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STATUTORY INSTRUMENTS

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**2014 No. 3299**

**The Civil Procedure (Amendment No. 8) Rules 2014**

**Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment No. 8) Rules 2014.
2. These Rules come into force as follows—
  - (a) Rules 1 to 3 and 17 of these Rules come into force on 9th January 2015;
  - (b) Rules 4, 13 and 14 of these Rules come into force on 11th January 2015;
  - (c) Rules 5 to 12, 15, 16 and 18 of these Rules, and Schedules 1 and 2 to these Rules, come into force on 6th April 2015.
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>; and
  - (b) a reference to an Order by number and prefixed “RSC” means the RSC Order so numbered in Schedule 1 to those Rules.

**Amendments to the Civil Procedure Rules 1998**

4. The Civil Procedure Rules 1998 are amended in accordance with rules 5 to 16.
5. In rule 21.12—
  - (a) in paragraph (1)—
    - (i) at the beginning, for “In” substitute “Subject to paragraph (1A), in”; and
    - (ii) after “incurs”, insert “costs or”;
  - (b) after paragraph (1), insert—

“(1A) Costs recoverable under this rule are limited to costs incurred by or on behalf of a child by way of success fee under a conditional fee agreement or sum payable under a damages-based agreement in a claim for damages for personal injury where the damages agreed or ordered to be paid do not exceed £25,000.”;
  - (c) in paragraph (3)—
    - (i) in the first line, for “the” substitute “this”;
    - (ii) before “expenses”, insert “costs or”; and
    - (iii) for the words in parentheses after the paragraph, substitute—

“(Costs and expenses which are also “costs” as defined in rule 44.1(1) are subject to rule 46.4(2) and (3).)”;
  - (d) in paragraph (4)—

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<sup>(1)</sup> S.I. 1998/3132, to which there are relevant amendments in S.I. 1999/1008, S.I. 2000/2092, S.I. 2000/221, S.I. 2003/3361, S.I. 2005/2292, S.I. 2006/3435, S.I. 2007/2204, S.I. 2009/3390, S.I. 2010/1953, S.I. 2013/262, S.I. 2013/1695, S.I. 2004/2072, S.I. 2013/1974 and S.I. 2014/407.

- (i) before “expenses”, insert “costs or”; and
  - (ii) after “rule 44.4(3)” insert “and rule 46.9”;
  - (e) in paragraph (5)—
    - (i) before “expenses”, insert “costs or”; and
    - (ii) before “expense”, insert “cost or”;
  - (f) in paragraph (6), at the beginning, for “Where” substitute “Subject to paragraph (7), where”; and
  - (g) after paragraph (6), insert—
    - “(7) The amount which the litigation friend may recover under paragraph (1) in respect of costs must not (in proceedings at first instance) exceed 25% of the amount of the sum agreed or awarded in respect of—
      - (a) general damages for pain, suffering and loss of amenity; and
      - (b) damages for pecuniary loss other than future pecuniary loss,
 net of any sums recoverable by the Compensation Recovery Unit of the Department for Work and Pensions.
    - (8) Except in a case in which the costs payable to a child or protected party are fixed by these rules, no application may be made under this rule for a payment out of the money recovered by the child or protected party until the costs payable to the child or protected party have been assessed or agreed.”.
6. In rule 30.3(2)(c), after “in the type of claim in question” insert “and in particular the availability of a specialist judge sitting in an appropriate regional specialist court”.
7. For Part 36, substitute Part 36 as set out in Schedule 1 to these Rules.
8. In rule 37.3, in the words in parentheses at the end of the rule, for “36.9” substitute “36.11”.
9. In rule 44.9(1)(b), for “36.10” substitute “36.13”.
10. In Part 45—
- (a) in rule 45.19—
    - (i) in paragraph (2A)—
      - (aa) for subparagraph (a) substitute—
        - “(a) obtaining the first report from an accredited medical expert selected via the MedCo Portal: £180;”;
      - (bb) in subparagraph (b), after “further report where justified from” insert “an expert from”;
    - (ii) in paragraph (2B)—
      - (aa) for “a report from a medical expert who—” substitute “a report to which paragraph (2A) applies where the medical expert—”; and
      - (bb) in subparagraph (c), for “that they or an associate provide treatment” substitute “treatment that they or an associate then provide”; and
    - (iii) for paragraph (2E) substitute—
      - “(2E) In this rule, ‘accredited medical expert’, ‘associate’, ‘associated with’, ‘fixed cost medical report’ ‘MedCo’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(A1), (1A), (10A), (12A), and (16A), respectively, of the RTA Protocol.”;
  - (b) in rule 45.20, for “36.21” substitute “36.29”;

- (c) in rule 45.24—
  - (i) in subparagraph (2), for “Where a judgment is given” substitute “Subject to paragraph (2A), where a judgment is given”; and
  - (ii) after paragraph (2)(c), insert—

“(2A) Where a judgment is given in favour of the claimant but the claimant did not comply with the process in paragraph 6.3A(2) of the RTA Protocol, the court may not order the defendant to pay the claimant’s costs and disbursements save in exceptional circumstances.”;
- (d) in rule 45.26, for “36.21” substitute “36.29”; and
- (e) in rule 45.29F—
  - (i) in paragraph (8), for “36.10A” substitute “36.20”; and
  - (ii) in paragraph (9), for “36.14A” substitute “36.21”;
- (f) in rule 45.29I—
  - (i) in paragraph (2A)—
    - (aa) for subparagraph (a) substitute—

“(a) obtaining the first report from an accredited medical expert selected via the MedCo Portal: £180;”; and
    - (bb) in subparagraph (b), after “further report where justified from” insert “an expert from”;
  - (ii) in paragraph (2B)—
    - (aa) for “a report from a medical expert who—” substitute “a report to which paragraph (2A) applies where the medical expert—”; and
    - (bb) in subparagraph (c), for “that they or an associate provide treatment” substitute “treatment that they or an associate then provide”; and
  - (iii) for paragraph (2E) substitute—

“(2E) In this rule, ‘accredited medical expert’, ‘associate’, ‘associated with’, ‘fixed cost medical report’ ‘MedCo’ and ‘soft tissue injury claim’ have the same meaning as in paragraph 1.1(A1), (1A), (10A), (12A), and (16A), respectively, of the RTA Protocol.”.
- 11.** In rule 47.20—
  - (a) in paragraph (4)—
    - (i) for sub-paragraph (c) substitute—

“(c) a detailed assessment hearing is “in progress” from the time when it starts until the bill of costs has been assessed or agreed;”; and
    - (ii) in sub-paragraph (d)—
      - (aa) for “36.11” substitute “36.14”; and
      - (bb) for the words after “substitute” to the end substitute ““If such sum is not paid within 14 days of acceptance of the offer, or such other period as has been agreed, the receiving party may apply for a final costs certificate for the unpaid sum.”;”; and
  - (b) in paragraph (7), for “36.14” substitute “36.17”.
- 12.** In rule 52.12, in the words in parentheses at the end of the rule, for “36.3” substitute “36.4”.
- 13.** In Part 74—

- (a) in the table of contents, after the entry for rule 74.33 insert—

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- (b) after rule 74.1(4A) insert—

“(4B) Section VI applies to—

- (a) the certification in England and Wales of outgoing protection measures; and
- (b) the enforcement in England and Wales of certified protection measures from Member States of the European Union other than the United Kingdom or Denmark.”;

- (c) after rule 74.33 insert—

*“VI Recognition and enforcement of protection measures*

**Interpretation**

**74.34.** In this Section—

- (a) “Article 5 certificate” means a certificate issued under Article 5 of the Protection Measures Regulation;
- (b) “Article 8 notice” means the notification required by Article 8 of the Protection Measures Regulation;
- (c) “Article 11 notice” means the notification required by Article 11 of the Protection Measures Regulation;
- (d) “Article 14 certificate” means a certificate issued under Article 14 of the Protection Measures Regulation;
- (e) “incoming protection measure” means a protection measure that has been ordered in a Member State of the European Union other than the United Kingdom or Denmark;
- (f) “outgoing protection measure” means any protection measure included in any of—
  - (i) an injunction issued for the purpose mentioned in section 3(3)(a) of the Protection from Harassment Act 1997<sup>(2)</sup>;
  - (ii) any other injunction or order of the County Court;
  - (iii) an undertaking accepted by the County Court;
  - (iv) in proceedings to which these Rules apply—
    - (aa) any other injunction or order of the High Court;
    - (bb) an undertaking accepted by the High Court;
- (g) “person causing the risk” has the meaning given to it in the Protection Measures Regulation;
- (h) “protected person” has the meaning given to it in the Protection Measures Regulation;
- (i) “protection measure” has the meaning given to it in the Protection Measures Regulation;
- (j) “Protection Measures Regulation” means Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12th June 2013 on mutual recognition of protection measures in civil matters<sup>(3)</sup>.

### **Procedure for applications in this Section**

**74.35.** Subject to the rules in this Section, applications under the Protection Measures Regulation to the County Court or to the High Court must be made in accordance with Part 23.

### **OUTGOING PROTECTION MEASURES**

#### **Application for an Article 5 certificate**

- 74.36.—**(1) A protected person may apply for an Article 5 certificate—
- (a) at the time of application for an injunction or other order containing an outgoing protection measure; or
  - (b) at any time after such application, provided—

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(2) 1997 c.40, amended by the Crime and Courts Act 2013 (c.22), section 17(5), Schedule 9 Part 2, paragraph 39(a).

(3) OJ No. L 181, 29.6.2013, p.4.

- (i) the order or undertaking containing the outgoing protection measure has not yet been made or accepted as the case may be; or
  - (ii) the outgoing protection measure is still in force.
- (2) An application for an Article 5 certificate may be made without notice.

**The court to which an application for an Article 5 certificate must be made**

- 74.37.** An application for an Article 5 certificate must be made—
- (a) where the outgoing protection measure has not yet been ordered or accepted—
    - (i) to the County Court if the proceedings relating to the outgoing protection measure are before the County Court; or
    - (ii) to the High Court if the proceedings relating to the outgoing protection measure are before the High Court; or
  - (b) where the outgoing protection measure has been ordered or accepted—
    - (i) to the County Court if that court made the order or accepted the undertaking as the case may be; or
    - (ii) to the High Court if that court made the order or accepted the undertaking as the case may be.

**When a request for a translation of an Article 5 certificate may be made**

- 74.38.** A protected person may request a translation of an Article 5 certificate—
- (a) at the time of application for the Article 5 certificate; or
  - (b) at any time after such application, provided the Article 5 certificate—
    - (i) has not yet been issued; or
    - (ii) if issued, is still in force.

**The court to which a request for a translation of an Article 5 certificate must be made**

- 74.39.** A request for a translation of an Article 5 certificate must be made—
- (a) if the certificate has not yet been issued, to—
    - (i) the County Court if the application for the certificate is before the County Court;
    - (ii) the High Court if the application for the certificate is before the High Court;
  - (b) if the certificate has been issued, to—
    - (i) the County Court if the County Court issued it;
    - (ii) the High Court if the High Court issued it.

**Service requirements under Article 6**

**74.40.—**(1) Where the outgoing protection measure is included in an order, the court may only issue an Article 5 certificate if satisfied that the order has been served on the person causing the risk in accordance with the requirements specified in rule 81.5, unless the court has dispensed with service of the order in accordance with the requirements specified in rule 81.8.

(2) Where the protected person is responsible for serving the order on the person causing the risk, any application for an Article 5 certificate must be accompanied by a certificate of service.

#### **Notification of the certificate under Article 8**

**74.41.**—(1) Subject to paragraph (2), Article 8 notice must be given to the person causing the risk by serving it in accordance with Section III of Part 6 and the rules in that Section shall apply to service of the notice as they apply to any other document to be served.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, Article 8 notice must be given by sending it by registered letter with acknowledgement of receipt or confirmation of delivery or equivalent to the last known place of residence of that person.

#### **Rectification of an Article 5 certificate**

**74.42.**—(1) An application pursuant to Article 9 of the Protection Measures Regulation for rectification of an Article 5 certificate must be made to—

- (a) the County Court if the County Court issued the certificate;
- (b) the High Court if the High Court issued the certificate.

(2) An application for such rectification may be made by—

- (a) the protected person; or
- (b) the person causing the risk.

(3) An Article 5 certificate may be rectified pursuant to Article 9(1)(a) of the Protection Measures Regulation by the court—

- (a) on application under this rule; or
- (b) on its own initiative.

#### **Withdrawal of an Article 5 certificate**

**74.43.**—(1) An application pursuant to Article 9 of the Protection Measures Regulation for withdrawal of an Article 5 certificate must be made to—

- (a) the County Court if the County Court issued the certificate;
- (b) the High Court if the High Court issued the certificate.

(2) An application for such withdrawal may be made by—

- (a) the protected person; or
- (b) the person causing the risk.

(3) An Article 5 certificate may be withdrawn pursuant to Article 9(1)(b) of the Protection Measures Regulation by the court—

- (a) on application under this rule; or
- (b) on its own initiative.

#### **When an application for an Article 14 certificate may be made**

**74.44.** A protected person or person causing the risk may apply for an Article 14 certificate—

- (a) at the time of application to vary or set aside the order containing the outgoing protection measure, or for acceptance of a variation or setting aside of the undertaking containing the outgoing protection measure, as the case may be;
- (b) at any time after the order containing the outgoing protection measure has been varied or set aside or a variation or setting aside of the undertaking containing the outgoing protection measure has been accepted, as the case may be;
- (c) at any time after an Article 5 certificate has been withdrawn under Article 9 of the Protection Measures Regulation; or
- (d) on, or at any time after, the making of an order staying or suspending enforcement of the order or undertaking containing the outgoing protection measure.

**The court to which an application for an Article 14 certificate must be made**

**74.45.** An application for an Article 14 certificate must be made—

- (a) if the order containing the outgoing protection measure has not yet been varied or set aside or a variation or setting aside of the undertaking containing the protection measure has not yet been accepted, as the case may be, to—
  - (i) the County Court if the application for such variation or setting aside is before the County Court; or
  - (ii) the High Court if the application for such variation or setting aside is before the High Court; or
- (b) if there has been an application under Article 9 of the Protection Measures Regulation for withdrawal of the Article 5 certificate, and that application has not yet been decided, to—
  - (i) the County Court if the application for such withdrawal is before the County Court; or
  - (ii) the High Court if the application for such withdrawal is before the High Court; or
- (c) if the order containing the outgoing protection measure has been varied or set aside, or a variation or setting aside of the undertaking containing the outgoing protection measure has been accepted, to—
  - (i) the County Court if the County Court ordered or accepted such variation or setting aside, as the case may be; or
  - (ii) the High Court if the High Court ordered or accepted such variation or setting aside, as the case may be; or
- (d) if an Article 5 certificate has been withdrawn under Article 9, to—
  - (i) the County Court if the County Court ordered such withdrawal;
  - (ii) the High Court if the High Court ordered such withdrawal; or
- (e) where enforcement of the order has been stayed or suspended, to—
  - (i) the County Court if the County Court made the order for the stay or suspension; or
  - (ii) the High Court if the High Court made the order for the stay or suspension.

INCOMING PROTECTION MEASURES



### **Application for adjustment under Article 11**

**74.46.** A protected person may apply to the court under Article 11 of the Protection Measures Regulation to adjust the factual elements of an incoming protection measure.

### **Notification of the adjustment under Article 11**

**74.47.**—(1) Subject to paragraph (2), Article 11 notice must be given to the person causing the risk by serving it in accordance with Section III of Part 6 and the rules in that Section apply to service of the notice as they apply to any other document to be served.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, Article 11 notice must be given by sending it by registered letter with acknowledgment of receipt or other confirmation of delivery or equivalent to the last known place of residence of that person.

### **Enforcement of an incoming protection measure**

**74.48.** Section II of Part 81 applies to applications in relation to a breach of an incoming protection measure as if the incoming protection measure had been ordered by the County Court.

### **Application for refusal of recognition or enforcement under Article 13**

**74.49.** A person causing the risk may apply to the court under Article 13 of the Protection Measures Regulation for refusal of recognition or enforcement of an incoming protection measure.

### **Application under Article 14(2)**

**74.50.**—(1) This rule applies where an Article 14 certificate has been issued in a Member State of the European Union other than the United Kingdom or Denmark.

(2) A protected person or person causing the risk may apply to the court to stay, suspend or withdraw the effects of recognition or, where applicable, the enforcement of the protection measure.

(3) An application under this rule must include a copy of the Article 14 certificate issued in the other Member State.

(4) On an application under this rule, the court must make such orders or give such directions as may be necessary to give effect to the Article 14 certificate.”

## **14. In Rule 81.9—**

### **(a) for paragraph (2) substitute—**

“(2) The following may be enforced under rule 81.4 notwithstanding that they do not contain the warning described in paragraph (1)—

(a) an undertaking to do or not do an act which is contained in a judgment or order;  
and

(b) an incoming protection measure.”;

### **(b) after paragraph (2) insert—**

“(3) In this rule, “incoming protection measure” has the meaning given to it in rule 74.34(1).”.

15. After Part 86, insert Part 87 as set out in Schedule 2 to these Rules.

16. In Schedule 1 to the Civil Procedure Rules 1998, omit RSC Order 54.

**Amendment of the Civil Procedure (Amendment No. 7) Rules 2014**

17. In rule 5 of the Civil Procedure (Amendment No. 7) Rules 2014(4)—

- (a) in paragraph (8), for “rule 74.5(6)” substitute “rule 74.5(1)”; and
- (b) in paragraph (9)(a), for “omit” substitute “insert”.

**Transitional provision**

18.—(1) The amendments made by rules 7 to 9, 10(b), (d) and (e), 11 and 12 of and Schedule 1 to these Rules apply only in relation to Part 36 offers made on or after 6th April 2015, except as provided in paragraph (2).

(2) Rules 36.3, 36.11, 36.12 and 36.16 in Schedule 1 to these Rules also apply in relation to any Part 36 offer where—

- (a) the offer is made before 6th April 2015; but
- (b) a trial of any part of the claim or of any issue arising in it starts on or after 6th April 2015.

(3) The amendments made by rule 10(a)(i)(aa) and rule 10(f)(i)(aa) apply only to claims where the claim notification form is submitted on or after 6th April 2014.

(4) Rules 15 and 16 of, and Schedule 2 to, these Rules apply in relation to all applications for writ of habeas corpus made on or after 6th April 2015.

*The Right Honourable Lord Dyson, MR  
Stephen Richards, LJ  
Mr Justice Birss  
Master Roberts  
His Honour Judge Martin McKenna  
District Judge Michael Hovington  
District Judge Christopher Lethem  
Nicholas Bacon QC  
Edward Pepperall QC  
Amanda Stevens  
Andrew Underwood  
Kate Wellington*

I allow these Rules  
Signed by authority of the Lord Chancellor

16th December 2014

*Edward Faulks*  
Minister of State  
Ministry of Justice