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CIVIL
PRACTICE

2014



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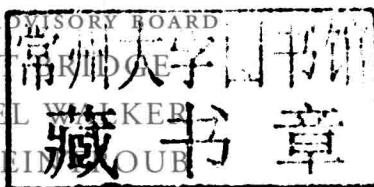
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Preface

NEW TO THE 2014 EDITION

Blackstone's Civil Practice 2014 is up to date to 31 July 2013, and includes rule changes which came into effect then, together with all the civil justice reforms of 2013 that came into force on 1 April 2013 implementing the Jackson reforms. The commentary incorporates rule amendments up to the Civil Procedure (Amendment No. 6) Rules 2013 and the 65th Update. The rules and practice directions in the Appendices include revisions up to the Civil Procedure (Amendment No. 4) Rules 2013 and the 63rd Update. It has not been possible to deal with the new Part 82 of the Civil Procedure Rules, which came into force on 27 June 2013. Among the revisions to *Blackstone's Civil Practice* for this edition are:

- Abolition of recoverability of success fees and additional liabilities
- Damages-based agreements
- Legal aid under LASPO 2012 replacing the Community Legal Service
- Overriding objective revised to include ensuring litigation proceeds at proportionate cost
- Small claims track limit raised
- Allocation questionnaires replaced with directions questionnaires
- Provisional track allocation
- Standard directions for multi-track claims
- Direct judicial contact with legal representatives
- Docketing
- Menu option disclosure
- Disclosure reports
- Costs budgets
- Costs management
- Restrictions on witness statements
- Costs estimates for experts
- Concurrent expert evidence ('hot-tubbing')
- Proportionality: replacement test
- Proportionality, necessity and reasonableness
- Qualified one-way costs shifting
- Part 36: additional amount where there is a successful claimant's Part 36 offer
- Costs rules and costs practice directions completely replaced
- Provisional assessment of costs
- Appeals practice directions completely replaced
- ADR: enhanced importance, and the ADR Handbook
- Contempt of court: the new Part 81

These changes have resulted in the need for three new chapters, and for the chapter on legal aid to be completely replaced, as well as extensive amendments throughout the book.

An online resource centre for *Blackstone's Civil Practice 2014* will also be available with regular updates and useful reading. This can be found at: www.oup.com/blackstones/civil.

Blackstone's Civil Practice 2014 provides the civil litigation practitioner with a comprehensive and authoritative work covering every topic which the practitioner can reasonably expect to encounter in everyday practice. The objective of the publishers and the editorial team has been to produce a single volume of manageable size and expense.

Blackstone's Civil Practice occupies a unique place in the civil litigation practitioner's library. It is a complete treatise on all aspects of the law and practice relating to the progress of a civil claim, from funding the litigation to enforcing the judgment. It provides a complete commentary on the Civil Procedure Rules and practice directions, the text of which is set out in appendix 1. There are chapters providing comprehensive but condensed summaries of the law

of evidence, judicial review, human rights, sale of goods and unfair contracts. There is commentary on specialist proceedings including arbitration, mortgage possession, company, insolvency and director disqualification.

A team of highly experienced and respected authors has ensured that each subject is given authoritative and specialist attention. The authors and editors have sought to provide a text which is sufficiently comprehensive, clear and up to date to enable a practitioner easily to assimilate a topic on which he or she may have little knowledge, whilst at the same time providing a depth of analysis and information which will enable those with greater experience of a subject to research in greater detail.

Comprehensive and up-to-date appendices include not only the Civil Procedure Rules, practice directions and pre-action protocols, but also the court fees orders and some of the statutes most commonly needed in civil litigation. Procedural checklists, which are step-by-step guides to various aspects of civil procedure, can be found at the front of the book, beginning on page 1. These provide quick and practical guidance on how to comply with the requirements of the rules.

It has been the foresight and enthusiasm of its publishers which has enabled this work to come to fruition. The editors would, in particular, like to thank Heather Saward and Jeremy Stein, and remember the late Alistair MacQueen, of Blackstone Press, because this work would not have seen the light of day without their vision and enthusiasm. We also extend our thanks to Vicky Pittman and Andy Redman of Oxford University Press for their guidance, encouragement and total support. We also warmly thank the contributors who have provided authoritative material on their subjects and met a tight schedule notwithstanding their other important commitments.

This edition states the law as it was known to the editors and contributors at 31 July 2013 and includes changes to the Civil Procedure Rules and practice directions, which took effect on 31 July 2013 (except that it has not been possible to deal with the new Part 82 of the CPR). Court fees are those in effect from 1 July 2013.

The editors
31 July 2013

Contributors

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Matthew Weiniger, MA (Cantab), Solicitor Advocate (chapters 72, 73 and 80). Matthew Weiniger is a partner at Herbert Smith practising in the international arbitration group. He specialises in international arbitration and alternative dispute resolution (particularly in banking, investment and joint venture disputes). He also advises on matters relating to public and private international law.

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The tables and index were compiled by Moira Greenhalgh BSc MCLIP FSI and updated by Penny Dickman (index) and Margaret Hibbert (tables).

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CHAPTERS AND APPENDICES

Blackstone's Civil Practice has 92 chapters and four appendices. The chapters are grouped into 20 parts, A to V. For a list of the parts, chapters and appendices see the **Contents** starting on page xiii.

Chapters are divided up by numbered headings. The first heading in chapter 1 is numbered 1.1, the second is 1.2 and so on. The number of a heading is printed in the margin against the first line of text after the heading. Each chapter begins with a list of its numbered headings. The numbers are used for cross-references throughout the book.

ORGANISATION OF THE SUBJECT MATTER

Subject-focused chapters

The chapters of *Blackstone's Civil Practice* are subject-focused, dealing with all the law on a topic, wherever the source of the law may be in statutes, rules, practice directions or cases. General points are discussed in part A (chapters 1 to 4), then parts B to P (chapters 5 to 81) describe the progress of a civil claim in a county court or the High Court in England and Wales, from consideration of how to fund it (part B) to the methods of enforcing judgment (part P). Part Q (chapters 82 to 86) deals with procedure in insolvency proceedings and companies matters in the county courts and High Court. Other special procedures in the county courts and High Court are considered in chapter 72 (arbitration claims), chapter 77 (judicial review, which is conducted in the High Court only), chapter 87 (mortgage possession claims) and chapter 88 (anti-social behaviour and harassment, which are dealt with in county courts only). Parts T and U of *Blackstone's Civil Practice* contain compact summaries of some topics of particular importance to practitioners: sale of goods and unfair contracts (part T) and human rights (part U). Part V lists the changes of terminology in civil proceedings which have occurred from 1998 onwards.

Blackstone's Civil Practice does not deal with family proceedings or with civil proceedings ancillary to criminal matters.

Procedural checklists

Starting on page 1 there are 38 procedural checklists which summarise the steps to be taken in the most commonly encountered stages of a civil claim.

Source-focused appendices

Appendices 1 to 4 of *Blackstone's Civil Practice* are source-focused. Appendix 1 gives the complete, up-to-date text of the Civil Procedure Rules and supplementing practice directions. Pre-action protocols are in appendix 2. Appendix 3 is court fees orders. Appendix 4 gives the up-to-date text of the principal statutes relating to civil procedure. Each appendix begins with a list of its contents.

Abbreviations

ADR	alternative dispute resolution
ATE	after-the-event
Brussels I Regulation	Regulation (EC) No. 44/2001
CCA 1974	Consumer Credit Act 1974
CCR	County Court Rules 1981 (SI 1981/1687) as amended, or as re-enacted in CPR, sch. 2
CDDA 1986	Company Directors Disqualification Act 1986
CFA	conditional fee agreement
CJEU	Court of Justice of the European Union
CJJA 1982	Civil Jurisdiction and Judgments Act 1982
CLS	Community Legal Service
CPFO	Civil Proceedings Fees Order 2008 (SI 2008/1053)
CPR	Civil Procedure Rules 1998 (SI 1998/3132)
CRU	Compensation Recovery Unit
DCS	debtor-creditor-supplier
ECHR	European Court of Human Rights
EEO	European enforcement order
EL/PL Protocol	Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims
EOP	European order for payment
ESCP	European small claims procedure
<i>Final Report</i>	Lord Woolf, <i>Access to Justice. Final Report</i> (London: HMSO, 1996)
GLO	group litigation order
<i>Interim Report</i>	Lord Woolf, <i>Access to Justice. Interim Report</i> (London: Lord Chancellor's Department, 1995)
IR 1986	Insolvency Rules 1986 (SI 1986/1925)
IVA	individual voluntary arrangement
<i>Jackson Report</i>	Sir Rupert Jackson's <i>Review of Civil Litigation Costs: Final Report</i> (London: TSO, 2010)
LA 1980	Limitation Act 1980
LAA	Legal Aid Agency
LEI	legal expenses insurance
LSC	Legal Services Commission
MF	McKenzie friend
MIB	Motor Insurers' Bureau
ord.	order
para.	paragraph
paras	paragraphs

PD	Practice Direction. PD followed by a number is a practice direction supplementing the Part of the CPR with that number.
PD Directors Disqualification Proceedings	Practice Direction — Directors Disqualification Proceedings
PD Insolvency Proceedings	Practice Direction — Insolvency Proceedings
PD Pre-action Conduct	Practice Direction — Pre-action Conduct
r.	rule
RCJ	Royal Courts of Justice
RLSC	regional legal services committee
rr.	rules
RSC	Rules of the Supreme Court 1965 (SI 1965/1776) as amended, or as re-enacted in CPR, sch. 1
RTA	road traffic accident
RTA Protocol	Pre-action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents
s.	section
SCCO	Senior Courts Costs Office
sch.	schedule
SCR	Supreme Court Rules 2009 (SI 2009/1603)
Service Regulation	Regulation (EU) No. 1348/2000
SoGA 1979	Sale of Goods Act 1979
SoGITA 1973	Supply of Goods (Implied Terms) Act 1973
SoGSA 1982	Supply of Goods and Services Act 1982
ss.	sections
Taking of Evidence Regulation	Regulation (EC) No. 1206/2001
TCC	Technology and Construction Court
TFEU	Treaty on the Functioning of the European Union
WFO	worldwide freezing order
<i>Woolf Report</i>	Lord Woolf, <i>Access to Justice: Final Report</i> (London: HMSO, 1996)

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