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STATUTORY INSTRUMENTS

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**2020 No. 747**

**The Civil Procedure (Amendment No. 3) Rules 2020**

**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(1).

(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 23rd August 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(2).

**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 24th August 2020.

**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.

**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.

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(1) S.I. 2019/521.

(2) 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.

(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)”.

#### **Amendment of Part 7**

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

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“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”.

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(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.”.

#### **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.”.

### **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.)”.

### **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.)”.

### **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(3)	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.

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

- (3) In rule 34.16(2)(4)—

(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—

(3) [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.

(4) 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).

**“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.”.

**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”.

**Amendment of Part 61**

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

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

**Amendment of Part 70**

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

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“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.”.

### **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—

“; 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.”.

### **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.”.

### **Amendment of Part 81**

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

### **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.
        - (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;”.

### **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.”.

*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

16th July 2020

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