

MERCANTILE COURTS

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59.1 Scope of this Part and interpretation

- (1) This Part applies to claims in Mercantile Courts.
- (2) A claim may only be started in a Mercantile Court if it –
 - (a) relates to a commercial or business matter in a broad sense; and
 - (b) is not required to proceed in the Chancery Division or in another specialist list.
- (3) In this Part and its practice direction –
 - (a) 'Mercantile Court' means a specialist list established within the courts listed in the Practice Direction;
 - (b) 'mercantile claim' means a claim proceeding in a Mercantile Court; and
 - (c) 'Mercantile judge' means a judge authorised to sit in a Mercantile Court.

59.2 Application of the Civil Procedure Rules

These Rules and their practice directions apply to mercantile claims unless this Part or a practice direction provides otherwise.

59.3 Transfer of proceedings

Rule 30.5 applies with the modifications that –

- (a) a Mercantile judge may transfer a mercantile claim to another Mercantile Court; and
- (b) a Commercial Court judge may transfer a claim from the Commercial Court to a Mercantile Court.

(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.)

59.4 Claim form and particulars of claim

- (1)** If 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)** 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.
- (3)** Rules 12.6(1)(a) and 14.14(1)(a) apply with the modification that references to the particulars of claim shall be read as if they referred to the claim form.

59.5 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.

59.6 Disputing the court's jurisdiction

- (1)** Part 11 applies to mercantile claims 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.

59.7 Default judgment

- (1)** Part 12 applies to mercantile claims, except that rules 12.10 and 12.11 apply as modified by paragraphs (2) and (3) of this rule.
- (2)** If, in a Part 7 claim –
 - (a) the claim form has been served but no particulars of claim have been served; and
 - (b) the defendant has failed to file an acknowledgment of service,
the claimant must make an application if he wishes to obtain a default judgment.

- (3) The application may be made without notice, but the court may direct it to be served on the defendant.

59.8 Admissions

- (1) Rule 14.5 does not apply to mercantile claims.
- (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.

59.9 Defence and Reply

- (1) Part 15 (Defence and Reply) applies to mercantile claims 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 mercantile claims, 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.

59.10 Statements of case

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

59.11 Case management

- (1) All mercantile claims 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) (appropriate legal representative to attend case management conferences and pre-trial reviews); and
 - (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.

59.12 Judgments and orders

- (1) Except for orders made by the court of its own initiative and unless the court otherwise orders 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.

