

PART 24

SUMMARY JUDGMENT

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SCOPE OF THIS PART

- 24.1 This Part sets out a procedure by which the court may decide a claim or a particular issue without a trial.
- (Part 53 makes special provision about summary disposal of defamation claims in accordance with the Defamation Act 1996)³³

GROUND FOR SUMMARY JUDGMENT

- 24.2 The court may give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if –
- (a) it considers that –
 - (i) that claimant has no real prospect of succeeding on the claim or issue; or
 - (ii) that defendant has no real prospect of successfully defending the claim or issue; and
 - (b) there is no other compelling reason why the case or issue should be disposed of at a trial.
- (Rule 3.4 makes provision for the court to strike out^(GL) a statement of case or part of a statement of case if it appears that it discloses no reasonable grounds for bringing or defending a claim)

TYPES OF PROCEEDINGS IN WHICH SUMMARY JUDGMENT IS AVAILABLE

- 24.3
- (1) The court may give summary judgment against a claimant in any type of proceedings.
 - (2) The court may give summary judgment against a defendant in any type of proceedings except –
 - (a) proceedings for possession of residential premises against–
 - (i) a mortgagor; or
 - (ii) a tenant or a person holding over after the end of his tenancy whose occupancy is protected within the meaning of the Rent Act 1977³⁴ or the Housing Act 1988³⁵ and;
 - (b) proceedings for an admiralty claim in rem.
 - (c) Revoked

PROCEDURE

- 24.4
- (1) A claimant may not apply for summary judgment until the defendant against whom the application is made has filed –
 - (a) an acknowledgement of service; or
 - (b) a defence,
 unless –
 - (i) the court gives permission; or
 - (ii) a practice direction provides otherwise.
 (Rule 10.3 sets out the period for filing an acknowledgment of service and rule 15.4 the period for filing a defence)
 - (2) If a claimant applies for summary judgment before a defendant against whom the application is made has filed a defence, that defendant need not file a defence before the hearing.
 - (3) Where a summary judgment hearing is fixed, the respondent (or the parties where the hearing is fixed of the court's own initiative) must be given at least 14 days' notice of –
 - (a) the date fixed for the hearing; and
 - (b) the issues which it is proposed that the court will decide at the hearing.
 - (4) A practice direction may provide for a different period of notice to be given.
- (Part 23 contains the general rules about how to make an application)
- (Rule 3.3 applies where the court exercises its powers of its own initiative)

34 1977 c.42

35 1988 c.50

EVIDENCE FOR THE PURPOSES OF A SUMMARY JUDGMENT HEARING

- 24.5
- (1) If the respondent to an application for summary judgment wishes to rely on written evidence at the hearing, he must –
 - (a) file the written evidence; and
 - (b) serve copies on every other party to the application, at least 7 days before the summary judgment hearing.
 - (2) If the applicant wishes to rely on written evidence in reply, he must –
 - (a) file the written evidence; and
 - (b) serve a copy on the respondent, at least 3 days before the summary judgment hearing.
 - (3) Where a summary judgment hearing is fixed by the court of its own initiative –
 - (a) any party who wishes to rely on written evidence at the hearing must –
 - (i) file the written evidence; and
 - (ii) unless the court orders otherwise, serve copies on every other party to the proceedings, at least 7 days before the date of the hearing;
 - (b) any party who wishes to rely on written evidence at the hearing in reply to any other party's written evidence must –
 - (i) file the written evidence in reply; and
 - (ii) unless the court orders otherwise serve copies on every other party to the proceedings, at least 3 days before the date of the hearing.
 - (4) This rule does not require written evidence –
 - (a) to be filed if it has already been filed; or
 - (b) to be served on a party on whom it has already been served.

COURT'S POWERS WHEN IT DETERMINES A SUMMARY JUDGMENT APPLICATION

- 24.6
- When the court determines a summary judgment application it may –
- (a) give directions as to the filing and service of a defence;
 - (b) give further directions about the management of the case.
- (Rule 3.1(3) provides that the court may attach conditions when it makes an order)