

# CPR costs amendments news flash

**The 53rd update to the Civil Procedure Rules**

The 53rd update introduced a large number of changes, most of which came into force on 1 October 2010. Several of the amendments and additions to costs provisions follow recommendations made inter alia in Lord Justice Jackson's Review of Civil Litigation Costs. Legal practitioners should be aware of the following changes that effect costs:

**Part 63 Intellectual Property Claims, PD63 Intellectual Property Claims, and Costs PD**

The amendments provide for a simpler route with close case management for low value claims in the Patents County Court (including the option for the court to determine the claim on the papers with the consent of the parties). There will be no automatic standard disclosure. Recoverable costs will be capped at £50,000 for a claim relating to liability and at £25,000 for an inquiry as to damages or account of profits. The costs of applications will be reserved to the conclusion of the trial (save where a party has behaved unreasonably), and a new section (Section 25C Scale Costs for Proceedings in a Patents County Court) has been introduced to the Costs Practice Direction. The Costs PD now sets out the maximum amount of scale costs to be allowed for each stage of a claim. The allowances are summarised below:

**Table A – determination of liability**

Stage	Maximum allowance
Particulars of Claim	£6,125.00
Defence and counterclaim	£6,125.00
Reply and defence to counterclaim	£6,125.00
Reply to defence to counterclaim	£3,000.00
Attendance at case management conference	£2,500.00
Making or responding to an application	£2,500.00
Providing or inspecting disclosure or product/process description	£5,000.00
Performing or inspecting experiments	£2,500.00
Preparing witness statements	£5,000.00
Preparing experts' report	£7,500.00
Preparing for and attending trial and judgment	£15,000.00
Preparing for determination on the papers	£5,000.00

**Table B – inquiry as to damages or account of profits**

Stage	Maximum allowance
Points of claim	£2,500.00
Points of defence	£2,500.00
Attendance at case management conference	£2,500.00
Making or responding to an application	£2,500.00
Providing or inspecting disclosure	£2,500.00
Preparing witness statements	£5,000.00
Preparing experts' report	£5,000.00
Preparing for and attending trial and judgment	£7,500.00
Preparing for determination on the papers	£2,500.00

Press Release – 18 October 2010

**PD51D – Defamation proceedings and costs management**

The pilot scheme, set out in Practice Direction 51D, and which applies in the RCJ and the District Registry at Manchester, has been extended so that it will now run until 31 March 2011. The Defamation Proceedings Costs Management Scheme applies to proceedings which include allegations of libel, slander, and/or malicious falsehood, and provides for close costs management based on detailed costs budgets and estimates with the objective of managing the costs of the litigation so that they are proportionate to the value of the claim and the reputational issues at stake.

**PD51E – County Court Provisional Assessment Pilot Scheme**

A new Practice Direction (PD51E – County Court Provisional Assessment Pilot Scheme) has been introduced. The Pilot Scheme will operate from 1 October 2010 to 30 September 2011 in the Leeds, York, and Scarborough County Courts, and will apply to detailed assessment proceedings where the base costs claimed are £25,000 or less. The purpose of the Pilot is to ascertain the viability of assessing bills of costs of lower value on paper. The receiving party will be required to file papers with the N258 and the documents set out at paragraph 40.2 of the Costs PD. The court will then, within 6 weeks, provisionally assess the bill of costs based on the submissions made in the points of dispute and any reply. Once the provisionally assessed bill of costs has been circulated the parties will be given the opportunity to request a hearing for full argument on any aspect of the provisional assessment. This must be done within 21 days. If an oral hearing takes place the costs of that hearing will normally be awarded to the paying party if the bill is reduced to 80% or less of the provisionally assessed sum, or where the hearing was requested by the receiving party alone if he fails to secure an increase to a sum which is 120% or more of the provisionally assessed sum. Costs will normally be awarded to the receiving party if he can secure an increase to 120% or more to the provisionally assessed sum, or where the hearing is requested by the paying party alone where the provisionally assessed sum is not reduced to 80% or less. If both parties request the hearing no order for costs will be made if the amount allowed falls between 80% and 120% of the provisionally assessed sum.

We look forward to reporting further on the success (or otherwise) of the changes introduced by the 53rd update to the CPR and will do so as soon as some useful feedback is available from the courts.

Michael Heslin/Afqar Dean, October 2010