

# SERVICE OF DOCUMENTS

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## **I SCOPE OF THIS PART AND INTERPRETATION**

### **6.1 Part 6 rules about service apply generally**

This Part applies to the service of documents, except where –

- (a) another Part, any other enactment or a practice direction makes different provision; or
- (b) the court orders otherwise.

(Other Parts, for example, Part 54 (Judicial Review) and Part 55 (Possession Claims) contain specific provisions about service.)

## 6.2 Interpretation

In this Part –

- (a) ‘bank holiday’ means a bank holiday under the Banking and Financial Dealings Act 1971<sup>1</sup> in the part of the United Kingdom where service is to take place;
- (b) ‘business day’ means any day except Saturday, Sunday, a bank holiday, Good Friday or Christmas Day;
- (c) ‘claim’ includes petition and any application made before action or to commence proceedings and ‘claim form’, ‘claimant’ and ‘defendant’ are to be construed accordingly; and
- (d) ‘solicitor’ includes other authorised litigators within the meaning of the Courts and Legal Services Act 1990<sup>2</sup>.

## II SERVICE OF THE CLAIM FORM IN THE JURISDICTION

### 6.3 Methods of service

(1) A claim form may be served by any of the following methods –

- (a) personal service in accordance with rule 6.5;
- (b) first class post, document exchange or other service which provides for delivery on the next business day, in accordance with Practice Direction A supplementing this Part;
- (c) leaving it at a place specified in rule 6.7, 6.8, 6.9 or 6.10;
- (d) fax or other means of electronic communication in accordance with Practice Direction A supplementing this Part; or
- (e) any method authorised by the court under rule 6.15.

(2) A company may be served –

- (a) by any method permitted under this Part; or
- (b) by any of the methods of service set out in the Companies Act 1985<sup>3</sup> or the Companies Act 2006<sup>4</sup>.

(3) A limited liability partnership may be served –

- (a) by any method permitted under this Part; or
- (b) by any of the methods of service set out in section 725 of the Companies Act 1985.

### 6.4 Who is to serve the claim form

(1) The court will serve the claim form except where –

- (a) a rule or practice direction provides that the claimant must serve it;
- (b) the claimant notifies the court that the claimant wishes to serve it; or
- (c) the court orders or directs otherwise.

(2) Where the court is to serve the claim form, it is for the court to decide which method of service is to be used.

(3) Where the court is to serve the claim form, the claimant must, in addition to filing a copy for the court, provide a copy for each defendant to be served.

(4) Where the court has sent –

- (a) a notification of outcome of postal service to the claimant in accordance with rule 6.18; or

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1 1971 c. 80.

2 1990 c. 41.

3 1985 c. 6.

4 2006 c. 46.

- (b) a notification of non-service by a bailiff in accordance with rule 6.19, the court will not try to serve the claim form again.

## **6.5 Personal service**

- (1) Where required by another Part, any other enactment, a practice direction or a court order, a claim form must be served personally.
- (2) In other cases, a claim form may be served personally except –
  - (a) where rule 6.7 applies; or
  - (b) in any proceedings against the Crown.

(Part 54 contains provisions about judicial review claims and Part 66 contains provisions about Crown proceedings.)

- (3) A claim form is served personally on –
  - (a) an individual by leaving it with that individual;
  - (b) a company or other corporation by leaving it with a person holding a senior position within the company or corporation; or
  - (c) a partnership (where partners are being sued in the name of their firm) by leaving it with –
    - (i) a partner; or
    - (ii) a person who, at the time of service, has the control or management of the partnership business at its principal place of business.

(Practice Direction A supplementing this Part sets out the meaning of ‘senior position’.)

## **6.6 Where to serve the claim form – general provisions**

- (1) The claim form must be served within the jurisdiction except where rule 6.11 applies or as provided by Section IV of this Part.
- (2) The claimant must include in the claim form an address at which the defendant may be served. That address must include a full postcode, unless the court orders otherwise.

(Paragraph 2.4 of the practice direction supplementing Part 16 contains provisions about postcodes.)

- (3) Paragraph (2) does not apply where an order made by the court under rule 6.15 (service by an alternative method or at an alternative place) specifies the place or method of service of the claim form.

## **6.7 Service of the claim form on a solicitor**

Subject to rule 6.5(1), where –

- (a) the defendant has given in writing the business address within the jurisdiction of a solicitor as an address at which the defendant may be served with the claim form; or
- (b) a solicitor acting for the defendant has notified the claimant in writing that the solicitor is instructed by the defendant to accept service of the claim form on behalf of the defendant at a business address within the jurisdiction,  
the claim form must be served at the business address of that solicitor.

(‘Solicitor’ has the extended meaning set out in rule 6.2(d).)

## **6.8 Service of the claim form where the defendant gives an address at which the defendant may be served**

Subject to rules 6.5(1) and 6.7 –

- (a) the defendant may be served with the claim form at an address within the jurisdiction which the defendant has given for the purpose of being served with the proceedings; or
- (b) in any claim by a tenant against a landlord, the claim form may be served at an address given by the landlord under section 48 of the Landlord and Tenant Act 1987<sup>1</sup>.

## **6.9 Service of the claim form where the defendant does not give an address at which the defendant may be served**

(1) This rule applies where –

- (a) rule 6.5(1) (personal service);
  - (b) rule 6.7 (service of claim form on solicitor); and
  - (c) rule 6.8 (defendant gives address at which the defendant may be served),
- do not apply and the claimant does not wish to effect personal service under rule 6.5(2).

(2) Subject to paragraphs (3) to (6), the claim form must be served on the defendant at the place shown in the following table.

Nature of defendant to be served	Place of service
1. Individual	Usual or last known residence.
2. Individual being sued in the name of a business	Usual or last known residence of the individual; or principal or last known place of business.
3. Individual being sued in the business name of a partnership	Usual or last known residence of the individual; or  principal or last known place of business of the partnership.
4. Limited liability partnership	Principal office of the partnership; or  any place of business of the partnership within the jurisdiction which has a real connection with the claim.
5. Corporation (other than a company) incorporated in England and Wales	Principal office of the corporation; or  any place within the jurisdiction where the corporation carries on its activities and which has a real connection with the claim.
6. Company registered in England and Wales	Principal office of the company; or  any place of business of the company within the jurisdiction which has a real connection with the claim.
7. Any other company or corporation	Any place within the jurisdiction where the corporation carries on its activities; or  any place of business of the company within the jurisdiction.

<sup>1</sup> 1987 c. 31.

- (3) Where a claimant has reason to believe that the address of the defendant referred to in entries 1, 2 or 3 in the table in paragraph (2) is an address at which the defendant no longer resides or carries on business, the claimant must take reasonable steps to ascertain the address of the defendant's current residence or place of business ('current address').
- (4) Where, having taken the reasonable steps required by paragraph (3), the claimant –
  - (a) ascertains the defendant's current address, the claim form must be served at that address; or
  - (b) is unable to ascertain the defendant's current address, the claimant must consider whether there is –
    - (i) an alternative place where; or
    - (ii) an alternative method by which, service may be effected.
- (5) If, under paragraph (4)(b), there is such a place where or a method by which service may be effected, the claimant must make an application under rule 6.15.
- (6) Where paragraph (3) applies, the claimant may serve on the defendant's usual or last known address in accordance with the table in paragraph (2) where the claimant –
  - (a) cannot ascertain the defendant's current residence or place of business; and
  - (b) cannot ascertain an alternative place or an alternative method under paragraph (4)(b).

#### **6.10 Service of the claim form in proceedings against the Crown**

In proceedings against the Crown –

- (a) service on the Attorney General must be effected on the Treasury Solicitor; and
- (b) service on a government department must be effected on the solicitor acting for that department.

(The practice direction supplementing Part 66 gives the list published under section 17 of the Crown Proceedings Act 1947<sup>1</sup> of the solicitors acting in civil proceedings (as defined in that Act) for the different government departments on whom service is to be effected, and of their addresses.)

#### **6.11 Service of the claim form by contractually agreed method**

- (1) Where –
  - (a) a contract contains a term providing that, in the event of a claim being started in relation to the contract, the claim form may be served by a method or at a place specified in the contract; and
  - (b) a claim solely in respect of that contract is started,
 the claim form may, subject to paragraph (2), be served on the defendant by the method or at the place specified in the contract.
- (2) Where in accordance with the contract the claim form is to be served out of the jurisdiction, it may be served –
  - (a) if permission to serve it out of the jurisdiction has been granted under rule 6.36; or
  - (b) without permission under rule 6.32 or 6.33.

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<sup>1</sup> 1947 c. 44.

## **6.12 Service of the claim form relating to a contract on an agent of a principal who is out of the jurisdiction**

- (1)** The court may, on application, permit a claim form relating to a contract to be served on the defendant's agent where –
  - (a) the defendant is out of the jurisdiction;
  - (b) the contract to which the claim relates was entered into within the jurisdiction with or through the defendant's agent; and
  - (c) at the time of the application either the agent's authority has not been terminated or the agent is still in business relations with the defendant.
- (2)** An application under this rule –
  - (a) must be supported by evidence setting out –
    - (i) details of the contract and that it was entered into within the jurisdiction or through an agent who is within the jurisdiction;
    - (ii) that the principal for whom the agent is acting was, at the time the contract was entered into and is at the time of the application, out of the jurisdiction; and
    - (iii) why service out of the jurisdiction cannot be effected; and
  - (b) may be made without notice.
- (3)** An order under this rule must state the period within which the defendant must respond to the particulars of claim.
- (4)** Where the court makes an order under this rule –
  - (a) a copy of the application notice and the order must be served with the claim form on the agent; and
  - (b) unless the court orders otherwise, the claimant must send to the defendant a copy of the application notice, the order and the claim form.
- (5)** This rule does not exclude the court's power under rule 6.15 (service by an alternative method or at an alternative place).

## **6.13 Service of the claim form on children and protected parties**

- (1)** Where the defendant is a child who is not also a protected party, the claim form must be served on –
  - (a) one of the child's parents or guardians; or
  - (b) if there is no parent or guardian, an adult with whom the child resides or in whose care the child is.
- (2)** Where the defendant is a protected party, the claim form must be served on –
  - (a) one of the following persons with authority in relation to the protected party as –
    - (i) the attorney under a registered enduring power of attorney;
    - (ii) the donee of a lasting power of attorney; or
    - (iii) the deputy appointed by the Court of Protection; or
  - (b) if there is no such person, an adult with whom the protected party resides or in whose care the protected party is.
- (3)** Any reference in this Section to a defendant or a party to be served includes the person to be served with the claim form on behalf of a child or protected party under paragraph (1) or (2).
- (4)** The court may make an order permitting a claim form to be served on a child or protected party, or on a person other than the person specified in paragraph (1) or (2).

- (5) An application for an order under paragraph (4) may be made without notice.
- (6) The court may order that, although a claim form has been sent or given to someone other than the person specified in paragraph (1) or (2), it is to be treated as if it had been properly served.
- (7) This rule does not apply where the court has made an order under rule 21.2(3) allowing a child to conduct proceedings without a litigation friend.

(Part 21 contains rules about the appointment of a litigation friend and ‘child’ and ‘protected party’ have the same meaning as in rule 21.1.)

#### **6.14 Deemed service**

A claim form served in accordance with this Part is deemed to be served on the second business day after completion of the relevant step under rule 7.5(1).

#### **6.15 Service of the claim form by an alternative method or at an alternative place**

- (1) Where it appears to the court that there is a good reason to authorise service by a method or at a place not otherwise permitted by this Part, the court may make an order permitting service by an alternative method or at an alternative place.
- (2) On an application under this rule, the court may order that steps already taken to bring the claim form to the attention of the defendant by an alternative method or at an alternative place is good service.
- (3) An application for an order under this rule –
  - (a) must be supported by evidence; and
  - (b) may be made without notice.
- (4) An order under this rule must specify –
  - (a) the method or place of service;
  - (b) the date on which the claim form is deemed served; and
  - (c) the period for –
    - (i) filing an acknowledgment of service;
    - (ii) filing an admission; or
    - (iii) filing a defence.

#### **6.16 Power of court to dispense with service of the claim form**

- (1) The court may dispense with service of a claim form in exceptional circumstances.
- (2) An application for an order to dispense with service may be made at any time and –
  - (a) must be supported by evidence; and
  - (b) may be made without notice.

#### **6.17 Notice and certificate of service relating to the claim form**

- (1) Where the court serves a claim form, the court will send to the claimant a notice which will include the date on which the claim form is deemed served under rule 6.14.
- (2) Where the claimant serves the claim form, the claimant –
  - (a) must file a certificate of service within 21 days of service of the particulars of claim, unless all the defendants to the proceedings have filed acknowledgments of service within that time; and



- (b) may not obtain judgment in default under Part 12 unless a certificate of service has been filed.
- (3) The certificate of service must state –
  - (a) where rule 6.7, 6.8, 6.9 or 6.10 applies, the category of address at which the claimant believes the claim form has been served; and
  - (b) the details set out in the following table.

Method of service	Details to be certified
1. Personal service	Date of personal service.
2. First class post, document exchange or other service which provides for delivery on the next business day	Date of posting, or  leaving with, delivering to or collection by the relevant service provider.
3. Delivery of document to or leaving it at a permitted place	Date when the document was delivered to or left at the permitted place.
4. Fax	Date of completion of the transmission.
5. Other electronic method	Date of sending the e-mail or other electronic transmission.
6. Alternative method or place	As required by the court.

### **6.18 Notification of outcome of postal service by the court**

- (1) Where –
  - (a) the court serves the claim form by post; and
  - (b) the claim form is returned to the court,  
the court will send notification to the claimant that the claim form has been returned.
- (2) The claim form will be deemed to be served unless the address for the defendant on the claim form is not the relevant address for the purpose of rules 6.7 to 6.10.

### **6.19 Notice of non-service by bailiff**

- Where –
  - (a) the court bailiff is to serve a claim form; and
  - (b) the bailiff is unable to serve it on the defendant,  
the court will send notification to the claimant.

## **III SERVICE OF DOCUMENTS OTHER THAN THE CLAIM FORM IN THE UNITED KINGDOM**

### **6.20 Methods of service**

- (1) A document may be served by any of the following methods –
  - (a) personal service, in accordance with rule 6.22;
  - (b) first class post, document exchange or other service which provides for delivery on the next business day, in accordance with Practice Direction A supplementing this Part;
  - (c) leaving it at a place specified in rule 6.23;

- (d) fax or other means of electronic communication in accordance with Practice Direction A supplementing this Part; or
  - (e) any method authorised by the court under rule 6.27.
- (2) A company may be served –
- (a) by any method permitted under this Part; or
  - (b) by any of the methods of service set out in the Companies Act 1985 or the Companies Act 2006.
- (3) A limited liability partnership may be served –
- (a) by any method permitted under this Part; or
  - (b) by any of the methods of service set out in section 725 of the Companies Act 1985.

### **6.21 Who is to serve**

- (1) A party to proceedings will serve a document which that party has prepared except where –
- (a) a rule or practice direction provides that the court will serve the document; or
  - (b) the court orders otherwise.
- (2) The court will serve a document which it has prepared except where –
- (a) a rule or practice direction provides that a party must serve the document;
  - (b) the party on whose behalf the document is to be served notifies the court that the party wishes to serve it; or
  - (c) the court orders otherwise.
- (3) Where the court is to serve a document, it is for the court to decide which method of service is to be used.
- (4) Where the court is to serve a document prepared by a party, that party must provide a copy for the court and for each party to be served.

### **6.22 Personal service**

- (1) Where required by another Part, any other enactment, a practice direction or a court order, a document must be served personally.
- (2) In other cases, a document may be served personally except –
- (a) where the party to be served has given an address for service under rule 6.23(2)(a); or
  - (b) in any proceedings by or against the Crown.
- (3) A document may be served personally as if the document were a claim form in accordance with rule 6.5(3).

### **6.23 Address for service**

- (1) A party to proceedings must give an address at which that party may be served with documents relating to those proceedings. The address must include a full postcode unless the court orders otherwise.

(Paragraph 2.4 of the practice direction supplementing Part 16 contains provisions about postcodes.)

- (2) A party's address for service must be –

- (a) the business address within the United Kingdom of a solicitor acting for the party to be served; or
- (b) where there is no solicitor acting for the party to be served, an address within the United Kingdom at which the party resides or carries on business.
- (3) Where there is no solicitor acting for the party to be served and the party does not have an address within the United Kingdom at which that party resides or carries on business, the party must give an address for service within the United Kingdom.

(Part 42 contains provisions about change of solicitor. Rule 42.1 provides that where a party gives the business address of a solicitor as that party's address for service, that solicitor will be considered to be acting for the party until the provisions of Part 42 are complied with.)

- (4) Any document to be served in proceedings must be sent or transmitted to, or left at, the party's address for service under paragraph (2) or (3) unless it is to be served personally or the court orders otherwise.
- (5) Where, in accordance with Practice Direction A supplementing this Part, a party indicates or is deemed to have indicated that they will accept service by fax, the fax number given by that party must be at the address for service.
- (6) Where a party indicates in accordance with Practice Direction A supplementing this Part that they will accept service by electronic means other than fax, the e-mail address or electronic identification given by that party will be deemed to be at the address for service.
- (7) In proceedings by or against the Crown, service of any document in the proceedings on the Crown must be effected in the same manner prescribed in rule 6.10 as if the document were a claim form.
- (8) This rule does not apply where an order made by the court under rule 6.27 (service by an alternative method or at an alternative place) specifies where a document may be served.

#### **6.24 Change of address for service**

Where the address for service of a party changes, that party must give notice in writing of the change as soon as it has taken place to the court and every other party.

#### **6.25 Service on children and protected parties**

- (1) An application for an order appointing a litigation friend where a child or protected party has no litigation friend must be served in accordance with rule 21.8(1) and (2).
- (2) Any other document which would otherwise be served on a child or a protected party must be served on the litigation friend conducting the proceedings on behalf of the child or protected party.
- (3) The court may make an order permitting a document to be served on the child or protected party or on some person other than the person specified in rule 21.8 or paragraph (2).
- (4) An application for an order under paragraph (3) may be made without notice.
- (5) The court may order that, although a document has been sent or given to someone other than the person specified in rule 21.8 or paragraph (2), the document is to be treated as if it had been properly served.

- (6) This rule does not apply where the court has made an order under rule 21.2(3) allowing a child to conduct proceedings without a litigation friend.

## 6.26 Deemed Service

A document, other than a claim form, served in accordance with these Rules or any relevant practice direction is deemed to be served on the day shown in the following table –

Method of service	Deemed date of service
1. First class post (or other service which provides for delivery on the next business day)	The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or  if not, the next business day after that day.
2. Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or  if not, the next business day after that day.
3. Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30p.m., on that day; or  in any other case, on the next business day after that day.
4. Fax	If the transmission of the fax is completed on a business day before 4.30p.m., on that day; or  in any other case, on the next business day after the day on which it was transmitted.
5. Other electronic method	If the e-mail or other electronic transmission is sent on a business day before 4.30p.m., on that day; or  in any other case, on the next business day after the day on which it was sent.
6. Personal service	If the document is served personally before 4.30p.m. on a business day, on that day; or  in any other case, on the next business day after that day.

(Paragraphs 10.1 to 10.7 of Practice Direction A supplementing this Part contain examples of how the date of deemed service is calculated.)

## 6.27 Service by an alternative method or at an alternative place

Rule 6.15 applies to any document in the proceedings as it applies to a claim form and reference to the defendant in that rule is modified accordingly.

## 6.28 Power to dispense with service

- (1) The court may dispense with service of any document which is to be served in the proceedings.
- (2) An application for an order to dispense with service must be supported by evidence and may be made without notice.

## 6.29 Certificate of service

Where a rule, practice direction or court order requires a certificate of service, the certificate must state the details required by the following table –

Method of Service	Details to be certified
1. Personal service	Date and time of personal service.
2. First class post, document exchange or other service which provides for delivery on the next business day	Date of posting, or leaving with, delivering to or collection by the relevant service provider.
3. Delivery of document to or leaving it at a permitted place	Date and time of when the document was delivered to or left at the permitted place.
4. Fax	Date and time of completion of the transmission.
5. Other electronic method	Date and time of sending the e-mail or other electronic transmission.
6. Alternative method or place permitted by the court	As required by the court.

## IV SERVICE OF THE CLAIM FORM AND OTHER DOCUMENTS OUT OF THE JURISDICTION

### 6.30 Scope of this Section

This Section contains rules about –

- (a) service of the claim form and other documents out of the jurisdiction;
- (b) when the permission of the court is required and how to obtain that permission; and
- (c) the procedure for service.

(‘Jurisdiction’ is defined in rule 2.3(1).)

### 6.31 Interpretation

(1) For the purposes of this Section –

- (a) ‘the Hague Convention’ means the Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters signed at the Hague on 15 November 1965<sup>1</sup>;
- (b) ‘the 1982 Act’ means the Civil Jurisdiction and Judgments Act 1982<sup>2</sup>;
- (c) ‘Civil Procedure Convention’ means the Brussels and Lugano Conventions (as defined in section 1(1) of the 1982 Act) and any other Convention (including the Hague Convention) entered into by the United Kingdom regarding service out of the jurisdiction;
- (d) ‘the Judgments Regulation’ means Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters<sup>3</sup>, as amended from time to time and as applied by the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters<sup>4</sup>;

<sup>1</sup> Cmnd. 3986.

<sup>2</sup> 1982 c. 27.

<sup>3</sup> OJ No L 12, 16.1.2001, p.1.

<sup>4</sup> OJ No L 299, 16.11.2005, p.62.

- (e) 'the Service Regulation' means Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents)<sup>1</sup>, and repealing Council Regulation (EC) No. 1348/2000<sup>2</sup>, as amended from time to time and as applied by the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents on civil and commercial matters<sup>3</sup>;
- (f) 'Commonwealth State' means a state listed in Schedule 3 to the British Nationality Act 1981<sup>4</sup>;
- (g) 'Contracting State' has the meaning given by section 1(3) of the 1982 Act;
- (h) 'Convention territory' means the territory or territories of any Contracting State to which the Brussels or Lugano Conventions (as defined in section 1(1) of the 1982 Act) apply; and
- (i) 'domicile' is to be determined –
  - (i) in relation to a Convention territory, in accordance with sections 41 to 46 of the 1982 Act; and
  - (ii) in relation to a Member State, in accordance with the Judgments Regulation and paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001<sup>5</sup>.

### **6.32 Service of the claim form where the permission of the court is not required – Scotland and Northern Ireland**

- (1) The claimant may serve the claim form on a defendant in Scotland or Northern Ireland where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine under the 1982 Act and –
  - (a) no proceedings between the parties concerning the same claim are pending in the courts of any other part of the United Kingdom; and
  - (b)
    - (i) the defendant is domiciled in the United Kingdom;
    - (ii) the proceedings are within paragraph 11 of Schedule 4 to the 1982 Act; or
    - (iii) the defendant is a party to an agreement conferring jurisdiction, within paragraph 12 of Schedule 4 to the 1982 Act.
- (2) The claimant may serve the claim form on a defendant in Scotland or Northern Ireland where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine under any enactment other than the 1982 Act notwithstanding that –
  - (a) the person against whom the claim is made is not within the jurisdiction; or
  - (b) the facts giving rise to the claim did not occur within the jurisdiction.

### **6.33 Service of the claim form where the permission of the court is not required – out of the United Kingdom**

- (1) The claimant may serve the claim form on a defendant out of the United Kingdom where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine under the 1982 Act and –
  - (a) no proceedings between the parties concerning the same claim are pending in the courts of any other part of the United Kingdom or any other Convention territory; and

<sup>1</sup> OJ No L324, 10.12.2007, p.79.

<sup>2</sup> OJ No L160, 30.6.2000, p.37.

<sup>3</sup> OJ No L300, 17.11.2005, p.53.

<sup>4</sup> 1981 c. 61.

<sup>5</sup> S.I. 2001/3929.

- (b)
  - (i) the defendant is domiciled in the United Kingdom or in any Convention territory;
  - (ii) the proceedings are within article 16 of Schedule 1 or article 16 of Schedule 3C to the 1982 Act; or
  - (iii) the defendant is a party to an agreement conferring jurisdiction, within article 17 of Schedule 1 or article 17 of Schedule 3C to the 1982 Act.
- (2) The claimant may serve the claim form on a defendant out of the United Kingdom where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine under the Judgments Regulation and –
  - (a) no proceedings between the parties concerning the same claim are pending in the courts of any other part of the United Kingdom or any other Member State; and
  - (b)
    - (i) the defendant is domiciled in the United Kingdom or in any Member State;
    - (ii) the proceedings are within article 22 of the Judgments Regulation; or
    - (iii) the defendant is a party to an agreement conferring jurisdiction, within article 23 of the Judgments Regulation.
- (3) The claimant may serve the claim form on a defendant out of the United Kingdom where each claim made against the defendant to be served and included in the claim form is a claim which the court has power to determine other than under the 1982 Act or the Judgments Regulation, notwithstanding that –
  - (a) the person against whom the claim is made is not within the jurisdiction; or
  - (b) the facts giving rise to the claim did not occur within the jurisdiction.

#### **6.34 Notice of statement of grounds where the permission of the court is not required for service**

- (1) Where the claimant intends to serve a claim form on a defendant under rule 6.32 or 6.33, the claimant must –
  - (a) file with the claim form a notice containing a statement of the grounds on which the claimant is entitled to serve the claim form out of the jurisdiction; and
  - (b) serve a copy of that notice with the claim form.
- (2) Where the claimant fails to file with the claim form a copy of the notice referred to in paragraph (1)(a), the claim form may only be served –
  - (a) once the claimant files the notice; or
  - (b) if the court gives permission.

#### **6.35 Period for responding to the claim form where permission was not required for service**

- (1) This rule sets out the period for –
  - (a) filing an acknowledgment of service;
  - (b) filing an admission; or
  - (c) filing a defence,
 where a claim form has been served out of the jurisdiction under rule 6.32 or 6.33.

(Part 10 contains rules about acknowledgments of service, Part 14 contains rules about admissions and Part 15 contains rules about defences.)

*Service of the claim form on a defendant in Scotland or Northern Ireland*

- (2) Where the claimant serves on a defendant in Scotland or Northern Ireland under rule 6.32, the period –
- (a) for filing an acknowledgment of service or admission is 21 days after service of the particulars of claim; or
  - (b) for filing a defence is –
    - (i) 21 days after service of the particulars of claim; or
    - (ii) where the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.

(Part 7 provides that particulars of claim must be contained in or served with the claim form or served separately on the defendant within 14 days after service of the claim form.)

*Service of the claim form on a defendant in a Convention territory within Europe or a Member State*

- (3) Where the claimant serves the claim form on a defendant in a Convention territory within Europe or a Member State under rule 6.33, the period –
- (a) for filing an acknowledgment of service or admission, is 21 days after service of the particulars of claim; or
  - (b) for filing a defence is –
    - (i) 21 days after service of the particulars of claim; or
    - (ii) where the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.

*Service of the claim form on a defendant in a Convention territory outside Europe*

- (4) Where the claimant serves the claim form on a defendant in a Convention territory outside Europe under rule 6.33, the period –
- (a) for filing an acknowledgment of service or admission, is 31 days after service of the particulars of claim; or
  - (b) for filing a defence is –
    - (i) 31 days after service of the particulars of claim; or
    - (ii) where the defendant files an acknowledgment of service, 45 days after service of the particulars of claim.

*Service on a defendant elsewhere*

- (5) Where the claimant serves the claim form under rule 6.33 in a country not referred to in paragraph (3) or (4), the period for responding to the claim form is set out in Practice Direction B supplementing this Part.

**6.36 Service of the claim form where the permission of the court is required**

In any proceedings to which rule 6.32 or 6.33 does not apply, the claimant may serve a claim form out of the jurisdiction with the permission of the court if any of the grounds set out in paragraph 3.1 of Practice Direction B supplementing this Part apply.

**6.37 Application for permission to serve the claim form out of the jurisdiction**

- (1) An application for permission under rule 6.36 must set out –
  - (a) which ground in paragraph 3.1 of Practice Direction B supplementing this Part is relied on;
  - (b) that the claimant believes that the claim has a reasonable prospect of success; and



- (c) the defendant's address or, if not known, in what place the defendant is, or is likely, to be found.
- (2) Where the application is made in respect of a claim referred to in paragraph 3.1(3) of Practice Direction B supplementing this Part, the application must also state the grounds on which the claimant believes that there is between the claimant and the defendant a real issue which it is reasonable for the court to try.
- (3) The court will not give permission unless satisfied that England and Wales is the proper place in which to bring the claim.
- (4) In particular, where –
  - (a) the application is for permission to serve a claim form in Scotland or Northern Ireland; and
  - (b) it appears to the court that the claimant may also be entitled to a remedy in Scotland or Northern Ireland, the court, in deciding whether to give permission, will –
    - (i) compare the cost and convenience of proceeding there or in the jurisdiction; and
    - (ii) (where relevant) have regard to the powers and jurisdiction of the Sheriff court in Scotland or the county courts or courts of summary jurisdiction in Northern Ireland.
- (5) Where the court gives permission to serve a claim form out of the jurisdiction –
  - (a) it will specify the periods within which the defendant may –
    - (i) file an acknowledgment of service;
    - (ii) file or serve an admission;
    - (iii) file a defence; or
    - (iv) file any other response or document required by a rule in another Part, any other enactment or a practice direction; and
  - (b) it may –
    - (i) give directions about the method of service; and
    - (ii) give permission for other documents in the proceedings to be served out of the jurisdiction.

(The periods referred to in paragraphs (5)(a)(i), (ii) and (iii) are those specified in the Table in Practice Direction B supplementing this Part.)

### **6.38 Service of documents other than the claim form – permission**

- (1) Unless paragraph (2) or (3) applies, where the permission of the court is required for the claimant to serve the claim form out of the jurisdiction, the claimant must obtain permission to serve any other document in the proceedings out of the jurisdiction.
- (2) Where –
  - (a) the court gives permission for a claim form to be served on a defendant out of the jurisdiction; and
  - (b) the claim form states that particulars of claim are to follow,
 the permission of the court is not required to serve the particulars of claim.
- (3) The permission of the court is not required if a party has given an address for service in Scotland or Northern Ireland.

### **6.39 Service of application notice on a non-party to the proceedings**

- (1) Where an application notice is to be served out of the jurisdiction on a person who is not a party to the proceedings rules 6.35 and 6.37(5)(a)(i), (ii) and (iii) do not apply.

- (2) Where an application is served out of the jurisdiction on a person who is not a party to the proceedings, that person may make an application to the court under Part 11 as if that person were a defendant, but rule 11(2) does not apply.

(Part 11 contains provisions about disputing the court's jurisdiction.)

#### **6.40 Methods of service – general provisions**

- (1) This rule contains general provisions about the method of service of a claim form or other document on a party out of the jurisdiction.

*Where service is to be effected on a party in Scotland or Northern Ireland*

- (2) Where a party serves any document on a party in Scotland or Northern Ireland, it must be served by a method permitted by Section II (and references to 'jurisdiction' in that Section are modified accordingly) or Section III of this Part and rule 6.23(4) applies.

*Where service is to be effected on a defendant out of the United Kingdom*

- (3) Where the claimant wishes to serve a claim form or any other document on a defendant out of the United Kingdom, it may be served –
- (a) by any method provided for by –
    - (i) rule 6.41 (service in accordance with the Service Regulation);
    - (ii) rule 6.42 (service through foreign governments, judicial authorities and British Consular authorities); or
    - (iii) rule 6.44 (service of claim form or other document on a State);
  - (b) by any method permitted by a Civil Procedure Convention; or
  - (c) by any other method permitted by the law of the country in which it is to be served.
- (4) Nothing in paragraph (3) or in any court order authorises or requires any person to do anything which is contrary to the law of the country where the claim form or other document is to be served.

(A list of the countries with whom the United Kingdom has entered into a Civil Procedure Convention, and a link to the relevant Convention, may be found on the Foreign and Commonwealth Office website at – <http://www.fco.gov.uk/en/about-the-fco/publications/treaties/lists-treaties/bilateral-civil-procedure>.)

#### **6.41 Service in accordance with the Service Regulation**

- (1) This rule applies where the claimant wishes to serve the claim form or other document in accordance with the Service Regulation.
- (2) The claimant must file –
- (a) the claim form or other document;
  - (b) any translation; and
  - (c) any other documents required by the Service Regulation.
- (3) When the claimant files the documents referred to in paragraph (2), the court officer will –
- (a) seal<sup>(GL)</sup> the copy of the claim form; and
  - (b) forward the documents to the Senior Master.
- (4) Rule 6.47 does not apply to this rule.

(The Service Regulation is annexed to Practice Direction B supplementing this Part.)

(Article 20(1) of the Service Regulation provides that the Regulation prevails over other provisions contained in any other agreement or arrangement concluded by Member States.)

#### **6.42 Service through foreign governments, judicial authorities and British Consular authorities**

- (1) Where the claimant wishes to serve a claim form or any other document on a defendant in any country which is a party to a Civil Procedure Convention providing for service in that country, it may be served –
  - (a) through the authority designated under the Hague Convention (where relevant) in respect of that country; or
  - (b) if the law of that country permits –
    - (i) through the judicial authorities of that country, or
    - (ii) through a British Consular authority in that country (subject to any provisions of the applicable convention about the nationality of persons who may be served by such a method).
- (2) Where the claimant wishes to serve a claim form or any other document on a defendant in any country with respect to which there is no Civil Procedure Convention providing for service in that country, the claim form or other document may be served, if the law of that country so permits –
  - (a) through the government of that country, where that government is willing to serve it; or
  - (b) through a British Consular authority in that country.
- (3) Where the claimant wishes to serve the claim form or other document in –
  - (a) any Commonwealth State which is not a party to the Hague Convention;
  - (b) the Isle of Man or the Channel Islands; or
  - (c) any British overseas territory,the methods of service permitted by paragraphs (1)(b) and (2) are not available and the claimant or the claimant's agent must effect service direct, unless Practice Direction B supplementing this Part provides otherwise.

(A list of British overseas territories is reproduced in paragraph 5.2 of Practice Direction B supplementing this Part.)

#### **6.43 Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities**

- (1) This rule applies where the claimant wishes to serve a claim form or any other document under rule 6.42(1) or 6.42(2).
- (2) Where this rule applies, the claimant must file –
  - (a) a request for service of the claim form or other document specifying one or more of the methods in rule 6.42(1) or 6.42(2);
  - (b) a copy of the claim form or other document;
  - (c) any other documents or copies of documents required by Practice Direction B supplementing this Part; and
  - (d) any translation required under rule 6.45.
- (3) Where the claimant files the documents specified in paragraph (2), the court officer will –
  - (a) seal<sup>(GL)</sup> the copy of the claim form or other document; and
  - (b) forward the documents to the Senior Master.

- (4) The Senior Master will send documents forwarded under this rule –
- (a) where the claim form or other document is being served through the authority designated under the Hague Convention, to that authority; or
  - (b) in any other case, to the Foreign and Commonwealth Office with a request that it arranges for the claim form or other document to be served.
- (5) An official certificate which –
- (a) states that the method requested under paragraph (2)(a) has been performed and the date of such performance;
  - (b) states, where more than one method is requested under paragraph (2)(a), which method was used; and
  - (c) is made by –
    - (i) a British Consular authority in the country where the method requested under paragraph (2)(a) was performed;
    - (ii) the government or judicial authorities in that country; or
    - (iii) the authority designated in respect of that country under the Hague Convention, is evidence of the facts stated in the certificate.
- (6) A document purporting to be an official certificate under paragraph (5) is to be treated as such a certificate, unless it is proved not to be.

#### **6.44 Service of claim form or other document on a State**

- (1) This rule applies where a claimant wishes to serve the claim form or other document on a State.
- (2) In this rule, ‘State’ has the meaning given by section 14 of the State Immunity Act 1978<sup>1</sup>.
- (3) The claimant must file in the Central Office of the Royal Courts of Justice –
- (a) a request for service to be arranged by the Foreign and Commonwealth Office;
  - (b) a copy of the claim form or other document; and
  - (c) any translation required under rule 6.45.
- (4) The Senior Master will send the documents filed under this rule to the Foreign and Commonwealth Office with a request that it arranges for them to be served.
- (5) An official certificate by the Foreign and Commonwealth Office stating that a claim form has been duly served on a specified date in accordance with a request made under this rule is evidence of that fact.
- (6) A document purporting to be such a certificate is to be treated as such a certificate, unless it is proved not to be.
- (7) Where –
- (a) section 12(6) of the State Immunity Act 1978 applies; and
  - (b) the State has agreed to a method of service other than through the Foreign and Commonwealth Office,
- the claim form or other document may be served either by the method agreed or in accordance with this rule.

(Section 12(6) of the State Immunity Act 1978 provides that section 12(1) enables the service of a claim form or other document in a manner to which the State has agreed.)

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<sup>1</sup> 1978 c. 33.

#### **6.45 Translation of claim form or other document**

- (1) Except where paragraph (4) or (5) applies, every copy of the claim form or other document filed under rule 6.43 (service through foreign governments, judicial authorities etc.) or 6.44 (service of claim form or other document on a State) must be accompanied by a translation of the claim form or other document.
- (2) The translation must be –
  - (a) in the official language of the country in which it is to be served; or
  - (b) if there is more than one official language of that country, in any official language which is appropriate to the place in the country where the claim form or other document is to be served.
- (3) Every translation filed under this rule must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include that person's name, address and qualifications for making the translation.
- (4) The claimant is not required to file a translation of a claim form or other document filed under rule 6.43 (service through foreign governments, judicial authorities etc.) where the claim form or other document is to be served –
  - (a) in a country of which English is an official language; or
  - (b) on a British citizen (within the meaning of the British Nationality Act 1981<sup>1</sup>), unless a Civil Procedure Convention requires a translation.
- (5) The claimant is not required to file a translation of a claim form or other document filed under rule 6.44 (service of claim form or other document on a State) where English is an official language of the State in which the claim form or other document is to be served.

(The Service Regulation contains provisions about the translation of documents.)

#### **6.46 Undertaking to be responsible for expenses**

Every request for service filed under rule 6.43 (service through foreign governments, judicial authorities etc.) or rule 6.44 (service of claim form or other document on a State) must contain an undertaking by the person making the request –

- (a) to be responsible for all expenses incurred by the Foreign and Commonwealth Office or foreign judicial authority; and
- (b) to pay those expenses to the Foreign and Commonwealth Office or foreign judicial authority on being informed of the amount.

#### **6.47 Proof of service before obtaining judgment**

Where

- (a) a hearing is fixed when the claim form is issued;
  - (b) the claim form is served on a defendant out of the jurisdiction; and
  - (c) that defendant does not appear at the hearing,
- the claimant may not obtain judgment against the defendant until the claimant files written evidence that the claim form has been duly served in accordance with this Part.

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<sup>1</sup> 1981 c. 61.

## V SERVICE OF DOCUMENTS FROM FOREIGN COURTS OR TRIBUNALS

### 6.48 Scope of this Section

This Section –

- (a) applies to the service in England and Wales of any document in connection with civil or commercial proceedings in a foreign court or tribunal; but
- (b) does not apply where the Service Regulation (which has the same meaning as in rule 6.31(e)) applies.

### 6.49 Interpretation

In this Section –

- (a) ‘convention country’ means a country in relation to which there is a Civil Procedure Convention (which has the same meaning as in rule 6.31(c));
- (b) ‘foreign court or tribunal’ means a court or tribunal in a country outside of the United Kingdom; and
- (c) ‘process server’ means –
  - (i) a process server appointed by the Lord Chancellor to serve documents to which this Section applies, or
  - (ii) the process server’s agent.

### 6.50 Request for service

The Senior Master will serve a document to which this Section applies upon receipt of –

- (a) a written request for service –
  - (i) where the foreign court or tribunal is in a convention country, from a consular or other authority of that country; or
  - (ii) from the Secretary of State for Foreign and Commonwealth Affairs, with a recommendation that service should be effected;
- (b) a translation of that request into English;
- (c) two copies of the document to be served; and
- (d) unless the foreign court or tribunal certifies that the person to be served understands the language of the document, two copies of a translation of it into English.

### 6.51 Method of service

The Senior Master will determine the method of service.

### 6.52 After service

- (1) Where service of a document has been effected by a process server, the process server must –
  - (a) send to the Senior Master a copy of the document, and
    - (i) proof of service; or
    - (ii) a statement why the document could not be served; and
  - (b) if the Senior Master directs, specify the costs incurred in serving or attempting to serve the document.
- (2) The Senior Master will send to the person who requested service –

- (a) a certificate, sealed with the seal of the Supreme Court for use out of the jurisdiction, stating –
  - (i) when and how the document was served or the reason why it has not been served; and
  - (ii) where appropriate, an amount certified by a costs judge to be the costs of serving or attempting to serve the document; and
- (b) a copy of the document.

