

PRACTICE DIRECTION – DEFENCE AND REPLY

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 15

DEFENDING THE CLAIM

- 1.1 The provisions of Part 15 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 defence and reply are made by the rules and practice directions applicable to those claims, the provisions of Part 15 apply only to the extent that they are not inconsistent with those rules and practice directions.
- 1.3 Form N9B (specified amount) or N9D (unspecified amount or non-money claims) may be used for the purpose of defence and is included in the response pack served on the defendant with the particulars of claim.
- 1.4 Attention is drawn to rule 15.3 which sets out a possible consequence of not filing a defence.

(Part 16 (statements of case) and the practice direction which supplements it contain rules and directions about the contents of a defence.)

(The Costs Practice Direction supplementing Parts 43 to 48 contains details of the information required to be filed with a defence to comply with rule 44.15 (providing information about funding arrangements))

STATEMENT OF TRUTH

- 2.1 Part 22 requires a defence to be verified by a statement of truth.
- 2.2 The form of the statement of truth is as follows:

‘[I believe][the defendant believes] that the facts stated in this defence are true.’
- 2.3 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.

(For information about statements of truth see Part 22 and the practice direction which supplements it.)

GENERAL

- 3.1 Where a defendant to a claim serves a counterclaim under Part 20, the defence and counterclaim should normally form one document with the counterclaim following on from the defence.
- 3.2 Where a claimant serves a reply and a defence to counterclaim, the reply and defence to counterclaim should normally form one document with the defence to counterclaim following on from the reply.
- 3.2A Rule 15.8(a) provides that a claimant must file any reply with his allocation questionnaire. Where the date by which he must file his allocation questionnaire is later than the date by which he must file his defence to counterclaim (because the time for filing the allocation questionnaire under rule 26.3(6) is more than 14 days after the date on which it is deemed to be served), the court will normally order that the defence to counterclaim must be filed by the same date as the reply. Where the court does not make such an order the reply and defence to counterclaim may form separate documents.
- 3.3 Where a claim has been stayed under rules 15.10(3) or 15.11(1) any party may apply for the stay to be lifted¹.
- 3.4 The application should be made in accordance with Part 23 and should give the reason for the applicant's delay in proceeding with or responding to the claim.

(Paragraph 8.3 of the practice direction supplementing Part 6 (Service of documents) makes provision for the service on the claimant of any notice of funding filed with a defence)

¹ Rules 15.10(4) and 15.11(2).