

PRACTICE DIRECTION - PART 8

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 8, AND SCHEDULE 1 AND SCHEDULE 2 TO THE CPR

TERMINOLOGY

- 1.1 In this practice direction “Schedule rules” means provisions contained in the Schedules to the CPR, which were previously contained in the Rules of the Supreme Court (1965) or the County Court Rules (1981).

CONTENTS OF THIS PRACTICE DIRECTION

- 2.1 This practice direction explains-
 - (1) how to start the claims referred to in Sections A and B;
 - (2) which form to use as the claim form;
 - (3) the procedure which those claims will follow; and
 - (4) how to start the appeals referred to in Section C.

(Further guidance about Forms other than claim forms can be found in the practice direction supplementing Part 4.)

(Forms to be used when making applications under Schedule 1, RSC.0.53 for judicial review and under Schedule RSC.0.54 for writs of habeas corpus are forms 86 and 87 (modified as necessary). Reference should be made to the relevant existing Crown Office practice directions for further guidance on procedure).

HOW TO USE THIS PRACTICE DIRECTION

- 3.1 This Practice direction is divided into three sections - Section A, Section B and Section C. Only one section will be relevant to how to make a particular claim or appeal.
- 3.2 If the claim is described in paragraph A.1 - use section A.
- 3.3 If the claim is described in paragraph B.1 - use section B.
- 3.4 If the appeal is described in paragraph C.1 - use section C.

SECTION A

APPLICATION

- A.1 Section A applies if -
 - (1) the claim is listed in Table 1 below;

- (2) an Act provides that a claim or application in the High Court is to be brought by originating summons; or
- (3) before 26 April 1999, a claim or application in the High Court would have been brought by originating summons, and is not listed in Section C, and no other method for bringing the claim or application on and after 26 April 1999 is specified in a Schedule rule or practice direction.

- A.2 (1) The claimant must use the Part 8 procedure unless an Act, Schedule rule, or practice direction, makes any additional or contrary provision.
- (2) Where such additional or contrary provision is made the claimant must comply with it and modify the Part 8 procedure accordingly.

CLAIM FORM

- A.3 The claimant must use the Part 8 claim form.

Table 1

RSC O.11, r.8A	Service of process etc., out of the jurisdiction: Applications for interim remedy under section 25 (1) of the Civil Jurisdiction and Judgments Act 1982
RSC O.17, r.3(1)	Interpleader (Mode of application)
RSC O.50, r.9A	Charging orders, Stop orders etc., Enforcement of charging order by sale
RSC O.50, r.10(2)	Charging orders, Stop orders etc., Funds in court: Stop order
RSC O.50, r.14(4)	Charging orders, Stop orders etc., Withdrawal etc. of Stop Notice
RSC O.50, r.15(2)	Charging orders, Stop orders etc., Order prohibiting transfer, etc., of securities
RSC O. 71, r. 2(1)	Reciprocal Enforcement of Judgments and Enforcement of European Community Judgments and Recommendations etc. under The Merchant Shipping (Liner Conferences) Act 1982 (I Reciprocal Enforcement: The Administration of Justice Act 1920 and the Foreign Judgments (Reciprocal Enforcement) Act 1933 - Application for registration)

Table 1

RSC O. 71, r. 38	Reciprocal Enforcement of Judgments and Enforcement of European Community Judgments and Recommendations etc. under The Merchant Shipping (Liner Conferences) Act 1982 (III Reciprocal Enforcement: The Civil Jurisdiction and Judgments Act 1982 - Enforcement of United Kingdom Judgments in other Parts of the United Kingdom: Non-money Provisions)
RSC O. 71, r. 41	Reciprocal Enforcement of Judgments and Enforcement of European Community Judgments and Recommendations etc. under The Merchant Shipping (Liner Conferences) Act 1982 (IV Enforcement of Recommendations etc. under the Merchant Shipping (Liner Conferences) Act 1982 - Application for registration)
RSC O. 77, r. 11	Proceedings by and against the Crown (Interpleader: Application for order against Crown)
RSC O. 77, r. 16(2)	Proceedings by and against the Crown (Attachment of debts, etc.)
RSC O. 77, r. 17(1)	Proceedings by and against the Crown (Proceedings relating to postal packets)
RSC O. 77, r. 18(1)	Proceedings by and against the Crown (Applications under sections 17 and 29 of Crown Proceedings Act)
RSC O. 79, r. 8(2)	Criminal Proceedings (Estreat of recognizances)
RSC O. 79, r. 9(2)	Criminal Proceedings (Bail)
RSC O. 79, r. 10(2)	Criminal Proceedings (Issue of witness summons, etc.)
RSC O. 79, r. 11(1)	Criminal Proceedings (Application for warrant to arrest witness)
RSC O. 81, r. 10(1)	Partners (Applications for orders charging partner's interest in partnership property)
RSC O. 82, r. 8(2)	Defamation claims (Fulfilment of offer of amends under section 4 of the Defamation Act 1952)
RSC O. 88, r. 3	Mortgage claims (Commencement of claim) ¹ -
RSC O. 92, r. 5(2)	Lodgment, Investment etc. of Funds in Court: Chancery Division (Applications with respect to funds in court)

¹ This type of claim may also be brought by the Part 8 procedure in Section B.

Table 1

RSC O. 93, r. 5(2)	Applications and Appeals to High Court under Various Acts: Chancery Division (Applications under section 2(3) of the Public Order Act 1936)
RSC O. 93, r. 6(2)	Applications and Appeals to High Court under Various Acts: Chancery Division (Application under the Variation of Trusts Act 1958)
RSC O. 93, r. 18(2)	Applications and Appeals to High Court under Various Acts: Chancery Division (Proceedings under section 86 of the Civil Aviation Act 1982)
RSC O. 93, r. 20(2)	Applications and Appeals to High Court under Various Acts: Chancery Division (Proceedings under section 50 of the Administration of Justice Act 1985)
RSC O. 93, r. 21	Applications and Appeals to High Court under Various Acts: Chancery Division (Proceedings under section 48 of the Administration of Justice Act 1985)
RSC O. 93, r. 23(2)	Applications and Appeals to High Court under Various Acts: Chancery Division (Proceedings under the Banking Act 1987)
RSC O. 94, r. 5	Applications and Appeals to High Court under Various Acts: Queen's Bench Division (Exercise of jurisdiction under Representation of the People Acts)
RSC O. 95, r. 2(1)(b)	Bills of Sale Acts 1878 and 1882 and the Industrial and Provident Societies Act 1967 (Entry of satisfaction)
RSC O. 95, r. 3	Bills of Sale Acts 1878 and 1882 and the Industrial and Provident Societies Act 1967 (Restraining removal on sale of goods seized)
RSC O. 96, r. 1	The Mines (Working Facilities and Support) Act 1966 etc. (Assignment to Chancery Division)
RSC O. 96, r. 3	The Mines (Working Facilities and Support) Act 1966 etc. (Issue of claim form)
RSC O. 97, r. 2	The Landlord and Tenant Acts 1927, 1954 and 1987 (Assignment of proceedings to Chancery Division etc.)
RSC O. 97, r. 5	The Landlord and Tenant Acts 1927, 1954 and 1987 (Proceedings under Part I of the Act of 1927)
RSC O. 97, r. 6(1)	The Landlord and Tenant Acts 1927, 1954 and 1987 (Application for new tenancy under section 24 of the Act of 1954)

Table 1

RSC O. 97, r. 6A(1)	The Landlord and Tenant Acts 1927, 1954 and 1987 (Application to authorise agreement)
RSC O. 97, r. 9A(1)(b)	The Landlord and Tenant Acts 1927, 1954 and 1987 (Application to determine interim rent)
RSC O. 97, r. 14	The Landlord and Tenant Acts 1927, 1954 and 1987 (Application under section 19 of the Act of 1987)
RSC O. 97, r. 15(3)	The Landlord and Tenant Acts 1927, 1954 and 1987 (Application for order under section 24 of the Act of 1987)
RSC O. 97, r. 16(3)	The Landlord and Tenant Acts 1927, 1954 and 1987 (Application for acquisition order under section 29 of the Act of 1987)
RSC O. 99, r. 3(1)	Inheritance (Provision for Family and Dependents) Act 1975 (Application for Financial Provision)
RSC O. 106, r. 3(2)	Proceedings Relating to Solicitors: The Solicitors Act 1974 (Power to order solicitor to deliver cash account etc.)
RSC O. 106, r. 6(2)	Proceedings Relating to Solicitors: The Solicitors Act 1974 (Applications under schedule 1 to the Act)
RSC O. 106, r. 8(1)	Proceedings Relating to Solicitors: The Solicitors Act 1974 (Interim order restricting payment out of banking account)
RSC O109 r. 1(3)	Administration Act 1960 (Applications under Act)
RSC O. 113, r. 1	Summary proceedings for possession of land (Proceedings to be brought by claim form)

SECTION B

APPLICATION

- B.1 Section B applies if the claim -
- (1) is listed in Table 2;
 - (2) in the county court is for, or includes a claim for:
 - (a) the recovery of possession of land; or
 - (b) for damages for harassment under Section 3 of the Protection from Harassment Act 1997

- (3) would have been brought before 26 April 1999 -
- (a) in the High Court, by originating motion and is not listed in Section C;
 - (b) in the county court-
 - (i) by originating application; or
 - (ii) by petition, and

no other procedure is prescribed in an Act, a Schedule rule or a practice direction.

Table 2

Schedule Rule	Claim Form
RSC O. 56, r. 8(1)	Appeals, etc., to High Court by Case Stated: General (Application for order to state a case)
RSC O. 56, r. 10(1)	Appeals, etc., to High Court by Case Stated: General (Proceedings for determination of case)
RSC O. 71, r. 24 ²	Reciprocal Enforcement of Judgments and Enforcement of European Community Judgments and Recommendations etc., under The Merchant Shipping (Liner Conferences) Act 1982, II Enforcement of European Community Judgments. (Application for enforcement of Euratom inspection order)
RSC O. 77, r. 8(2) ³	Proceedings by and against the Crown (Summary applications to the court in certain revenue matters)
RSC O. 93, r. 19(1)	Applications and Appeals to High Court under Various Acts: (Proceedings under section 85(7) of the Fair Trading Act 1973 and the Control of Misleading Advertisements Regulations 1988)
RSC O. 93, r. 22(3)	Applications and Appeals to High Court under Various Acts: Chancery Division (Proceedings under the Financial Services Act 1986) (Applications by claim form)

² This type of claim may also be brought by the Part 8 procedure.

³ These types of claim may also be brought by the Part 8 procedure.

Table 2

Schedule Rule	Claim Form
RSC O. 94, r. 1(2)	Applications and Appeals to High Court under Various Acts: Queens Bench Division (Jurisdiction of High Court to Quash Certain Orders, Schemes etc.)
RSC O. 94, r. 7(2)	Applications and Appeals to High Court under Various Acts: Queens Bench Division (Reference of Question of Law by Agricultural Land Tribunal)
RSC O. 94, r. 11(4)	Applications and Appeals to High Court under Various Acts: Queens Bench Division (Case stated by Mental Health Review Tribunal)
RSC O. 94, r. 12(5)(c)	Applications and Appeals to High Court under Various Acts: Queens Bench Division Applications for permission under section 289(6) of the Town and Country Planning Act 1990 and section 65(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990
RSC O. 94, r. 13(5)	Applications and Appeals to High Court under Various Acts: Queens Bench Division Proceedings under sections 289 and 290 of the Town and Country Planning Act 1990 and under section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990
RSC O. 94, r. 14(2)	Applications and Appeals to High Court under Various Acts: Queens Bench Division Applications under section 13 of the Coroners Act 1988
RSC O. 94, r. 15(2)	Applications and Appeals to High Court under Various Acts: Queens Bench Division Applications under section 42 of the Supreme Court Act 1981
RSC O. 98, r. 2(1)	Local Government Finance Act 1982, Part III (Application by auditor for declaration)

Table 2

Schedule Rule	Claim Form
RSC O.109, r. 2(4)	Administration of Justice Act 1960 (Appeals under section 13 of Act)
RSC O. 114, r. 2(2)	References to the European Court (Making of order)
RSC O. 115, r. 2B(1)	Confiscation and Forfeiture in Connection with Criminal Proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 - Application for confiscation Order)
RSC O. 115, r. 3(1)	Confiscation and Forfeiture in Connection with Criminal Proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 - Application for restraint order or charging order)
RSC O. 115, r. 7(1)	Confiscation and Forfeiture in Connection with Criminal Proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 - Realisation of property)
RSC O. 115, r. 26 (1)	Confiscation and Forfeiture in Connection with Criminal Proceedings (III. Prevention of Terrorism (Temporary Provisions) Act 1989 - Application for restraint order)
RSC O.116, r 5(1)	The Criminal Procedure and Investigations Act 1996 (Application under section 54(3)).
CCR O. 24, r.1(1)	Summary proceedings for the recovery of land (Part I - Land: proceedings to be by claim form) N312
CCR O. 24, r. 10(2)(a)	Summary proceedings for the recovery of land - (Part II Interim possession orders - issue of the applications) N130
CCR O. 31, r. 4(1)	Charging orders (Enforcement of charging order by sale)
CCR O. 43, r. 2(1)	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Commencement of proceedings and answer)

Table 2

Schedule Rule		Claim Form
CCR O. 43, r. 4(1)	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Proceedings under Part I of the Act of 1927)	N394 N395 N396
CCR O.43, r 6(1)	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Application for a new tenancy under section 24 of the Act of 1954)	N397
CCR O.43, r 16	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Application under section 12(2) of the Act of 1985)	
CCR O. 43, r. 18(1)	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Application for order under section 24 of the Act of 1987)	
CCR O. 43, r. 19(1)	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Application for acquisition order under section 29 of the Act of 1987)	
CCR O.43, r. 20(1)	The Landlord and Tenant Acts 1927, 1954, 1985 and 1987 (Application for order under section 38 or 40 of the Act of 1987)	
CCR O.44, r 1(1)	The Agricultural Holdings Act 1986 (Special case stated by arbitrator)	
CCR O.44, r 3(1)	The Agricultural Holdings Act 1986 (Removal of arbitrator or setting aside award)	
CCR O. 45, r. 1(1)	The Representation of the People Act 1983 (Application for detailed assessment of returning officer's account)	N408
CCR O. 46, r. 1(1)	The Legitimacy Act 1976 (Manner of application)	
CCR O. 49, r. 1(2)	Miscellaneous Statutes: (Access to Neighbouring Land Act 1992)	
CCR O. 49, r. 4(5)	Miscellaneous Statutes: (Consumer Credit Act 1974 - claim relating to land (Application under section 129(1)(b)))	N440

Table 2

Schedule Rule	Claim Form
CCR O. 49, r. 4(9)	Miscellaneous Statutes: (Consumer Credit Act 1974 -claim relating to land (Application for enforcement order))
CCR O. 49, r. 4(14)	Miscellaneous Statutes: (Consumer Credit Act 1974 -claim relating to land (Application under section 139(1)(a) for a credit agreement to be reopened))
CCR O. 49, r. 4(15)	Miscellaneous Statutes: (Consumer Credit Act 1974 -claim relating to land (proceedings as are mentioned in section 139(1)(b) or (c)))
CCR O. 49, r. 5(1)	Miscellaneous Statutes: Fair Trading Act 1973 (Proceedings under section 35, 38 or 40)
CCR O. 49, r.6(5)	Miscellaneous Statutes: Housing Act 1988: assured tenancies (application for accelerated possession) N5A
CCR O. 49, r.6A(5)	Miscellaneous Statutes: Housing Act 1988: assured shorthold tenancies (application for accelerated possession) N5B
CCR O. 49, r. 6B(1)	Miscellaneous Statutes: Housing Act 1996: Injunctions and Powers of Arrest (Application for injunction under section 152) N16A
CCR O. 49, r. 7(2)	Miscellaneous Statutes: Injunctions to Prevent Environmental Harm: Town and Country Planning Act 1990 etc. (Application for injunction)
CCR O. 49, r. 9(3)	Miscellaneous Statutes: Leasehold Reform, Housing and Urban Development Act 1993
CCR O. 49, r. 10(3)	Miscellaneous Statutes: Local Government Finance Act 1982
CCR O. 49, r. 12(2)	Miscellaneous Statutes: Mental Health Act 1983 (Application)
CCR O. 49, r. 13(1)	Miscellaneous Statutes: Mobile Homes Act 1983 (Applications and questions)

Table 2

Schedule Rule	Claim Form
CCR O. 49, r. 15(1)	Miscellaneous Statutes: Post Office Act 1969 (Application under section 30(5))

SPECIAL PROVISIONS TAKE PRECEDENCE

- B.2 The claimant must first comply with any special provision set out in the Schedule rules, practice direction or any Act relating to the claim.
- (In Schedule 2, CCR O.6 makes special provisions about particulars of claim and CCR O.7 makes special provision for service, for certain types of claim.)
- B.3 Special provisions contained in Schedule rules or an Act may set out-
- (1) where the claim may be started;
 - (2) the contents of the claim form;
 - (3) whether a hearing is required;
 - (4) the nature of evidence required in support of the claim, and when it must be filed or served;
 - (5) the method of service of the claim form and evidence;
 - (6) persons on whom service must or may be effected;
 - (7) the form and content of Notices, and when they must or may be filed, and on whom served;
 - (8) the form and content of any affidavit, answer, or reply and when they must or may be filed or served;
 - (9) persons who may apply to be joined as parties to the claim;
 - (10) minimum periods of notice before the hearing date.
- B.4 Where a Schedule rule makes special provision for the contents of particulars of claim, those particulars must be attached to the claim form and served with it.
- B.5 Subject to any special or contrary provision in an Act or Schedule rule, the claimant must use the Part 8 procedure as modified in the remainder of this section.

RESTRICTIONS ON WHERE TO START THE CLAIM

- B.6 Where the claimant is bringing a claim in a county court that claim may only be started-
- (1) in the county court for the district in which-

- (a) the defendants or one of the defendants lives or carries on business;
or
 - (b) the subject matter of the claim is situated; or
- (2) if there is no defendant named in the claim form, in the county court for the district in which the claimant or one of the claimants lives or carries on business.

B.7 Where the claimant is making a claim in the county court for -

- (1) the recovery of land;
 - (2) the foreclosure or redemption of any mortgage;
 - (3) enforcing any charge or lien on land;
 - (4) the recovery of moneys secured by a mortgage or charge on land,
- the claim must be started in the court for the district in which the land, or any part of it, is situated.

CLAIM FORM

B.8 This paragraph sets out which Form is to be used as the claim form-

- (1) where a claim form number is listed against a particular claim in Table 2, the claimant must use that numbered form as the claim form;
- (2) where the claimant intends to make a claim in the county court which is for, or includes, the recovery of possession of land, the claimant must use the claim form numbered in the practice direction supplementing Part 4 (Forms), and
- (3) in every other claim, the claimant must use the Part 8 claim form.

COURT WILL FIX A DATE

B.9 When the court issues the claim form it will-

- (1) fix a date for the hearing; and
- (2) prepare a notice of the hearing date for each party.

SERVICE OF THE CLAIM FORM

B.10 The claim form must be served not less than 21 days before the hearing date.

B.11 Where the claimant serves the claim form, he must serve notice of the hearing date at the same time, unless the hearing date is specified in the claim form.

(CPR Rule 3.1(2) (a) and (b) provide for the court to extend or shorten the time for compliance with any rule or practice direction, and to adjourn or bring forward a hearing)

DEFENDANT IS NOT REQUIRED TO RESPOND

- B.12 The defendant is not required to serve an acknowledgment of service.

AT THE HEARING

- B.13 The court may on the hearing date -
- (1) proceed to hear the case and dispose of the claim; or
 - (2) give case management directions.
- B.14 Case management directions given under paragraph B.13 will, if the defendant has filed a defence, include the allocation of a case to a track, or directions to enable the case to be allocated.
- B.15 CPR rule 26.5(3) to (5) and CPR rules 26.6 to 26.10 apply to the allocation of a claim under paragraph B.14.

SECTION C

- C.1 Section C applies if the appeal is listed in Table 3.
- C.2 The Schedule rules provide -
- (1) that the appeal must be stated by Notice of Appeal; and
 - (2) the procedure the appeal should follow.

(Further information on the procedure to be followed, and the form of the Notice of Appeal for Appeals to the Court of Appeal can be found in the Practice Direction for the Court of Appeal (Civil Division)).

Table 3

Schedule Rule	Claim Form
RSC O. 55, r. 3(1)	Appeals, etc., to High Court from Court, Tribunal or person: general (Bringing of Appeal)
RSC 0.59, r. 3(1)	Appeals to the Court of Appeal
RSC 0.60, r. 1	Appeals to the Court of Appeal from Restrictive Practices Court
RSC 0.61, r. 3(1)	Appeals from Tribunals to Court of Appeal by Case Stated. (Proceedings on case stated)

Table 3

Schedule Rule	Claim Form
RSC 0.91, r. 2(2)	Revenue proceedings (Appeal under section 222 of the Inheritance Tax Act 1984)
RSC 0.93, r. 11(3)	Applications and Appeals to High Court under various Acts: Chancery Division (Appeal under section 17 of the Industrial Assurance Act)
RSC 0.93, r. 12(1)	Applications and Appeals to High Court under Various Acts: Chancery Division (Appeals, etc., affecting Industrial and Provident Societies, etc.)
RSC 0.93, r. 22(2)(b)	Applications and Appeals to High Court under Various Acts: Chancery Division Appeal (Proceedings under the Banking Appeal Act 1987 - appeals under section 31(1).)
RSC O. 94, r. 10	Applications and Appeals to High Court under Various Acts: Queens Bench Division (Tribunals and Enquiries Act 1971: Appeal from Minister of Transport)
RSC O. 94, r. 10A(2)	Applications and Appeals to High Court under Various Acts: Queens Bench Division (Consumer Credit Act 1974: Appeal from Secretary of State)
RSC O. 101, r. 4(1)	The Pensions Appeal Tribunals Act 1943 (Appeal)
RSC 0.106, r. 12(1)	Proceedings relating to Solicitors: The Solicitors Act 1974 (Title, service etc., of Notice of Appeal)
RSC 0.108, r. 5(2)	Proceedings relating to Charities: The Charities Act 1993 (Appeal against order, etc., of Commissioners)
RSC 0.111, r. 4(3)	Social Security Administration Act 1992 (Reference of question of law)