

## PRACTICE DIRECTION

## ALTERNATIVE PROCEDURE FOR CLAIMS

**This Practice Direction supplements CPR Part 8 and Schedule 1 & Schedule 2 to the CPR**

## TERMINOLOGY

- 1.1** In this Practice Direction, ‘Schedule rules’ means provisions contained in the Schedules to the CPR, which were previously contained in the Rules of the Supreme Court (1965) or the County Court Rules (1981).

## APPLICATION OF THIS PRACTICE DIRECTION

- 2.1** Section A contains general provisions about claims and applications to which Part 8 applies. Section B comprises a table listing claims, petitions and applications under various enactments which must be made under Part 8. Section C contains certain additions and modifications to the Part 8 procedure that apply to the particular claims and applications identified.
- 2.2** Some of the claims and applications listed in the table in Section B are dealt with in the Schedule Rules in the CPR. The table in Section B contains cross-reference to the relevant Schedule Rules.

## SECTION A

## GENERAL PROVISIONS APPLICABLE TO PART 8 CLAIMS

**Types of claim in which the Part 8 procedure may be used**

- 3.1** The types of claim for which the Part 8 procedure may be used include –
- (1) a claim by or against a child or protected party, as defined in rule 21.1(2), which has been settled before the commencement of proceedings and the sole purpose of the claim is to obtain the approval of the court to the settlement; or
  - (2) a claim for provisional damages which has been settled before the commencement of proceedings and the sole purpose of the claim is to obtain a consent judgment.
- 3.2**
- (1) The Part 8 procedure must be used for those claims, petitions and applications listed in the table in Section B.
  - (2) Where a claim is listed in the table in Section B and is identified as a claim to which particular provisions of Section C apply, the Part 8 procedure shall apply subject to the additions and modifications set out in the relevant paragraphs in Section C.
- 3.3** The Part 8 procedure must also be used for any claim or application in relation to which an Act, rule or practice direction provides that the claim or application is brought by originating summons, originating motion or originating application.

- 3.4** Where it appears to a court officer that a claimant is using the Part 8 procedure inappropriately, he may refer the claim to a judge for the judge to consider the point.
- 3.5** The court may at any stage order the claim to continue as if the claimant had not used the Part 8 procedure and, if it does so, the court will allocate the claim to a track and give such directions as it considers appropriate.

## ISSUING THE CLAIM

- 4.1** Part 7 and the practice direction which supplements it contain a number of rules and directions applicable to all claims, including those to which Part 8 applies. Those rules and directions should be applied where appropriate.
- 4.2** Where a claimant uses the Part 8 procedure, the claim form (practice form N208) should be used and must state the matters set out in rule 8.2 and, if rule 8.1(6) applies, must comply with the requirements of the rule or practice direction in question. In particular, the claim form must state that Part 8 applies; a Part 8 claim form means a claim form which so states.

(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))

## RESPONDING TO THE CLAIM

- 5.1** The provisions of Part 15 (defence and reply) do not apply where the claim form is a Part 8 claim form.
- 5.2** Where a defendant who wishes to respond to a Part 8 claim form is required to file an acknowledgment of service, that acknowledgment of service should be in practice form N210.
- 5.3** Where a defendant objects to the use of the Part 8 procedure, and his statement of reasons includes matters of evidence, the acknowledgment of service must be verified by a statement of truth.

## MANAGING THE CLAIM

- 6.1** The court may give directions immediately a Part 8 claim form is issued either on the application of a party or on its own initiative. The directions may include fixing a hearing date where –
- (1)** there is no dispute, such as in child and protected party settlements; or
  - (2)** where there may be a dispute, but a hearing date could conveniently be given.
- 6.2** Where the court does not fix a hearing date when the claim form is issued, it will give directions for the disposal of the claim as soon as practicable after the defendant has acknowledged service of the claim form or, as the case may be, after the period for acknowledging service has expired.
- 6.3** Certain applications may not require a hearing.
- 6.4** The court may convene a directions hearing before giving directions.

## EVIDENCE

- 7.1** A claimant must file the written evidence on which he relies when his Part 8 claim form is issued (unless the evidence is contained in the claim form itself).
- 7.2** Evidence will normally be in the form of a witness statement or an affidavit but a claimant may rely on the matters set out in his claim form provided that it has been verified by a statement of truth.
- (For information about (1) statements of truth see Part 22 and the practice direction that supplements it, and (2) written evidence see Part 32 and the practice direction that supplements it.)
- 7.3** A defendant wishing to rely on written evidence, must file it with his acknowledgment of service.
- 7.4** A party may apply to the court for an extension of time to serve and file evidence under rule 8.5 or for permission to serve and file additional evidence under rule 8.6(1).
- (For information about applications see Part 23 and the practice direction that supplements it)
- 7.5**
- (1) The parties may, subject to the following provisions, agree in writing on an extension of time for serving and filing evidence under rule 8.5(3) or rule 8.5(5).
  - (2) An agreement extending time for a defendant to file evidence under rule 8.5(3)-
    - (a) must be filed by the defendant at the same time as he files his acknowledgement of service; and
    - (b) must not extend time by more than 14 days after the defendant files his acknowledgement of service.
  - (3) An agreement extending time for a claimant to file evidence in reply under rule 8.5(5) must not extend time to more than 28 days after service of the defendant's evidence on the claimant.

## HEARING

- 8.1** The court may on the hearing date –
- (1) proceed to hear the case and dispose of the claim;
  - (2) give case management directions.
- 8.2** Case management directions may include the specific allocation of a case to a track.
- 8.3** CPR rules 26.5(3) to (5) and rules 26.6 to 26.10 apply to the allocation of a claim under paragraph 8.2.

## SECTION B

### CLAIMS AND APPLICATIONS THAT MUST BE MADE UNDER PART 8

- 9.1** The claimant must use the Part 8 procedure if the claim is listed in the table below.

- 9.2** Section C of this Practice Direction contains special provisions modifying the Part 8 procedure, and where it does so, those provisions should be followed. The table below refers to the relevant paragraph of Section C where it applies.
- 9.3** Some of the claims and applications listed in the table below are dealt with in the Schedule Rules, and those rules modify the Part 8 procedure. A cross-reference to the relevant Schedule Rule is contained in the table below.
- 9.4** For applications that may or must be brought in the High Court, where no other rule or practice direction assigns the application to a Division of the court, the table specifies the Division to which the application is assigned.

<i>Type of Claim or Application</i>	<i>Paragraph of Section C</i>	<i>Division</i>	<i>Schedule Rule</i>
Application under section 14 of the Bills of Sale Act 1878 (Rectification of register)	Paragraph 10A	Queen's Bench Central Office	
Application under section 15 of the Bills of Sale Act 1878 (Entry of satisfaction)	Paragraph 11	Queen's Bench Central Office	
Application under section 16 of the Bills of Sale Act 1878 (Search of the bills of sale register)	Paragraph 11A	Queen's Bench Central Office	
Application under the proviso to section 7 of the Bills of Sale Act (1878) Amendment Act 1882 (Restraining removal or sale of goods seized)		Queen's Bench Central Office	
Application under the Public Trustee Act 1906 (free-standing proceedings)	Paragraph 12	Chancery	
Application under section 7 of the Deeds of Arrangement Act 1914 (Rectification of register)	Paragraph 12A	Queen's Bench Central Office	
Proceedings under the Trustee Act 1925		Chancery	
Applications under section 2(3) of the Public Order Act 1936	Paragraph 13	Chancery	

<i>Type of Claim or Application</i>	<i>Paragraph of Section C</i>	<i>Division</i>	<i>Schedule Rule</i>
Proceedings under jurisdiction conferred by section 1 of the Railway and Canal Commission (Abolition) Act 1949	Paragraph 14	Chancery	
Administration of Justice Act 1960 (Applications under the Act)		Divisional Court	RSC O.109, r.1(3)
Administration of Justice Act 1960 (Appeals under section 13 of the Act)		Divisional Court	RSC O.109, r.2(4)
Proceedings under section 14 of the Commons Registration Act 1965		Chancery	
Application under the Mines (Working Facilities and Support) Act 1966	Paragraph 15	Chancery	
Proceedings under section 21 or 25 of the Law of Property Act 1969		Chancery	
Local Government Act 1972 (claims under section 92 – proceedings for disqualification)		Queen's Bench Central Office	
Application under article 10 of the Mortgaging of Aircraft Order 1972 (Rectification of register)	Paragraph 15A	Chancery	
Application to register an assignment of book debts (section 344 of the Insolvency Act 1986)	Paragraph 15B	Queen's Bench Central Office	
Proceedings under the Control of Misleading Advertisements Regulations 1988		Chancery	

<i>Type of Claim or Application</i>	<i>Paragraph of Section C</i>	<i>Division</i>	<i>Schedule Rule</i>
Application under section 42 of the Supreme Court Act 1981	Paragraph 16	Administrative Court	
Proceedings in the High Court under the Representation of the People Acts	Paragraph 17A	Queen's Bench Central Office	
Applications under Part II of the Mental Health Act 1983	Paragraph 18	Administrative Court	
Applications under section 13 of the Coroners Act 1988	Paragraph 19	Administrative Court	
Application for an injunction to prevent environmental harm under section 187B or 214A of the Town and Country Planning Act 1990; section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990; or section 26AA of the Planning (Hazardous Substances) Act 1990	Paragraph 20	Queen's Bench	
Confiscation and forfeiture in connection with criminal proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 – Application for a confiscation order)		Queen's Bench	RSC O.115, r.2B(1)
Confiscation and forfeiture in connection with criminal proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 – Application for a restraint order or charging order)		Queen's Bench	RSC O.115, r.3(1)

<i>Type of Claim or Application</i>	<i>Paragraph of Section C</i>	<i>Division</i>	<i>Schedule Rule</i>
Confiscation and forfeiture in connection with criminal proceedings (I. Drug Trafficking Act 1994 and Criminal Justice (International Co-operation) Act 1990 – Realisation of property)		Queen's Bench	RSC O.115, r.7(1)
Criminal Procedure and Investigations Act 1996 (Application under section 54(3))		Queen's Bench	RSC O.116, r.5(1)
Confiscation and forfeiture in connection with criminal proceedings (III. Terrorism Act 2000 – Application for a restraint order)		Queen's Bench	RSC O.115, r.26(1)
Proceedings under the Financial Services and Markets Act 2000	Paragraph 21	Chancery	
Interpleader (Mode of application)		Chancery or Queen's Bench	RSC O.17, r.3(1)
Criminal proceedings (estreat of recognizances)		Queen's Bench	RSC O.79, r.8(2)
Criminal proceedings (bail)		Queen's Bench	RSC O.79, r.9(2)
Application under an enactment giving the High Court jurisdiction to quash or prohibit any order, scheme, certificate or plan, any amendment or approval of a plan, any decision of a Minister or government department or any action on the part of a Minister or government department	Paragraph 22	Administrative Court	

## SECTION C

### SPECIAL PROVISIONS

**10.1** The following special provisions apply to the applications indicated.

#### **Applications under section 14 of the Bills of Sale Act 1878**

**10A.1** This paragraph applies to an application under section 14 of the Bills of Sale Act 1878 for an order to rectify an omission or mis-statement in relation to the registration, or renewal of the registration, of a bill of sale –

- (1) by inserting in the register the true name, residence or occupation of a person; or
- (2) by extending the time for registration of the bill of sale or an affidavit of its renewal.

**10A.2** The application must be made –

- (1) by claim form under Part 8; or
- (2) by witness statement.

**10A.3** Where the application is made by witness statement –

- (1) Part 23 applies to the application;
- (2) the witness statement constitutes the application notice under that Part;
- (3) the witness statement does not need to be served on any other person; and
- (4) the application will normally be dealt with without a hearing.

**10A.4** The application must set out –

- (1) the particulars of the bill of sale and of the omission or mis-statement; and
- (2) the grounds on which the application is made.

**10A.5** The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

#### **Applications under Section 15 of the Bills of Sale Act 1878**

**11.1** This paragraph applies where an application is made under section 15 of the Bills of Sale Act 1878 for an order that a memorandum of satisfaction be written on a registered copy of a bill of sale.

**11.2** If the person entitled to the benefit of the bill of sale has not consented to the satisfaction, the claim form –

- (1) must be served on that person; and
- (2) must be supported by evidence that the debt (if any) for which the bill of sale was made has been satisfied or discharged.

**11.3** If the person entitled to the benefit of the bill of sale has consented to the satisfaction, the application may be made by –

- (1) claim form under Part 8; or
- (2) witness statement.

**11.4** Where paragraph 11.3 applies and the application is made by Part 8 claim form, the claim form –

- (1) must contain details of the consent;



- (2) must be supported by a witness statement by a person who witnessed the consent verifying the signature on it; and
- (3) must not be served on any person other than the person entitled to the benefit of the bill of sale.

**11.5** Where paragraph 11.3 applies and the application is made by witness statement –

- (1) Part 23 will apply to the application;
- (2) the witness statement will constitute the application notice under that Part;
- (3) the witness statement does not need to be served on any other person; and
- (4) the application will normally be dealt with without a hearing.

### **Applications under section 16 of the Bills of Sale Act 1878**

**11A.1** This paragraph applies to an application under section 16 of the Bills of Sale Act 1878 for a search of the bills of sale register and for a certificate of the results of the search.

**11A.2** The application must be made –

- (1) by claim form under Part 8; or
- (2) by written request.

**11A.3** The application must give sufficient information to enable the relevant bill of sale to be identified.

**11A.4** The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

### **Application under the Public Trustee Act 1906**

**12.1** An application under the Public Trustee Act 1906 must be made –

- (1) where no proceedings have been issued, by a Part 8 claim;
- (2) in existing proceedings, by a Part 23 application.

**12.2** Without prejudice to sections 10(2) and 13(7) of the Public Trustee Act 1906, the jurisdiction of the High Court under the Act is exercised by a single judge of the Chancery Division sitting in private.

### **Applications under section 7 of the Deeds of Arrangement Act 1914**

**12A.1** This paragraph applies to an application under section 7 of the Deeds of Arrangement Act 1914 for an order to rectify an omission or mis-statement in relation to the registration of a deed of arrangement –

- (1) by inserting in the register the true name, residence or description of a person; or
- (2) by extending the time for registration.

**12A.2** The application must be made –

- (1) by claim form under Part 8; or
- (2) by witness statement.

**12A.3** Where the application is made by witness statement –

- (1) Part 23 applies to the application;
- (2) the witness statement constitutes the application notice under that Part;
- (3) the witness statement does not need to be served on any other person; and
- (4) the application will normally be dealt with without a hearing.

**12A.4** The application must set out –

- (1) the particulars of the deed of arrangement and of the omission or mis-statement; and
- (2) the grounds on which the application is made.

**12A.5** The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.

### **Application under section 2(3) of the Public Order Act 1936**

**13.1** The Attorney General may determine the persons who should be made defendants to an application under section 2(3) of the Public Order Act 1936.

**13.2** If the court directs an inquiry under section 2(3), it may appoint the Official Solicitor to represent any interests it considers are not sufficiently represented and ought to be represented.

### **Proceedings under section 1 of the Railway and Canal Commission (Abolition) Act 1949**

**14.1** Paragraphs 15.3 to 15.14 apply, with appropriate modifications, to proceedings in which jurisdiction has been conferred on the High Court by section 1 of the Railway and Canal Commission (Abolition) Act 1949, except to the extent that –

- (1) an Act;
  - (2) a rule;
  - (3) a practice direction,
- provides otherwise.

### **Application under the Mines (Working Facilities and Support) Act 1966**

**15.1** In this paragraph –

- (1) 'the Act' means the Mines (Working Facilities and Support) Act 1966;
- (2) 'the applicant' means the person who has applied for the grant of a right under the Act.

**15.2** This paragraph applies where the Secretary of State refers an application to the High Court under any provision of the Act.

**15.3** The Secretary of State must –

- (1) file a reference signed by him or a person authorised to sign on his behalf in the Chancery Division of the High Court;
- (2) file, along with the reference, any documents and plans deposited with him by the applicant in support of his application; and
- (3) within 3 days of filing the reference, give notice to the applicant that the reference has been filed.

**15.4** Within 10 days of receiving the notice referred to in paragraph 15.3(3), the applicant must issue a claim form.

**15.5** The claim form –

- (1) must identify the application under the Act and the remedy sought; and
- (2) need not be served on any other party.

**15.6** Within 7 days of the claim form being issued, the applicant must –

- (1) apply for the claim to be listed for a hearing before a Master; and
- (2) give notice of the hearing date to the Secretary of State.

- 15.7** The applicant must, not less than 2 days before the date fixed for a hearing, file at court –
- (1) a witness statement in support of the claim, giving details of all persons known to the applicant to be interested in, or affected by, the application; and
  - (2) a draft of any proposed advertisement or notice of the application.
- 15.8** At the hearing, the Master will –
- (1) fix a date by which any notice of objection under paragraph 15.9 must be filed;
  - (2) fix a date for a further hearing of the claim; and
  - (3) give directions about –
    - (a) any advertisement that is to be inserted or notice of the application and hearing date that is to be given; and
    - (b) what persons are to be served with a copy of the application or any other document in the proceedings.
- 15.9** Any person who wishes to oppose the application must, within the time fixed by the court under paragraph 15.8, serve notice of objection on the applicant, stating –
- (a) his name and address;
  - (b) the name and address of his solicitor, if any;
  - (c) the grounds of his objection;
  - (d) any alternative method for effecting the objects of the application that he alleges may be used; and
  - (e) the facts on which he relies.
- 15.10** Any document that is required to be served on the person who has given notice of objection ('the objector') may be served by posting it to the following address –
- (1) where the notice of objection gives the name and address of a solicitor, to the solicitor;
  - (2) in any other case, to the objector at the address stated in the notice of objection.
- 15.11** The objector may appear, or be represented at any further hearing, and may take such part in the proceedings as the court allows.
- 15.12** The applicant must, not less than two days before the date set for the further hearing, file at court –
- (1) any notices of objection served on him;
  - (2) a list of objectors, together with –
    - (a) their names and addresses;
    - (b) the names and addresses of their solicitors, if any; and
    - (c) a summary of their respective grounds of objection.
- 15.13** If the objector does not appear, or is not represented, at the further hearing –
- (1) his notice of objection will have no effect; and
  - (2) he will not be entitled to take any further part in the proceedings unless the court orders otherwise.
- 15.14** At the further hearing, the court will –
- (1) give directions about the future conduct of the claim, including –
    - (a) any further information the applicant is required to give in relation to any of the grounds or facts relied on in support of the application;
    - (b) any further information the objector is required to give in relation to any of the grounds or facts relied on in opposition to the application;
    - (c) whether the applicant may serve a reply to any notice of objection;
    - (d) whether any particular fact should be proved by a witness statement;
    - (e) whether any statements of case or points of claim or defence are to be served; and

- (2) adjourn the claim for hearing before a judge.

### **Applications under article 10 of the Mortgaging of Aircraft Order 1972**

- 15A.1** This paragraph applies to an application under article 10 of the Mortgaging of Aircraft Order 1972 for an order to amend the Register of Aircraft Mortgages.
- 15A.2** The application must be made by claim form under Part 8.
- 15A.3** Every person (other than the claimant) who appears in the register as mortgagor or mortgagee of the aircraft concerned must be made a defendant to the claim.
- 15A.4** A copy of the claim form must be sent to the Civil Aviation Authority.
- 15A.5** The application will be assigned to the Chancery Division.
- 15A.6** The Civil Aviation Authority is entitled to be heard in the proceedings.

### **Applications under section 344 of the Insolvency Act 1986 for registration of assignments of book debts**

- 15B.1** This paragraph applies to an application under section 344 of the Insolvency Act 1986 to register an assignment of book debts.
- 15B.2** The application must be made –
  - (1) by claim form under Part 8; or
  - (2) by witness statement.
- 15B.3** The application must be made to a Master of the Queen's Bench Division and accompanied by payment of the prescribed fee.
- 15B.4** Where the application is made by witness statement –
  - (1) Part 23 applies to the application;
  - (2) the witness statement constitutes the application notice under that Part;
  - (3) the witness statement does not need to be served on any other person; and
  - (4) the application will normally be dealt with without a hearing.
- 15B.5** The application –
  - (1) must have exhibited to it a true copy of the assignment and of every schedule to it;
  - (2) must set out the particulars of the assignment and the parties to it; and
  - (3) must verify the date and time of the execution of the assignment, and its execution in the presence of a witness.
- 15B.6** Upon the court being satisfied, the documents so exhibited will be filed and the particulars of the assignment and of the parties to it entered in the register.

### **Application under Section 42 of the Supreme Court Act 1981**

- 16.1** An application under section 42 of the Supreme Court Act 1981 is heard and determined by a Divisional Court.
- 16.2** The claim form must be filed at the Administrative Court and –
  - (1) be accompanied by a witness statement in support; and
  - (2) be served on the person against whom the order is sought.

### **Application for detailed assessment of a returning officer's account**

- 17.1** An application by the Secretary of State under section 30 of the Representation of the People Act 1983 for the detailed assessment of a returning officer's account must be made by claim form.
- 17.2** When it issues the claim form, the court will fix a date for the hearing of the detailed assessment to be dealt with if the application is granted.
- 17.3** The returning officer may, on the application, apply to the court to examine any claim made against him in respect of matters charged in the account.
- 17.4** To make an application under paragraph 17.3, the returning officer must file an application within 7 days of being served with a copy of the application for detailed assessment.
- 17.5** When an application is filed under paragraph 17.3, the court will –
- (a) fix a date for the hearing;
  - (b) give notice of the hearing date to the returning officer; and
  - (c) serve a copy of the application and notice of hearing on the claimant.
- 17.6** The examination and detailed assessment may take place on the same day, provided that the examination is determined before the detailed assessment is concluded.
- 17.7** The district judge may hear and determine –
- (a) an application for detailed assessment;
  - (b) any application under paragraph 17.3.
- 17.8** The court will serve a copy of the order made in the application on –
- (a) the Secretary of State;
  - (b) the returning officer; and
  - (c) in an application under paragraph 17.3, the claimant.

### **Other proceedings under the Representation of the People Acts**

#### **17A.1**

- (1) This paragraph applies to proceedings under the Representation of the People Acts (other than proceedings under section 30 of the Representation of the People Act 1983).
- (2) The jurisdiction of the High Court under those Acts in matters relating to Parliamentary and local government elections will be exercised by the Divisional Court except that –
  - (a) any jurisdiction, under a provision of any of those Acts, exercisable by a single judge will be exercised by a single judge;
  - (b) any jurisdiction, under any such provision, exercisable by a Master will be exercised by a Master; and
  - (c) where the court's jurisdiction in matters relating to Parliamentary elections is exercisable by a single judge, that jurisdiction in matters relating to local government elections is also exercisable by a single judge.

### **Application under Mental Health Act 1983**

- 18.1** In this paragraph –
- (1) a section referred to by a number refers to the section so numbered in the Mental Health Act 1983 and 'Part II' means Part II of that Act;
  - (2) 'hospital manager' means the manager of a hospital as defined in section 145(1) of the Act; and

- (3) 'place of residence' means, in relation to a patient who is receiving treatment as an in-patient in a hospital or other institution, that hospital or institution.

**18.2** The claim form must be filed –

- (1) in the court for the district in which the patient's place of residence is situated; or
- (2) in the case of an application under section 30, in the court that made the order under section 29 which the application seeks to discharge or vary.

**18.3** Where an application is made under section 29 for an order that the functions of the nearest relative of the patient are to be exercisable by some other person –

- (1) the nearest relative must be made a respondent, unless –
  - (a) the application is made on the grounds that the patient has no nearest relative or that it is not reasonably practicable to ascertain whether he has a nearest relative; or
  - (b) the court orders otherwise; and
- (2) the court may order that any other person shall be made a respondent.

**18.4** Subject to paragraph 18.5, the court may accept as evidence of the facts relied upon in support of the application, any report made –

- (1) by a medical practitioner; or
- (2) by any of the following acting in the course of their official duties –
  - (a) a probation officer;
  - (b) an officer of a local authority;
  - (c) an officer of a voluntary body exercising statutory functions on behalf of a local authority; or
  - (d) an officer of a hospital manager.

**18.5** The respondent must be informed of the substance of any part of the report dealing with his fitness or conduct that the court considers to be material to the determination of the claim.

**18.6** An application under Part II shall be heard in private unless the court orders otherwise.

**18.7** The judge may, for the purpose of determining the application, interview the patient. The interview may take place in the presence of, or separately from, the parties. The interview may be conducted elsewhere than at the court. Alternatively, the judge may direct the district judge to interview the patient and report to the judge in writing.

### **Applications under section 13 of the Coroners Act 1988**

**19.1** An application under section 13 of the Coroners Act 1988 is heard and determined by a Divisional Court.

**19.2** The application must, unless made by the Attorney General, be accompanied by the Attorney General's fiat.

**19.3** The claim form must –

- (1) state the grounds for the application;
- (2) be filed at the Administrative Court; and
- (3) be served upon all persons directly affected by the application within six weeks of the grant of the Attorney General's fiat.

### **Application for injunction to prevent Environmental Harm**

**20.1** This paragraph relates to applications under –

- (1) section 187B or 214A of the Town and Country Planning Act 1990;
- (2) section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990; or

- (3) section 26AA of the Planning (Hazardous Substances) Act 1990.
- 20.2** An injunction may be granted under those sections against a person whose identity is unknown to the applicant.
- 20.3** In this paragraph, an injunction refers to an injunction under one of those sections and 'the defendant' is the person against whom the injunction is sought.
- 20.4** In the claim form, the applicant must describe the defendant by reference to –
- (1) a photograph;
  - (2) a thing belonging to or in the possession of the defendant; or
  - (3) any other evidence.
- 20.5** The description of the defendant under paragraph 20.4 must be sufficiently clear to enable the defendant to be served with the proceedings.
- (The court has power under Part 6 to dispense with service or make an order permitting service by an alternative method or at an alternative place).
- 20.6** The application must be accompanied by a witness statement. The witness statement must state –
- (1) that the applicant was unable to ascertain the defendant's identity within the time reasonably available to him;
  - (2) the steps taken by him to ascertain the defendant's identity;
  - (3) the means by which the defendant has been described in the claim form; and
  - (4) that the description is the best the applicant is able to provide.
- 20.7** When the court issues the claim form it will –
- (1) fix a date for the hearing; and
  - (2) prepare a notice of the hearing date for each party.
- 20.8** The claim form must be served not less than 21 days before the hearing date.
- 20.9** Where the claimant serves the claim form, he must serve notice of the hearing date at the same time, unless the hearing date is specified in the claim form.
- (CPR rules 3.1(2) (a) and (b) provide for the court to extend or shorten the time for compliance with any rule or practice direction, and to adjourn or bring forward a hearing)
- 20.10** The court may on the hearing date –
- (1) proceed to hear the case and dispose of the claim; or
  - (2) give case management directions.

### **Proceedings under the Financial Services and Markets Act 2000**

- 21.1** This paragraph applies to proceedings in the High Court under the Financial Services and Markets Act 2000.
- 21.2** Proceedings in the High Court under the Act (other than applications for a mandatory order) and actions for damages for breach of a statutory duty imposed by the Act shall be assigned to the Chancery Division.
- 21.3** Such proceedings and actions must be begun by claim form (except for applications by petition by the Financial Services Authority under section 367 of the Act).

- 21.4** The Financial Services Authority may make representations to the court where there is a question about the meaning of any rule or other instrument made by, or with the approval or consent of, the Financial Services Authority.

### **Application to quash certain orders, schemes, etc**

- 22.1** This paragraph applies where the High Court has jurisdiction under any enactment, on the application of any person to quash or prohibit any –

- (1) order, scheme, certificate or plan of;
- (2) amendment or approval of a plan of;
- (3) decision of;
- (4) action on the part of,  
a Minister or government department.

- 22.2** The jurisdiction shall be exercisable by a single judge of the Queen's Bench Division.

- 22.3** The claim form must be filed at the Administrative Court and served within the time limited by the relevant enactment for making the application.

- 22.4** Subject to paragraph 22.6, the claim form must be served on the appropriate Minister or government department and on the person indicated in the following table.

---

*If the application relates to –*

- (1) a compulsory purchase order made by an authority other than the appropriate Minister or government department; or
- (2) a clearance order under the Housing Act 1985.

*The authority that made the order.*

*If the application relates to a scheme or order –*

- (1) to which Section 2 of the Highways Act 1980 applies; and
- (2) which was made by an authority other than the Secretary of State

*The authority that made the scheme or order.*

*If the application relates to a structure plan, local plan or other development plan within the meaning of the Town and Country Planning Act 1990*

*The local planning authority who prepared the plan.*

*If the application relates to any decision or order, or any action on the part of a Minister of the Crown to which –*

- (1) section 21 of the Land Compensation Act 1961; or
- (2) section 288 of the Town and Country Planning Act 1990,(2) applies.

- (a) The authority directly concerned with such decision, order or action; or
- (b) if that authority is the applicant, on every person who would, if he were aggrieved by the decision, order or action, be entitled to apply to the High Court under section 21 of the Land Compensation Act or section 288 of the Town and Country Planning Act, as the case may be.

*If the application relates to a scheme to which Schedule 32 of the Local Government, Planning and Land Act 1980 applies*

*The body which adopted the scheme.*

---

- 22.5** In paragraph 22.4, 'the appropriate Minister or government department' means the Minister of the Crown or government department –

- (1) by whom the order, scheme, certificate, plan, amendment, approval or decision in question was or may be made, authorised, confirmed, approved or given;



- (2) on whose part the action in question was or may be taken.
- 22.6** Where the application relates to an order made under the Road Traffic Regulation Act 1984, the claim form must be served –
- (1) if the order was made by a Minister of the Crown, on that Minister;
  - (2) if the order was made by a local authority with the consent, or following a direction, of a Minister of the Crown, on that authority and also on that Minister;
  - (3) in any other case, on the local authority by whom the order was made.
- 22.7** Evidence at the hearing of an application under this paragraph is by witness statement.
- 22.8** The applicant must –
- (1) file a witness statement in support of the application in the Administrative Court within 14 days after service of the claim form; and
  - (2) serve a copy of the witness statement and of any exhibit on the respondent at the time of filing.
- 22.9** The respondent must –
- (1) file any witness statement in opposition to the application in the Administrative Court within 21 days after service on him of the applicant's witness statement; and
  - (2) serve a copy of his witness statement and of any exhibit on the applicant at the time of filing.
- 22.10** A party must, when filing a witness statement, file a further copy of the witness statement, including exhibits, for the use of the court.
- 22.11** Unless the court otherwise orders, the application will not be heard earlier than 14 days after the time for filing a witness statement by the respondent has expired.

