

# COMMERCIAL COURT

## Contents of this Part

- Rule 58.1 Scope of this Part and interpretation
- Rule 58.2 Specialist list
- Rule 58.3 Application of the Civil Procedure Rules
- Rule 58.4 Proceedings in the commercial list
- Rule 58.5 Claim form and particulars of claim
- Rule 58.6 Acknowledgment of service
- Rule 58.7 Disputing the court's jurisdiction
- Rule 58.8 Default judgment
- Rule 58.9 Admissions
- Rule 58.10 Defence and Reply
- Rule 58.11 Statements of case
- Rule 58.12 Part 8 claims
- Rule 58.13 Case management
- Rule 58.14 Disclosure – ships papers
- Rule 58.15 Judgments and orders

## 58.1 Scope of this Part and interpretation

- (1) This Part applies to claims in the Commercial Court of the Queen's Bench Division.
- (2) In this Part and its practice direction, 'commercial claim' means any claim arising out of the transaction of trade and commerce and includes any claim relating to –
  - (a) a business document or contract;
  - (b) the export or import of goods;
  - (c) the carriage of goods by land, sea, air or pipeline;
  - (d) the exploitation of oil and gas reserves or other natural resources;
  - (e) insurance and re-insurance;
  - (f) banking and financial services;
  - (g) the operation of markets and exchanges;
  - (h) the purchase and sale of commodities;
  - (i) the construction of ships;
  - (j) business agency; and
  - (k) arbitration.

## 58.2 Specialist list

- (1) The commercial list is a specialist list for claims proceeding in the Commercial Court.
- (2) One of the judges of the Commercial Court shall be in charge of the commercial list.

### **58.3 Application of the Civil Procedure Rules**

These Rules and their practice directions apply to claims in the commercial list unless this Part or a practice direction provides otherwise.

### **58.4 Proceedings in the commercial list**

- (1) A commercial claim may be started in the commercial list.
- (2) Rule 30.5(3) applies to claims in the commercial list, except that a Commercial Court judge may order a claim to be transferred to any other specialist list.

(Rule 30.5(3) provides that an application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list.)

### **58.5 Claim form and particulars of claim**

- (1) If, in a Part 7 claim, particulars of claim are not contained in or served with the claim form –
  - (a) the claim form must state that, if an acknowledgment of service is filed which indicates an intention to defend the claim, particulars of claim will follow;
  - (b) when the claim form is served, it must be accompanied by the documents specified in rule 7.8(1);
  - (c) the claimant must serve particulars of claim within 28 days of the filing of an acknowledgment of service which indicates an intention to defend; and
  - (d) rule 7.4(2) does not apply.
- (2) A statement of value is not required to be included in the claim form.
- (3) If the claimant is claiming interest, he must –
  - (a) include a statement to that effect; and
  - (b) give the details set out in rule 16.4(2),  
in both the claim form and the particulars of claim.

### **58.6 Acknowledgment of service**

- (1) A defendant must file an acknowledgment of service in every case.
- (2) Unless paragraph (3) applies, the period for filing an acknowledgment of service is 14 days after service of the claim form.
- (3) Where the claim form is served out of the jurisdiction, or on the agent of a defendant who is overseas, the time periods provided by rules 6.16(4), 6.21(4) and 6.22 apply after service of the claim form.

### **58.7 Disputing the court's jurisdiction**

- (1) Part 11 applies to claims in the commercial list with the modifications set out in this rule.
- (2) An application under rule 11(1) must be made within 28 days after filing an acknowledgment of service.
- (3) If the defendant files an acknowledgment of service indicating an intention to dispute the court's jurisdiction, the claimant need not serve particulars of claim before the hearing of the application.

### **58.8 Default judgment**

- (1) If, in a Part 7 claim in the commercial list, a defendant fails to file an acknowledgment of service, the claimant need not serve particulars of claim before he may obtain or apply for default judgment in accordance with Part 12.
- (2) Rule 12.6(1) applies with the modification that paragraph (a) shall be read as if it referred to the claim form instead of the particulars of claim.

### **58.9 Admissions**

- (1) Rule 14.5 does not apply to claims in the commercial list.
- (2) If the defendant admits part of a claim for a specified amount of money, the claimant may apply under rule 14.3 for judgment on the admission.
- (3) Rule 14.14(1) applies with the modification that paragraph (a) shall be read as if it referred to the claim form instead of the particulars of claim.

### **58.10 Defence and Reply**

- (1) Part 15 (defence and reply) applies to claims in the commercial list with the modification to rule 15.8 that the claimant must –
  - (a) file any reply to a defence; and
  - (b) serve it on all other parties, within 21 days after service of the defence.
- (2) Rule 6.23 (period for filing a defence where the claim form is served out of the jurisdiction) applies to claims in the commercial list, except that if the particulars of claim are served after the defendant has filed an acknowledgment of service the period for filing a defence is 28 days from service of the particulars of claim.

### **58.11 Statements of case**

The court may at any time before or after the issue of the claim form order a claim in the commercial list to proceed without the filing or service of statements of case.

### **58.12 Part 8 claims**

Part 8 applies to claims in the commercial list, with the modification that a defendant to a Part 8 claim who wishes to rely on written evidence must file and serve it within 28 days after filing an acknowledgment of service.

### **58.13 Case management**

- (1) All proceedings in the commercial list are treated as being allocated to the multi-track and Part 26 does not apply.
- (2) The following parts only of Part 29 apply –
  - (a) rule 29.3(2) (legal representative to attend case management conferences and pre-trial reviews);
  - (b) rule 29.5 (variation of case management timetable) with the exception of rule 29.5(1)(c).
- (3) As soon as practicable the court will hold a case management conference which must be fixed in accordance with the practice direction.

- (4) At the case management conference or at any hearing at which the parties are represented the court may give such directions for the management of the case as it considers appropriate.

#### **58.14 Disclosure – ships papers**

- (1) If, in proceedings relating to a marine insurance policy, the underwriters apply for specific disclosure under rule 31.12, the court may –
- (a) order a party to produce all the ships papers; and
  - (b) require that party to use his best endeavours to obtain and disclose documents which are not or have not been in his control.
- (2) An order under this rule may be made at any stage of the proceedings and on such terms, if any, as to staying the proceedings or otherwise, as the court thinks fit.

#### **58.15 Judgments and orders**

- (1) Except for orders made by the court on its own initiative and unless the court orders otherwise, every judgment or order will be drawn up by the parties, and rule 40.3 is modified accordingly.
- (2) An application for a consent order must include a draft of the proposed order signed on behalf of all the parties to whom it relates.
- (3) Rule 40.6 (consent judgments and orders) does not apply.