
STATUTORY INSTRUMENTS

2014 No. 2044

The Civil Procedure (Amendment No. 6) Rules 2014

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No. 6) Rules 2014.
2. These Rules shall come into force on 1st October 2014.
3. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998⁽¹⁾.

Amendments to the Civil Procedure Rules 1998

4. In rule 30.5, after paragraph (3) insert—

“(4) An order for transfer of proceedings between the Chancery Division and a Queen’s Bench Division specialist list may only be made with the consent of the Chancellor of the High Court.”.
5. In rule 35.4, after paragraph (3A) insert—

“(3B) In a soft tissue injury claim, permission—

 - (a) may normally only be given for one expert medical report;
 - (b) may not be given initially unless the medical report is a fixed cost medical report. Where the claimant seeks permission to obtain a further medical report, if the report is from a medical expert in any of the following disciplines—
 - (i) Consultant Orthopaedic Surgeon;
 - (ii) Consultant in Accident and Emergency Medicine;
 - (iii) General Practitioner registered with the General Medical Council; or
 - (iv) Physiotherapist registered with the Health and Care Professions Council,the report must be a fixed cost medical report.

(3C) In this rule, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(10A) and (16A), respectively, of the RTA Protocol.”.
6. In Part 36—
 - (a) in rule 36.10A—
 - (i) in paragraph (4), for “paragraph (5)”, substitute “paragraphs (5), (5A) and (5B)”;
 - (ii) in paragraph (5), for “Where” substitute “Subject to paragraphs (5A) and (5B), where”; and
 - (iii) after paragraph (5)(b) insert—

⁽¹⁾ S.I. 1998/3132, to which there are relevant amendments in S.I. 2000/221, S.I. 2001/1388, S.I. 2002/2058, S.I. 2004/1306, S.I. 2005/3515, S.I. 2006/1689; S.I. 2006/3435, S.I. 2008/2178, S.I. 2009/3390, S.I. 2010/621, S.I. 2010/1953, S.I. 2011/1979, S.I. 2012/2208, S.I. 2013/262, S.I. 2013/1412, S.I. 2013/1695, S.I. 2013/1974 and S.I. 2014/407.

“(5A) In a soft tissue injury claim, if the defendant makes a Part 36 offer before the defendant receives a fixed cost medical report, paragraphs (4) and (5) will only have effect if the claimant accepts the offer more than 21 days after the defendant received the report.

(5B) In this rule, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(10A) and (16A), respectively, of the RTA Protocol.”;

(b) in rule 36.14—

- (i) in paragraph (2), for “paragraph (6)” substitute “paragraphs (6) and (7)”; and
- (ii) after paragraph (6)(c), before the words in parentheses insert—

“(7) Paragraph (2) of this rule does not apply to a soft tissue injury claim to which rule 36.14A applies.”; and

(c) in rule 36.14A—

- (i) in paragraph (2), for “paragraph (3)” substitute “paragraphs (3), (3A) and (3B)”; and
- (ii) in paragraph (3), for “Where” substitute “Subject to paragraphs (3A) and (3B), where”; and
- (iii) after paragraph (3)(c), below the words in parentheses, insert—

“(3A) In a soft tissue injury claim, if the defendant makes a Part 36 offer or Protocol offer before the defendant receives a fixed cost medical report, paragraphs (2) and (3) will only have effect in respect of costs incurred by either party more than 21 days after the defendant received the report.

(3B) In this rule, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(10A) and (16A), respectively, of the RTA Protocol.”.

7. In Part 45—

(a) in rule 45.19—

- (i) in paragraph (1), for “The court” substitute “Subject to paragraphs (2A) to (2E), the court”; and
- (ii) after paragraph (2)(e) insert—

“(2A) In a soft tissue injury claim to which the RTA Protocol applies, the only sums (exclusive of VAT) that are recoverable in respect of the cost of obtaining a fixed cost medical report or medical records are as follows—

- (a) obtaining the first report from any expert permitted under 1.1(12) of the RTA Protocol: £180;
- (b) obtaining a further report where justified from one of the following disciplines—
 - (i) Consultant Orthopaedic Surgeon (inclusive of a review of medical records where applicable): £420;
 - (ii) Consultant in Accident and Emergency Medicine: £360;
 - (iii) General Practitioner registered with the General Medical Council: £180; or
 - (iv) Physiotherapist registered with the Health and Care Professions Council: £180;
- (c) obtaining medical records: no more than £30 plus the direct cost from the holder of the records, and limited to £80 in total for each set of records

required. Where relevant records are required from more than one holder of records, the fixed fee applies to each set of records required;

- (d) addendum report on medical records (except by Consultant Orthopaedic Surgeon): £50; and
- (e) answer to questions under Part 35: £80.

(2B) Save in exceptional circumstances, no fee may be allowed for the cost of obtaining a report from a medical expert who—

- (a) has provided treatment to the claimant;
- (b) is associated with any person who has provided treatment; or
- (c) proposes or recommends that they or an associate provide treatment.

(2C) The cost of obtaining a further report from an expert not listed in paragraph (2A)(b) is not fixed, but the use of that expert and the cost must be justified.

(2D) Where appropriate, VAT may be recovered in addition to the cost of obtaining a fixed cost medical report or medical records.

(2E) In this rule, ‘associate’, ‘associated with’, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(1A), (10A) and (16A), respectively, of the RTA Protocol.”;

- (b) in rule 45.29F(9), after the words “judgment more advantageous than the”, for “claimant’s” substitute “defendant’s”; and
- (c) in rule 45.29I—
 - (i) in paragraph (1), for “The court” substitute “Subject to paragraphs (2A) to (2E), the court”; and
 - (ii) after paragraph (2)(h) insert—

“(2A) In a soft tissue injury claim started under the RTA Protocol, the only sums (exclusive of VAT) that are recoverable in respect of the cost of obtaining a fixed cost medical report or medical records are as follows—

- (a) obtaining the first report from any expert permitted under 1.1(12) of the RTA Protocol: £180;
- (b) obtaining a further report where justified from one of the following disciplines—
 - (i) Consultant Orthopaedic Surgeon (inclusive of a review of medical records where applicable): £420;
 - (ii) Consultant in Accident and Emergency Medicine: £360;
 - (iii) General Practitioner registered with the General Medical Council: £180; or
 - (iv) Physiotherapist registered with the Health and Care Professions Council: £180;
- (c) obtaining medical records: no more than £30 plus the direct cost from the holder of the records, and limited to £80 in total for each set of records required. Where relevant records are required from more than one holder of records, the fixed fee applies to each set of records required;
- (d) addendum report on medical records (except by Consultant Orthopaedic Surgeon): £50; and
- (e) answer to questions under Part 35: £80.

(2B) Save in exceptional circumstances, no fee may be allowed for the cost of obtaining a report from a medical expert who—

- (a) has provided treatment to the claimant;
- (b) is associated with any person who has provided treatment; or
- (c) proposes or recommends that they or an associate provide treatment.

(2C) The cost of obtaining a further report from an expert not listed in paragraph (2A)(b) is not fixed, but the use of that expert and the cost must be justified.

(2D) Where appropriate, VAT may be recovered in addition to the cost of obtaining a fixed cost medical report or medical records.

(2E) In this rule, ‘associate’, ‘associated with’, ‘fixed cost medical report’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(1A), (10A) and (16A), respectively, of the RTA Protocol.”.

8. In Part 52—

- (a) in the table of contents—
 - (i) after the entry for rule 52.5 insert—

“Transcripts at public expense	Rule 52.5A”;
(ii) in the entry for rule 52.15, after “Judicial review appeals” insert “from the High Court”; and	
(iii) after the entry for rule 52.15 insert—	

“Judicial review appeals from the Upper Tribunal	Rule 52.15A”;
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- (b) in rule 52.3(4), after “Subject to paragraph (4A)” insert “and except where a rule or practice direction provides otherwise”;
- (c) after rule 52.5 insert—

“Transcripts at public expense

52.5A.—(1) Subject to paragraph (2), the lower court or the appeal court may direct, on the application of a party to the proceedings, that an official transcript of the judgment of the lower court, or of any part of the evidence or the proceedings in the lower court, be obtained at public expense for the purposes of an appeal.

- (2) Before making a direction under paragraph (1), the court must be satisfied that—
 - (a) the applicant qualifies for fee remission or is otherwise in such poor financial circumstances that the cost of obtaining a transcript would be an excessive burden; and
 - (b) it is necessary in the interests of justice for such a transcript to be obtained.”;

- (d) in rule 52.9(3), for “he” substitute “they”;
- (e) in rule 52.15—
 - (i) in the title, after “Judicial review appeals” insert “from the High Court”;
 - (ii) in paragraph (2), after “apply for judicial review” insert “or, in the case of an application under paragraph (1A), within 7 days of service of the order of the High Court refusing permission to apply for judicial review”;

- (iii) in paragraph (3), after “under paragraph (1)” insert “or (1A)”; and
- (f) after rule 52.15 insert—

“Judicial review appeals from the Upper Tribunal

52.15A.—(1) Where permission to bring judicial review proceedings has been refused by the Upper Tribunal and permission to appeal has been refused by the Upper Tribunal, an application for permission to appeal may be made to the Court of Appeal.

(2) Where an application for permission to bring judicial review proceedings has been recorded by the Upper Tribunal as being completely without merit and an application for permission to appeal is made to the Court of Appeal in accordance with paragraph (1) above, the application will be determined on paper without an oral hearing.

(The time limits for filing an appellant’s notice under rule 52.15A(1) are set out in Practice Direction 52D.)”.

- 9. In rule 54.21(2)(a)(ix), after “rule 54.22(2)” insert “considers appropriate”.

10. In Part 57—

- (a) for the title to this part, substitute “PROBATE, INHERITANCE AND PRESUMPTION OF DEATH”;
- (b) in the Table of Contents, at the end insert—

“SECTION V – PROCEEDINGS UNDER THE PRESUMPTION OF DEATH ACT 2013

Scope and interpretation	57.17
Proceedings to be in the High Court	57.18
Procedure for claims for a declaration of presumed death or a variation order	57.19
Giving notice of claim	57.20
Advertisement of claim	57.21
Interveners	57.22
Requirement to provide information	57.23”;

- (c) in rule 57.1—
 - (i) at the end of paragraph (1)(c), delete “and”; and
 - (ii) at the end of paragraph (1)(d), for “.” substitute—
 - “; and
 - (e) proceedings under the Presumption of Death Act 2013(2).”;
- (d) in rule 57.16—
 - (i) in paragraph (3), after “must” insert “, except in the circumstances specified in paragraph (3A).”;
 - (ii) after paragraph (3) insert—

“(3A) Where no grant has been obtained, the claimant may make a claim without naming a defendant and may apply for directions as to the representation of the estate. The written evidence must—

- (a) explain the reasons why it has not been possible for a grant to be obtained;
- (b) be accompanied by the original or a copy (if either is available) of the will or other testamentary document in respect of which probate or letters of administration are to be granted; and
- (c) contain the following information, so far as known to the claimant—
 - (i) brief details of the property comprised in the estate, with an approximate estimate of its capital value and any income that is received from it;
 - (ii) brief details of the liabilities of the estate;
 - (iii) the names and addresses of the persons who are in possession of the documents relating to the estate; and
 - (iv) the names of the beneficiaries and their respective interests in the estate.

(3B) Where a claim is made in accordance with paragraph (3A), the court may give directions as to the parties to the claim and as to the representation of the estate either on the claimant’s application or on its own initiative.

(Section 4 of the 1975 Act as amended confirms that nothing prevents the making of an application under the Act before representation with respect to the estate of the deceased person is taken out.)”; and

- (e) at the end, insert Section V (Proceedings under the Presumption of Death Act 2013) as set out in the Schedule to these Rules.

11. In Part 65—

- (a) in the table of contents—
 - (i) in the entry for Section VIII, after “POLICING AND CRIME ACT 2009” insert “AND UNDER PART 1 OF THE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014(3)”; and
 - (ii) in the entry for rule 65.46, after “2009 Act” insert “or section 10 of the 2014 Act”;
- (b) in the heading to Section VIII, after “Policing and Crime Act 2009” insert “and under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014”;
- (c) in rule 65.42—
 - (i) in paragraph (1), after “(Injunctions: gang-related violence)” insert “and under Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014 (Injunctions)”; and
 - (ii) for paragraph (2) substitute—
 - “(2) In this Section—
 - (a) “the 2009 Act” means the Policing and Crime Act 2009(4)”; and
 - (b) “the 2014 Act” means the Anti-Social Behaviour, Crime and Policing Act 2014.”;
- (d) in rule 65.43, in paragraph (1), after “2009 Act” insert “or Part 1 of the 2014 Act”;

(3) 2014 c. 12.

(4) 2009 c. 26.

- (e) in rule 65.44, in the words in parentheses after paragraph (1), after “2009 Act” insert “and section 4(1)(a) and (b) and (2) of the 2014 Act”;
 - (f) in rule 65.45, in paragraph (1), after “2009 Act” insert “or section 8(1)(a) and (b) of the 2014 Act”;
 - (g) in rule 65.46, in the heading, in paragraph (1) and in paragraph (2), after “2009 Act” insert “or section 10 of the 2014 Act”;
 - (h) in rule 65.47, in paragraph (3), after “2009 Act” insert “or section 9 or 10 of the 2014 Act”;
 - (i) in rule 65.48, in paragraph (1), after “2009 Act” insert “or paragraph 2(3)(b) of Schedule 1 to the 2014 Act”; and
 - (j) in rule 65.49, in paragraph (1), after “2009 Act” insert “or section 5 or 6 of the 2014 Act”.
12. In rule 81.15(1), after “tribunal” insert “, body”.
13. In Part 83—
- (a) for rule 83.6 substitute—

“Writs and warrants – levying execution on certain days

83.6.—(1) This rule applies to writs and warrants other than—

- (a) writs of control;
- (b) warrants of control; and
- (c) writs or warrants in relation to an Admiralty claim in rem.

(2) Where a writ or warrant is not a writ of control or warrant of control but nevertheless confers the power to use the TCG procedure, this rule applies to the parts of the writ or warrant that do not confer the power to use the TCG Procedure.

(3) Unless the court orders otherwise, a writ or warrant to enforce a judgment or order must not be executed on a Sunday, Good Friday or Christmas Day.”; and

- (b) in rule 83.9(1), after sub-paragraph (c), insert—

“(ca) where the proceedings are in the Chancery Division, Chancery Chambers;”.

Transitional provision

14. The amendments made by rules 5, 6 and 7 apply only to soft tissue injury claims started under the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents where the Claim Notification Form is sent in accordance with that Protocol on or after 1st October 2014.

*The Right Honourable Lord Dyson, MR
Stephen Richards, LJ
Philip Sales, J
Master Barbara Fontaine
His Honour Judge Martin McKenna
District Judge Michael Hovington
District Judge Christopher Lethem
Edward Pepperall QC
Andrew Underwood
Kate Wellington*

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

I allow these Rules
Signed by authority of the Lord Chancellor

29th July 2014

Edward Faulks
Minister of State
Ministry of Justice