

# PRACTICE DIRECTION – STATEMENTS OF CASE

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 16

### GENERAL

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- 1.1 The provisions of Part 16 do not apply to claims in respect of which the Part 8 procedure is being used.
- 1.2 In relation to specialist proceedings (see CPR Part 49) in respect of which special provisions for statements of case are made by the rules and practice directions applicable to those claims, the provisions of Part 16 and of this practice direction apply only to the extent that they are not inconsistent with those rules and practice directions.

### THE CLAIM FORM

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- 2.1 Rule 16.2 refers to matters which the claim form must contain. Where the claim is for money, the claim form must also contain the statement of value referred to in rule 16.3.
- 2.2 Where the defendant is an individual, the claimant should (if he is able to do so) include in the claim form an address at which the defendant resides or carries on business. This paragraph applies even though the defendant's solicitors have agreed to accept service on the defendant's behalf.

(For information about how and where a claim may be started see Part 7 and the practice direction which supplements it.)

### PARTICULARS OF CLAIM

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- 3.1 If practicable, the particulars of claim should be set out in the claim form.
- 3.2 Where the claimant does not include the particulars of claim in the claim form, particulars of claim may be served separately:
  - (1) either at the same time as the claim form, or
  - (2) within 14 days after service of the claim form<sup>1</sup> provided that the service of the particulars of claim is not later than 4 months from the date of issue of the claim form<sup>2</sup> (or 6 months where the claim form is to be served out of the jurisdiction<sup>3</sup>).

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<sup>1</sup> See rule 7.4(1)(b).

<sup>2</sup> See rules 7.4(2) and 7.5(2).

<sup>3</sup> See rule 7.5(3).

- 3.3 If the particulars of claim are not included in or have not been served with the claim form, the claim form must also contain a statement that particulars of claim will follow<sup>4</sup>.
- 3.4 Particulars of claim which are not included in the claim form must be verified by a statement of truth, the form of which is as follows:  
  
‘[I believe][the claimant believes] that the facts stated in these particulars of claim are true.’
- 3.5 Attention is drawn to rule 32.14 which sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth.
- 3.6 The full particulars of claim must include:
  - (1) the matters set out in rule 16.4, and
  - (2) where appropriate, the matters set out in practice directions relating to specific types of claims.
- 3.7 Attention is drawn to the provisions of rule 16.4(2) in respect of a claim for interest.
- 3.8 Particulars of claim served separately from the claim form must also contain:
  - (1) the name of the court in which the claim is proceeding,
  - (2) the claim number,
  - (3) the title of the proceedings, and
  - (4) the claimant’s address for service.

## **MATTERS WHICH MUST BE INCLUDED IN THE PARTICULARS OF CLAIM IN CERTAIN TYPES OF CLAIM**

### **Personal injury claims**

- 4.1 The particulars of claim must contain:
  - (1) the claimant’s date of birth, and
  - (2) brief details of the claimant’s personal injuries.
- 4.2 The claimant must attach to his particulars of claim a schedule of details of any past and future expenses and losses which he claims.
- 4.3 Where the claimant is relying on the evidence of a medical practitioner the claimant must attach to or serve with his particulars of claim a report from a medical practitioner about the personal injuries which he alleges in his claim.

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<sup>4</sup> See rule 16.2(2).

- 4.4 In a provisional damages claim the claimant must state in his particulars of claim:
- (1) that he is seeking an award of provisional damages under either section 32A of the Supreme Court Act 1981 or section 51 of the County Courts Act 1984,
  - (2) that there is a chance that at some future time the claimant will develop some serious disease or suffer some serious deterioration in his physical or mental condition, and
  - (3) specify the disease or type of deterioration in respect of which an application may be made at a future date.
- (Part 41 and the practice direction which supplements it contain information about awards for provisional damages.)

### **Fatal accident claims**

- 5.1 In a fatal accident claim the claimant must state in his particulars of claim:
- (1) that it is brought under the Fatal Accidents Act 1976,
  - (2) the dependents on whose behalf the claim is made,
  - (3) the date of birth of each dependent, and
  - (4) details of the nature of the dependency claim.
- 5.2 A fatal accident claim may include a claim for damages for bereavement.
- 5.3 In a fatal accident claim the claimant may also bring a claim under the Law Reform (Miscellaneous Provisions) Act 1934 on behalf of the estate of the deceased.

(For information on apportionment under the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accidents Act 1976 or between dependants see Part 37 and the practice direction which supplements it.)

### **Recovery of land**

- 6 In a claim for recovery of land the particulars of claim must:
- (1) identify the land sought to be recovered,
  - (2) state whether the claim relates to residential premises,
  - (3) if the claim relates to residential premises, and the tenancy is one which otherwise would be a protected tenancy within the meaning of the Rent Act 1977, state whether the rateable value of the premises on every day specified by section 4(2) of the Rent Act 1977 in relation to the premises exceeds the sum so specified or whether the rent for the time being payable in respect of the premises exceeds the sum specified in section 4(4)(b) of the Act,

- (4) where the claim relates to residential premises and is for non-payment of rent, state –
  - (a) the amount due at the start of the proceedings,
  - (b) details of all payments which have been missed,
  - (c) details of any history of late or under-payment,
  - (d) any previous steps taken to recover the arrears of rent with full details of any court proceedings, and
  - (e) any relevant information about the defendant's circumstances, in particular whether any payments are made on his behalf directly to the claimant under the Social Security Contributions and Benefits Act 1992,
- (5) give details about the agreement or tenancy, if any, under which the land was held, stating when it determined and the amount of money payable by way of rent or licence fee,
- (6) in a case to which section 138 of the County Courts Act 1984 applies (forfeiture for non-payment of rent), state the daily rate at which the rent in arrear is to be calculated,
- (7) state the ground on which possession is claimed whether statutory or otherwise, and
- (8) in a case where the claimant knows of any person entitled to claim relief against forfeiture as underlessee (including a mortgagee) under section 146(4) of the Law of Property Act 1925 (or in accordance with section 38 of the Supreme Court Act 1981), give the name and address of that person.

(See also further rules about recovery of land in RSC Orders 88 and 113 (Schedule 1 to the CPR) and CCR Orders 6 and 24 (Schedule 2 to the CPR)).

## Hire purchase claims

- 7.1 Where the claim is for the delivery of goods let under a hire-purchase agreement or conditional sale agreement to a person other than a company or other corporation, the claimant must state in the particulars of claim:
  - (1) the date of the agreement,
  - (2) the parties to the agreement,
  - (3) the number or other identification of the agreement,
  - (4) where the claimant was not one of the original parties to the agreement, the means by which the rights and duties of the creditor passed to him,
  - (5) whether the agreement is a regulated agreement, and if it is not a regulated agreement, the reason why,

- (6) the place where the agreement was signed by the defendant,
- (7) the goods claimed,
- (8) the total price of the goods,
- (9) the paid-up sum,
- (10) the unpaid balance of the total price,
- (11) whether a default notice or a notice under section 76(1) or 98(1) of the Consumer Credit Act 1974 has been served on the defendant, and if it has, the date and method of service,
- (12) the date when the right to demand delivery of the goods accrued,
- (13) the amount (if any) claimed as an alternative to the delivery of goods, and
- (14) the amount (if any) claimed in addition to –
  - (a) the delivery of the goods, or
  - (b) any claim under (13) above,

with the grounds of each claim.

(if the agreement is a regulated agreement the procedure set out in the practice direction relating to consumer credit act claims (which supplements Part 7) should be used).

**7.2** Where the claim is not for the delivery of goods, the claimant must state in his particulars of claim:

- (1) the matters set out in paragraph 7.1(1) to (6) above,
- (2) the goods let under the agreement,
- (3) the amount of the total price,
- (4) the paid-up sum,
- (5) the amount (if any) claimed as being due and unpaid in respect of any instalment or instalments of the total price, and
- (6) the nature and amount of any other claim and how it arises.

## **OTHER MATTERS TO BE INCLUDED IN PARTICULARS OF CLAIM**

**8.1** Where a claim is made for an injunction or declaration in respect of or relating to any land or the possession, occupation, use or enjoyment of any land the particulars of claim must:

- (1) state whether or not the injunction or declaration relates to residential premises, and
- (2) identify the land (by reference to a plan where necessary).

- 8.2 Where a claim is brought to enforce a right to recover possession of goods the particulars of claim must contain a statement showing the value of the goods.
- 8.3 Where a claim is based upon a written agreement:
- (1) a copy of the contract or documents constituting the agreement should be attached to or served with the particulars of claim and the original(s) should be available at the hearing, and
  - (2) any general conditions of sale incorporated in the contract should also be attached (but where the contract is or the documents constituting the agreement are bulky this practice direction is complied with by attaching or serving only the relevant parts of the contract or documents).
- 8.4 Where a claim is based upon an oral agreement, the particulars of claim should set out the contractual words used and state by whom, to whom, when and where they were spoken.
- 8.5 Where a claim is based upon an agreement by conduct, the particulars of claim must specify the conduct relied on and state by whom, when and where the acts constituting the conduct were done.
- 8.6 In a claim issued in the High Court relating to a Consumer Credit Agreement, the particulars of claim must contain a statement that the action is not one to which section 141 of the Consumer Credit Act 1974 applies.

## **MATTERS WHICH MUST BE SPECIFICALLY SET OUT IN THE PARTICULARS OF CLAIM IF RELIED ON**

- 9.1 A claimant who wishes to rely on evidence:
- (1) under section 11 of the Civil Evidence Act 1968 of a conviction of an offence, or
  - (2) under section 12 of the above-mentioned Act of a finding or adjudication of adultery or paternity,
- must include in his particulars of claim a statement to that effect and give the following details:
- (1) the type of conviction, finding or adjudication and its date,
  - (2) the court or Court-Martial which made the conviction, finding or adjudication, and
  - (3) the issue in the claim to which it relates.
- 9.2 The claimant must specifically set out the following matters in his particulars of claim where he wishes to rely on them in support of his claim:
- (1) any allegation of fraud,
  - (2) the fact of any illegality,

- (3) details of any misrepresentation,
- (4) details of all breaches of trust,
- (5) notice or knowledge of a fact,
- (6) details of unsoundness of mind or undue influence,
- (7) details of wilful default, and
- (8) any facts relating to mitigation of loss or damage.

## GENERAL

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- 10.1 Where a claim is for a sum of money expressed in a foreign currency it must expressly state:
  - (1) that the claim is for payment in a specified foreign currency,
  - (2) why it is for payment in that currency,
  - (3) the Sterling equivalent of the sum at the date of the claim, and
  - (4) the source of the exchange rate relied on to calculate the Sterling equivalent.
- 10.2 A subsequent statement of case must not contradict or be inconsistent with an earlier one; for example a reply to a defence must not bring in a new claim. Where new matters have come to light the appropriate course may be to seek the court's permission to amend the statement of case.

## THE DEFENCE

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### General

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- 11.1 Rule 16.5 deals with the contents of the defence.
- 11.2 A defendant should deal with every allegation in accordance with rule 16.5(1) and (2).
- 11.3 Rule 16.5(3), (4) and (5) sets out the consequences of not dealing with an allegation.
- 11.4 Where the defendant is an individual, and the claim form does not contain an address at which he resides or carries on business, or contains an incorrect address, the defendant must provide such an address in the defence.
- 11.5 Where the defendant's address for service is not where he resides or carries on business, he must still provide the address required by paragraph 11.4.

## Statement of truth

- 12.1 Part 22 requires a defence to be verified by a statement of truth.
- 12.2 The form of the statement of truth is as follows:  
  
‘[I believe][the defendant believes] that the facts stated in the defence are true.’
- 12.3 Attention is drawn to rule 32.14 which sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth.

## MATTERS WHICH MUST BE INCLUDED IN THE DEFENCE

### Personal injury claims

- 13.1 Where the claim is for personal injuries and the claimant has attached a medical report in respect of his alleged injuries, the defendant should:
  - (1) state in his defence whether he –
    - (a) agrees,
    - (b) disputes, or
    - (c) neither agrees nor disputes but has no knowledge of,
 the matters contained in the medical report,
  - (2) where he disputes any part of the medical report, give in his defence his reasons for doing so, and
  - (3) where he has obtained his own medical report on which he intends to rely, attach it to his defence.
- 13.2 Where the claim is for personal injuries and the claimant has included a schedule of past and future expenses and losses, the defendant should include in or attach to his defence a counter-schedule stating:
  - (1) which of those items he –
    - (a) agrees,
    - (b) disputes, or
    - (c) neither agrees nor disputes but has no knowledge of, and
  - (2) where any items are disputed, supplying alternative figures where appropriate.



## Other matters

- 14.1 The defendant must give details of the expiry of any relevant limitation period relied on.
  - 14.2 Rule 37.3 and paragraph 2 of the practice direction which supplements Part 37 contains information about a defence of tender.
  - 14.3 A party may:
    - (1) refer in his statement of case to any point of law on which his claim or defence, as the case may be, is based,
    - (2) give in his statement of case the name of any witness he proposes to call, and
    - (3) attach to or serve with this statement of case a copy of any document which he considers is necessary to his claim or defence, as the case may be (including any expert's report to be filed in accordance with Part 35).
- (The Costs Practice Direction supplementing Parts 43 to 48 contains details of the information required to be filed with certain statements of case to comply with rule 44.15 (providing information about funding arrangements))

## COMPETITION ACT 1998

- 15 A party who wishes to rely on a finding of the Director General of Fair Trading as provided by section 58 of the Competition Act 1998 must include in his statement of case a statement to that effect and identify the Director's finding on which he seeks to rely.

## HUMAN RIGHTS

- 16.1 A party who seeks to rely on any provision of or right arising under the Human Rights Act 1998 or seeks a remedy available under that Act-
  - (1) must state that fact in his statement of case; and
  - (2) must in his statement of case-
    - (a) give precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;
    - (b) specify the relief sought;
    - (c) state if the relief sought includes-
      - (i) a declaration of incompatibility in accordance with section 4 of that Act, or
      - (ii) damages in respect of a judicial act to which section 9(3) of that Act applies;

- (d) where the relief sought includes a declaration of incompatibility in accordance with section 4 of that Act, give precise details of the legislative provision alleged to be incompatible and details of the alleged incompatibility;
- (e) where the claim is founded on a finding of unlawfulness by another court or tribunal, give details of the finding; and
- (f) where the claim is founded on a judicial act which is alleged to have infringed a Convention right of the party as provided by section 9 of the Human Rights Act 1998, the judicial act complained of and the court or tribunal which is alleged to have made it.

(The practice direction to Part 19 provides for notice to be given and parties joined in the circumstances referred to in (c), (d) and (f))

- 16.2 A party who seeks to amend his statement of case to include the matters referred to in paragraph 16.1 must, unless the court orders otherwise, do so as soon as possible.

(Part 17 provides for the amendment of a statement of case)