

PRACTICE DIRECTION - SERVICE OUT OF THE JURISDICTION.

THIS PRACTICE DIRECTION SUPPLEMENTS RSC ORDER 11 (SCHEDULE 1 TO THE CPR).

Matters to be included in claim forms:

- 1.1 CPR Part 7 provides that when particulars of claim are served on a defendant they must be accompanied by -
 - (a) a form for defending the claim;
 - (b) a form for admitting the claim; and
 - (c) a form for acknowledging service.
- 1.2 In addition, the particulars of claim must be accompanied by the complete Response Pack. The Response Pack must clearly state the appropriate period for responding to the claim form, as specified in this Practice Direction, and accordingly both Form N9 and Form N1C and other relevant forms must be amended.
- 1.3 Where the claim form is to be served in a place or country listed in the table below in accordance with paragraph 6.4, the particulars of claim, if not included in it, must accompany the claim form.
- 1.4 Where a claim form is served out of the jurisdiction without permission under Schedule 1, RSC O.11 r.1(2), it must include a certificate that the court has power under the Civil Jurisdiction and Judgments Act 1982 to hear the claim, and that no proceedings involving the same issues are pending between the parties in the courts of any part of the United Kingdom or any other Convention territory as specified in RSC O.11, r.1(2)(a)(i).
- 1.5 The usual form of words of the certificate will be:

“We certify that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982 to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by section 1(3) of the Act.”
- 1.6 The usual form of words of the certificate where the proceedings begun by the claim form are proceedings to which Article 16 of Schedule 1, 3C or 4 to that Act refers will be:

“We certify that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982, the claim having as its object rights in rem in immovable property or tenancies in immovable property (or otherwise in accordance with the provisions of Article 16 of Schedule

1, 3C or 4 to that Act) to which Article 16 of Schedule 1, 3C or 4 to that Act applies, to hear the claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by Section 1(3) of the Act.”

- 1.7 The usual form of words of the certificate where the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1, 3C or 4 to that Act applies will be:

“We certify that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982, the defendant being a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1, 3C or 4 to that Act applies, to hear the claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by Section 1(3) of the Act.”

- 1.8 If a certificate under paragraph 1.4 is omitted, the issued claim form will be marked, “Not for service out of the jurisdiction.”

Documents to be filed

- 2.1 The claimant must file the following documents for each person to be served -

- (1) a request for service of the claim form by one of the methods under O. 11, rr. 5 and 6 or for service –
 - (a) under any order for service by an alternative method,
 - (b) in accordance with the law of the country in which service is to be effected,
 - (c) in a country which is a party to the Hague Convention of 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters¹ in accordance with the provisions of that Convention,
 - (d) in a country in respect of which there subsists a civil procedure convention (other than the Hague Convention) in accordance with the provisions of such a convention,
 - (2) a sealed original of the claim form and accompanying documents,
 - (3) a duplicate copy of the claim form and accompanying documents,
 - (4) copies of the particulars of claim (see paragraph 1.3 above),
 - (5) the response pack amended as necessary (see paragraph 1.2 above),
 - (6) any translation required under RSC Order 11 rule 6(5) and paragraph 3.3, in duplicate;
- and

¹ November 15, 1965; TS50 (1969); Cmnd. 3986

- (7) a statement by the person making any translation that it is a correct translation, as required by RSC Order 11, rule 6(6), in duplicate.
- 2.2 (1) Care should be taken to ensure that the method of service requested under paragraph 2.1(1) is a method recognized in the country in which service is to be effected.
- (2) Service in the countries listed in RSC O. 11, r. 6(1) should be effected by the claimant or his agent direct.
- 2.3 The request for service must include an undertaking under RSC Order 11, rule 8 by the person making the request -
 - (1) to be responsible for all expenses incurred by the Foreign and Commonwealth Office, and
 - (2) to pay those expenses to the Foreign and Commonwealth Office on being informed of the amount.
- 2.4 RSC Order 11 rule 7(1) sets out the documents to be filed where a claimant wishes to serve the claim form on a State. The additional documents listed in paragraph 2.1 must also be filed in such cases.
- 2.5 Where the claimant files the documents specified, he must obtain a sealed copy and an ordinary copy and take them to the Foreign Process Office.
- 2.6 In certain countries the documents filed will require legalisation. The Foreign Process Office (Rm. E219, The Royal Courts of Justice) will advise as to particular cases.

Translations:

- 3.1 RSC Order 11 rule 6(5) provides that, except in certain specified instances (see paragraph 3.4 below), every copy of the claim form filed under RSC Order 11 rule 6 (service through judicial authorities, foreign governments and British Consular authorities) or RSC Order 11 rule 7 (service of claim form on a State), must be accompanied by a translation of the claim form.
- 3.2 RSC O.11 r.6(5) and (6) apply to particulars of claim where they are not included in the claim form.
- 3.3 Where a translation of the claim form is required under RSC O.11 r.6(5), the claimant must also file a translation of the forms in the Response Pack.
- 3.4 Unless made necessary by the particular circumstances of the case, translations are not required where the claim form is to be served —
 - (1) in a country where English is an official language (Rule 6(5));
 - (2) by a British consular authority on a British subject, unless a Civil Procedure Convention expressly requires a translation (Rule 6(5));
 - (3) on a State in which English is an official language (Rule 7(1)(c)).

(It should be noted that English is not an official language in the Province of Quebec.)

Service with the permission of the court under certain Acts

- 4.1 RSC Order, rule 1 provides that a claim form may be served out of the jurisdiction with the court's permission if the claim is made under certain specified enactments.
- 4.2 These are:
 - (1) claims under the Nuclear Installations Act 1965²,
 - (2) claims in respect of contributions under the Social Security Contributions and Benefits Act 1992³,
 - (3) claims for a sum to which the Directive of the Council of the European Communities dated 15 March 1976 No. 76/308/EEC applies, where service is to be effected in a member state of the European Economic Community,
 - (4) claims under the Drug Trafficking Offences Act 1994⁴,
 - (5) claims under the Financial Services Act 1986⁵,
 - (6) claims under the Banking Act 1987⁶,
 - (7) claims under Part VI of the Criminal Justice Act 1988⁷, and
 - (8) claims under the Immigration (Carriers' Liability) Act 1987⁸.

Service of other documents:

- 5.1 RSC Order 11, r.1(2) (service without the court's permission) and RSC Order 11, rule 1(1) (service with the court's permission) apply to service out of the jurisdiction of a petition, application notice or order as they apply to service of a claim form.
- 5.2 Applications to which this paragraph applies include applications made under CPR Rule 23.2(4) before a claim has been started; for example
 - (1) applications made under CPR Rule 25.4(1)(b) for order for disclosure, inspection etc, before a claim has been made, or
 - (2) orders for disclosure under CPR Rule 31.16 before proceedings have started.
- 5.3 RSC Order 11, rule 4 applies where appropriate to an application for permission to serve documents under this paragraph.

² 1965 c.57

³ 1992 c.4

⁴ 1994 c.37

⁵ 1986 c.60

⁶ 1987 c.22

⁷ 1988 c.33

⁸ 1987 c.24

- 5.4 RSC Order 11, rules 5–9 apply to any document for which permission has been granted under this paragraph as they apply to a claim form.
- 5.5 Paragraphs 6, 7 and 8 of this Practice Direction apply as appropriate to response to service of any other document as they apply to response to service of a claim form.

Period for responding to a claim form

- 6.1 Where the permission of the court is required, under RSC Order 11, rule 4, for a claim form to be served out of the jurisdiction, Rule 4(4) requires the order granting permission to specify the period within which the defendant may respond to the claim form.
- 6.2 RSC Order 11, rule 1A sets out period for filing an acknowledgment of service or filing or serving an admission where a claim form has been served out of the jurisdiction without permission under rule 1(2).
- 6.3. RSC Order 11, rule 1B sets out the period for filing a defence where a claim form has been served out of the jurisdiction without permission under Rule 1(2).
- 6.4 The table below specifies the periods for responding to a claim form which has been served out of the jurisdiction without permission—
 - (1) under RSC Order 11, rule 1(2) in a country not covered by rule 1A(2) or (3);
or
 - (2) under rule 1(2)(a).
- 6.5 Where an order grants permission to serve a claim form out of the jurisdiction under RSC Order 11, rule 1(1), the periods within which the defendant may—
 - (1) file an acknowledgment of service in accordance with CPR Part 10,
 - (2) file or serve an admission in accordance with CPR Part 14, and
 - (3) file a defence in accordance with CPR Part 15,
 which, in accordance with RSC Order 11, rule 4(4), are required to be specified in the order will be calculated having regard to the table below.

Period for filing acknowledgment of service or filing or serving an admission

- 7.1 This paragraph sets out the period for filing an acknowledgment of service under CPR Part 10 or filing or serving an admission under CPR Part 14 where a claim form has been served in a place or country listed in the table.
- 7.2 The period for filing an acknowledgment of service or filing or serving an admission is the number of days listed in the table after service of the claim form.

- 7.3 For example, where a defendant has been served with a claim form in the Bahamas, the period for acknowledging service or admitting the claim is 22 days after service.

Period for filing a defence

- 8.1 This paragraph sets out the period for filing a defence under CPR Part 15 where a claim form has been served in a place or country listed in the table.
- 8.2 The period for filing a defence is -
- (1) the number of days listed in the table after service of the claim form, or
 - (2) where the defendant has filed an acknowledgment of service, the number of days listed in the table plus an additional 14 days after service of the claim form.
- 8.3 For example, where a defendant has been served with a claim form in Gibraltar and has acknowledged service, the period for filing a defence is 45 days after service of the claim form.

Address for service

9. CPR rule 6.5(2) provides that a party must give an address for service within the jurisdiction.

Service of application notice

- 10.1 Where an application notice or order needs to be served out of the jurisdiction, the period for responding to service is 7 days less than the number of days listed in the table.
- 10.2 When applying for a date for a hearing adequate time must be allowed for service of the response to the application notice or order.

Further Information

- 11.1 For further information concerning service out of the jurisdiction contact the Foreign Process Office (Rm. E219, The Royal Courts of Justice).

TABLE

Place or country	number of days	Place or country	number of days
Abu Dhabi	22	Angola	22
Afghanistan	23	Anguilla	31
Albania	25	Antigua	23
Algeria	22	Antilles (Netherlands)	31

Place or country	number of days
Argentina	22
Armenia	21
Ascension	31
Australia	25
Austria	21
Azores	23
Bahamas	22
Bahrain	22
Balearic Islands	21
Bangladesh	23
Barbados	23
Belarus	21
Belgium	21
Belize	23
Benin	25
Bermuda	31
Bhutan	28
Bolivia	23
Bosnia-Herzegovina	21
Botswana	23
Brazil	22
Brunei	25
Bulgaria	23
Burkina Faso	23
Burma	23
Burundi	22
Cameroon	22
Canada	22
Canary Islands	22
Cape Verde Islands	25
Caroline Islands	31
Cayman Islands	31
Central African Republic	25
Chad	25
Chile	22
China	24

Place or country	number of days
Christmas Island	27
Cocos (Keeling) Islands	41
Colombia	22
Comoros	23
Congo (People's Republic)	25
Corsica	21
Costa Rica	23
Croatia	21
Cuba	24
Cyprus	31
Cyrenaica (see Libya)	21
Czech Republic	21
Denmark	21
Djibouti	22
Dominica	23
Dominican Republic	23
Dubai	22
Ecuador	22
Egypt (Arab Republic)	22
El Salvador (Republic of)	25
Equatorial Guinea	23
Estonia	21
Ethiopia	22
Falkland Islands and Dependencies	31
Faroe Islands	31
Fiji	23
Finland	24
France	21
French Guiana	31
French Polynesia	31
French West Indies	31
Gabon	25
Gambia	22
Georgia	21
Germany	21

Place or country	number of days
Ghana	22
Gibraltar	31
Greece	21
Greenland	31
Grenada	24
Guatemala	24
Guernsey	18
Guyana	22
Haiti	23
Holland (Netherlands)	21
Honduras	24
Hong Kong	31
Hungary	22
Iceland	22
India	23
Indonesia	22
Iran	22
Iraq	22
Ireland (Republic of)	21
Ireland (Northern)	21
Isle of Man	18
Israel	22
Italy	21
Ivory Coast	22
Jamaica	22
Japan	23
Jersey	18
Jordan	23
Kampuchea	38
Kazakhstan	21
Kenya	22
Kirgizstan	21
Korea (North)	28
Korea (South)	24
Kuwait	22
Laos	30

Place or country	number of days
Latvia	21
Lebanon	22
Lesotho	23
Liberia	22
Libya	21
Liechtenstein	21
Lithuania	21
Luxembourg	21
Macau	31
Macedonia	21
Madagascar	23
Madeira	31
Malawi	23
Malaya	24
Maldives Islands	26
Mali	25
Malta	21
Mariana Islands	26
Marshall Islands	32
Mauritania	23
Mauritius	22
Mexico	23
Moldova	21
Monaco	21
Montserrat	31
Morocco	22
Mozambique	23
Nauru Island	36
Nepal	23
Netherlands	21
Nevis	24
New Caledonia	31
New Hebrides (now Vanuatu)	29
New Zealand	26
New Zealand Island Territories	50
Nicaragua	24

Place or country	number of days
Niger (Republic of)	25
Nigeria	22
Norfolk Island	31
Norway	21
Oman (Sultanate of)	22
Pakistan	23
Panama (Republic of)	26
Papua New Guinea	26
Paraguay	22
Peru	22
Philippines	23
Pitcairn Island	31
Poland	21
Portugal	21
Portuguese Timor	31
Puerto Rico	23
Qatar	23
Reunion	31
Romania	22
Russia	21
Rwanda	23
Sabah	23
St. Helena	31
St. Kitts—Nevis	24
St. Lucia	24
St. Pierre and Miquelon	31
St. Vincent and the Grenadines	24
Samoa (U.S.A. Territory) (See also Western Samoa)	30
Sarawak	28
Saudi Arabia	24
Scotland	21
Senegal	22
Seychelles	22
Sharjah	24
Sierra Leone	22

Place or country	number of days
Singapore	22
Slovakia	21
Slovenia	21
Society Islands (French Polynesia)	31
Solomon Islands	29
Somali Democratic Republic	22
South Africa (Republic of)	22
South Georgia (Falkland Island Dependencies)	31
South Orkneys	21
South Shetlands	21
Spain	21
Spanish Territories of North Africa	31
Sri Lanka	23
Sudan	22
Suriname	22
Swaziland	22
Sweden	21
Switzerland	21
Syria	23
Taiwan	23
Tajikistan	21
Tanzania	22
Thailand	23
Tibet	34
Tobago	23
Togo	22
Tonga	30
Tortola	31
Trinidad & Tobago	23
Tristan Da Cunha	31
Tunisia	22
Turkey	21
Turkmenistan	21

Place or country	number of days
Turks & Caicos Islands	31
Uganda	22
Ukraine	21
United States of America	22
Uruguay	22
Uzbekistan	21
Vanuatu	29
Vatican City State	21
Venezuela	22
Vietnam	28
Virgin Islands - British (Tortola)	31

Place or country	number of days
Virgin Islands - U.S.A	24
Wake Island	25
Western Samoa	34
Yemen (Republic of)	30
Yugoslavia (except for Bosnia-Herzegovina Croatia Macedonia and Slovenia)	21
Zaire	25
Zambia	23
Zimbabwe	22