

# SERVICE WITHIN THE UNITED KINGDOM

## This Practice Direction supplements CPR Part 6

### Scope of this Practice Direction

**1.1** This Practice Direction supplements –

- (1) Section II (service of the claim form in the jurisdiction) of Part 6;
- (2) Section III (service of documents other than the claim form in the United Kingdom) of Part 6; and
- (3) rule 6.40 in relation to the method of service on a party in Scotland or Northern Ireland.

(Practice Direction 6B contains provisions relevant to service on a party in Scotland or Northern Ireland, including provisions about service out of the jurisdiction where permission is and is not required and the period for responding to an application notice.)

### When service may be by document exchange

**2.1** Service by document exchange (DX) may take place only where –

- (1) the address at which the party is to be served includes a numbered box at a DX, or
- (2) the writing paper of the party who is to be served or of the solicitor acting for that party sets out a DX box number, and
- (3) the party or the solicitor acting for that party has not indicated in writing that they are unwilling to accept service by DX.

### How service is effected by post, an alternative service provider or DX

**3.1** Service by post, DX or other service which provides for delivery on the next business day is effected by –

- (1) placing the document in a post box;
- (2) leaving the document with or delivering the document to the relevant service provider; or
- (3) having the document collected by the relevant service provider.

### Service by fax or other electronic means

**4.1** Subject to the provisions of rule 6.23(5) and (6), where a document is to be served by fax or other electronic means –

- (1) the party who is to be served or the solicitor acting for that party must previously have indicated in writing to the party serving –
  - (a) that the party to be served or the solicitor is willing to accept service by fax or other electronic means; and
  - (b) the fax number, e-mail address or other electronic identification to which it must be sent; and
- (2) the following are to be taken as sufficient written indications for the purposes of paragraph 4.1(1) –
  - (a) a fax number set out on the writing paper of the solicitor acting for the party to be served;
  - (b) an e-mail address set out on the writing paper of the solicitor acting for the party to be served but only where it is stated that the e-mail address may be used for service; or

- (c) a fax number, e-mail address or electronic identification set out on a statement of case or a response to a claim filed with the court.
- 4.2** Where a party intends to serve a document by electronic means (other than by fax) that party must first ask the party who is to be served whether there are any limitations to the recipient's agreement to accept service by such means (for example, the format in which documents are to be sent and the maximum size of attachments that may be received).
- 4.3** Where a document is served by electronic means, the party serving the document need not in addition send or deliver a hard copy.

### **Service on members of the Regular Forces and United States Air Force**

- 5.1** The provisions that apply to service on members of the regular forces (within the meaning of the Armed Forces Act 2006) and members of the United States Air Force are annexed to this practice direction.

### **Personal service on a company or other corporation**

- 6.1** Personal service on a registered company or corporation in accordance with rule 6.5(3) is effected by leaving a document with a person holding a senior position.
- 6.2** Each of the following persons is a person holding a senior position –
- (1)** in respect of a registered company or corporation, a director, the treasurer, the secretary of the company or corporation, the chief executive, a manager or other officer of the company or corporation; and
  - (2)** in respect of a corporation which is not a registered company, in addition to any of the persons set out in sub-paragraph (1), the mayor, the chairman, the president, a town clerk or similar officer of the corporation.

### **Certificate of service where claimant serves the claim form**

- 7.1** Where, pursuant to rule 6.17(2), the claimant files a certificate of service, the claimant is not required to and should not file –
- (1)** a further copy of the claim form with the certificate of service; and
  - (2)** a further copy of –
    - (a)** the particulars of claim (where not included in the claim form); or
    - (b)** any document attached to the particulars of claim,with the certificate of service where that document has already been filed with the court.

(Rule 7.4 requires the claimant to file a copy of the particulars of claim (where served separately from the claim form) within 7 days of service on the defendant.)

### **Service by the court**

- 8.1** Where the court serves a document in accordance with rule 6.4 or 6.21(2), the method will normally be first class post.
- 8.2** Where the court serves a claim form, delivers a defence to a claimant or notifies a claimant that the defendant has filed an acknowledgment of service, the court will also serve or deliver a copy of any notice of funding that has been filed, if –
- (1)** it was filed at the same time as the claim form, defence or acknowledgment of service, and
  - (2)** copies of it were provided for service.

(Rule 44.15 deals with the provision of information about funding arrangements.)

### **Application for an order for service by an alternative method or at an alternative place**

**9.1** Where an application for an order under rule 6.15 is made before the document is served, the application must be supported by evidence stating –

- (1) the reason why an order is sought;
- (2) what alternative method or place is proposed, and
- (3) why the applicant believes that the document is likely to reach the person to be served by the method or at the place proposed.

**9.2** Where the application for an order is made after the applicant has taken steps to bring the document to the attention of the person to be served by an alternative method or at an alternative place, the application must be supported by evidence stating –

- (1) the reason why the order is sought;
- (2) what alternative method or alternative place was used;
- (3) when the alternative method or place was used; and
- (4) why the applicant believes that the document is likely to have reached the person to be served by the alternative method or at the alternative place.

**9.3** Examples –

- (1) an application to serve by posting or delivering to an address of a person who knows the other party must be supported by evidence that if posted or delivered to that address, the document is likely to be brought to the attention of the other party;
- (2) an application to serve by sending a SMS text message or leaving a voicemail message at a particular telephone number saying where the document is must be accompanied by evidence that the person serving the document has taken, or will take, appropriate steps to ensure that the party being served is using that telephone number and is likely to receive the message; and
- (3) an application to serve by e-mail to a company (where paragraph 4.1 does not apply) must be supported by evidence that the e-mail address to which the document will be sent is one which is likely to come to the attention of a person holding a senior position in that company.

### **Deemed service of a document other than a claim form**

**10.1** Rule 6.26 contains provisions about deemed service of a document other than a claim form. Examples of how deemed service is calculated are set out below.

**10.2** *Example 1*

Where the document is posted (by first class post) on a Monday (a business day), the day of deemed service is the following Wednesday (a business day).

**10.3** *Example 2*

Where the document is left in a numbered box at the DX on a Friday (a business day), the day of deemed service is the following Monday (a business day).

**10.4** *Example 3*

Where the document is sent by fax on a Saturday and the transmission of that fax is completed by 4.30p.m. on that day, the day of deemed service is the following Monday (a business day).

**10.5** *Example 4*

Where the document is served personally before 4.30p.m. on a Sunday, the day of deemed service is the next day (Monday, a business day).

**10.6** *Example 5*

Where the document is delivered to a permitted address after 4.30p.m. on the Thursday (a business day) before Good Friday, the day of deemed service is the following Tuesday (a business day) as the Monday is a bank holiday.

**10.7** *Example 6*

Where the document is posted (by first class post) on a bank holiday Monday, the day of deemed service is the following Wednesday (a business day).

# Annex

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## SERVICE ON MEMBERS OF THE REGULAR FORCES

1. The following information is for litigants and legal representatives who wish to serve legal documents in civil proceedings in the courts of England and Wales on parties to the proceedings who are (or who, at the material time, were) members of the regular forces (as defined in the Armed Forces Act 2006).
2. The proceedings may take place in the county court or the High Court, and the documents to be served may be claim forms, interim application notices and pre-action application notices. Proceedings for divorce or maintenance and proceedings in the Family Courts generally are subject to special rules as to service which are explained in a practice direction issued by the Senior District Judge of the Principal Registry on 26 June 1979.
3. In this Annex, the person wishing to effect service is referred to as the 'claimant' and the member of the regular forces to be served is referred to as 'the member'; the expression 'overseas' means outside the United Kingdom.

### Enquiries as to address

4. As a first step, the claimant's legal representative will need to find out where the member is serving, if this is not already known. For this purpose the claimant's legal representative should write to the appropriate officer of the Ministry of Defence as specified in paragraph 10 below.
5. The letter of enquiry should in every case show that the writer is a legal representative and that the enquiry is made solely with a view to the service of legal documents in civil proceedings.
6. In all cases the letter must give the full name, service number, rank or rate, and Ship, Arm or Trade, Regiment or Corps and Unit or as much of this information as is available. Failure to quote the service number and the rank or rate may result either in failure to identify the member or in considerable delay.
7. The letter must contain an undertaking by the legal representative that, if the address is given, it will be used solely for the purpose of issuing and serving documents in the proceedings and that so far as is possible the legal representative will disclose the address only to the court and not to the claimant or to any other person or body. A legal representative in the service of a public authority or private company must undertake that the address will be used solely for the purpose of issuing and serving documents in the proceedings and that the address will not be disclosed so far as is possible to any other part of the legal representative's employing organisation or to any other person but only to the court. Normally on receipt of the required information and undertaking the appropriate office will give the service address.
8. If the legal representative does not give the undertaking, the only information that will be given is whether the member is at that time serving in England or Wales, Scotland, Northern Ireland or overseas.
9. It should be noted that a member's address which ends with a British Forces Post Office address and reference (BFPO) will nearly always indicate that the member is serving overseas.
10. The letter of enquiry should be addressed as follows –

**(a) Royal Navy and Royal Marine Officers, Ratings and Other Ranks**

Director Naval Personnel  
Fleet Headquarters  
MP 3.1  
Leach Building  
Whale Island  
Portsmouth  
Hampshire  
PO2 8BY

**Army Officers and other Ranks –**

Army Personnel Centre  
Disclosures 1  
MP 520  
Kentigern House  
65 Brown Street  
Glasgow  
G2 8EX

**Royal Air Force Officers and Other Ranks –**

Manning 22E  
RAF Disclosures  
Room 221B  
Trenchard Hall  
RAF Cranwell  
Sleaford  
Lincolnshire  
NG34 8HB

**Assistance in serving documents on members**

- 11.** Once the claimant's legal representative has ascertained the member's address, the legal representative may use that address as the address for service by post, in cases where this method of service is allowed by the Civil Procedure Rules. There are, however, some situations in which service of the proceedings, whether in the High Court or in the county court, must be effected personally; in these cases an appointment will have to be sought, through the Commanding Officer of the Unit, Establishment or Ship concerned, for the purpose of effecting service. The procedure for obtaining an appointment is described below, and it applies whether personal service is to be effected by the claimant's legal representative or the legal representative's agent or by a court bailiff, or, in the case of proceedings served overseas (with the leave of the court) through the British Consul or the foreign judicial authority.
- 12.** The procedure for obtaining an appointment to effect personal service is by application to the Commanding Officer of the Unit, Establishment or Ship in which the member is serving. The Commanding Officer may grant permission for the document server to enter the Unit, Establishment or Ship but if this is not appropriate the Commanding Officer may offer arrangements for the member to attend at a place in the vicinity of the Unit, Establishment or Ship in order that the member may be served. If suitable arrangements cannot be made the

legal representative will have evidence that personal service is impracticable, which may be useful in an application for service by an alternative method or at an alternative place.

### **General**

- 13.** Subject to the procedure outlined in paragraphs 11 and 12, there are no special arrangements to assist in the service of legal documents when a member is outside the United Kingdom. The appropriate office will, however, give an approximate date when the member is likely to return to the United Kingdom.
- 14.** It sometimes happens that a member has left the regular forces by the time an enquiry as to address is made. If the claimant's legal representative confirms that the proceedings result from an occurrence when the member was in the regular forces and the legal representative gives the undertaking referred to in paragraph 7, the last known private address after discharge will normally be provided. In no other case, however, will the Ministry of Defence disclose the private address of a member of the regular forces.

### **SERVICE ON MEMBERS OF UNITED STATES AIR FORCE**

- 15.** In addition to the information contained in the memorandum of 26 July 1979, and after some doubts having been expressed as to the correct procedure to be followed by persons having civil claims against members of the United States Air Force in England and Wales, the Lord Chancellor's Office (as it was then) issued the following notes for guidance with the approval of the appropriate United States authorities.
- 16.** Instructions have been issued by the United States authorities to the commanding officers of all their units in England and Wales that every facility is to be given for the service of documents in civil proceedings on members of the United States Air Force. The proper course to be followed by a creditor or other person having a claim against a member of the United States Air Force is for that person to communicate with the commanding officer or, where the unit concerned has a legal officer, with the legal officer of the defendant's unit requesting the provision of facilities for the service of documents on the defendant. It is not possible for the United States authorities to act as arbitrators when a civil claim is made against a member of their forces. It is, therefore, essential that the claim should either be admitted by the defendant or judgment should be obtained on it, whether in the High Court or a county court. If a claim has been admitted or judgment has been obtained and the claimant has failed to obtain satisfaction within a reasonable period, the claimant's proper course is then to write to: Office of the Staff Judge Advocate, Headquarters, Third Air Force, R.A.F. Mildenhall, Suffolk, enclosing a copy of the defendant's written admission of the claim or, as the case may be, a copy of the judgment. Steps will then be taken by the Staff Judge Advocate to ensure that the matter is brought to the defendant's attention with a view to prompt satisfaction of the claim.

# Annex 2

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1978 No 1910

## EUROPEAN COMMUNITIES (SERVICES OF LAWYERS) ORDER 1978

### CITATION AND COMMENCEMENT

1. This Order may be cited as the European Communities (Services of Lawyers) Order 1978 and shall come into operation on 1st March 1979.

### INTERPRETATION

2. In this Order, unless the context otherwise requires –  
‘advocate’, ‘barrister’ and ‘solicitor’ mean, in relation to any part of the United Kingdom, a person practising in that part as an advocate, barrister or solicitor as the case may be;  
‘country of origin’, in relation to a European lawyer, means the country or countries in which he is established;  
‘the Directive’ means the European Communities Council Directive No. 77/249/EEC to facilitate the effective exercise by lawyers of freedom to provide services;  
‘European lawyer’ means a person entitled to pursue his professional activities in a state in column 1 under the designation referred to in column 2 –

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| <i>State</i>        | <i>Designation(s)</i>  |
|---------------------|--|
| Austria             | Austria Rechtsanwalt   |
| Belgium             | Avocat/Advocaat  |
| Bulgaria            | (It has not been possible to reproduce the text of this designation. Please see the original.) |
| Cyprus              | ?????????  |
| Czech Republic      | Advokát  |
| Denmark             | Denmark Advokat  |
| Estonia             | Vandeadvokaat  |
| Finland             | Asianajaja/Advokat   |
| France              | Avocat   |
| Germany             | Germany Rechtsanwalt   |
| Hellenic Republic   | Dikegoros  |
| Hungary             | Ügyvéd   |
| Iceland             | Lógmaður   |
| Republic of Ireland | Barrister/solicitor  |

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| <i>State</i>  | <i>Designation(s)</i>  |
|---------------|--|
| Italy         | Avvocato   |
| Latvia        | Zverinats advokats   |
| Liechtenstein | Rechtsanwalt   |
| Lithuania     | Advokatas  |
| Luxembourg    | Avocat-avoué   |
| Malta         | Avukat/Prokuratur Legali   |
| Netherlands   | Advocaat   |
| Norway        | Advokat  |
| Poland        | Adwokat/Radca prawny   |
| Portugal      | Advogado   |
| [Romania]     | Avocat]  |
| Slovakia      | Advokát/Komerčný právnik   |
| Slovenia      | Odvetnik/Odvetnica   |
| Spain         | Abogado/Advocat/Avogado/Abokatu                                    |
| Sweden        | Advokat  |
| Switzerland   | Avocat/Advokat/Rechtsanwalt/Anwalt/Fürsprecher/Fürsprech/ Avvocato |

‘own professional authority’, in relation to a European lawyer, means an authority entitled to exercise disciplinary authority over him in his member State of origin.

- 3.**
- (1) The Interpretation Act 1978 shall apply to this Order as it applies to subordinate legislation made after the commencement of that Act.
  - (2) Unless the context otherwise requires, any reference in this Order to a numbered article or to the Schedule is a reference to an article of, or the Schedule to, this Order.

## PURPOSE OF ORDER

4. The provisions of this Order shall have effect for the purpose of enabling a European lawyer to pursue his professional activities in any part of the United Kingdom by providing, under the conditions specified in or permitted by the Directive, services otherwise reserved to advocates, barristers and solicitors; and services which may be so provided are hereafter in this Order referred to as services.

## REPRESENTATION IN LEGAL PROCEEDINGS

5. No enactment or rule of law or practice shall prevent a European lawyer from providing any service in relation to any proceedings, whether civil or criminal, before any court, tribunal or public authority (including appearing before and addressing the court, tribunal or public authority) by reason only that he is not an advocate, barrister or solicitor; provided that throughout he is instructed with, and acts in conjunction with, an advocate, barrister or

solicitor who is entitled to practise before the court, tribunal or public authority concerned and who could properly provide the service in question.

- 6.** Nothing in this Order shall enable a European lawyer –
  - (a) if he is established in practice as a barrister in the Republic of Ireland, to provide in the course of any proceedings any service which could not properly be provided by an advocate or barrister;
  - (b) if he is instructed with and acts in conjunction with an advocate or barrister in any proceedings, to provide in the course of those proceedings, or of any related proceedings, any service which an advocate or barrister could not properly provide;
  - (c) if he is instructed with and acts in conjunction with a solicitor in any proceedings, to provide in the course of those proceedings, or of any related proceedings, any service which a solicitor could not properly provide.
- 7.** A European lawyer in salaried employment who is instructed with and acts in conjunction with an advocate or barrister in any proceedings may provide a service on behalf of his employer in those proceedings only in so far as an advocate or barrister in such employment could properly do so.

## DRAWING OF DOCUMENTS, ETC NOT RELATED TO LEGAL PROCEEDINGS

- 8.** No enactment or rule of law or practice shall prevent a European lawyer from drawing or preparing for remuneration –
  - (i) in England, Wales or Northern Ireland, an instrument relating to personal estate, or
  - (ii) in Scotland, a writ relating to moveable property,by reason only that he is not an advocate, barrister or solicitor.
- 9.**
  - (i) creating or transferring an interest in land; or
  - (ii) for obtaining title to administer the estate of a deceased person.

## LEGAL AID

- 10.** Services may be provided by a European lawyer by way of legal advice and assistance or legal aid under the enactments specified in Part 1 of the Schedule; and references to counsel and solicitors in those and any other enactments relating to legal advice and assistance or legal aid shall be construed accordingly.
- 11.** In providing any services, a European lawyer shall use the professional title and description applicable to him in his country of origin, expressed in the language or one of the languages of that country, together with the name of the professional organisation by which he is authorised to practise or the court of law before which he is entitled to practise in that country.

## POWER TO REQUIRE A EUROPEAN LAWYER TO VERIFY HIS STATUS

- 12.** A competent authority may at any time request a person seeking to provide any services to verify his status as a European lawyer.

- 13.** Where a request has been made under article 12, the person to whom it is made shall not, except to the extent (if any) allowed by the competent authority making the request, be entitled to provide services in the United Kingdom until he has verified his status as a European lawyer to the satisfaction of that authority.
- 14.** For the purposes of articles 12 and 13, a competent authority is –
- (a) where the services which the person concerned seeks to provide are reserved to advocates or barristers, or in any case where the person concerned claims to be a barrister established in practice in the Republic of Ireland, the Senate of the Inns of Court and the Bar, the Faculty of Advocates, or the Benchers of the Inn of Court of Northern Ireland, according to the part of the United Kingdom concerned; or
  - (b) where sub-paragraph (a) does not apply, the Law Society, the Law Society of Scotland, or the Incorporated Law Society of Northern Ireland, according to the part of the United Kingdom concerned; or
  - (c) in any case, any court, tribunal or public authority before which the person concerned seeks to provide services.

## PROFESSIONAL MISCONDUCT

- 15.**
- (1) A complaint may be made to a disciplinary authority that [a European lawyer providing any services has failed to observe a condition or rule of professional conduct referred to in article 4 of the Directive and applicable to him.
  - (2) Where a complaint is made under paragraph (1), the disciplinary authority concerned shall consider and adjudicate upon it in accordance with the same procedure, and subject to the same rights of appeal, as apply in relation to an advocate, barrister or solicitor (as the case may be) over whom that authority has jurisdiction.
  - (3) For the purposes of this article and article 16, a disciplinary authority is –
    - (a) where the services in question are reserved to advocates or barristers, or in any case where the person whose conduct is in question is established in practice as a barrister in the Republic of Ireland, an authority having disciplinary jurisdiction over advocates or barristers (as the case may be) in the part of the United Kingdom concerned;
    - (b) where sub-paragraph (a) does not apply, an authority having disciplinary jurisdiction over solicitors in the part of the United Kingdom concerned.
- 16.**
- (1) Where a disciplinary authority finds that a European lawyer against whom a complaint has been made under article 15(1) has committed a breach of a condition or a rule of professional conduct mentioned in that article, that authority –
    - (a) shall report that finding to the European lawyer's own professional authority; and
    - (b) may, if it thinks fit, direct him not to provide services in the United Kingdom, except to such extent and under such conditions (if any) as the disciplinary authority may specify in the direction.
    - (c) A disciplinary authority may at any time, if it thinks fit, vary, cancel or suspend the operation of a direction given by it under paragraph (1)(b).
- 17.** A European lawyer in respect of whom a direction is made under article 16(1)(b) shall not be entitled to provide services in the United Kingdom except as allowed by the direction.

## MODIFICATION OF ENACTMENTS

### 18.

- (1) Without prejudice to the generality of articles 5 and 8, the enactments specified in Part 2 of the Schedule (being enactments which reserve the provision of certain services to advocates, barristers, solicitors and other qualified persons) shall be construed subject to those articles.
- (2) Notwithstanding anything in the Solicitors (Scotland) Act 1980, the Solicitors Act 1974 or the Solicitors (Northern Ireland) Order 1976, references to unqualified persons, however expressed, in the enactments specified in Part 3 of the Schedule (being enactments relating to unqualified persons acting as solicitors) shall not include a European lawyer providing services within the meaning of this Order.
- (3) Nothing in section 33 of the Solicitors (Scotland) Act 1980 shall prevent a European lawyer from recovering any remuneration or expenses to which that section applies by reason only that he is not qualified as a solicitor.

## SCHEDULE

### Article 10

#### Part 1

Legal Aid and Advice Act (Northern Ireland) 1965 (c. 8).

Legal Aid (Scotland) Act 1986 (c 47).

Legal Advice and Assistance Act 1972 (c. 50).

Access to Justice (Northern Ireland) Order 2003.

Access to Justice Act 1999 (c 22).

Financial Services and Markets Act 2000 (c 8).

#### Part 2

Solicitors (Scotland) Act 1980 (c 46), section 32.

Magistrates' Courts (Northern Ireland) Order 1981, article 164(1).

County Courts (Northern Ireland) Order 1980, article 50.

Solicitors Act 1974 (c. 47), sections 20, 22 and 23.

Solicitors (Northern Ireland) Order 1976 (SI No. 582 (NI 12)), articles 19, 23.

#### Part 3

Solicitors (Scotland) Act 1980 (c 46), section 26.

Solicitors Act 1974 (c. 47), section 25(1).

Solicitors (Northern Ireland) Order 1976 (SI No. 582 (NI 12)), articles 25(1), 27.