

PART 6

SERVICE OF DOCUMENTS

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I GENERAL RULES ABOUT SERVICE

PART 6 RULES ABOUT SERVICE APPLY GENERALLY

- 6.1 | The rules in this Part apply to the service of documents, except where –
- (a) any other enactment, a rule in another Part, or a practice direction makes a different provision; or
 - (b) the court orders otherwise.

METHODS OF SERVICE – GENERAL

- 6.2 | (1) A document may be served by any of the following methods –

- (a) personal service, in accordance with rule 6.4;
- (b) first class post;
- (c) leaving the document at a place specified in rule 6.5;
- (d) through a document exchange in accordance with the relevant practice direction; or
- (e) by fax or other means of electronic communication in accordance with the relevant practice direction.

(Rule 6.8 provides for the court to permit service by an alternative method)

- (2) A company may be served by any method permitted under this Part as an alternative to the methods of service set out in –
 - (a) section 725 of the Companies Act 1985⁽⁷⁾ (service by leaving a document at or posting it to an authorised place);
 - (b) section 695 of that Act (service on overseas companies); and
 - (c) section 694A of that Act (service of documents on companies incorporated outside the UK and Gibraltar and having a branch in Great Britain).

WHO IS TO SERVE

6.3

- (1) The court will serve a document which it has issued or prepared except where –
 - (a) a rule provides that a party must serve the document in question;
 - (b) the party on whose behalf the document is to be served notifies the court that he wishes to serve it himself;
 - (c) a practice direction provides otherwise;
 - (d) the court orders otherwise; or
 - (e) the court has failed to serve and has sent a notice of non-service to the party on whose behalf the document is to be served in accordance with rule 6.11.
- (2) Where the court is to serve a document, it is for the court to decide which of the methods of service specified in rule 6.2 is to be used.
- (3) Where a party prepares a document which is to be served by the court, that party must file a copy for the court, and for each party to be served.

PERSONAL SERVICE

6.4

- (1) A document to be served may be served personally, except as provided in paragraph (2).

(7) 1985 c.6.

- (2) Where a solicitor –
 - (a) is authorised to accept service on behalf of a party; and
 - (b) has notified the party serving the document in writing that he is so authorised,
 a document must be served on the solicitor, unless personal service is required by an enactment, rule, practice direction or court order.
 - (3) A document is served personally on an individual by leaving it with that individual.
 - (4) A document is served personally on a company or other corporation by leaving it with a person holding a senior position within the company or corporation.
- (The service practice direction sets out the meaning of ‘senior position’)
- (5) A document is served personally on a partnership where partners are being sued in the name of their firm by leaving it with –
 - (a) a partner; or
 - (b) a person who, at the time of service, has the control or management of the partnership business at its principal place of business.

ADDRESS FOR SERVICE

- 6.5 |
- (1) Except as provided by RSC Order 11 (service out of the jurisdiction) a document must be served within the jurisdiction.
- (‘Jurisdiction’ is defined in rule 2.3)
- (2) A party must give an address for service within the jurisdiction.
 - (3) Where a party –
 - (a) does not give the business address of his solicitor as his address for service; and
 - (b) resides or carries on business within the jurisdiction,
 he must give his residence or place of business as his address for service.
 - (4) Any document to be served –
 - (a) by first class post;
 - (b) by leaving it at the place of service;
 - (c) through a document exchange; or
 - (d) by fax or by other means of electronic communication,
 must be sent or transmitted to, or left at, the address for service given by the party to be served.

(5) Where –

- (a) a solicitor is acting for the party to be served; and
 - (b) the document to be served is not the claim form;
- the party's address for service is the business address of his solicitor.

(Rule 6.13 specifies when the business address of a defendant's solicitor may be the defendant's address for service in relation to the claim form)

(6) Where –

- (a) no solicitor is acting for the party to be served; and
 - (b) the party has not given an address for service,
- the document must be sent or transmitted to, or left at, the place shown in the following table.

(Rule 6.2(2) sets out the statutory methods of service on a company)

NATURE OF PARTY TO BE SERVED	PLACE OF SERVICE
Individual	<ul style="list-style-type: none"> Usual or last known residence.
Proprietor of a business	<ul style="list-style-type: none"> Usual or last known residence; or Place of business or last known place of business.
Individual who is suing or being sued in the name of a firm	<ul style="list-style-type: none"> Usual or last known residence; or Principal or last known place of business of the firm.
Corporation incorporated in England and Wales other than a company	<ul style="list-style-type: none"> Principal office of the corporation; or Any place within the jurisdiction where the corporation carries on its activities and which has a real connection with the claim.
Company registered in England and Wales	<ul style="list-style-type: none"> Principal office of the company; or Any place of business of the company within the jurisdiction which has a real connection with the claim.
Any other company or corporation	<ul style="list-style-type: none"> Any place within the jurisdiction where the corporation carries on its activities; or Any place of business of the company within the jurisdiction.

- (7) This rule does not apply where an order made by the court under rule 6.8 (service by an alternative method) specifies where the document in question may be served.

SERVICE OF DOCUMENTS ON CHILDREN AND PATIENTS

- 6.6 | (1) The following table shows the person on whom a document must be served if it is a document which would otherwise be served on a child or a patient –

TYPE OF DOCUMENT	NATURE OF PARTY	PERSON TO BE SERVED
Claim form	Child who is not also a patient	<ul style="list-style-type: none"> • One of the child's parents or guardians; or • If there is no parent or guardian, the person with whom the child resides or in whose care the child is.
Claim form	Patient	<ul style="list-style-type: none"> • The person authorised under Part VII of the Mental Health Act 1983⁽⁸⁾ to conduct the proceedings in the name of the patient or on his behalf; or • If there is no person so authorised, the person with whom the patient resides or in whose care the patient is.
Application for an order appointing a litigation friend, where a child or patient has no litigation friend	Child or patient	See rule 21.8.
Any other document	Child or patient	The litigation friend who is conducting proceedings on behalf of the child or patient.

- (2) The court may make an order permitting a document to be served on the child or patient, or on some person other than the person specified in the table in this rule.
- (3) An application for an order under paragraph (2) may be made without notice.
- (4) The court may order that, although a document has been served on someone other than the person specified in the table, the document is to be treated as if it had been properly served.
- (5) This rule does not apply where the court has made an order under rule 21.2(3) allowing a child to conduct proceedings without a litigation friend.

(Part 21 contains rules about the appointment of a litigation friend)

(8) 1983 c.20.

DEEMED SERVICE

- 6.7** (1) A document which is served in accordance with these rules or any relevant practice direction shall be deemed to be served on the day shown in the following table –

METHOD OF SERVICE	DEEMED DAY OF SERVICE
First class post	The second day after it was posted.
Document exchange	The second day after it was left at the document exchange.
Delivering the document to or leaving it at a permitted address	The day after it was delivered to or left at the permitted address.
Fax	<ul style="list-style-type: none"> • If it is transmitted on a business day before 4p.m., on that day; or • In any other case, on the business day after the day on which it is transmitted.
Other electronic method	The second day after the day on which it is transmitted.

- (2) If a document (other than a claim form) is served after 5 p.m. on a business day, or at any time on a Saturday, Sunday or a bank holiday, the document shall be treated as having been served on the next business day.
- (3) In this rule –
- ‘business day’ means any day except Saturday, Sunday or a bank holiday;
- and
- ‘bank holiday’ includes Christmas Day and Good Friday.

SERVICE BY AN ALTERNATIVE METHOD

- 6.8** (1) Where it appears to the court that there is a good reason to authorise service by a method not permitted by these Rules, the court may make an order permitting service by an alternative method.
- (2) An application for an order permitting service by an alternative method –
- must be supported by evidence; and
 - may be made without notice.
- (3) An order permitting service by an alternative method must specify –
- the method of service; and
 - the date when the document will be deemed to be served.

POWER OF COURT TO DISPENSE WITH SERVICE

- 6.9 | (1) The court may dispense with service of a document.
- (2) An application for an order to dispense with service may be made without notice.

CERTIFICATE OF SERVICE

- 6.10 | Where a rule, practice direction or court order requires a certificate of service, the certificate must state –
- (a) that the document has not been returned undelivered; and
- (b) the details set out in the following table –

METHOD OF SERVICE	DETAILS TO BE CERTIFIED
Post	Date of posting
Personal	Date of personal service
Document exchange	Date of delivery to the document exchange
Delivery of document to or leaving it at a permitted place	Date when the document was delivered to or left at the permitted place
Fax	Date and time of transmission
Other electronic means	Date of transmission and the means used
Alternative method permitted by the court	As required by the court

NOTICE OF NON-SERVICE

- 6.11 | Where –
- (a) a document is to be served by the court; and
- (b) the court is unable to serve it,
- the court must send a notice of non-service stating the method attempted to the party who requested service.

II SPECIAL PROVISIONS ABOUT SERVICE OF THE CLAIM FORM

GENERAL RULES ABOUT SERVICE SUBJECT TO SPECIAL RULES ABOUT SERVICE OF CLAIM FORM

- 6.12 | The general rules about service are subject to the special rules about service contained in rules 6.13 to 6.16.

SERVICE OF CLAIM FORM BY THE COURT – DEFENDANT’S ADDRESS FOR SERVICE

- 6.13 | (1) Where a claim form is to be served by the court, the claim form must include the defendant’s address for service.
- (2) For the purposes of paragraph (1), the defendant’s address for service may be the business address of the defendant’s solicitor if he is authorised to accept service on the defendant’s behalf but not otherwise.

(Rule 6.5 contains general provisions about the address for service)

CERTIFICATE OF SERVICE RELATING TO THE CLAIM FORM

- 6.14 | (1) Where a claim form is served by the court, the court must send the claimant a notice which will include the date when the claim form is deemed to be served under rule 6.7.
- (2) Where the claim form is served by the claimant –
- (a) he must file a certificate of service within 7 days of service of the claim form; and
 - (b) he may not obtain judgment in default under Part 12 unless he has filed the certificate of service.

(Rule 6.10 specifies what a certificate of service must show)

SERVICE OF CLAIM FORM BY CONTRACTUALLY AGREED METHOD

- 6.15 | (1) Where –
- (a) a contract contains a term providing that, in the event of a claim being issued in relation to the contract, the claim form may be served by a method specified in the contract; and
 - (b) a claim form containing only a claim in respect of that contract is issued,
- the claim form shall, subject to paragraph (2), be deemed to be served on the defendant if it is served by a method specified in the contract.
- (2) Where the claim form is served out of the jurisdiction in accordance with the contract, it shall not be deemed to be served on the defendant unless –
- (a) permission to serve it out of the jurisdiction has been granted under RSC Order 11 r.1(1); or
 - (b) it may be served without permission under RSC Order 11 r.1(2).

SERVICE OF CLAIM FORM ON AGENT OF PRINCIPAL WHO IS OVERSEAS

6.16

- (1) Where –
 - (a) the defendant is overseas; and
 - (b) the conditions specified in paragraph (2) are satisfied,
 the court may, on an application only, permit a claim form relating to a contract to be served on a defendant's agent.
 - (2) The court may not make an order under this rule unless it is satisfied that –
 - (a) the contract to which the claim relates was entered into within the jurisdiction with or through the defendant's agent; and
 - (b) at the time of the application either the agent's authority has not been terminated or he is still in business relations with his principal.
 - (3) An application under this rule –
 - (a) must be supported by evidence; and
 - (b) may be made without notice.
 - (4) An order under this rule must state a period within which the defendant must respond to the particulars of claim.
- (Rule 9.2 sets out how a defendant may respond to particulars of claim)
- (5) The power conferred by this rule is additional to the power conferred by rule 6.8 (service by an alternative method).
 - (6) Where the court makes an order under this rule, the claimant must send to the defendant copies of –
 - (a) the order; and
 - (b) the claim form.

(Other rules about service can be found –

- (a) in Schedule 1, in the following RSC – O.10 (certain actions for the possession of land); O.11 (service out of the jurisdiction); O.30 (receivers); O.52 (application for committal order); O.54 (writ of habeas corpus); O.69 (foreign process); O.77 (service on the Crown); O.97 (Landlord and Tenant Acts); O.106 (Solicitors Act 1974); O.113 (summary proceedings for possession of land);
- (b) in Schedule 2, in the following CCR – O.3 (appeal to the county court); O.7 (recovery of land and mortgage possession claims); O.24 (summary proceedings for recovery of land and interim possession orders); O.33 (interpleader); O.42 (service on the Crown); O.43 (Landlord and Tenant Acts); O.45 (application for detailed assessment of returning officer's account); O.47 (application for direction for use of blood tests); O.48B (order for

enforcement of parking penalties); O.49 (notice to repair under Chancel Repairs Act 1932; applications under various statutes); and

- (c) in relation to certain enforcement proceedings, in the provisions in the Schedules dealing with those proceedings.