

HOW TO START PROCEEDINGS – THE CLAIM FORM

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7.1 Where to start proceedings

Restrictions on where proceedings may be started are set out in the relevant practice direction.

7.2 How to start proceedings

- (1) Proceedings are started when the court issues a claim form at the request of the claimant.
- (2) A claim form is issued on the date entered on the form by the court.

(A person who seeks a remedy from the court before proceedings are started or in relation to proceedings which are taking place, or will take place, in another jurisdiction must make an application under Part 23)

(Part 16 sets out what the claim form must include)

(The costs practice direction sets out the information about a funding arrangement to be provided with the claim form where the claimant intends to seek to recover an additional liability)

(‘Funding arrangements’ and ‘additional liability’ are defined in rule 43.2)

- 7.2A** The practice direction supplementing this Part makes provision for procedures to be followed when claims are brought by or against a partnership within the jurisdiction.

7.3 Right to use one claim form to start two or more claims

A claimant may use a single claim form to start all claims which can be conveniently disposed of in the same proceedings.

7.4 Particulars of claim

(1) Particulars of claim must –

- (a) be contained in or served with the claim form; or
- (b) subject to paragraph (2) be served on the defendant by the claimant within 14 days after service of the claim form.

(2) Particulars of claim must be served on the defendant no later than the latest time for serving a claim form.

(Rule 7.5 sets out the latest time for serving a claim form)

(3) Where the claimant serves particulars of claim separately from the claim form in accordance with paragraph (1)(b), he must, within 7 days of service on the defendant, file a copy of the particulars together with a certificate of service.

(Part 16 sets out what the particulars of claim must include)

(Part 22 requires particulars of claim to be verified by a statement of truth)

(Rule 6.10 makes provision for a certificate of service)

7.5 Service of a claim form

(1) After a claim form has been issued, it must be served on the defendant.

(2) The general rule is that a claim form must be served within 4 months after the date of issue.

(3) The period for service is 6 months where the claim form is to be served out of the jurisdiction.

7.6 Extension of time for serving a claim form

(1) The claimant may apply for an order extending the period within which the claim form may be served.

(2) The general rule is that an application to extend the time for service must be made –

- (a) within the period for serving the claim form specified by rule 7.5; or
- (b) where an order has been made under this rule, within the period for service specified by that order.

(3) If the claimant applies for an order to extend the time for service of the claim form after the end of the period specified by rule 7.5 or by an order made under this rule, the court may make such an order only if –

- (a) the court has been unable to serve the claim form; or
- (b) the claimant has taken all reasonable steps to serve the claim form but has been unable to do so; and
- (c) in either case, the claimant has acted promptly in making the application.

(4) An application for an order extending the time for service –

- (a) must be supported by evidence; and

- (b) may be made without notice.

7.7 Application by defendant for service of claim form

- (1) Where a claim form has been issued against a defendant, but has not yet been served on him, the defendant may serve a notice on the claimant requiring him to serve the claim form or discontinue the claim within a period specified in the notice.
- (2) The period specified in a notice served under paragraph (1) must be at least 14 days after service of the notice.
- (3) If the claimant fails to comply with the notice, the court may, on the application of the defendant –
 - (a) dismiss the claim; or
 - (b) make any other order it thinks just.

7.8 Form for defence etc. must be served with particulars of claim

- (1) When particulars of claim are served on a defendant, whether they are contained in the claim form, served with it or served subsequently, they must be accompanied by –
 - (a) a form for defending the claim;
 - (b) a form for admitting the claim; and
 - (c) a form for acknowledging service.
- (2) Where the claimant is using the procedure set out in Part 8 (alternative procedure for claims) –
 - (a) paragraph (1) does not apply; and
 - (b) a form for acknowledging service must accompany the claim form.

7.9 Fixed date and other claims

A practice direction –

- (a) may set out the circumstances in which the court may give a fixed date for a hearing when it issues a claim;
- (b) may list claims in respect of which there is a specific claim form for use and set out the claim form in question; and
- (c) may disapply or modify these Rules as appropriate in relation to the claims referred to in paragraphs (a) and (b).

7.10 Production Centre for claims

- (1) There shall be a Production Centre for the issue of claim forms and other related matters.
- (2) The relevant practice direction makes provision for –
 - (a) which claimants may use the Production Centre;
 - (b) the type of claims which the Production Centre may issue;
 - (c) the functions which are to be discharged by the Production Centre;
 - (d) the place where the Production Centre is to be located; and
 - (e) other related matters.
- (3) The relevant practice direction may disapply or modify these Rules as appropriate in relation to claims issued by the Production Centre.

7.11 Human Rights

- (1) A claim under section 7(1)(a) of the Human Rights Act 1998¹ in respect of a judicial act may be brought only in the High Court.
- (2) Any other claim under section 7(1)(a) of that Act may be brought in any court.

7.12 Electronic issue of claims

- (1) A practice direction may make provision for a claimant to start a claim by requesting the issue of a claim form electronically.
- (2) The practice direction may, in particular –
 - (a) specify –
 - (i) the types of claim which may be issued electronically; and
 - (ii) the conditions which a claim must meet before it may be issued electronically;
 - (b) specify –
 - (i) the court where the claim will be issued; and
 - (ii) the circumstances in which the claim will be transferred to another court;
 - (c) provide for the filing of other documents electronically where a claim has been started electronically;
 - (d) specify the requirements that must be fulfilled for any document filed electronically; and
 - (e) provide how a fee payable on the filing of any document is to be paid where that document is filed electronically.
- (3) The practice direction may disapply or modify these Rules as appropriate in relation to claims started electronically.

¹ 1998 c.42.