

Coming into force 22 April 2014 subject to the approval of the Lord Chancellor

PRACTICE DIRECTION 3E - COSTS MANAGEMENT

This Practice Direction supplements Section II of CPR Part 3

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A. Production of Costs Budgets

Part 7 multi-track claims with a value of less than £10 million

1 The Rules require the parties in Part 7 multi-track claims with a value of less than £10 million to file and exchange costs budgets: see rules 3.12 and 3.13.

Other cases

2 In any case where the parties are not required by rules 3.12 and 3.13 to file and exchange costs budgets, the court has a discretion to make an order requiring them to do so. That power may be exercised by the court on its own initiative or on the application of a party. Where costs budgets are filed and exchanged, the court will be in a position to consider making a costs management order: see Section C below. In all cases the court will have regard to the need for litigation to be conducted justly and at proportionate cost in accordance with the overriding objective.

3 At an early stage in the litigation the parties should consider and, where practicable, discuss whether to apply for an order for the provision of costs budgets, with a view to a costs management order being made.

4 If all parties consent to an application for an order for provision of costs budgets, the court will (other than in exceptional cases) make such an order.

5 An order for the provision of costs budgets with a view to a costs management order being made may be particularly appropriate in the following cases:

- (a) unfair prejudice petitions under section 994 of the Companies Act 2006;
- (b) disqualification proceedings pursuant to the Company Directors Disqualification Act 1986;
- (c) applications under the Trusts of Land and Appointment of Trustees Act 1996;
- (d) claims pursuant to the Inheritance (Provision for Family and Dependents) Act 1975;
- (e) any Part 8 claims or other applications involving a substantial dispute of fact and/or likely to require oral evidence and/or extensive disclosure; and

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(f) personal injury and clinical negligence cases where the value of the claim is £10 million or more.

B. Budget format

6 Unless the court otherwise orders, a budget must be in the form of Precedent H annexed to this Practice Direction. It must be in landscape format with an easily legible typeface. In substantial cases, the court may direct that budgets be limited initially to part only of the proceedings and subsequently extended to cover the whole proceedings. A budget must be dated and verified by a statement of truth signed by a senior legal representative of the party. In cases where a party's budgeted costs do not exceed £25,000, there is no obligation on that party to complete more than the first page of Precedent H.

(The wording for a statement of truth verifying a budget is set out in Practice Direction 22.)

C. Costs management orders

7.1 Where costs budgets are filed and exchanged, the court will generally make a costs management order under rule 3.15. If the court makes a costs management order under rule 3.15, the following paragraphs shall apply.

7.2 Save in exceptional circumstances-

(1) the recoverable costs of initially completing Precedent H shall not exceed the higher of £1,000 or 1% of the approved or agreed budget;

(2) all other recoverable costs of the budgeting and costs management process shall not exceed 2% of the approved or agreed budget.

7.3 If the budgets or parts of the budgets are agreed between all parties, the court will record the extent of such agreement. In so far as the budgets are not agreed, the court will review them and, after making any appropriate revisions, record its approval of those budgets. The court's approval will relate only to the total figures for each phase of the proceedings, although in the course of its review the court may have regard to the constituent elements of each total figure. When reviewing budgets, the court will not undertake a detailed assessment in advance, but rather will consider whether the budgeted costs fall within the range of reasonable and proportionate costs.

7.4 As part of the costs management process the court may not approve costs incurred before the date of any budget. The court may, however, record its comments on those costs and will take those costs into account when considering the reasonableness and proportionality of all subsequent costs.

7.5 The court may set a timetable or give other directions for future reviews of budgets.

7.6 Each party shall revise its budget in respect of future costs upwards or downwards, if significant developments in the litigation warrant such revisions. Such amended budgets shall be submitted to the other parties for agreement. In default of agreement, the amended budgets shall be submitted to the court, together with a note of (a) the changes made and the reasons for those changes and (b) the objections of any other party. The court may approve, vary or disapprove the revisions, having regard to any significant developments which have occurred since the date when the previous budget was approved or agreed.

7.7 After its budget has been approved or agreed, each party shall re-file and re-serve the

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budget in the form approved or agreed with re-cast figures, annexed to the order approving it or recording its agreement.

7.8 A litigant in person, even though not required to prepare a budget, shall nevertheless be provided with a copy of the budget of any other party.

7.9 If interim applications are made which, reasonably, were not included in a budget, then the costs of such interim applications shall be treated as additional to the approved budgets.

Annex – Precedent H and Notes for Guidance

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