
STATUTORY INSTRUMENTS

2020 No. 747

The Civil Procedure (Amendment No. 3) Rules 2020

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—

- (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)”.