
STATUTORY INSTRUMENTS

2020 No. 747 (L. 16)

**SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURT, ENGLAND AND WALES**

The Civil Procedure (Amendment No. 3) Rules 2020

Made - - - - - *16th July 2020*
Laid before Parliament *17th July 2020*
Coming into force in accordance with rule 1

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(1) to make rules under section 1 of and Schedule 1 to that Act and after fulfilling the requirements of section 2(6) of that Act, makes the following Rules.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Civil Procedure (Amendment No. 3) Rules 2020 and, subject to paragraphs (2) and (3), come into force on 1st October 2020.

(2) The amendments made by rule 9(3) and (4) of these Rules to Part 34 come into force immediately after the amendments made to Part 34 by the Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019(2).

(3) The amendments made by rules 6 and 16(1) and (2) of these Rules to Part 30 and Part 83 respectively come into force on [F120th September 2020].

(4) 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(3).

F1 Words in rule 1(3) substituted (22.8.2020) by [The Civil Procedure \(Amendment No. 5\) \(Coronavirus\) Rules 2020 \(S.I. 2020/889\)](#), rules 1, **3(a)**

(1) [1997 c.12](#). Section 2(1) was substituted by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, Part 1. Section 1(3) was substituted by section 82(1) of the Courts Act 2003 (c. 39) and further amended by the Constitutional Reform Act 2005, sections 15 and 146 and Schedule 4, Part 1, paragraphs 261 and 262 and Schedule 18. Section 1(1) was amended by the Crime and Courts Act 2013 (c. 22), section 17(5) and Schedule 9, Part 3, paragraph 67(a).

(2) [S.I. 2019/521](#).

(3) [S.I. 1998/3132](#). There are relevant amendments in [S.I. 2000/221](#), [S.I. 2001/2792](#), [S.I. 2012/2208](#), [S.I. 2013/262](#), [S.I. 2014/407](#), [S.I. 2014/867](#), [S.I. 2014/3299](#), [S.I. 2016/234](#), [S.I. 2019/521](#) and [S.I. 2020/82](#).

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure (Amendment No. 3) Rules 2020. (See end of Document for details)

Commencement Information

I1 [Rule 1](#) in force at 1.10.2020, see [rule 1\(1\)](#)

Transitional and saving provision

2.—(1) Part 81 as it was in force immediately before 1 October 2020 continues to have effect for the purposes of rule 83.2A, but only in so far as rule 83.2A provides for enforcement by means of a writ of sequestration in cases where no proceedings for contempt of court are brought.

(2) No notice of eviction pursuant to rule 83.8A (as inserted by rule 16(1) of these Rules) may be delivered before [^{F2}21st September 2020].

F2 Words in [rule 2\(2\)](#) substituted (22.8.2020) by [The Civil Procedure \(Amendment No. 5\) \(Coronavirus\) Rules 2020 \(S.I. 2020/889\)](#), rules 1, [3\(b\)](#)

Commencement Information

I2 [Rule 2](#) in force at 1.10.2020, see [rule 1\(1\)](#)

Amendments to the Civil Procedure Rules 1998

3. The Civil Procedure Rules 1998 are amended in accordance with rules 4 to 17 of these Rules.

Commencement Information

I3 [Rule 3](#) in force at 1.10.2020, see [rule 1\(1\)](#)

Amendment of Part 3

4.—(1) In rule 3.12(2), after “proceedings” insert “(or variation costs as provided in rule 3.15A)”.

(2) In rule 3.13, after paragraph (2) insert—

“(3) The court—

(a) may, on its own initiative or on application, order the parties to file and exchange costs budgets in a case where the parties are not otherwise required by this Section to do so;

(b) shall (other than in an exceptional case) make an order to file and exchange costs budgets if all parties consent to an application for such an order.

(4) The court may, in a substantial case, direct that budgets are to be limited in the first instance to part only of the proceedings and extended later to cover the whole proceedings.

(5) Every budget must be dated and verified by a statement of truth signed by a senior legal representative of the party.

(6) Even though a litigant in person is not required to prepare a budget, each other party (other than a litigant in person) must provide the litigant in person with a copy of that party’s budget.”

(3) In rule 3.15, after paragraph (4) insert—

“(5) Save in exceptional circumstances—

(a) the recoverable costs of initially completing Precedent H (the form to be used for a costs budget) shall not exceed the higher of—

- (i) £1,000; or
- (ii) 1% of the total of the incurred costs (as agreed or allowed on assessment) and the budgeted costs (agreed or approved); and

- (b) all other recoverable costs of the budgeting and costs management process shall not exceed 2% of the total of the incurred costs (as agreed or allowed on assessment) and the budgeted (agreed or approved) costs.

(Precedent H is annexed to Practice Direction 3E.)

- (6) The court may set a timetable or give other directions for future reviews of budgets.

(7) After a party's budgeted costs have been approved or agreed, the party must re-file and re-serve the budget—

- (a) in the form approved or agreed with re-cast figures; and
- (b) annexed to the order approving the budgeted costs or recording the parties' agreement.

(8) A costs management order concerns the totals allowed for each phase of the budget, and while the underlying detail in the budget for each phase used by the party to calculate the totals claimed is provided for reference purposes to assist the court in fixing a budget, it is not the role of the court in the costs management hearing to fix or approve the hourly rates claimed in the budget.”

(4) After rule 3.15A insert—

“Revision and variation of costs budgets on account of significant developments (“variation costs”)

3.15A.—(1) A party (“the revising party”) must revise its budgeted costs upwards or downwards if significant developments in the litigation warrant such revisions.

(2) Any budgets revised in accordance with paragraph (1) must be submitted promptly by the revising party to the other parties for agreement, and subsequently to the court, in accordance with paragraphs (3) to (5).

(3) The revising party must—

- (a) serve particulars of the variation proposed on every other party, using the form prescribed by Practice Direction 3E;
- (b) confine the particulars to the additional costs occasioned by the significant development; and
- (c) certify, in the form prescribed by Practice Direction 3E, that the additional costs are not included in any previous budgeted costs or variation.

(4) The revising party must submit the particulars of variation promptly to the court, together with the last approved or agreed budget, and with an explanation of the points of difference if they have not been agreed.

(5) The court may approve, vary or disallow the proposed variations, having regard to any significant developments which have occurred since the date when the previous budget was approved or agreed, or may list a further costs management hearing.

(6) Where the court makes an order for variation, it may vary the budget for costs related to that variation which have been incurred prior to the order for variation but after the costs management order.”

(5) In rule 3.17, after paragraph (2) insert—

- “(3) Subject to rule 3.15A, the court—

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- (a) may not approve costs incurred before the date of any costs management hearing; but
 - (b) may record its comments on those costs and take those costs into account when considering the reasonableness and proportionality of all budgeted costs.
- (4) If an interim application is made but is not included in a budget, the court may, if it considers it reasonable not to have included the application in the budget, treat the costs of such interim application as additional to the approved budgets.”
- (6) In rule 3.18(c), for “paragraph 7.4 of Practice Direction 3E” substitute “3.17(3)”.

Commencement Information

I4 Rule 4 in force at 1.10.2020, see **rule 1(1)**

Amendment of Part 7

5.—(1) In the table of contents for Part 7, after the entry for rule 7.1 insert—

“Claims against Welsh public bodies to be issued and heard in Wales	Rule 7.1A
Claims against Welsh public bodies to be forwarded for issue in Wales	Rule 7.1B”.

(2) After rule 7.1 insert—

“Claims against Welsh public bodies to be issued and heard in Wales

7.1A. Unless required otherwise by any enactment, rule or practice direction, any claim against Welsh public bodies which challenges the lawfulness of their decisions must be issued and heard in Wales.

Claims against Welsh public bodies to be forwarded for issue in Wales

7.1B. If a court or centre in England receives a claim which should pursuant to paragraph (1) be issued in Wales a court officer shall forward it for issue in the Administrative Court Office in Wales or other appropriate court office in Wales.”.

Commencement Information

I5 Rule 5 in force at 1.10.2020, see **rule 1(1)**

Amendment of Part 30

6. In rule 30.4, after paragraph (2) insert—

“(3) Where—

- (a) proceedings for the enforcement of a judgment or order for possession of land are transferred by the County Court to the High Court; and
- (b) the land which is the subject of the possession order is located within the area of a District Registry,

then, unless the court orders otherwise on or following transfer, the transfer shall be to that District Registry and all applications made in the High Court in relation to such transferred

proceedings (including for any stay or suspension of any writ) shall be made in that District Registry.”.

Commencement Information

I6 Rule 6 in force at 20.9.2020, see **rule 1(3)** (as amended by S.I. 2020/889, rule 3(a))

Amendment of Part 31

7. In rule 31.23, for the words in parentheses following paragraph (1), substitute—
“(Part 81 deals with proceedings in relation to contempt of court.)”.

Commencement Information

I7 Rule 7 in force at 1.10.2020, see **rule 1(1)**

Amendment of Part 32

8. For rule 32.14 and the words in parentheses after it substitute—

“False statements

32.14. Proceedings for contempt of court may be brought against a person who makes or causes to be made a false statement in a document, prepared in anticipation of or during proceedings and verified by a statement of truth, without an honest belief in its truth.

(Part 22 makes provision for statements of truth.)

(Part 81 contains provisions in relation to proceedings for contempt of court.)”.

Commencement Information

I8 Rule 8 in force at 1.10.2020, see **rule 1(1)**

Amendment of Part 34

9.—(1) In the table of contents for Part 34, after the entry for rule 34.7 insert—

“Fines imposed under section 55 of the County Courts Act 1984(4)	Rule 34.7A”
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(2) After rule 34.7 insert—

“Fines imposed under section 55 of the County Courts Act 1984

34.7A. If a person has failed to comply with an order under section 55 of the County Courts Act 1984 but can demonstrate any reason why they should not be (or should not have been) fined for failure to comply with the order, the court may direct that that person give evidence by witness statement, affidavit or otherwise.

(4) 1984 c.28. Section 55 was amended by the Courts and Legal Services Act 1990 (c.41) section 74; the Criminal Justice Act 1991 (c.53) section 17, 101, Schedule 4 Part I and Schedule 12; the Civil Procedure Act 1997 (c.12) section 10, Schedule 2; and the Crime and Courts Act 2013 (c.22) section 17(5), Schedule 9 Part 1.

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(Part 70 contains general rules about fines imposed under the County Courts Act 1984.)”.

(3) In rule 34.16(2)(5)—

(a) at the end of sub-paragraph (a), insert “; and”; and

(b) after sub-paragraph (a) insert—

““the Hague Evidence Convention” means the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters”.

(4) For rule 34.17 substitute—

“Application for order

34.17.—(1) An application for an order under the 1975 Act for evidence to be obtained must be made to the High Court and may be made without notice.

(2) The application may be made either—

(a) by an application notice under Part 23, which must be—

(i) supported by written evidence; and

(ii) accompanied by the request as a result of which the application is made, and where appropriate, a translation of the request into English; or

(b) where—

(i) the requesting state is a party to the Hague Evidence Convention, by a Letter of Request using the Model Form published by the Permanent Bureau of the Hague Conference on Private International Law (which is annexed to Practice Direction 34A); or

(ii) the requesting state is not a party to the Hague Evidence Convention, by a Letter of Request submitted via the Foreign and Commonwealth Office.”.

Commencement Information

I9 Rule 9(1)(2) in force at 1.10.2020, see [rule 1\(1\)](#)

I10 Rule 9(3)(4) in force at 31.12.2020 immediately after the amendments made to Pt. 34 by [S.I. 2019/521](#), see [rule 1\(2\)](#)

Amendment of Part 45

10. In rule 45.18, in Tables 6 and 6A, in the headings to the second column of each table, omit the words “, but not more than £25,000”.

Commencement Information

I11 Rule 10 in force at 1.10.2020, see [rule 1](#)

Amendment of Part 61

11. In rule 61.13, below the full-out words at the end insert—

(5) Rule 34.16(2) was amended by [S.I. 2019/521](#), regulation 12(5)(b), which omitted sub-paragraph (b) and “and” at the end of sub-paragraph (a).

“(Paragraph 26A of Practice Direction 52C makes provision regarding assessors who assist the Court of Appeal in appeals from decisions of the Admiralty Court.)”.

Commencement Information

I12 Rule 11 in force at 1.10.2020, see [rule 1](#)

Amendment of Part 70

12.—(1) In the table of contents for Part 70, after the entry for rule 70.1 insert—

“Application for order	Rule 70.1A”
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(2) After rule 70.1 insert—

“Application for order

70.1A.—(1) In this rule, reference to a fine is to a fine imposed under the County Courts Act 1984.

(2) If a fine is not paid in accordance with the order imposing it, the court officer shall, as soon as reasonably possible, report the matter to a judge.

(3) Where a fine is directed to be paid by instalments, default in the payment of any instalment may be taken as if default had been made in payment of the whole of the fine.

(4) If an order is made for payment of a fine to be enforced by warrant of control, the order shall be treated as an application to the court for the issue of the warrant at the time when the order was made.

(5) If a person pays a fine and later gives evidence to satisfy the court that, if the evidence had been given earlier, no fine or a smaller fine would have been imposed, the court may order the whole or part of the fine to be repaid.”.

Commencement Information

I13 Rule 12 in force at 1.10.2020, see [rule 1](#)

Amendment of Part 73

13.—(1) In rule 73.7—

(a) after paragraph (3), insert—

“(Rule 73.10(6B) sets out the powers of a legal adviser to make an order where a judgment creditor has not, on time, filed certificates of service and a statement of the amount due or applied for an extension.)”; and

(b) omit paragraph (4).

(2) In rule 73.10—

(a) in paragraph (6), for “upon” substitute “after”;

(b) in paragraph (6A)—

(i) at the end of sub-paragraph (b) omit “or”;

(ii) at the end of sub-paragraph (c), for the full stop substitute—

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“; or

(d) if paragraph (6B) applies, make an unless order, or refer the matter to a judge, in accordance with that paragraph.”; and

(c) for paragraph (6B) substitute—

“(6B) This paragraph applies where the judgment creditor has not complied with rule 73.7(1) or (2) and has not applied for an extension of time within the period specified by those provisions or either of them as appropriate, or has been granted an extension of time but has not met the extended time limit. In those circumstances, a legal adviser must—

(a) order that unless, by a date specified in the order, the judgment creditor files a certificate of service in relation to each person served (together with a statement of the amount due under the judgment or order including any costs and interest), the application for a charging order is to be dismissed and the interim charging order discharged; or

(b) refer the matter to a judge to consider whether to dismiss the application and discharge the interim charging order.

(6C) A copy of any order made under paragraph (6B) is to be served by the court on all the parties.

(6D) Decisions of a legal adviser are to be made without a hearing.”.

Commencement Information

I14 [Rule 13](#) in force at 1.10.2020, see [rule 1](#)

Amendment of Part 77

14. For rule 77.7 substitute—

“Time limit for making the application

77.7. An application for an order quashing an acquittal under section 54(3) of the 1996 Act must be made no later than 28 days after the issue of the certificate to which section 54(2) of that Act refers.”.

Commencement Information

I15 [Rule 14](#) in force at 1.10.2020, see [rule 1](#)

Amendment of Part 81

15. For Part 81 substitute Part 81 as set out in the Schedule to these Rules.

Commencement Information

I16 [Rule 15](#) in force at 1.10.2020, see [rule 1](#)

Amendment of Part 83

16.—(1) After rule 83.8 insert—

“Notice of execution of writs and warrants of possession

83.8A.—(1) This rule applies to—

- (a) writs of possession; and
- (b) warrants of possession,

other than writs and warrants excluded by paragraph (6).

(2) Subject to paragraph (5), a notice of eviction must be delivered to the premises not less than 14 days before the writ or warrant is executed.

(3) The notice of eviction referred to in paragraph (2) must—

- (a) be addressed to—
 - (i) all persons against whom the possession order was made; and
 - (ii) “any other occupiers”; and
- (b) be in the form prescribed by Practice Direction 83.

(4) The notice of eviction must be delivered by—

- (a) inserting it through the letter box in a sealed transparent envelope; or
- (b) if that is not practicable—
 - (i) attaching a copy to the main door or some other part of the land so that it is clearly visible; or
 - (ii) if that is not practicable, placing stakes in the land in places where they are clearly visible and attaching to each stake a copy of the notice in a sealed transparent envelope.

(5) The court may—

- (a) dispense with the requirement to deliver a notice of eviction; or
- (b) extend or shorten the time by which a notice of eviction must be delivered,

but may not exercise its powers under sub-paragraph (b) so as to postpone the date of execution of any writ or warrant of possession beyond the last date permitted for that purpose by or under any enactment.

(6) This rule does not apply to writs or warrants of possession to enforce possession orders against trespassers, other than possession orders against persons who entered or remained on the premises with the consent of a person who, at the time consent was given, had an immediate right to possession of the premises.”.

(2) In rule 83.13—

(a) in paragraph (1)—

(i) for sub-paragraph (b) substitute—

“(b) proceedings for contempt of court under Part 81;”;

(ii) for sub-paragraph (c) substitute—

“(c) where no such proceedings are brought, by a writ of sequestration.”;

and

(b) for paragraphs (2) to (9) substitute—

“(2) No writ of possession to enforce a notice under section 33D of the Immigration Act 2014 may be issued without the permission of the court.

(3) No writ of possession against a trespasser may be issued after the expiry of 3 months from the date of the order without the permission of the court.

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- (4) Unless the court otherwise directs, an application for permission under paragraph (3) may be made without notice to any other party.
- (5) An application for a writ of possession may be made without notice.
- (6) The person applying for a writ of possession must file a certificate that the land which is the subject of the judgment or order has not been vacated.
- (7) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.
- (8) In a case to which paragraph (7) applies or where an order for possession has been suspended on terms as to payment of a sum of money by instalments, the person applying for a writ of possession must certify—
- (a) the amount of money remaining due under the judgment or order; and
 - (b) that the whole or part of any instalment due remains unpaid.”.
- (3) In rule 83.14—
- (a) in paragraph (1)—
 - (i) for sub-paragraph (b) substitute—

“(b) proceedings for contempt of court under Part 81;”;
 - (ii) for sub-paragraph (c) substitute—

“(c) where no such proceedings are brought, by a writ of sequestration.”;

and
 - (b) in paragraph (2), for sub-paragraph (c) substitute—

“(c) proceedings for contempt of court under Part 81;”.

Commencement Information

I17 Rule 16(1)(2) in force at 20.9.2020, see **rule 1(3)** (as amended by S.I. 2020/889, rule 3(a))

I18 Rule 16(3) in force at 1.10.2020, see **rule 1(1)**

Amendment of Part 89

- 17.—**(1) In rule 89.16, for paragraph (2) substitute—
- “(2) If a person has failed to comply with an order under section 14(1) of the 1971 Act but can demonstrate any reason why they should not be (or should not have been) fined for failure to comply with the order, the court may direct that any information required by the order be provided by witness statement, affidavit or otherwise.”.
- (2) In rule 89.17, for paragraph (4) substitute—
- “(4) In paragraphs (5) to (8), reference to a fine is to a fine imposed as the result of an offence under section 23(2) of the 1971 Act.
- (5) If a fine is not paid in accordance with the order imposing it, the court officer shall, as soon as reasonably possible, report the matter to a judge.
- (6) Where a fine is directed to be paid by instalments, default in the payment of any instalment may be taken as if default had been made in payment of the whole of the fine.
- (7) If an order is made for payment of a fine to be enforced by warrant of control, the order shall be treated as an application to the court for the issue of the warrant at the time when the order was made.

(8) If a person pays a fine and later gives evidence to satisfy the court that, if the evidence had been given earlier, no fine or a smaller fine would have been imposed, the court may order the whole or part of the fine to be repaid.”.

Commencement Information

I19 [Rule 17](#) in force at 1.10.2020, see [rule 1\(1\)](#)

*The Right Honourable Sir Terence Etherton, MR
Lord Justice Coulson
Mr Justice Birss
Mr Justice Kerr
His Honour Judge Jarman QC
Master Cook
District Judge Parker
Brett Dixon
David Marshall
Lizzie Iron
John McQuater*

I allow these Rules
Signed by authority of the Lord Chancellor

Robert Buckland
Parliamentary Under-Secretary of State for
Justice
Ministry of Justice

Status: Point in time view as at 31/12/2020.
Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure (Amendment No. 3) Rules 2020. (See end of Document for details)

SCHEDULE

Rule 15

Commencement Information

I20 Sch. in force at 1.10.2020, see [rule 1\(1\)](#)

“PART 81

APPLICATIONS AND PROCEEDINGS IN
RELATION TO CONTEMPT OF COURT**Contents of this Part**

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Rule 81.10	Applications to discharge committal orders

Scope

81.1.—(1) This Part sets out the procedure to be followed in proceedings for contempt of court (“contempt proceedings”).

(2) This Part does not alter the scope and extent of the jurisdiction of courts determining contempt proceedings, whether inherent, statutory or at common law.

(3) This Part has effect subject to and to the extent that it is consistent with the substantive law of contempt of court.

Interpretation

81.2. In this Part—

“claimant” means a person making a contempt application;

“contempt application” means an application to the court for an order determining contempt proceedings;

“defendant” means the person against whom the application is made;

“order of committal” means the imposition of a sentence of imprisonment (whether immediate or suspended) for contempt of court;

“penal notice” means a prominent notice on the front of an order warning that if the person against whom the order is made (and, in the case of a corporate body, a director or officer of that body) disobeys the court’s order, the person (or director or officer) may be held in contempt of court and punished by a fine, imprisonment, confiscation of assets or other punishment under the law.

How to make a contempt application

81.3.—(1) A contempt application made in existing High Court or county court proceedings is made by an application under Part 23 in those proceedings, whether or not the application is made against a party to those proceedings.

(2) If the application is made in the High Court, it shall be determined by a High Court judge of the Division in which the case is proceeding. If it is made in the county court, it shall be determined by a Circuit Judge sitting in the county court.

(3) A contempt application in relation to alleged interference with the due administration of justice, otherwise than in existing High Court or county court proceedings, is made by an application to the High Court under Part 8.

(4) Where an application under Part 8 is made under paragraph (3), the rules in Part 8 apply except as modified by this Part and the defendant is not required to acknowledge service of the application.

(5) Permission to make a contempt application is required where the application is made in relation to—

- (a) interference with the due administration of justice, except in relation to existing High Court or county court proceedings;
- (b) an allegation of knowingly making a false statement in any affidavit, affirmation or other document verified by a statement of truth or in a disclosure statement.

(6) If permission to make the application is needed, the application for permission shall be included in the contempt application, which will proceed to a full hearing only if permission is granted.

(7) If permission is needed and the application relates to High Court proceedings, the question of permission shall be determined by a single judge of the Division in which the case is proceeding. If permission is granted the contempt application shall be determined by a single judge or Divisional Court of that Division.

(8) If permission is needed and the application does not relate to existing court proceedings or relates to criminal or county court proceedings or to proceedings in the Civil Division of the Court of Appeal, the question of permission shall be determined by a single judge of the Administrative Court. If permission is granted, the contempt application shall be determined by a Divisional Court.

Requirements of a contempt application

81.4.—(1) Unless and to the extent that the court directs otherwise, every contempt application must be supported by written evidence given by affidavit or affirmation.

(2) A contempt application must include statements of all the following, unless (in the case of (b) to (g)) wholly inapplicable—

- (a) the nature of the alleged contempt (for example, breach of an order or undertaking or contempt in the face of the court);
- (b) the date and terms of any order allegedly breached or disobeyed;

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- (c) confirmation that any such order was personally served, and the date it was served, unless the court or the parties dispensed with personal service;
- (d) if the court dispensed with personal service, the terms and date of the court's order dispensing with personal service;
- (e) confirmation that any order allegedly breached or disobeyed included a penal notice;
- (f) the date and terms of any undertaking allegedly breached;
- (g) confirmation of the claimant's belief that the person who gave any undertaking understood its terms and the consequences of failure to comply with it;
- (h) a brief summary of the facts alleged to constitute the contempt, set out numerically in chronological order;
- (i) that the defendant has the right to be legally represented in the contempt proceedings;
- (j) that the defendant is entitled to a reasonable opportunity to obtain legal representation and to apply for legal aid which may be available without any means test;
- (k) that the defendant may be entitled to the services of an interpreter;
- (l) that the defendant is entitled to a reasonable time to prepare for the hearing;
- (m) that the defendant is entitled but not obliged to give written and oral evidence in their defence;
- (n) that the defendant has the right to remain silent and to decline to answer any question the answer to which may incriminate the defendant;
- (o) that the court may proceed in the defendant's absence if they do not attend but (whether or not they attend) will only find the defendant in contempt if satisfied beyond reasonable doubt of the facts constituting contempt and that they do constitute contempt;
- (p) that if the court is satisfied that the defendant has committed a contempt, the court may punish the defendant by a fine, imprisonment, confiscation of assets or other punishment under the law;
- (q) that if the defendant admits the contempt and wishes to apologise to the court, that is likely to reduce the seriousness of any punishment by the court;
- (r) that the court's findings will be provided in writing as soon as practicable after the hearing; and
- (s) that the court will sit in public, unless and to the extent that the court orders otherwise, and that its findings will be made public.

Service of a contempt application

81.5.—(1) Unless the court directs otherwise in accordance with Part 6 and except as provided in paragraph (2), a contempt application and evidence in support must be served on the defendant personally.

(2) Where a legal representative for the defendant is on the record in the proceedings in which, or in connection with which, an alleged contempt is committed—

- (a) the contempt application and evidence in support may be served on the representative for the defendant unless the representative objects in writing within seven days of receipt of the application and evidence in support;
- (b) if the representative does not object in writing, they must at once provide to the defendant a copy of the contempt application and the evidence supporting it and take all reasonable steps to ensure the defendant understands them;

- (c) if the representative objects in writing, the issue of service shall be referred to a judge of the court dealing with the contempt application; and the judge shall consider written representations from the parties and determine the issue on the papers, without (unless the judge directs otherwise) an oral hearing.

Cases where no application is made

81.6.—(1) If the court considers that a contempt of court (including a contempt in the face of the court) may have been committed, the court on its own initiative shall consider whether to proceed against the defendant in contempt proceedings.

(2) Where the court does so, any other party in the proceedings may be required by the court to give such assistance to the court as is proportionate and reasonable, having regard to the resources available to that party.

(3) If the court proceeds of its own initiative, it shall issue a summons to the defendant which includes the matters set out in rule 81.4(2)(a)-(s) (in so far as applicable) and requires the defendant to attend court for directions to be given.

(4) A summons issued under this rule shall be served on the defendant personally and on any other party, unless the court directs otherwise. If rule 81.5(2) applies, the procedure there set out shall be followed unless the court directs otherwise.

Directions for hearing of contempt proceedings

81.7.—(1) The court shall give such directions as it thinks fit for the hearing and determination of contempt proceedings, including directions for the attendance of witnesses and oral evidence, as it considers appropriate.

(2) The court may issue a bench warrant to secure the attendance of the defendant at a directions hearing or at the substantive hearing.

(3) The court may not give any direction compelling the defendant to give evidence either orally or in writing.

Hearings and judgments in contempt proceedings

81.8.—(1) In accordance with rule 39.2, all hearings of contempt proceedings shall, irrespective of the parties' consent, be listed and heard in public unless the court otherwise directs.

(2) Advocates and the judge shall appear robed in all hearings of contempt proceedings, whether or not the court sits in public.

(3) Before deciding to sit in private for all or part of the hearing, the court shall notify the national print and broadcast media, via the Press Association.

(4) The court shall consider any submissions from the parties or media organisations before deciding whether and if so to what extent the hearing should be in private.

(5) If the court decides to sit in private it shall, before doing so, sit in public to give a reasoned public judgment setting out why it is doing so.

(6) At the conclusion of the hearing, whether or not held in private, the court shall sit in public to give a reasoned public judgment stating its findings and any punishment.

(7) The court shall inform the defendant of the right to appeal without permission, the time limit for appealing and the court before which any appeal must be brought.

(8) The court shall be responsible for ensuring that judgments in contempt proceedings are transcribed and published on the website of the judiciary of England and Wales.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure (Amendment No. 3) Rules 2020. (See end of Document for details)

Powers of the court in contempt proceedings

81.9.—(1) If the court finds the defendant in contempt of court, the court may impose a period of imprisonment (an order of committal), a fine, confiscation of assets or other punishment permitted under the law.

(2) Execution of an order of committal requires issue of a warrant of committal. An order of committal and a warrant of committal have immediate effect unless and to the extent that the court decides to suspend execution of the order or warrant.

(3) An order or warrant of committal must be personally served on the defendant unless the court directs otherwise.

(4) To the extent that the substantive law permits, a court may attach a power of arrest to a committal order.

(5) An order or warrant of committal may not be enforced more than two years after the date it was made unless the court directs otherwise.

Applications to discharge committal orders

81.10.—(1) A defendant against whom a committal order has been made may apply to discharge it.

(2) Any such application shall be made by an application notice under Part 23 in the contempt proceedings.

(3) The court hearing such an application shall consider all the circumstances and make such order under the law as it thinks fit.”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Civil Procedure Rules 1998 (SI 1998/3132) by—

- amending Part 3 to make consolidated provision, incorporating provisions previously in Practice Direction 3E, in relation to costs budgets, particularly the circumstances in which costs budgets may be revised and varied;
- amending Part 7 to ensure that claims against Welsh public bodies which challenge the lawfulness of their decisions are issued and heard in Wales;
- amending Part 30 to make provision in relation to the transfer of proceedings for the enforcement of a judgment or order for possession of land by the County Court to the High Court;
- amending Part 32 to substitute for rule 32.14 a reformulated rule about the consequences of making a false statement in a document supported by a statement of truth;
- amending Part 34 to make provision for the procedure in relation to requests for evidence to be taken for use in a foreign court;

- amending Tables 6 and 6A in rule 45.18, to remove the words ‘*but not more than £25,000*’ from the headings to the second column of each table, which might otherwise be taken to preclude the recovery of any fixed costs in Stage 3 proceedings for damages totalling more than £25,000;
- amending rule 61.13 to insert a signpost to new paragraph 26A of Practice Direction 52C, which makes provision regarding assessors who assist the Court of Appeal in appeals from decisions of the Admiralty Court;
- amending rules 73.7 and 73.10 to enable a legal adviser to make an order that, unless a judgment creditor files certain documents by a specified date, an application for a charging order is to be dismissed and an interim charging order discharged;
- amending Part 77 in relation to the time limit for making an application in relation to a “tainted acquittal”;
- substituting Part 81 with a new Part 81 – Applications and proceedings in relation to contempt of court, that streamlines and simplifies the process for proceedings for contempt of court. The new Part follows consultation by the Civil Procedure Rule Committee: “*Proposed rule changes relating to contempt of court: redraft of CPR Part 81*”, which ran from 9 March 2020 to 11 May 2020. This instrument also contains amendments consequential on the introduction of new Part 81, to rule 31.23, 83.13, 83.14, 89.16 and 89.17, as well as amendments to introduce two new provisions: rule 34.7A and 70.1A. The amendments to rules 31.23, 83.13 and 83.14 are essentially cross-reference changes. New rule 34.7A replaces former rule 81.36 (fines imposed under section 55 of the County Courts Act 1984) and new rule 70.1A replaces former rules 81.37 and 81.38 (fines under the County Courts Act 1984 generally). The amendment to rule 89.16 has the effect of incorporating with modifications former rule 81.36; previously, rule 89.16 applied former rule 81.36 with modifications to an order under section 14 of the Attachment of Earnings Act 1971 (1971 c. 32). The amendment to rule 89.17 has the effect of incorporating with modifications former rule 81.37 and 81.38; previously rule 89.17 applied former rules 81.37 and 81.38 with modifications to proceedings under section 23(2) of the Attachment of Earnings Act 1971.
- amending Part 83 to make provision about writs and warrants of possession, including provision requiring a notice of eviction to be delivered before a writ or warrant of possession can be executed.

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure (Amendment No. 3) Rules 2020.