STATUTORY INSTRUMENTS

2017 No. 889 (L. 12)

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

The Civil Procedure (Amendment No. 2) Rules 2017

Made - - - - *6th September 2017*

Laid before Parliament *8th September 2017*

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 that Act and after consulting in accordance with section 2(6)(a) of that Act, makes the following Rules.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Civil Procedure (Amendment No. 2) Rules 2017 and come into force on 1st October 2017.

(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(**2**).

Amendments to the Civil Procedure Rules 1998

2. The Civil Procedure Rules 1998 are amended in accordance with Rules 3 to 11 of these Rules.

Amendment of Part 3

3. In rule 3.1—

(a) after paragraph (2)(b) insert—

"(bb) require that any proceedings in the High Court be heard by a Divisional Court of the High Court;"; and

(b) after paragraph (3) insert—

(**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. 1998/3132. There are relevant amendments in S.I. 2001/4015, S.I. 2004/1306, S.I. 2005/2292, S.I. 2005/3515, S.I. 2006/1689, S.I. 2008/2178, S.I. 2013/262, S.I. 2014/407, S.I. 2015/1569, S.I. 2016/234 and S.I. 2016/788.

"(3A) Where the court has made a direction in accordance with paragraph (2)(bb) the proceedings shall be heard by a Divisional Court of the High Court and not by a single judge.".

Amendment of Part 30

4. In Rule 30.8(4), for "Mercantile Court" substitute "Circuit Commercial Court".

Amendment of Part 47

5. In Rule 47.6—

(a) in paragraph (1)—

(i) for sub-paragraph (b) substitute—

"(b) a copy or copies of the bill of costs, as required by Practice Direction 47; and"; and

(ii) in sub-paragraph (c), for "if a costs management order has been made," substitute "if required by Practice Direction 47,"; and

(b) in paragraph (2), for "if a costs management order has been made," substitute "if required by Practice Direction 47,".

Amendment of Part 52

6. In Rule 52—

(a) in Rule 52.3(1)(a)(iii), after "the Children Act 1989" insert "or section 119 of the Social Services and Well-being (Wales) Act 2014(**3**)"; and

(b) in Rule 52.4—

(i) in paragraph (1), after "oral hearing", for "except" substitute "unless the court otherwise directs, or"; and

(ii) in paragraph (4), for "Mercantile" substitute "Circuit Commercial".

Amendment of Part 59

7.—(1) In the heading to Part 59, for "MERCANTILE COURTS" substitute "CIRCUIT COMMERCIAL COURTS".

(2) In Part 59—

(a) for "Mercantile Court", in each place it appears, substitute "Circuit Commercial Court";

(b) for "mercantile claim", in each place it appears, substitute "Circuit Commercial claim";

(c) for "mercantile claims", in each place it appears, substitute "Circuit Commercial claims"; and

(d) for "Mercantile judge", in each place it appears, substitute "Circuit Commercial judge".

(3) In Rule 59.1—

(a) in paragraph (1) for "Mercantile Courts" substitute "Circuit Commercial Courts"; and

(b) in paragraph (2)(b) substitute—

"(b) is not required to proceed in another specialist list of the Business and Property Courts.".

(**3**) 2014 anaw 4.

Amendment of Part 61

8. In Rule 61.2(3)—

(a) in sub-paragraph (b), for "Mercantile Court" substitute "Circuit Commercial Court" and

(b) in sub-paragraph (c), for "Mercantile list" substitute "Circuit Commercial list".

Amendment of Part 62

9. In Rule 62.1(3), for "Mercantile Court", in both places it appears, substitute "Circuit Commercial Court".

Amendment of Part 78

10.—(1) For Rule 78.5(1)(a) and (b), substitute—

"(a) the EOP application will be treated as if it had been started as a claim under Part 7 if –

(i) the claimant has requested under article 7 of the EOP Regulation that such a transfer be made in the event of opposition;

(ii) the claimant has requested that the claim be transferred to the ESCP procedure in the event of opposition, but the claim does not fall within the scope of the ESCP Regulation; or

(iii) the claimant has not specified a preferred procedure in the event of opposition; and

(b) the EOP application will be treated as if it had been started under the ESCP Regulation if—

(i) the claimant has requested under article 7 of the EOP Regulation that such a transfer be made in the event of opposition; and

(ii) the claim is within the scope of the ESCP Regulation.".

(2) After Rule 78.5, insert—

"**Procedure where EOP application treated as if started as a claim under Part 7**

78.5A.—(1) Where the EOP application is treated as if it had been started as a claim under Part 7, pursuant to Rule 78.5(1)(a)—

(a) the EOP application form A will be treated as a Part 7 claim form including particulars of claim; and

(b) thereafter, these Rules apply with necessary modifications and subject to this rule and rules 78.6 and 78.7.

(2) When the court notifies the claimant in accordance with article 17(3) of the EOP Regulation the court will also—

(a) notify the claimant—

(i) that the EOP application form A is now treated as a Part 7 claim form including particulars of claim; and

(ii) of the time within which the defendant must respond under Rule 78.6; and

(b) notify the defendant—

(i) that a statement of opposition has been received;

(ii) that the application will not continue under Part 78;

(iii) that the application has been transferred under article 17 of the EOP Regulation;