

REFERENCES TO THE EUROPEAN COURT

PART 68

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68.1 Interpretation

In this Part –

- (a) ‘the court’ means the court making the order;
- (b) ‘the European Court’ means the Court of Justice of the European Communities;
- (c) ‘order’ means an order referring a question to the European Court for a preliminary ruling under
 - (i) article 234 of the Treaty establishing the European Community;
 - (ii) article 150 of the Euratom Treaty;
 - (iii) article 41 of the ECSC Treaty;
 - (iv) the Protocol of 3 June 1971 on the interpretation by the European Court of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters¹; or
 - (v) the Protocol of 19 December 1988 on the interpretation by the European Court of the Convention of 19 June 1980 on the Law applicable to Contractual Obligations²; and
- (d) ‘reference’ means a request to the European Court for a preliminary ruling.

68.2 Making of order

- (1) An order may be made at any stage of the proceedings –
 - (a) by the court of its own initiative; or
 - (b) on an application by a party in accordance with Part 23.
- (2) An order may not be made –
 - (a) in the High Court, by a Master or district judge;
 - (b) in a county court, by a district judge.
- (3) The reference, which must contain the information required by the practice direction supplementing this Part, must be set out in a schedule to the order, and the court may give directions on the preparation of the schedule.

¹ Set out in Schedule 2 to the Civil Jurisdiction and Judgments Act 1982 (c. 27).

² Set out in Schedule 3 to the Contracts (Applicable Law) Act 1990 (c. 36).

68.2A Request to apply the urgent preliminary ruling procedure

Any request by the court to the European Court that the preliminary ruling be dealt with under its urgent preliminary ruling procedure must be made in a document separate from the order or in a covering letter.

68.3 Transmission to the European Court

- (1)** The Senior Master will send a copy of –
 - (a)** the order; and
 - (b)** where relevant, any request to apply the urgent preliminary ruling procedure to the Registrar of the European Court.
- (2)** Where an order is made by a county court, a court officer will send a copy of it to the Senior Master for onward transmission to the European Court.
- (3)** Unless the court orders otherwise, the Senior Master will not send a copy of the order to the European Court until –
 - (a)** the time for appealing against the order has expired; or
 - (b)** any application for permission to appeal has been refused, or any appeal has been determined.

68.4 Stay of proceedings

Where an order is made, unless the court orders otherwise the proceedings will be stayed until the European Court has given a preliminary ruling on the question referred to it.