

# 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)

Originally published in the official languages of the European Community in the *Official Journal of the European Communities* by the Office for Official Publications of the European Communities

### 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

**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 COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67(1) thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas:

- (1) The Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice, in which the free movement of persons is assured. To establish such an area, the Community is to adopt, among others, the measures relating to judicial cooperation in civil matters needed for the proper functioning of the internal market.
- (2) The proper functioning of the internal market entails the need to improve and expedite the transmission of judicial and extrajudicial documents in civil or commercial matters for service between the Member States.
- (3) This is a subject now falling within the ambit of Article 65 of the Treaty.
- (4) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community. This Regulation does not go beyond what is necessary to achieve those objectives.
- (5) The Council, by an Act dated 26 May 1997<sup>(4)</sup>, drew up a Convention on the service in the Member States of the

European Union of judicial and extrajudicial documents in civil or commercial matters and recommended it for adoption by the Member States in accordance with their respective constitutional rules. That Convention has not entered into force. Continuity in the results of the negotiations for conclusion of the Convention should be ensured. The main content of this Regulation is substantially taken over from it.

- (6) Efficiency and speed in judicial procedures in civil matters means that the transmission of judicial and extrajudicial documents is to be made direct and by rapid means between local bodies designated by the Member States. However, the Member States may indicate their intention of designating only one transmitting or receiving agency or one agency to perform both functions for a period of five years. This designation may, however, be renewed every five years.
- (7) Speed in transmission warrants the use of all appropriate means, provided that certain conditions as to the legibility and reliability of the document received are observed. Security in transmission requires that the document to be transmitted be accompanied by a pre-printed form, to be completed in the language of the place where service is to be effected, or in another language accepted by the Member State in question.
- (8) To secure the effectiveness of this Regulation, the possibility of refusing service of documents is confined to exceptional situations.
- (9) Speed of transmission warrants documents being served within days of reception of the document. However, if service has not been effected after one month has elapsed, the receiving agency should inform the transmitting agency. The expiry of this period should not imply that the request be returned to the transmitting agency where it is clear that service is feasible within a reasonable period.

<sup>(1)</sup> OJ C 247 E, 31.8.1999, p. 11.

<sup>(2)</sup> Opinion of 17 November 1999 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 368, 20.12.1999, p. 47.

<sup>(4)</sup> OJ C 261, 27.8.1997, p. 1. On the same day as the Convention was drawn up the Council took note of the explanatory report on the Convention which is set out on page 26 of the aforementioned Official Journal.

- (10) For the protection of the addressee's interests, service should be effected in the official language or one of the official languages of the place where it is to be effected or in another language of the originating Member State which the addressee understands.
- (11) Given the differences between the Member States as regards their rules of procedure, the material date for the purposes of service varies from one Member State to another. Having regard to such situations and the possible difficulties that may arise, this Regulation should provide for a system where it is the law of the receiving Member State which determines the date of service. However, if the relevant documents in the context of proceedings to be brought or pending in the Member State of origin are to be served within a specified period, the date to be taken into consideration with respect to the applicant shall be that determined according to the law of the Member State of origin. A Member State is, however, authorised to derogate from the aforementioned provisions for a transitional period of five years, for appropriate reasons. Such a derogation may be renewed by a Member State at five-year intervals due to reasons related to its legal system.
- (12) This Regulation prevails over the provisions contained in bilateral or multilateral agreements or arrangements having the same scope, concluded by the Member States, and in particular the Protocol annexed to the Brussels Convention of 27 September 1968<sup>(1)</sup> and the Hague Convention of 15 November 1965 in relations between the Member States party thereto. This Regulation does not preclude Member States from maintaining or concluding agreements or arrangements to expedite or simplify the transmission of documents, provided that they are compatible with the Regulation.
- (13) The information transmitted pursuant to this Regulation should enjoy suitable protection. This matter falls within the scope of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(2)</sup>, and of Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector<sup>(3)</sup>.
- (14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(4)</sup>.
- (15) These measures also include drawing up and updating the manual using appropriate modern means.
- (16) No later than three years after the date of entry into force of this Regulation, the Commission should review its application and propose such amendments as may appear necessary.
- (17) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Regulation.
- (18) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, is not participating in the adoption of this Regulation, and is therefore not bound by it nor subject to its application.

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

#### Scope

1. This Regulation shall apply in civil and commercial matters where a judicial or extrajudicial document has to be transmitted from one Member State to another for service there.

2. This Regulation shall not apply where the address of the person to be served with the document is not known.

<sup>(1)</sup> Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (OJ L 299, 13.12.1972, p. 32; consolidated version, OJ C 27, 26.1.1998, p. 1).

<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31.

<sup>(3)</sup> OJ L 24, 30.1.1998, p. 1.

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 2***Transmitting and receiving agencies**

1. Each Member State shall designate the public officers, authorities or other persons, hereinafter referred to as 'transmitting agencies', competent for the transmission of judicial or extrajudicial documents to be served in another Member State.

2. Each Member State shall designate the public officers, authorities or other persons, hereinafter referred to as 'receiving agencies', competent for the receipt of judicial or extrajudicial documents from another Member State.

3. A Member State may designate one transmitting agency and one receiving agency or one agency to perform both functions. A federal State, a State in which several legal systems apply or a State with autonomous territorial units shall be free to designate more than one such agency. The designation shall have effect for a period of five years and may be renewed at five-year intervals.

4. Each Member State shall provide the Commission with the following information:

- (a) the names and addresses of the receiving agencies referred to in paragraphs 2 and 3;
- (b) the geographical areas in which they have jurisdiction;
- (c) the means of receipt of documents available to them; and
- (d) the languages that may be used for the completion of the standard form in the Annex.

Member States shall notify the Commission of any subsequent modification of such information.

*Article 3***Central body**

Each Member State shall designate a central body responsible for:

- (a) supplying information to the transmitting agencies;
- (b) seeking solutions to any difficulties which may arise during transmission of documents for service;
- (c) forwarding, in exceptional cases, at the request of a transmitting agency, a request for service to the competent receiving agency.

A federal State, a State in which several legal systems apply or a State with autonomous territorial units shall be free to designate more than one central body.

## CHAPTER II

**JUDICIAL DOCUMENTS**

## Section 1

***Transmission and service of judicial documents****Article 4***Transmission of documents**

1. Judicial documents shall be transmitted directly and as soon as possible between the agencies designated on the basis of Article 2.

2. The transmission of documents, requests, confirmations, receipts, certificates and any other papers between transmitting agencies and receiving agencies may be carried out by any appropriate means, provided that the content of the document received is true and faithful to that of the document forwarded and that all information in it is easily legible.

3. The document to be transmitted shall be accompanied by a request drawn up using the standard form in the Annex. The form shall be completed in the official language of the Member State addressed or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected, or in another language which that Member State has indicated it can accept. Each Member State shall indicate the official language or languages of the European Union other than its own which is or are acceptable to it for completion of the form.

4. The documents and all papers that are transmitted shall be exempted from legalisation or any equivalent formality.

5. When the transmitting agency wishes a copy of the document to be returned together with the certificate referred to in Article 10, it shall send the document in duplicate.

*Article 5***Translation of documents**

1. The applicant shall be advised by the transmitting agency to which he or she forwards the document for transmission that the addressee may refuse to accept it if it is not in one of the languages provided for in Article 8.

2. The applicant shall bear any costs of translation prior to the transmission of the document, without prejudice to any possible subsequent decision by the court or competent authority on liability for such costs.

#### Article 6

##### Receipt of documents by receiving agency

1. On receipt of a document, a receiving agency shall, as soon as possible and in any event within seven days of receipt, send a receipt to the transmitting agency by the swiftest possible means of transmission using the standard form in the Annex.

2. Where the request for service cannot be fulfilled on the basis of the information or documents transmitted, the receiving agency shall contact the transmitting agency by the swiftest possible means in order to secure the missing information or documents.

3. If the request for service is manifestly outside the scope of this Regulation or if non-compliance with the formal conditions required makes service impossible, the request and the documents transmitted shall be returned, on receipt, to the transmitting agency, together with the notice of return in the standard form in the Annex.

4. A receiving agency receiving a document for service but not having territorial jurisdiction to serve it shall forward it, as well as the request, to the receiving agency having territorial jurisdiction in the same Member State if the request complies with the conditions laid down in Article 4(3) and shall inform the transmitting agency accordingly, using the standard form in the Annex. That receiving agency shall inform the transmitting agency when it receives the document, in the manner provided for in paragraph 1.

#### Article 7

##### Service of documents

1. The receiving agency shall itself serve the document or have it served, either in accordance with the law of the Member State addressed or by a particular form requested by the transmitting agency, unless such a method is incompatible with the law of that Member State.

2. All steps required for service of the document shall be effected as soon as possible. In any event, if it has not been possible to effect service within one month of receipt, the receiving agency shall inform the transmitting agency by means of the certificate in the standard form in the Annex, which shall be drawn up under the conditions referred to in Article 10(2). The period shall be calculated in accordance with the law of the Member State addressed.

#### Article 8

##### Refusal to accept a document

1. The receiving agency shall inform the addressee that he or she may refuse to accept the document to be served if it is in a language other than either of the following languages:

- (a) the official language of the Member State addressed or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected; or
- (b) a language of the Member State of transmission which the addressee understands.

2. Where the receiving agency is informed that the addressee refuses to accept the document in accordance with paragraph 1, it shall immediately inform the transmitting agency by means of the certificate provided for in Article 10 and return the request and the documents of which a translation is requested.

#### Article 9

##### Date of service

1. Without prejudice to Article 8, the date of service of a document pursuant to Article 7 shall be the date on which it is served in accordance with the law of the Member State addressed.

2. However, where a document shall be served within a particular period in the context of proceedings to be brought or pending in the Member State of origin, the date to be taken into account with respect to the applicant shall be that fixed by the law of that Member State.

3. A Member State shall be authorised to derogate from the provisions of paragraphs 1 and 2 for a transitional period of five years, for appropriate reasons.

This transitional period may be renewed by a Member State at five-yearly intervals due to reasons related to its legal system. That Member State shall inform the Commission of the content of such a derogation and the circumstances of the case.

#### Article 10

##### Certificate of service and copy of the document served

1. When the formalities concerning the service of the document have been completed, a certificate of completion of those formalities shall be drawn up in the standard form in the Annex and addressed to the transmitting agency, together with, where Article 4(5) applies, a copy of the document served.

2. The certificate shall be completed in the official language or one of the official languages of the Member State of origin or in another language which the Member State of origin has indicated that it can accept. Each Member State shall indicate the official language or languages of the European Union other than its own which is or are acceptable to it for completion of the form.

#### Article 11

##### **Costs of service**

1. The service of judicial documents coming from a Member State shall not give rise to any payment or reimbursement of taxes or costs for services rendered by the Member State addressed.

2. The applicant shall pay or reimburse the costs occasioned by:

- (a) the employment of a judicial officer or of a person competent under the law of the Member State addressed;
- (b) the use of a particular method of service.

#### Section 2

##### ***Other means of transmission and service of judicial documents***

#### Article 12

##### **Transmission by consular or diplomatic channels**

Each Member State shall be free, in exceptional circumstances, to use consular or diplomatic channels to forward judicial documents, for the purpose of service, to those agencies of another Member State which are designated pursuant to Article 2 or 3.

#### Article 13

##### **Service by diplomatic or consular agents**

1. Each Member State shall be free to effect service of judicial documents on persons residing in another Member State, without application of any compulsion, directly through its diplomatic or consular agents.

2. Any Member State may make it known, in accordance with Article 23(1), that it is opposed to such service within its territory, unless the documents are to be served on nationals of the Member State in which the documents originate.

#### Article 14

##### **Service by post**

1. Each Member State shall be free to effect service of judicial documents directly by post to persons residing in another Member State.

2. Any Member State may specify, in accordance with Article 23(1), the conditions under which it will accept service of judicial documents by post.

#### Article 15

##### **Direct service**

1. This Regulation shall not interfere with the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the Member State addressed.

2. Any Member State may make it known, in accordance with Article 23(1), that it is opposed to the service of judicial documents in its territory pursuant to paragraph 1.

#### CHAPTER III

##### **EXTRAJUDICIAL DOCUMENTS**

#### Article 16

##### **Transmission**

Extrajudicial documents may be transmitted for service in another Member State in accordance with the provisions of this Regulation.

#### CHAPTER IV

##### **FINAL PROVISIONS**

#### Article 17

##### **Implementing rules**

The measures necessary for the implementation of this Regulation relating to the matters referred to below shall be adopted in accordance with the advisory procedure referred to in Article 18(2):

- (a) drawing up and annually updating a manual containing the information provided by Member States in accordance with Article 2(4);

- (b) drawing up a glossary in the official languages of the European Union of documents which may be served under this Regulation;
- (c) updating or making technical amendments to the standard form set out in the Annex.

#### Article 18

#### Committee

- 1. The Commission shall be assisted by a committee.
- 2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
- 3. The Committee shall adopt its rules of procedure.

#### Article 19

#### Defendant not entering an appearance

1. Where a writ of summons or an equivalent document has had to be transmitted to another Member State for the purpose of service, under the provisions of this Regulation, and the defendant has not appeared, judgment shall not be given until it is established that:

- (a) the document was served by a method prescribed by the internal law of the Member State addressed for the service of documents in domestic actions upon persons who are within its territory; or
- (b) the document was actually delivered to the defendant or to his residence by another method provided for by this Regulation;

and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

2. Each Member State shall be free to make it known, in accordance with Article 23(1), that the judge, notwithstanding the provisions of paragraph 1, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled:

- (a) the document was transmitted by one of the methods provided for in this Regulation;
- (b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document;
- (c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities or bodies of the Member State addressed.

3. Notwithstanding paragraphs 1 and 2, the judge may order, in case of urgency, any provisional or protective measures.

4. When a writ of summons or an equivalent document has had to be transmitted to another Member State for the purpose of service, under the provisions of this Regulation, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled:

- (a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal; and
- (b) the defendant has disclosed a prima facie defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each Member State may make it known, in accordance with Article 23(1), that such application will not be entertained if it is filed after the expiration of a time to be stated by it in that communication, but which shall in no case be less than one year following the date of the judgment.

5. Paragraph 4 shall not apply to judgments concerning status or capacity of persons.

#### Article 20

#### Relationship with agreements or arrangements to which Member States are Parties

1. This Regulation shall, in relation to matters to which it applies, prevail over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member States, and in particular Article IV of the Protocol to the Brussels Convention of 1968 and the Hague Convention of 15 November 1965.

2. This Regulation shall not preclude individual Member States from maintaining or concluding agreements or arrangements to expedite further or simplify the transmission of documents, provided that they are compatible with this Regulation.

3. Member States shall send to the Commission:

- (a) a copy of the agreements or arrangements referred to in paragraph 2 concluded between the Member States as well as drafts of such agreements or arrangements which they intend to adopt;

and

(b) any denunciation of, or amendments to, these agreements or arrangements.

#### Article 21

##### **Legal aid**

This Regulation shall not affect the application of Article 23 of the Convention on Civil Procedure of 17 July 1905, Article 24 of the Convention on Civil Procedure of 1 March 1954 or Article 13 of the Convention on International Access to Justice of 25 October 1980 between the Member States Parties to these Conventions.

#### Article 22

##### **Protection of information transmitted**

1. Information, including in particular personal data, transmitted under this Regulation shall be used by the receiving agency only for the purpose for which it was transmitted.
2. Receiving agencies shall ensure the confidentiality of such information, in accordance with their national law.
3. Paragraphs 1 and 2 shall not affect national laws enabling data subjects to be informed of the use made of information transmitted under this Regulation.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 29 May 2000.

4. This Regulation shall be without prejudice to Directives 95/46/EC and 97/66/EC.

#### Article 23

##### **Communication and publication**

1. Member States shall communicate to the Commission the information referred to in Articles 2, 3, 4, 9, 10, 13, 14, 15, 17(a) and 19.
2. The Commission shall publish in the *Official Journal of the European Communities* the information referred to in paragraph 1.

#### Article 24

##### **Review**

No later than 1 June 2004, and every five years thereafter, the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Regulation, paying special attention to the effectiveness of the bodies designated pursuant to Article 2 and to the practical application of point (c) of Article 3 and Article 9. The report shall be accompanied if need be by proposals for adaptations of this Regulation in line with the evolution of notification systems.

#### Article 25

##### **Entry into force**

This Regulation shall enter into force on 31 May 2001.

*For the Council*

*The President*

A. COSTA

## ANNEX

## REQUEST FOR SERVICE OF DOCUMENTS

**(Article 4(3) of Council Regulation (EC) No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters <sup>(1)</sup>)**

Reference No: ....

## 1. TRANSMITTING AGENCY

1.1. Identity:

1.2. Address:

1.2.1. Street and number/PO box:

1.2.2. Place and code:

1.2.3. Country:

1.3. Tel:

1.4. Fax (\*):

1.5. E-mail (\*)

## 2. RECEIVING AGENCY

2.1. Identity:

2.2. Address:

2.2.1. Street and number/PO box:

2.2.2. Place and code:

2.2.3. Country:

2.3. Tel:

2.4. Fax (\*):

2.5. E-mail (\*):

<sup>(1)</sup> OJ L 160, 30.6.2000, p. 37.

(\*) This item is optional.

## 3. APPLICANT

3.1. Identity:

3.2. Address:

3.2.1. Street and number/PO box:

3.2.2. Place and code:

3.2.3. Country:

3.3. Tel (\*):

3.4. Fax (\*):

3.5. E-mail (\*):

## 4. ADDRESSEE

4.1. Identity:

4.2. Address:

4.2.1. Street and number/PO box:

4.2.2. Place and code:

4.2.3. Country:

4.3. Tel (\*):

4.4. Fax (\*):

4.5. E-mail (\*):

4.6. Identification number/social security number/organisation number/or equivalent (\*):

## 5. METHOD OF SERVICE

5.1. In accordance with the law of the Member State addressed

5.2. By the following particular method:

5.2.1. If this method is incompatible with the law of the Member State addressed, the document(s) should be served in accordance with the law:

5.2.1.1. yes

5.2.1.2. no

---

(\*) This item is optional.

## 6. DOCUMENT TO BE SERVED

## (a) 6.1. Nature of the document

## 6.1.1. judicial

## 6.1.1.1. writ of summons

## 6.1.1.2. judgment

## 6.1.1.3. appeal

## 6.1.1.4. other

## 6.1.2. extrajudicial

## (b) 6.2. Date or time limit stated in the document (\*):

## (c) 6.3. Language of document:

6.3.1. original DE, EN, DK, EL, FI, FR, GR, IT, NL, PT, SV, others:

6.3.2. translation (\*) DE, EN, DK, ES, FI, FR, EL, IT, NL, PT, SV, others:

## 6.4. Number of enclosures:

## 7. A COPY OF DOCUMENT TO BE RETURNED WITH THE CERTIFICATE OF SERVICE (Article 4(5) of the Regulation)

7.1. Yes (in this case send two copies of the document to be served)

7.2. No

1. You are required by Article 7(2) of the Regulation to effect all steps required for service of the document as soon as possible. In any event, if it is not possible for you to effect service within one month of receipt, you must inform this agency by means of the certificate provided for in point 13.
2. If you cannot fulfil this request for service on the basis of the information or documents transmitted, you are required by Article 6(2) of the Regulation to contact this agency by the swiftest possible means in order to secure the missing information or document.

Done at:

Date:

Signature and/or stamp:

---

(\*) This item is optional.

Reference No of the receiving agency:

ACKNOWLEDGEMENT OF RECEIPT  
(Article 6(1) of Council Regulation (EC) No 1348/2000)

This acknowledgement must be sent by the swiftest possible means of transmission as soon as possible after receipt of the document and in any event within seven days of receipt.

8. DATE OF RECEIPT:

Done at:

Date:

Signature and/or stamp:

## NOTICE OF RETURN OF REQUEST AND DOCUMENT

**(Article 6(3) of Council Regulation (EC) No 1348/2000)**

The request and document must be returned on receipt.

## 9. REASON FOR RETURN:

9.1. The request is manifestly outside the scope of the Regulation:

9.1.1. the document is not civil or commercial

9.1.2. the service is not from one Member State to another Member State

9.2. Non-compliance with formal conditions required makes service impossible:

9.2.1. the document is not easily legible

9.2.2. the language used to complete the form is incorrect

9.2.3. the document received is not a true and faithful copy

9.2.4. other (please give details):

9.3. The method of service is incompatible with the law of that Member State (Article 7(1) of the Regulation)

Done at:

Date:

Signature and/or stamp:

## NOTICE OF RETRANSMISSION OF REQUEST AND DOCUMENT TO THE APPROPRIATE RECEIVING AGENCY

**(Article 6(4) of Council Regulation (EC) No 1348/2000)**

The request and document were forwarded on to the following receiving agency, which has territorial jurisdiction to serve it:

10.1. Identity:

10.2. Address:

10.2.1. Street and number/PO box:

10.2.2. Place and code:

10.2.3. Country:

10.3. Tel:

10.4. Fax (\*):

10.5. E-mail (\*):

Done at:

Date:

Signature and/or stamp:

---

(\*) This item is optional.

Reference No of the appropriate receiving agency:

NOTICE OF RECEIPT BY THE APPROPRIATE RECEIVING AGENCY HAVING TERRITORIAL JURISDICTION TO THE TRANSMITTING  
AGENCY

**(Article 6(4) of Council Regulation (EC) No 1348/2000)**

This notice must be sent by the swiftest possible means of transmission as soon as possible after receipt of the document and in any event within seven days of receipt.

11. DATE OF RECEIPT:

Done at:

Date:

Signature and/or stamp:

CERTIFICATE OF SERVICE OR NON-SERVICE OF DOCUMENTS

**(Article 10 of Council Regulation (EC) No 1348/2000)**

The service shall be effected as soon as possible. In any event, if it has not been possible to effect service within one month of receipt, the receiving agency shall inform the transmitting agency (according to Article 7(2) of the Regulation)

12. COMPLETION OF SERVICE

(a) 12.1. Date and address of service:

(b) 12.2. The document was

(A) 12.2.1. served in accordance with the law of the Member State addressed, namely

12.2.1.1. handed to

12.2.1.1.1. the addressee in person

12.2.1.1.2. another person

12.2.1.1.2.1. Name:

12.2.1.1.2.2. Address:

12.2.1.1.2.2.1. Street and number/PO box:

12.2.1.1.2.2.2. Place and code:

12.2.1.1.2.2.3. Country:

12.2.1.1.2.3. Relation to the addressee:

family

employee

others

12.2.1.1.3. the addressee's address

12.2.1.2. served by post

12.2.1.2.1. without acknowledgement of receipt

12.2.1.2.2. with the enclosed acknowledgement of receipt

12.2.1.2.2.1. from the addressee

12.2.1.2.2.2. another person

12.2.1.2.2.2.1. Name:

12.2.1.2.2.2.2. Address:

12.2.1.2.2.2.2.1. Street and number/PO box:

12.2.1.2.2.2.2. Place and code:

12.2.1.2.2.2.2.3. Country:

12.2.1.2.2.2.3. Relation to the addressee:

family

employee

others

12.2.1.3. other method (please say how):

(B) 12.2.2. served by the following particular method (please say how):

(c) 12.3. The addressee of the document was informed (orally) (in writing) that he or she may refuse to accept it if it was not in an official language of the place of service or in an official language of the state of transmission which he or she understands.

### 13. INFORMATION IN ACCORDANCE WITH ARTICLE 7(2)

It was not possible to effect service within one month of receipt.

## 14. REFUSAL OF DOCUMENT

The addressee refused to accept the document on account of the language used. The documents are annexed to this certificate.

## 15. REASON FOR NON-SERVICE OF DOCUMENT

### 15.1. Address unknown

### 15.2. Addressee cannot be located

15.3. Document could not be served before the date or time limit stated in point 6.2.

15.4. Others (please specify):

The documents are annexed to this certificate.

Done at:

Date:

Signature and/or stamp: