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## STATUTORY INSTRUMENTS

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# 2005 No. 3515

## The Civil Procedure (Amendment No.4) Rules 2005

### **Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment No.4) Rules 2005 and shall come into force on 6<sup>th</sup> April 2006.
2. 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).

### **Amendment to the Civil Procedure Rules 1998**

3. In the table following rule 2.1, after “Adoption Act 1976, s.66” insert “or Adoption and Children Act 2002, s.141(2)”.
4. In Part 6—
  - (a) in rule 6.2(1), sub-paragraph (b), after “first class post” insert “(or an alternative service which provides for delivery on the next working day)”;
  - (b) in rule 6.5(4), sub-paragraph (a), after “first class post” insert “(or an alternative service which provides for delivery on the next working day); and
  - (c) in the table following rule 6.7(1), after “first class post” insert “(or an alternative service which provides for delivery on the next working day)”.
5. In rule 16.2(1)—
  - (a) after sub-paragraph (c), omit “and”; and
  - (b) after sub-paragraph (c), insert—  
““(cc) where the claimant’s only claim is for a specified sum, contain a statement of the interest accrued on that sum; and”.
6. For Part 20, substitute Part 20 as set out in the Schedule to these Rules.
7. In Part 25—
  - (a) in rule 25.1—
    - (i) after sub-paragraph (n), omit “and”; and
    - (ii) after sub-paragraph (o), insert—  
“; and
  - (p) an order under Article 9 of Council Directive (EC) 2004/48 on the enforcement of intellectual property rights (order in intellectual property proceedings making the continuation of an alleged infringement subject to the lodging of guarantees).”; and

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(1) S.I.1998/3132. There are relevant amendments in S.I. 1999/1008, S.I. 2000/1317, S.I. 2000/221, S.I. 2000/2092, S.I. 2001/256, S.I. 2001/4015, S.I. 2001/2792, S.I. 2002/2058, S.I. 2002/3219, S.I. 2003/1242, S.I. 2003/2113, S.I. 2003/3361, S.I. 2004/3419, S.I. 2004/2072, S.I. 2005/352 and S.I. 2005/2292.  
(2) 2002 c. 38.

- (b) in rule 25.2, for paragraph (3) substitute “Where it grants an interim remedy before a claim has been commenced, the court should give directions requiring a claim to be commenced.”.

**8.** In rule 30.5, for paragraph (2) substitute—

“(2) A judge dealing with claims in a specialist list may order proceedings to be transferred to or from that list.”.

**9.** After rule 40.2(2), insert—

“(3) Paragraph (4) applies where a party applies for permission to appeal against a judgment or order at the hearing at which the judgment or order was made.

(4) Where this paragraph applies, the judgment or order shall state—

- (a) whether or not the judgment or order is final;
- (b) whether an appeal lies from the judgment or order and, if so, to which appeal court;
- (c) whether the court gives permission to appeal; and
- (d) if not, the appropriate appeal court to which any further application for permission may be made.

(Paragraph 4.3B of the Practice Direction supplementing Part 52 deals with the court’s power to adjourn a hearing where a judgment or order is handed down and no application for permission to appeal is made at that hearing”).

**10.** For rule 44.16, substitute—

“**44.16.**—(1) This rule applies where the Conditional Fee Agreements Regulations 2000 or the Collective Conditional Fee Agreements Regulations 2000 continues to apply to an agreement which provides for a success fee.

(2) Where—

- (a) the court disallows any amount of a legal representative’s percentage increase in summary or detailed assessment proceedings; and
- (b) the legal representative applies for an order that the disallowed amount should continue to be payable by his client,

the court may adjourn the hearing to allow the client to be—

- (i) notified of the order sought; and
- (ii) separately represented.

(Regulation 3(2)(b) of the Conditional Fee Agreements Regulations 2000, which applies to Conditional Fee Agreements entered into before 1st November 2005, provides that a conditional fee agreement which provides for a success fee must state that any amount of a percentage increase disallowed on assessment ceases to be payable unless the court is satisfied that it should continue to be so payable. Regulation 5(2)(b) of the Collective Conditional Fee Agreements Regulations 2000, which applies to Collective Conditional Fee Agreements entered into before 1st November 2005, makes similar provision in relation to collective conditional fee agreements.)”.

**11.** In Part 52—

- (a) in rule 52.1, in the cross-reference following paragraph (2)—

- (i) for “47.21” substitute “47.20”; and
- (ii) for “47.26” substitute “47.23”;

- (b) in rule 52.3(6), for “Permission to appeal will only be given where” substitute “Permission to appeal may be given only where”; and
- (c) in rule 52.4—
  - (i) in paragraph (2)(a), after “such period as may be directed by the lower court” insert “(which may be longer or shorter than the period referred to in sub-paragraph (b));”;
  - (ii) in paragraph (2)(b), for “14” substitute “21”; and
  - (iii) in paragraph (3), for “an appeal notice” substitute “an appellant’s notice”.

**12. In Part 54—**

- (a) in rule 54.28(2), after sub-paragraph (e) insert—
  - “(ea) “fast track case” means any case in relation to which an order made under section 26(8) of the 2004 Act provides that the time period for making an application under section 103A(1) of the 2002 Act or giving notification under paragraph 30(5) of Schedule 2 to the 2004 Act is less than 5 days;”;
- (b) after rule 54.28, insert—

**“Representation of applicants while filter provision has effect**

**54.28A.—(1)** This rule applies during any period in which the filter provision has effect.

(2) An applicant may, for the purpose of taking any step under rule 54.29 or 54.30, be represented by any person permitted to provide him with immigration advice or immigration services under section 84 of the Immigration and Asylum Act 1999<sup>(3)</sup>.

(3) A representative acting for an applicant under paragraph (2) shall be regarded as the applicant’s legal representative for the purpose of rule 22.1 (Documents to be verified by a statement of truth) regardless of whether he would otherwise be so regarded.

**Service of documents on appellants within the jurisdiction**

**54.28B.—(1)** In proceedings under this Section, rules 6.4(2) and 6.5(5) do not apply to the service of documents on an appellant who is within the jurisdiction.

(2) Where a representative is acting for an appellant who is within the jurisdiction, a document must be served on the appellant by—

- (a) serving it on his representative; or
- (b) serving it on the appellant personally or sending it to his address by first class post,

but if the document is served on the appellant under sub-paragraph (b), a copy must also at the same time be sent to his representative.”;

- (c) in rule 54.29—
  - (i) in paragraph (1), for “(4)” substitute “(5)”;
  - (ii) in paragraph (2), for “The applicant” substitute “During any period in which the filter provision does not have effect, the applicant”; and
- (iii) after paragraph (2), insert—

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(3) [1999 c. 33](#). Part V of that Act has been amended by the Nationality, Immigration and Asylum Act [2002 \(c. 41\)](#), section 140, and the Asylum and Immigration (Treatment of Claimants, etc.) Act [2004 \(c. 19\)](#), sections 37 to 41 and 47, and Schedule 4.

“(2A) During any period in which the filter provision has effect, the applicant must file with the application notice a list of the documents referred to in paragraph (2)(a) to (e).”;

(d) in rule 54.32—

(i) for the opening words of paragraph (2) substitute—

“(2) Where a party applies for an order for reconsideration in a fast track case—”;  
and

(ii) omit paragraph (3); and

(e) in rule 54.34—

(i) in paragraph (2), after “Where” insert “the appellant is within the jurisdiction and”;

(ii) after paragraph (2) insert—

“(2A) Paragraph (2) does not apply in a fast track case.”;

(iii) for paragraph (3)(b), substitute—

“(b) immediately after serving the order, notify—

(i) the court; and

(ii) where the order requires the Tribunal to reconsider its decision on  
the appeal, the Tribunal,  
on what date and by what method the order was served.”;

(iv) in paragraph (5), after “3(b)” insert “(i)”; and

(v) after paragraph (5), insert—

“(5A) Where the court serves an order for reconsideration under paragraph (5),  
it will notify the Tribunal of the date on which the order was served.”.

**13.** In rule 55.13(3), after “first class post” insert “(or an alternative service which provides for delivery on the next working day)”.

**14.** In rule 58.4(2), for “Rule 30.5(3) applies” substitute “Rule 30.5 applies”.

**15.** In rule 59.3, for “Rule 30.5(3) applies” substitute “Rule 30.5 applies”.

**16.** In rule 61.2(3), for “30.5(3)” substitute “30.5”.

**17.** In rule 62.3(4), for “30.5(3)” substitute “30.5”.

**18.** In Part 63—

(a) in rule 63.1, after paragraph (2), insert—

“(3) Claims to which this Part applies are allocated to the multi-track.”; and

(b) omit rule 63.7(1).

**19.** In rule 75.3(6), after “first class post” insert “(or an alternative service which provides for delivery on the next working day)”.

*Sir Anthony Clarke, M.R.  
John Dyson, L.J.  
Rupert Jackson, J.  
Terrence Etherton, J.  
Stephen Oliver-Jones  
Steven Whitaker  
Carlos Dabiezies  
David di Mambro  
Juliet Herzog  
Philip Rainey  
Nicholas Burkill  
Richard Walford  
Peter Candon  
Andrew Parker*

I allow these Rules

Dated 16th December 2005

*Falconer of Thoroton, C.*