

## PRACTICE DIRECTION

# HOW TO START PROCEEDINGS – THE CLAIM FORM

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 7

### GENERAL

- 1** Subject to the following provisions of this practice direction, proceedings which both the High Court and the county courts have jurisdiction to deal with may be started in the High Court or in a county court.

### WHERE TO START PROCEEDINGS

- 2.1** Proceedings (whether for damages or for a specified sum) may not be started in the High Court unless the value of the claim is more than £15,000.
  - 2.2** Proceedings which include a claim for damages in respect of personal injuries must not be started in the High Court unless the value of the claim is £50,000 or more (paragraph 9 of the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991/724 as amended) describes how the value of a claim is to be determined).
  - 2.3** A claim must be issued in the High Court or a county court if an enactment so requires.
  - 2.4** Subject to paragraphs 2.1 and 2.2 above, a claim should be started in the High Court if by reason of:
    - (1) the financial value of the claim and the amount in dispute, and/or
    - (2) the complexity of the facts, legal issues, remedies or procedures involved, and/or
    - (3) the importance of the outcome of the claim to the public in general, the claimant believes that the claim ought to be dealt with by a High Court judge.

(CPR Part 30 and the practice direction supplementing Part 30 contain provisions relating to the transfer to the county court of proceedings started in the High Court and vice-versa.)
  - 2.5** A claim relating to Chancery business (which includes any of the matters specified in paragraph 1 of Schedule 1 to the Supreme Court Act 1981) may, subject to any enactment, rule or practice direction, be dealt with in the High Court or in a county court. The claim form should, if issued in the High Court, be marked in the top right hand corner 'Chancery Division' and, if issued in the county court, be marked 'Chancery Business'.
- (For the equity jurisdiction of county courts, see section 23 of the County Courts Act 1984.)
- 2.6** A claim relating to any of the matters specified in sub-paragraphs (a) and (b) of paragraph 2 of Schedule 1 to the Supreme Court Act 1981 must be dealt with in the High Court and will be assigned to the Queen's Bench Division.
  - 2.7** Practice directions applying to particular types of proceedings, or to proceedings in particular courts, will contain provisions relating to the commencement and conduct of those proceedings.

- 2.8** A claim in the High Court for which a jury trial is directed will, if not already being dealt with in the Queen's Bench Division, be transferred to that Division.
- 2.9** The following proceedings may not be started in a county court unless the parties have agreed otherwise in writing:
- (1)** a claim for damages or other remedy for libel or slander, and
  - (2)** a claim in which the title to any toll, fair, market or franchise is in question.

**2.10**

- (1)** The normal rules apply in deciding in which court and specialist list a claim that includes issues under the Human Rights Act 1998 should be started. They also apply in deciding which procedure to use to start the claim; this Part or CPR Part 8 or CPR Part 54 (judicial review).
- (2)** The exception is a claim for damages in respect of a judicial act, which should be commenced in the High Court. If the claim is made in a notice of appeal then it will be dealt with according to the normal rules governing where that appeal is heard.

(A county court cannot make a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998. Legislation may direct that such a claim is to be brought before a specified tribunal)

## THE CLAIM FORM

- 3.1** A claimant must use practice form N1 or practice form N208 (the Part 8 claim form) to start a claim (but see paragraphs 3.2 and 3.4 below).
- 3.2** Rule 7.9 deals with fixed date claims and rule 7.10 deals with the Production Centre for the issue of claims; there are separate practice directions supplementing rules 7.9 and 7.10.
- 3.3** If a claimant wishes his claim to proceed under Part 8, or if the claim is required to proceed under Part 8, the claim form should so state. Otherwise the claim will proceed under Part 7. But note that in respect of claims in specialist proceedings (listed in CPR Part 49) and claims brought under the RSC or CCR set out in the Schedule to the CPR (see CPR Part 50) the CPR will apply only to the extent that they are not inconsistent with the rules and practice directions that expressly apply to those claims.
- 3.4** Other practice directions may require special practice forms to be used to commence particular types of proceedings, or proceedings in particular courts.
- 3.5** Where a claim which is to be served out of the jurisdiction is one which the court has power to deal with under the Civil Jurisdiction and Judgments Act 1982, the claim form and, when they are contained in a separate document, the particulars of claim should be endorsed with a statement that the court has power under that Act to deal with the claim and that no proceedings based on the same claim are pending between the parties in Scotland, Northern Ireland or another Convention territory.<sup>1</sup>
- 3.5A** Where a claim which is to be served out of jurisdiction is one which the court has power to deal with 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 form and, when they are contained in a separate document, the particulars of claim must be endorsed with a statement that the court has power under that Regulation to deal with the

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<sup>1</sup> 'Convention territory' means the territory or territories of any Contracting State as defined by S.1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the Brussels Conventions or Lugano Convention apply.

claim and that no proceedings based on the same claim are pending between the parties in Scotland, Northern Ireland or another Regulation State.<sup>1</sup>

- 3.6** If a claim for damages or for an unspecified sum is started in the High Court, the claim form must:
- (1) state that the claimant expects to recover more than £15,000 (or £50,000 or more if the claim is for personal injuries) or
  - (2) state that some enactment provides that the claim may only be commenced in the High Court and specify that enactment or
  - (3) state that the claim is to be in one of the specialist High Court lists (see CPR Parts 49 and 58–62) and specify that list.
- 3.7** If the contents of a claim form commencing specialist proceedings complies with the requirements of the specialist list in question the claim form will also satisfy paragraph 3.6 above.
- 3.8** If a claim for damages for personal injuries is started in the county court, the claim form must state whether or not the claimant expects to recover more than £1000 in respect of pain, suffering and loss of amenity.
- 3.9** If a claim for housing disrepair which includes a claim for an order requiring repairs or other work to be carried out by the landlord is started in the county court, the claim form must state:
- (1) whether or not the cost of the repairs or other work is estimated to be more than £1000, and
  - (2) whether or not the claimant expects to recover more than £1000 in respect of any claim for damages<sup>2</sup>.
- If either of the amounts mentioned in (1) and (2) is more than £1000, the small claims track will not be the normal track for that claim.

(The Costs Practice Direction supplementing Parts 43 to 48 contains details of the information required to be filed with a claim form to comply with rule 44.15 (providing information about funding arrangements))

## TITLE OF PROCEEDINGS

- 4.1** The claim form and every other statement of case, must be headed with the title of the proceedings. The title should state:
- (1) the number of proceedings,
  - (2) the court or Division in which they are proceeding,
  - (3) the full name of each party,
  - (4) his status in the proceedings (i.e. claimant/defendant).
- (Paragraph 2.6 of the Practice Direction to Part 16 sets out what is meant by a full name in respect of each type of claimant.)
- 4.2** Where there is more than one claimant and/or more than one defendant, the parties should be described in the title as follows:
- (1) AB
  - (2) CD
  - (3) EF                      Claimants

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<sup>1</sup> 'Regulation State' means all Member States except Denmark.

<sup>2</sup> See rules 16.3(4) and 26.6.

- and
- (1) GH
  - (2) IJ
  - (3) KL
- Defendants

## START OF PROCEEDINGS

- 5.1** Proceedings are started when the court issues a claim form at the request of the claimant (see rule 7.2) but where the claim form as issued was received in the court office on a date earlier than the date on which it was issued by the court, the claim is 'brought' for the purposes of the Limitation Act 1980 and any other relevant statute on that earlier date.
- 5.2** The date on which the claim form was received by the court will be recorded by a date stamp either on the claim form held on the court file or on the letter that accompanied the claim form when it was received by the court.
- 5.3** An enquiry as to the date on which the claim form was received by the court should be directed to a court officer.
- 5.4** Parties proposing to start a claim which is approaching the expiry of the limitation period should recognise the potential importance of establishing the date the claim form was received by the court and should themselves make arrangements to record the date.
- 5.5** Where it is sought to start proceedings against the estate of a deceased defendant where probate or letters of administration have not been granted, the claimant should issue the claim against 'the personal representatives of A.B. deceased'. The claimant should then, before the expiry of the period for service of the claim form, apply to the court for the appointment of a person to represent the estate of the deceased.

## CLAIMS BY AND AGAINST PARTNERSHIPS WITHIN THE JURISDICTION

- 5A.1** Paragraphs 5A and 5B apply to claims that are brought by or against two or more persons who –
  - (1) were partners; and
  - (2) carried on that partnership business within the jurisdiction, at the time when the cause of action accrued.
- 5A.2** For the purposes of this paragraph, 'partners' includes persons claiming to be entitled as partners and persons alleged to be partners.
- 5A.3** Where that partnership has a name, unless it is inappropriate to do so, claims must be brought in or against the name under which that partnership carried on business at the time the cause of action accrued.

## PARTNERSHIP MEMBERSHIP STATEMENTS

- 5B.1** In this paragraph a 'partnership membership statement' is a written statement of the names and last known places of residence of all the persons who were partners in the partnership at the time when the cause of action accrued, being the date specified for this purpose in accordance with paragraph 5B.3.

- 5B.2** If the partners are requested to provide a copy of a partnership membership statement by any party to a claim, the partners shall do so within 14 days of receipt of the request.
- 5B.3** In that request the party seeking a copy of a partnership membership statement must specify the date when the relevant cause of action accrued.

(Signing of the acknowledgment of service in the case of a partnership is dealt with in Paragraph 4.4 of the Practice Direction supplementing Part 10)

## PERSONS CARRYING ON BUSINESS IN ANOTHER NAME

- 5C.1** This paragraph applies where –
- (1) a claim is brought against an individual;
  - (2) that individual carries on a business within the jurisdiction (but need not himself be within the jurisdiction); and
  - (3) that business is carried on in a name other than his own name ('the business name').
- 5C.2** The claim may be brought against the business name as if it were the name of a partnership.

## PARTICULARS OF CLAIM

- 6.1** Where the claimant does not include the particulars of claim in the claim form, particulars of claim may be served separately:
- (1) either at the same time as the claim form, or
  - (2) within 14 days after service of the claim form provided that the service of the particulars of claim is within 4 months after the date of issue of the claim form<sup>1</sup> (or 6 months where the claim form is to be served out of the jurisdiction<sup>2</sup>).
- 6.2** If the particulars of claim are not included in or have not been served with the claim form, the claim form must contain a statement that particulars of claim will follow<sup>3</sup>.

(These paragraphs do not apply where the Part 8 procedure is being used. For information on matters to be included in the claim form or the particulars of claim, see Part 16 (statements of case) and the practice direction which supplements it.)

## STATEMENT OF TRUTH

- 7.1** Part 22 requires the claim form and, where they are not included in the claim form, the particulars of claim, to be verified by a statement of truth.
- 7.2** The form of the statement of truth is as follows:
- '[I believe][the claimant believes] that the facts stated in [this claim form] [these particulars of claim] are true.'
- 7.3** Attention is drawn to rule 32.14 which sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth.

(For information regarding statements of truth see Part 22 and the practice direction which supplements it.)

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<sup>1</sup> See rules 7.4(2) and 7.5(2).

<sup>2</sup> See rule 7.5(3).

<sup>3</sup> See rule 16.2(2).

## EXTENSION OF TIME

**8.1** An application under rule 7.6 (for an extension of time for serving a claim form under rule 7.6(1)) must be made in accordance with Part 23 and supported by evidence.

**8.2** The evidence should state:

- (1) all the circumstances relied on,
- (2) the date of issue of the claim,
- (3) the expiry date of any rule 7.6 extension, and
- (4) a full explanation as to why the claim has not been served.

(For information regarding (1) written evidence see Part 32 and the practice direction which supplements it and (2) service of the claim form see Part 6 and the practice direction which supplements it.)