (1), for “a patents county court” substitute “the Intellectual Property Enterprise Court”;
  - (ii) omit paragraph (2);
  - (iii) in paragraph (3) after “in accordance with Part 26 (case management – preliminary stage).” insert “For that purpose the court will send the parties a directions questionnaire and require them to file completed directions questionnaires and to serve them on all other parties within 14 days”; and
  - (iv) in paragraph (4)—
    - (aa) for “a patents county court”, in each place it occurs, substitute “the Intellectual Property Enterprise Court”; and
    - (bb) for “Section VII” substitute “Section IV”; and
- (r) in rule 63.28, for “a patents county court” substitute “the Intellectual Property Enterprise Court”;

**27.** In Part 67—

- (a) in rule 67.1, in the words in the first set of parentheses that follow paragraph (2), for “Part 48 and Section 56 of the Costs Practice Direction” substitute “Section II of Part 46 and paragraphs 6.4 to 6.19 of Practice Direction 46”; and
- (b) in rule 67.3, in the words in the second set of parentheses following paragraph (1)(b), for “Section 31 of the Costs Practice Direction” substitute “paragraphs 4.1 to 4.3 of Practice Direction 47”.

**28.** For Part 68, substitute Part 68 as set out in the Schedule to these Rules.

**29.** In RSC Order 17 rule 8—

- (1) in paragraph (2)(a), for “44.4” substitute “44.3”;
- (2) in paragraph (2)(b), for “44.5” substitute “44.4”;
- (3) in paragraph (2)(c), for “48.4” substitute “46.3”; and
- (4) in paragraph (2)(d), for “48.6” substitute “46.5”.

**Transitional provisions**

**30.** As from 1<sup>st</sup> October 2013—

- (a) proceedings started in a patents county court may be continued in the Intellectual Property Enterprise Court as if they had been started in that court;

- (b) anything done in accordance with the rules which applied to a patents county court is to be treated as if it had been done in accordance with any rules applicable to corresponding proceedings in the Intellectual Property Enterprise Court; and
- (c) any act, judgment or order of a patents county court has the same effect as if it had been an act, judgment or order of the Intellectual Property Enterprise Court and, accordingly, further proceedings may be taken in the Intellectual Property Enterprise Court in respect of such an act, judgment or order.

*The Right Honourable Lord Dyson, MR  
Stephen Richards, LJ  
Philip Sales, J  
Master Barbara Fontaine  
District Judge Suzanne Burn  
District Judge Christopher Lethem  
Edward Pepperall QC  
Katy Peters  
Amanda Stevens*

I allow these Rules  
Signed by authority of the Lord Chancellor

7th August 2013

*Jeremy Wright*  
Parliamentary Under Secretary of State  
Ministry of Justice