

PRACTICE DIRECTION – SERVICE OUT OF THE JURISDICTION.

THIS PRACTICE DIRECTION SUPPLEMENTS SECTION III OF PART 6

Service in other Member States of the European Union

A1.1 Where service is to be effected in another Member of State of the European Union, Council Regulation (EC) No. 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ('the Service Regulation') applies.

A1.2 The Service Regulation is annexed to this practice direction.

(Article 20(1) of the Service Regulation provides that the Regulation prevails over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member of States and in particular Article IV of the protocol to the Brussels Convention of 1968 and the Hague Convention of 15 November 1965)

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Service out of the jurisdiction where permission of the Court is not required

1.1 The usual form of words of the statement required by Rule 6.19(3) where the court has power to determine the claim under the 1982 Act should be:–

'I state that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982 to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by section 1(3) of the Act.'

1.2 However, in proceedings to which Rule 6.19(1)(b)(ii) applies, the statement should be:–

'I state that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982, the claim having as its object rights in rem in immovable property or tenancies in immovable property (or otherwise in accordance with the provisions of Article 16 of Schedule 1, 3C or 4 to that Act) to which Article 16 of Schedule 1, 3C or 4 to that Act applies, to hear the claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by Section 1(3) of the Act.'

- 1.3 And in proceedings to which Rule 6.19(1)(b)(iii) applies, the statement should be:–
- ‘I state that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982, the defendant being a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1, 3C or 4 to that Act applies, to hear the claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by Section 1(3) of the Act.’
- 1.3A The usual form of words of the statement required by Rule 6.19(3) where the Judgments Regulation applies should be –
- ‘I state that the High Court of England and Wales has power under Council Regulation (EC) No 44/2001 of 22nd December 2000 (on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or any other Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.’
- 1.3B However, in proceedings to which Rule 6.19(1A)(b)(ii) applies, the statement should be:–
- ‘I state that the High Court of England and Wales has power under Council Regulation (EC) No 44/2001 of 22nd December 2000 (on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters), the claim having as its object rights in rem in immovable property or tenancies in immovable property (or otherwise in accordance with the provisions of Article 22 of that Regulation) to which Article 22 of that Regulation applies, to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or any other Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.’
- 1.3C And in proceedings to which Rule 6.19(1A)(b)(iii) applies, the statement should be:–
- ‘I state that the High Court of England and Wales has power under Council Regulation (EC) No 44/2001 of 22nd December 2000 (on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters), the defendant being a party to an agreement conferring jurisdiction to which Article 23 of that Regulation applies, to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or any other Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.’
- 1.4 A claim form appearing to be for service on a defendant under the provisions of Rule 6.19 which does not include a statement in the form of 1.1, 1.2, 1.3, 1.3A, 1.3B or 1.3C above will be marked on issue ‘Not for service out of the jurisdiction’.
- 1.5 Where a claim form is served without particulars of claim, it must be accompanied by a copy of Form N1C (notes for defendants).

SERVICE OUT OF THE JURISDICTION WHERE PERMISSION IS REQUIRED

Documents to be filed under Rule 6.26(2)(d)

- 2.1 A complete set of the following documents must be provided for each party to be served out of the jurisdiction
 - (1) A copy of particulars of claim if not already incorporated in or attached to the claim.
 - (2) A duplicate of the claim form of the particulars of claim and of any documents accompanying the claim and of any translation required by Rule 6.28.
 - (3) Forms for responding to the claim;
 - (4) Any translation required under Rule 6.28 and paragraphs 4.1 and 4.2, in duplicate.
- 2.2 The documents to be served in certain countries require legalisation and the Foreign Process Section (Room E02), Royal Courts of Justice will advise on request. Some countries require legislation and some require a formal letter of request, see Form No. 34 to Table 2 of Practice Direction to Part 4 which must be signed by the Senior Master of the Queen's Bench Division irrespective of the Division of the High Court or any county court in which the order was made.

Service in Scotland, Northern Ireland, the Channel Islands, the Isle of Man, Commonwealth countries and United Kingdom Overseas Territories.

- 3.1 The requirements of Section III of Part 6, do not apply to the countries listed in Rule 6.25(4) and service should be effected by the claimant or his agent direct except in the case of a Commonwealth State where the judicial authorities have required service to be in accordance with Rule 6.24(1)(b)(i). These are presently Malta and Singapore.
- 3.2 For the purposes of Rule 6.25(4)(c), the following countries are United Kingdom Overseas Territories:–
 - (a) Anguilla;
 - (b) Bermuda;
 - (c) British Antarctic Territory;
 - (d) British Indian Ocean Territory;
 - (e) Cayman Islands;
 - (f) Falkland Islands;
 - (g) Gibraltar;
 - (h) Montserrat;
 - (i) Pitcairn, Henderson, Ducie and Oeno;

- (j) St. Helena and Dependencies;
- (k) South Georgia and the South Sandwich Islands;
- (l) Sovereign Base Areas of Akrotiri and Dhekelia;
- (m) Turks and Caicos Islands; and
- (n) Virgin Islands.

Translations

- 4.1 Rule 6.28 applies to particulars of claim not included in a claim form as well as to claim forms.
- 4.2 Where a translation of a claim form is required under Rule 6.28, the claimant must also file a translation of all the forms that will accompany the claim form.

(It should be noted that English is not an official language in the Province of Quebec).

Service with the permission of the Court under certain Acts

- 5.1 Rule 6.20(18) provides that a claim form may be served out of the jurisdiction with the Court's permission if the claim is made under an enactment specified in the relevant Practice Direction.
- 5.2 These enactments are:
 - (1) The Nuclear Installations Act 1965,
 - (2) The Social Security Contributions and Benefits Act 1992,
 - (3) The Directive of the Council of the European Communities dated 15 March 1976 No. 76/308/EEC, where service is to be effected in a member state of the European Union,
 - (4) The Drug Trafficking Offences Act 1994,
 - (7) Part VI of the Criminal Justice Act 1988,
 - (8) The Immigration (Carriers' Liability) Act 1987,
 - (9) Part II of the Immigration and Asylum Act 1999,
 - (10) Schedule 2 to the Immigration Act 1971.
 - (11) The Financial Services and Markets Act 2000
- 5.3 Under the State Immunity Act 1978, the foreign state being served is allowed an additional two months over the normal period for filing an acknowledgment of service or defence or for filing or serving an admission allowed under paragraphs 7.3 and 7.4.

Service of petitions, application notices and orders

- 6.1 The provisions of Section III of Part 6 (special provisions about service out of the jurisdiction) apply to service out of the jurisdiction of a petition, application notice or order.
(Rule 6.30(1) contains special provisions relating to application notices).
- 6.2 Where an application notice is to be served out of the jurisdiction in accordance with Section III of Part 6 the Court must have regard to the country in which the application notice is to be served in setting the date for the hearing of the application and giving any direction about service of the respondent's evidence.
- 6.3 Where the permission of the Court is required for a claim form to be served out of the jurisdiction the permission of the Court, unless rule 6.30(3) applies, must also be obtained for service out of the jurisdiction of any other document to be served in the proceedings and the provisions of this Practice Direction will, so far as applicable to that other document, apply.
- 6.4 When particulars of claim are served out of the jurisdiction any statement as to the period for responding to the claim contained in any of the forms required by Rule 7.8 to accompany the particulars of claim must specify the period prescribed under Rule 6.22 or 6.23 or (as the case may be) by the order permitting service out of the jurisdiction (see Rule 6.21(4)).

Period for responding to a claim form

- 7.1 Where a claim form has been served out of the jurisdiction without permission under Rule 6.19 –
 - (1) Rule 6.22 sets out the period for filing an acknowledgement of service or filing or serving an admission; and where Rule 6.22(4) applies, the period will be calculated in accordance with paragraph 7.3 having regard to the Table below;
 - (2) Rule 6.23 sets out the period for filing a defence and where Rule 6.23(4) applies, the period will be calculated in accordance with paragraph 7.4 having regard to the Table below.
- 7.2 Where an order grants permission to serve a claim form out of the jurisdiction, the periods within which the defendant may –
 - (1) file an acknowledgment of service
 - (2) file or serve an admission;
 - (3) file a defence
 will be calculated in accordance with paragraphs 7.3 and 7.4 having regard to the Table below.

 (Rule 6.21(4) requires an order giving permission for a claim form to be served out of the jurisdiction to specify the period within which the defendant may respond to the claim form).

7.3 The period for filing an acknowledgment of service under Part 10 or filing or serving an admission under Part 14 is –

- (1) where the defendant is served with a claim form which states that particulars of claim are to follow, the number of days listed in the Table after service of the particulars of claim; and
- (2) in any other case, the number of days listed in the Table after service of the claim form.

For example: where a defendant has been served with a claim form (accompanied by particulars of claim) in the Bahamas, the period for acknowledging service or admitting the claim is 22 days after service.

7.4 The period for filing a defence under Part 15 is –

- (1) the number of days listed in the Table after service of the particulars of claim, or
- (2) where the defendant has filed an acknowledgment of service, the number of days listed in the Table plus an additional 14 days after the service of the particulars of claim.

For example, where a defendant has been served with particulars of claim in Gibraltar and has acknowledged service, the period for filing a defence is 45 days after service of the particulars of claim.

Period for responding to an application notice

8.1 Where an application notice or order needs to be served out of the jurisdiction, the period for responding to service is 7 days less than the number of days listed in the Table.

Address for service further information

- 10.1 A defendant is required by Rule 6.5(2) to give an address for service within the jurisdiction.
- 10.2 Further information concerning service out of the jurisdiction can be obtained from the Foreign Process Section, Room E02, Royal Courts of Justice, Strand, London WC2A 2LL (telephone 020 7947 6691).

TABLE

Place or country	number of days	Place or country	number of days
Abu Dhabi	22	Anguilla	31
Afghanistan	23	Antigua	23
Albania	25	Antilles (Netherlands)	31
Algeria	22	Argentina	22
Angola	22	Armenia	21

Place or country	number of days
Ascension	31
Australia	25
Austria	21
Azores	23
Bahamas	22
Bahrain	22
Balearic Islands	21
Bangladesh	23
Barbados	23
Belarus	21
Belgium	21
Belize	23
Benin	25
Bermuda	31
Bhutan	28
Bolivia	23
Bosnia-Herzegovina	21
Botswana	23
Brazil	22
Brunei	25
Bulgaria	23
Burkina Faso	23
Burma	23
Burundi	22
Cameroon	22
Canada	22
Canary Islands	22
Cape Verde Islands	25
Caroline Islands	31
Cayman Islands	31

Place or country	number of days
Central African Republic	25
Chad	25
Chile	22
China	24
Christmas Island	27
Cocos (Keeling) Islands	41
Colombia	22
Comoros	23
Congo (People's Republic)	25
Corsica	21
Costa Rica	23
Croatia	21
Cuba	24
Cyprus	31
Cyrenaica (see Libya)	21
Czech Republic	21
Denmark	21
Djibouti	22
Dominica	23
Dominican Republic	23
Dubai	22
Ecuador	22
Egypt (Arab Republic)	22
El Salvador (Republic of)	25
Equatorial Guinea	23
Estonia	21
Ethiopia	22
Falkland Islands and Dependencies	31
Faroe Islands	31

Place or country	number of days
Fiji	23
Finland	24
France	21
French Guiana	31
French Polynesia	31
French West Indies	31
Gabon	25
Gambia	22
Georgia	21
Germany	21
Ghana	22
Gibraltar	31
Greece	21
Greenland	31
Grenada	24
Guatemala	24
Guernsey	18
Guyana	22
Haiti	23
Holland (Netherlands)	21
Honduras	24
Hong Kong	31
Hungary	22
Iceland	22
India	23
Indonesia	22
Iran	22
Iraq	22
Ireland (Republic of)	21
Ireland (Northern)	21

Place or country	number of days
Isle of Man	18
Israel	22
Italy	21
Ivory Coast	22
Jamaica	22
Japan	23
Jersey	18
Jordan	23
Kampuchea	38
Kazakhstan	21
Kenya	22
Kirgizstan	21
Korea (North)	28
Korea (South)	24
Kuwait	22
Laos	30
Latvia	21
Lebanon	22
Lesotho	23
Liberia	22
Libya	21
Liechtenstein	21
Lithuania	21
Luxembourg	21
Macau	31
Macedonia	21
Madagascar	23
Madeira	31
Malawi	23
Malaya	24

Place or country	number of days
Maldiv Islands	26
Mali	25
Malta	21
Mariana Islands	26
Marshall Islands	32
Mauritania	23
Mauritius	22
Mexico	23
Moldova	21
Monaco	21
Montserrat	31
Morocco	22
Mozambique	23
Nauru Island	36
Nepal	23
Netherlands	21
Nevis	24
New Caledonia	31
New Hebrides (now Vanuatu)	29
New Zealand	26
New Zealand Island Territories	50
Nicaragua	24
Niger (Republic of)	25
Nigeria	22
Norfolk Island	31
Norway	21
Oman (Sultanate of)	22
Pakistan	23
Panama (Republic of)	26
Papua New Guinea	26

Place or country	number of days
Paraguay	22
Peru	22
Philippines	23
Pitcairn Island	31
Poland	21
Portugal	21
Portuguese Timor	31
Puerto Rico	23
Qatar	23
Reunion	31
Romania	22
Russia	21
Rwanda	23
Sabah	23
St. Helena	31
St. Kitts–Nevis	24
St. Lucia	24
St. Pierre and Miquelon	31
St. Vincent and the Grenadines	24
Samoa (U.S.A. Territory) (See also Western Samoa)	30
Sarawak	28
Saudi Arabia	24
Scotland	21
Senegal	22
Seychelles	22
Sharjah	24
Sierra Leone	22
Singapore	22
Slovakia	21

Place or country	number of days
Slovenia	21
Society Islands (French Polynesia)	31
Solomon Islands	29
Somali Democratic Republic	22
South Africa (Republic of)	22
South Georgia (Falkland Island Dependencies)	31
South Orkneys	21
South Shetlands	21
Spain	21
Spanish Territories of North Africa	31
Sri Lanka	23
Sudan	22
Suriname	22
Swaziland	22
Sweden	21
Switzerland	21
Syria	23
Taiwan	23
Tajikistan	21
Tanzania	22
Thailand	23
Tibet	34
Tobago	23
Togo	22
Tonga	30

Place or country	number of days
Tortola	31
Trinidad Tobago	23
Tristan Da Cunha	31
Tunisia	22
Turkey	21
Turkmenistan	21
Turks Caicos Islands	31
Uganda	22
Ukraine	21
United States of America	22
Uruguay	22
Uzbekistan	21
Vanuatu	29
Vatican City State	21
Venezuela	22
Vietnam	28
Virgin Islands - British (Tortola)	31
Virgin Islands - U.S.A	24
Wake Island	25
Western Samoa	34
Yemen (Republic of)	30
Yugoslavia (except for Bosnia-Herzegovina Croatia Macedonia and Slovenia)	21
Zaire	25
Zambia	23
Zimbabwe	22