



**Informing Progress** - Shaping the Future

## FOIL UPDATE 20<sup>th</sup> July 2023



### CPR Update

The Civil Procedure (Amendment No.3) Rules 2023 enter into force variously, on **14<sup>th</sup> August** and **1<sup>st</sup> October 2023**.

The SI contains Rule amendments in respect of:

- Foreign Evidence Requests (Part 34) – two amendments are made. The first is to provide a power to the High Court to make an order for the issue of, “letters of request” in Tribunal proceedings. The second amendment is to ensure that all letters of request for England & Wales sent under the Evidence Convention or otherwise, are sent to the Foreign Process Section at the Royal Courts of Justice (RCJ).
- Appeals (Contempt of Court) (Part 52) - this addresses three issues: (i) applying for permission to appeal from the county court in contempt proceedings; (ii) applying for permission to appeal to the Supreme Court, both in contempt proceedings from a decision of a single High Court Judge on appeal, the Divisional Court or the Court of Appeal and from a decision of the Court of Appeal in non-contempt proceedings (the CPR may not provide for practice and procedure in the Supreme Court itself, but may make provision regarding applications for permission to appeal to the Supreme Court when made to the court in which the decision subject to appeal was made); and (iii) responding to caselaw - changes to rule 52.8 to reflect the Court of Appeal decision in R (Kearney) v Chief Constable of Hampshire Police [2019] EWCA Civ 1841 (the effect of the decision (and of s.18(1)(a) Senior Courts Act 1981) is that no route of appeal lies to the Court of Appeal against refusal of permission on a Judicial Review in a criminal cause or matter).
- HM Courts and Tribunal Service back-office (Parts 3, 7, 13, 14, 26, 71, 72, 73, 83, 84, 89) – technical amendments are made following organisational changes in the back-office units at the County Court Business Centre (at Northampton) and County Court Money Claim Centre

(at Salford) which are being replaced by the creation of the Civil National Business Centre (CNBC) at Northampton.

- Simplification Work (Parts 3, 12, 14, 18, 19, 20, 22, 23, 24, 26, 39, 40, 45, 55, 56, 58, 59) – a suite of amendments arising from the ongoing work by the Civil Procedure Rule Committee, in accordance with its statutory duty to “... try to make rules which are both simple and simply expressed.”. the reforms and consequential amendments provide for a reduction in overall length, simplify the language, improve clarity and provide gender neutrality. Some provisions are also relocated to be more logically and appropriately placed. Rule 22.1 (documents to be verified by a statement of truth) has been reconstructed, for example, rule 22.1(b) is deleted as being superfluous, and the provisions on who may sign a statement of truth and what that statement of truth should contain, are more clearly separated. Two clarificatory amendments are also made to the following: Rule 3.3 (Court’s power to make an order of its own initiative) and Rule 39.1 (definition of a hearing) and to bring it in line with the like amendment in Rule 23.1. It does not change the law or practice, but is purely a technical amendment.
- Tidying Up – various minor corrections arising (i) from the last mainstream Civil Procedure (Amendment) Rules 2023; (ii) following the Joint Committee of Statutory Instruments’ twenty-ninth report of the 2022-2023 session; (iii) anonymity of other persons in Part 29; (iv) some minor corrections to cross-references etc in the Civil Procedure (Amendment No. 2) Rules 2023; (v) following the Joint Committee on Statutory Instruments forty-second report of the 2022-2023 session.

The 157<sup>th</sup> Practice Direction Update - (coming into force, variously, on **17<sup>th</sup> July 2023** and **27<sup>th</sup> July 2023**). This PD Update supports HMCTS digital reform. It provides for:

- Pilot Extensions – the current pilot PDs for Online Civil Money Claims (PD 51R) and the Damages Claims Portal (PD 51ZB) are extended until **October 2024**. An amendment of particular interest relates to extensions of defences in the DCP (now 28 days by agreement and for the filing of an application if a longer time is required).
- Additional Functionalities – a further tranche of enhancements to the functionality of the PD 51ZB pilot scheme to increase the permitted payment methods available to users to make payments to HMCTS.
- Housekeeping Amendments – other modest amendments to correct typographical errors, operational sequencing and a simplification amendment.

The 158<sup>th</sup> Practice Direction Update - (coming into force, variously, on **14<sup>th</sup> August 2023** and **1<sup>st</sup> October 2023**). In addition to a suite of amendments in consequence of the Civil Procedure (Amendment No.3) Rules 2023 (above), this PD Update also provides for:

- Independent Monitoring Authority (IMA) –a new (un-numbered) PD is introduced to support the IMA in fulfilling its statutory duty in relation to claims relating to EU and EEA ETFA citizens’ rights.
- Flagging Provision in PD 5B – email addresses are contained within various parts of the rules. These email addresses are now placed in a central list, with an associated “flagging”

provision (to be a new para 6) in the PD. The list will be available on the rules' webpage in advance of the PD amendment coming into effect on **1<sup>st</sup> October 2023**.

- Enforcement by Taking Control of Goods – PD 84 is amended to reflect operational changes: the designated centre in the North West region, at which applications for Certified Enforcement Agents can be considered, is now Liverpool Form EAC1 has been updated in consequence. It is also being revised further to reflect the establishment of the Civil National Business Centre (referred to above). The updated form will be available on Gov.uk in the normal way.
- Companies Act Proceedings – PD 49A is amended to allow for proceedings to be issued via a Part 7 or Part 8 claim form.
- Other Technical Changes and Tidying Up – (i) Evidence (PD 32) – some housekeeping amendments are made to reflect a new unit created by the Foreign, Commonwealth and Development Office; (ii) Electronic Working Pilot Scheme (PD 51O) – a minor typographical amendment error is corrected; (iii) Change of Solicitor (PD 42) – technical amendments regarding how solicitors file notices of change.

#### Pre-Action Protocol Update - (coming into force on **1<sup>st</sup> October 2023**.)

The Master of the Rolls, as Head of Civil Justice, has approved the amendments within this PAP update.

The PAP update amends the PAP for Low Value Personal Injury Claims in Road Traffic Accidents, and The Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims.

The amendments are part of a package of amendments correcting minor errors such as incorrect cross-references arising out of the fixed recoverable costs amendments (see earlier bulletin regarding the Civil Procedure (Amendment No. 2) Rules 2023, 156th Practice Direction Update and associated Pre-Action Protocol (PAP) Update).

Full details of these amendments may be found at: [Civil - Civil Procedure Rules \(justice.gov.uk\)](https://www.justice.gov.uk/civil/civil-procedure-rules)

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