

Review of Part 6 of the Civil Procedure Rules: Service of Documents

Response to Consultation

14/07

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Review of Part 6 of the Civil Procedure Rules: Service of Documents

**Response to consultation carried out by Her Majesty's Courts Service,
part of the Ministry of Justice. This information is also available on the
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Introduction

This document is the post-consultation report for the consultation paper, *Review of Part 6 of the Civil Procedure Rule Service of Documents*

It will cover:

- the background to the report;
- a summary of the responses to the report;
- a detailed response to the specific questions raised in the report; and
- the next steps following this consultation.

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Background

The consultation paper Review of Part 6 of the Civil Procedure Rules: Service of Documents was published on 5 July 2007. It invited comments on proposals to clarify and improve the rules relating to service within England and Wales (Civil Procedure Rules (CPR) 6.1 - 6.16). The proposals took account of a number of Court of Appeal decisions about the construction of the rules. It proposed to re-structure Part 6 to make the rules easier to follow.

The paper sought views on a number of possible changes including:

- **Last known address** - where the claimant knows that the defendant no longer resides at the last known address should they be required to consider alternative methods;
- **Time limit for service of claim form** - whether the time limit for serving the claim form should apply to the time within which the claimant must despatch the claim form;
- **Date of deemed service** - all dates for deemed service to be business days;
- **Method of service** - whether postal service should be extended to non-post office equivalents of First Class post and service on an e-mail address should be treated as service on a fax address;
- **Method of service in Scotland and Northern Ireland** - whether a claim form or other document that is to be served in Scotland or Northern Ireland may be served by a method permitted by the Civil Procedure Rules;
- **Service by an alternative method** - whether the court should be given the power to order alternative service retrospectively;
- **Address for service** - ability to provide an address for service anywhere within the UK or up to three addresses of which at least one a postal address;

The Consultation period closed on 28 September 2007 and this report summarises the responses, including how the consultation process influenced the final shape/further development of the policy/proposal consulted upon.

A list of respondents is at Annex A.

Summary of responses

1. Sixty responses were received to the consultation:

- Thirty-five were from legal practitioners or their representative bodies.
- Fourteen were from business interests, principally insurance and credit companies, and process service providers.
- Six were from members of the judiciary or representative judicial bodies.
- Five were from other public bodies - HM Revenue and Customs, Legal Services Commission, Secretariat to the Sheriff Court Rules Council (Scotland), Welsh Language Board and Waveney District Council.

Responses to specific questions in the consultation paper

2. What constitutes good service?

Question 1: Do you agree that it is necessary to retain the principle that good service is effected if the claimant follows the procedural requirements for sending a document, regardless of whether it is actually received?

Response: Yes: 51 No: 2 No comment: 7

Fifty-three respondents out of sixty commented on this proposal. The vast majority was in favour of the proposal. Those in favour were attracted by the certainty. It was agreed that the current system works well and that requiring the claimant to prove a document was actually served would be too onerous for the claimant and subject to abuse by unscrupulous defendants. The Law Society said "There must be a clear mechanism by which the claimant can effect service, the Society agrees it should be retained. There is always the safeguard that the defendant can apply to have service set aside".

One of those who did not agree with the proposal suggested that the claimant should make reasonable enquiries to locate the defendant. In the event that an application to set aside a default judgment is made, the claimant should be called on to produce evidence of those enquiries.

Question 2: Do you agree that the court’s discretion to set aside default judgments provides adequate protection for the defendant? If not what further protections do you propose?

Response: Yes: 47 No: 6 No comment: 7

Fifty-three respondents commented on this proposal with the majority believing that the court’s discretion to set aside a default judgment was sufficient protection for the defendant. The current procedure allows the defendant to state his case to the court and gives him the opportunity to defend the claim, thereby effectively putting him in the position he would have been in if he had received the claim form. However, a number pointed out that the defendant had to show a real prospect of successfully defending a claim before judgment may be set aside.

One respondent took the view that the current system penalises the defendant for being late with documentation and sets a bar far higher than just having to file a constructive defence. In order to provide a level playing field the application itself should be sufficient.

Another respondent, who was generally in agreement with the proposals, went on to suggest that the protection could be improved by requiring the claimant to always notify the defendant of an intention to secure a judgment in default in advance of his actually doing so.

3. Reasonable enquiries into ‘last known’ address

Question 3: Do you agree that a claimant should be required to carry out reasonable enquiries into the defendant’s whereabouts before serving on an address that he knows is no longer current, but not otherwise?

Response: Yes: 42 No: 13 No comment: 5

Forty-two, of the fifty-five respondents who expressed a view, agreed with this proposal. This question arose from confusion over the reasonable steps a claimant should take to locate the defendant’s last known residence or place of business before attempting service.

Currently the extent of the enquiries may vary from case to case depending on the information the claimant has, how old the information is and the identity of the defendant. This can leave the claimant uncertain whether service on what he considers the last is the last known address will be treated as good service by the court.

Those in favour expressed the view that reasonable enquiries should be proportionate to the value of the claim. Such enquiries should be generally take the form of checking an online database such as the electoral register or directory enquiries, rather than employing an enquiry agent.

One respondent proposed that the simplest way to avoid argument and uncertainty is to say that service at the last known address is good whether or not the claimant knows the defendant is no longer there. The defendant's position is protected by being able to apply to set aside the judgment, assuming he can show in addition that he has a real prospect of a successful defence.

Those against the proposal queried what is meant by reasonable enquiries and expressed the view that the claimant cannot know what are reasonable enquiries. The general view was that the rules should set out what those enquiries should be to avoid satellite litigation. Those against also raised the issue that the obligation to conduct such enquiries will be an added expense for the claimant.

Question 4: Where the claimant knows that the defendant no longer resides or carries out business at the last known address, should they be required to consider alternative methods of service and, if appropriate, to apply for the court's permission?

Response: Yes: 38 No: 18 No comment: 4

Fifty-six respondents expressed a view on this proposal. The majority of those who responded were in favour of this proposal. Those supporting the proposal felt that where the defendant no longer resides or carries out business at the last known address, the claimant should be required to consider alternative methods of service. The Commercial Court Committee said that it is clearly wrong that a claimant can know that a defendant is not going to receive a claim form and yet proceed as if he were.

Some suggested that the proposal would lead to satellite litigation over what are appropriate alternative methods. A common theme was a request that either the rule or practice direction set out a list of permitted alternative methods of service.

Those against cited that it an additional obligation on the claimant would cause additional expense and is likely to cause delays in a case. They state the right to set aside judgment as sufficient protection for the defendant.

Some suggested that the claimant should be free to use alternative methods of service without requiring the claimant to seek the court's permission to do so. Once the rules provide for alternative methods of service the claimant should be free to adopt it but on the basis that if the defendant subsequently shows such a course

was unreasonable or unnecessary, the claimant would be required to pay the costs thrown away.

4. Date of deemed service

Question 5: Do you agree that the time limit for serving the claim form should apply to the time within which the claimant must despatch the claim form after the date of issue? If not please explain why not?

Response: Yes: 25 No: 28 No comment: 7

Fifty-three respondents out of sixty commented on this proposal. The responses are closely balanced.

Twenty-five respondents agreed with the proposal and twenty-eight disagreeing. The main reasons given in support are that service is often left until the last minute. The proposal will provide a higher level of certainty for the claimant in calculating the time limit, if the date referred to is the date the claimant dispatched the claim.

Those disagreeing argued that the existing rule is clear and easily understood and that the proper interpretation of the current rule and those of the deemed provisions, are now settled. Court cases have made it clear that claimants should take responsibility for service. It is argued that actual or deemed service should continue to mean receipt of the claim form. It is up to the claimant whether to wait until the time for service has expired or to serve well within time. The claimant knows exactly the latest date by which he must put the claim form in the post to achieve service by a particular date.

Some said that prejudice to the claimant is not caused by the current rules but by their own fault and do not consider the proposal will bring improvement for the claimant apart from the benefit of few extra days. It is entirely within the control of the claimant not to wait to the last minute to serve. He has numerous options to ensure that valid service is achieved. The cases where the alleged unfairness to claimants is said to occur is where claimants or their solicitor have left it to the very last moment to issue proceedings. The claimant should not be allowed to escape the consequences of their actions to the detriment of the defendant.

A few pointed out that further satellite litigation would arise as to what is meant by 'despatch' and operation of the new rule. In disputed cases e.g. compliance with a limitation period the proposal would require a defendant to prove something he may not be aware of i.e. the date of despatch

Question 6: Should there be a standard period for determining the date of deemed service date for all methods of service, for example 2 days after despatch (being the longest current period)?

Response: Yes: 27 No: 24 No comment: 9

Fifty-one respondents out of sixty commented on this proposal. Again, the responses are closely balanced.

Twenty-seven respondents agreed with the proposal, with twenty-four disagreeing. The main reasons given in support are that this will simplify the process arguing that various periods for deemed service are confusing and inappropriate.

A number of respondents agreed with the proposal for a standard provision for postal service, which they felt would provide certainty for the claimant, but felt that a quicker deemed date should be allowed for electronic service

Some suggested that the standard period should apply only to post but not for electronic service. Brachers Solicitors suggested that it should apply only in relation to service of the claim form and that as regards service of other documents, to meet the needs of urgent service, different periods ought to apply for determining deemed dates.

Delloite & Touche said 'There should be a standard and appropriate date for deemed service. We have long failed to understand how a claim form sent by first class post to a company by first class post on a Friday is deemed served on a Sunday when a) there is no post and b) the company will almost certainly be closed. Where a fax is sent at 4.01pm on the same Friday is deemed served on the following Monday. The current confusion on this issue where there are different methods of service increases legal costs for claimants and defendants alike'.

The majority disagreeing argued that the present rule causes no difficulty and see no reason for the proposed change. The option to use a quicker method with a shorter deemed service date is useful. A large number pointed out the flexibility of the current system: shorter time periods allow additional flexibility to the parties to a claim; it permits for urgent claims to be issued and served and for urgent applications to be made with notice; this assists in ensuring that time-critical matters are dealt with promptly and that proceedings progress in an expeditious manner. Same day service by fax is a very useful and it is appropriate that provision should be retained for urgent service. The Personal Injury Bar Association commented 'PIBA does not see the need for a standard period. In practice, same day service by fax is very useful and a much used method'. This view was shared by a number of others on same day service.

It is argued that this flexibility should be maintained. The proposal negates the improvements brought about by technology. Immediate forms of communication such as email and fax should have a quicker deemed date. The two days should not apply to personal service or in the case of leaving the document at the property.

Question 7: Do you agree that deemed service should take place on a business day? If not please explain why not

Response: Yes: 51 No: 3 No comment: 6

Fifty-four respondents commented on the proposal with an overwhelming majority in favour. One respondent commented that although different periods were well understood by lawyers and commercial enterprises, most lay people might be surprised by the fact that deemed dates of service can expire on non-business days, when it may be that no immediate action can be taken in response to the service. Standardisation based on business days would both simplify and make more comprehensible the existing rules. Another respondent made the point that if service is to be made on an individual his/her private capacity he/she may still need to consult a solicitor or other legal representative. If service takes place on a Saturday before a bank holiday, the defendant would be unable to obtain legal advice or respond to the claim form for three days for reasons beyond his/her control.

Question 8: Should the deemed served date for e-mail be in line with fax service i.e. on that day if its transmitted on a business day before 4.30pm, or in any other case on the next business day? Please give reasons for your view

Response: Yes: 45 No: 10 No comment: 5

Fifty-five respondents expressed an opinion on this proposal. The majority was in favour of this proposal, expressing the view that e-mail and fax are normally instant methods of service and time of receipt is comparable. Some welcomed the extension of the business day until 4.30pm, whilst others felt it should be kept at 4pm.

Some raised concerns that a fax will be sent to an office where a number of people will be able to gain access to it, whereas an e-mail is personal to a recipient.

The general view was that it was reasonable for someone who has expressly indicated that they were willing to accept service by fax or e-mail and has given notice of the fax number or e-mail address to which documents should be sent, to

be required to have a system of regularly checking and distributing documents received. However, if someone has not expressly stated that they are willing to accept such service but have merely included a fax number or e-mail address on their notepaper, it would be unfair to allow service to be effected by fax or e-mail.

5. Methods of Service

Question 9: Should postal service be limited to first class or equivalent services, or should any postal service be allowed? In the latter case, how much extra time (if any) should be built into the deemed date of service?

Response: Yes: 48 No: 5 No comment: 7

The majority of the respondents indicated that first class post or equivalent services should be retained and not extended to other methods of postal service. General comments were that other services were arguably less reliable and certainly slower than first class post and equivalent services. Delivery times of such services may vary leading to questions over the reasonableness of the deemed date of service. Respondents could see no significant advantage in the use of services other than next day delivery and they did not want to build in extra time for deemed service by other methods as this went against standardisation.

One respondent commented that “everyone has access to the Royal Mail. The other mail services are predominantly for business and bulk delivery, inappropriate for the service of a claim form. Everyone receives deliveries from the Royal Mail, so why add complication to a postal service we have had for a long time, which everyone recognises and understands? I am not aware of any point being raised in any of the relevant cases that using first class Royal Mail caused the claimant a problem”.

Question 10: Do you think that service on an e-mail address should be allowed as the same basis as service on a fax address (e.g. if the e-mail appears on the legal representatives letterhead)? If not are there any alternative options?

Response: Yes: 25 No: 29 No comment: 6

Fifty-four respondents out of sixty commented on this proposal. The responses are closely balanced. Twenty-five respondents agreed with the proposal, with twenty-nine disagreeing. The main reasons given in support are service by email is now far more efficient and convenient and the practice direction properly cautions the

sender to check potential problems, such as the maximum size of attachments, before sending the email. The judicial respondents were in favour whereas the legal profession and business respondents were fairly split down the middle.

Some have suggested that the rules should impose a maximum on the volume of material, which can be served by such methods at a time. Very bulky documents can cause fax machines to be tied up for long periods of time and e-mails not to be delivered. One suggested that the claimant to state what attachments are enclosed and their format and also to put the claim form into the body of the email. Another suggested the email address should be that which appears not only on letterheads but also on the company's website, newsletters and advertisements.

Those disagreeing argued that the possible technical failures that may result in difficulties and non-receipt of documentation served by e-mail is very high. The following issues were identified:

- The numerous formats of e-mail mean that one can never be sure that an e-mail can be opened when it arrives. The recipient's system might send an automated receipt, but that does not mean that the text can be opened or read. Large or complex e-mails can become shredded in passing the various transports before they reach the recipient. Any fault on the recipient's computer, caused by a virus, spyware or simply badly set-up programming, can prevent receipt or prevent an e-mail actually received from being opened and read. A fault on the sender's computer can have the same effect.
- Many companies use systems designed to block the inappropriate use of email and internet pornography. These systems can be triggered by seemingly quite innocuous phrases and words that have double meanings. The blocking of suspect emails may occur without the sender, or the intended recipient, being aware that it has happened.
- While these problems could be reduced by a requirement that businesses nominate a particular email address as their 'email address for service', the potential for confusion and uncertainty seems to outweigh the likely advantages of changing the rule.

The Legal Services Commission pointed out that the proposal would not be appropriate to apply to solicitors working for public bodies as separate legal teams may deal with correspondence and litigation. For example regional solicitors might place an e-mail address on their headed notepaper in order to deal with customers of the public body but are not tasked to deal with litigation against the public body. A separate legal team based at Head Office is often responsible for such purposes, and their headed notepaper might not contain an e-mail address. It is suggested that prior express authorisation is required.

Question 11: Should the court be given the power to order retrospectively that service by an alternative method is valid? Please give reasons for your view?

Response: Yes: 39 No: 12 No comment: 9

The majority of those in favour of the proposal expressed the view that the flexibility that this proposal provides is desirable but the power should be used sparingly and in exceptional circumstances. Otherwise there is a danger that litigators will be tempted to abuse the provision by serving defectively and seeking to remedy the defect after the event, rather than applying to the court for an appropriate order before service is effected. It should be used to deal with matters in accordance with the overriding objective.

Those against the proposal argued that to allow for retrospective authorisation of alternative service methods would lead to uncertainty for the defendant who has been provided with a claim by method which does not amount to good service. Others commented that this would open the way for a “free for all” where claimants could use a variety of methods of service and then seek retrospective permission from the court to validate such service.

6. Methods of Service in Scotland and Northern Ireland

Question 12: Do you agree, in principle, that the methods of service of claim forms or other documents on defendants in Scotland and Northern Ireland (in proceedings commenced in England and Wales) should be those permitted in England and Wales, without reference to the methods of service permitted under the procedural laws of Scotland or Northern Ireland respectively? If not why not

Response: Yes: 43 No: 10 No comment: 7

The majority of respondents were in favour of this proposal on the basis that Scotland and Northern Ireland share a common language with this country and the same postal service. Most welcomed that a reciprocal arrangement be set up with each jurisdiction.

It was recognised that the proposal would save time and cost. One respondent said “ The current system is frustrating to claimants because of lengthy and costly methods of service. Currently, commencing proceedings against parties in Scotland and Northern Ireland may raise proportionality issues, especially with small claim cases and this can often be prejudicial to the claimant from a costs perspective”.

Those against the proposal expressed the view that Scotland and Northern Ireland were separate jurisdictions and that those jurisdictions procedural requirements should be respected. The Law Society, who opposed the proposal, said “In international litigation the basic principle is that you effect good service if you do so in compliance with the local rules”

Question 13: If so, should this extend to personal service (by the claimant or his agent or solicitor)?

Response: Yes: 40 No: 10 No comment: 10

The majority agreed with this proposal with some suggesting it would be beneficial to solicitors in England and Wales. There were comments that the rules on personal service should be no different than in England and Wales. However, those against expressed the view that personal service in Scotland can only be carried out by a Scottish Court Officer and to extend this to the claimant was questionable and would be a matter of concern to the judiciary, practitioners and firms of Sheriffs Officers.

7. Service of claim forms in property claims

Question 14: Do you think in respect of property claims it should be possible to effect service of a claim form at a relevant address in England and Wales on the Land Register or an address given under s.48 of the Landlord and Tenant Act 1987? If not why not

Response: Yes: 31 No: 13 No comment: 16

The majority of those who provided comments were in favour of this proposal. However, the general view was that the Land Registry address was not reliable as it was rarely, if ever, updated. There was a general consensus that the s.48 address should be permitted as it was given to tenants specifically as an address for service. One respondent pointed out that although such address might become out of date, it should in principle be reliable.

A number of respondents sought a clear definition of a property claim and those against the proposal raised concerns about having different rules in respect of property claims, which they felt would add to the complexity for litigants.

8. Addresses for service in proceedings: Scotland and Northern Ireland

Question 15: Should a party be able to give an address for service anywhere within the United Kingdom? If not why not

Response: Yes: 43 No: 9 No comment: 8

The majority took the view that an address anywhere in the UK should be permissible. Some said this should be the case only if service methods are constant and do not vary from region to region. The Council of Her Majesty's Circuit Judges expressed the view that there is no longer any sensible reason why a party resident in Scotland or Northern Ireland should not be able to give an address for service in those jurisdictions where he may have his solicitor. It adds additional expense to require him to have an agent in England and Wales. One respondent suggested that a party should be allowed to give an address anywhere in the UK only if they certify that they do not have an address in England and Wales. They went on to suggest that if such a party is subsequently found to have misled the court and they did in fact have an address in England and Wales then they should be penalised on costs.

Those against the proposal expressed concerns about contacting the defendant and one respondent said that if a party submits to the jurisdiction then his address for service should also be within the jurisdiction.

Question 16: Should a party be able to give an address for service anywhere within the EU? If not why not

Response: Yes: 23 No: 29 No comment: 8

Fifty-two respondents out of sixty commented on this proposal. Again opinions are closely balanced. Twenty-three respondents agreed with the proposal. The main reasons given in support are that it is a sensible move with a limited impact. Given the possibility of postal and/or direct service under the EU Service Regulation, and the fact that service can generally be effected within the EU without the court's permission under the Brussels Regulation, if the conditions in CPR 6.19 are satisfied.

There were mixed views as to what should be the address. Some suggested that the address should be the party's residential address or a place where the party carries on business or the address within the EU has "a real connection with the claim". Another view is that this may depend on which ground of jurisdiction proceedings have been founded upon. If it is on the defendant's residence then service would require to be made at that address. If it is founded on contract -

place of performance then service can be made at the address of the defendant whether this is within or outside Europe.

A few suggested that an EU address should only be provided where the party does not have a residential or business address in England or Wales.

Twenty-nine respondents did not agree with this proposal, of those disagreeing with the proposal a large number of respondents argued that the proposal will lead to practical problems which will make service of urgent documents difficult. It was emphasised that costs implications could be significant and would lead to abuse and enforcement would be difficult.

Question 17: Do you think that a party should be able to provide up to three addresses for service of which at least one should be a postal address within the UK (or EU)? If not why not

Response: Yes: 22 No: 26 No comment: 12

Twenty-two respondents agreed with the proposal and twenty-six did not. A large number of respondents were not clear whether the proposal required the claimant to attempt service on all three addresses or just the one. This may be a reason why many disagreed with the proposal.

The main reasons given in support of the proposals are the additional flexibility of an electronic address or P.O. Box number together with an address in the UK or EU could be useful for both defendants and claimants alike. This could avoid the need for an overseas party to appoint an agent for service of process within the jurisdiction, and instead simply provide an address for service (whether within the UK or the EU).

Some expressed caution and advocated at least one address should be a postal address within the UK or within England and Wales.

Twenty-six respondents did not agree with this proposal, of these eighteen were from the legal profession, six businesses and two from the judiciary. Those disagreeing argued that the use of multiple addresses would lead to confusion and burdensome for the parties.

9. Certificate of service relating to the claim form (Rule 6.14)

Question 18: Do you agree a) that the time limit for filing a certificate of service of a claim form should be changed from 7 days to 14 days to align it

with the period for acknowledgement of service? And b) Is a certificate of service necessary when an acknowledgement of service has been filed?

Response:

18a) Yes: 27 No: 4 No comment: 6

18b) Yes: 6 No: 34 No comment: 1

There were clear views that the time limit for filing a certificate of service should be changed from 7 to 14 days to align it with the period for filing an acknowledgement of service. The majority did not consider that a certificate of service is necessary when an acknowledgement of service had been filed. Some respondents went further and suggested that there should be no requirement to file a certificate of service at all unless the claimant wants to apply for judgment in default, when he needs to show the defendant was properly served.

One respondent expressed the view that a certificate of service still serves a purpose even when an acknowledgement is filed, to confirm what documents were served. With regard to certificates generally the Association of District Judges urged that the new rule 6.14 have added to it a provision that unless the court orders otherwise, copies of the documents served should not be attached to the certificate of service.

10. Service of claim form on solicitor

Question 19: Should references in Part 6 to solicitors be replaced by references to any authorised litigator. If you think not, please give reasons for your view?

Response: Yes: 43 No: 4 No comment: 13

The majority of respondents were in favour making the change. A number suggested the reference should be to “a solicitor or other litigator” on the basis that it may not be immediately apparent that all solicitors are authorised litigators and to avoid any confusion.

Those who disagreed had concerns about inconsistent protection for parties to litigation and one respondent envisaged problems where a party appointed someone who is not an authorised litigator. A number of respondents said that

“authorised litigator” should be clearly defined and one suggested this be done so in CPR 2.3(1).

11. Service of Judicial Review Proceedings

Question 20: Do you agree that judicial review claims against the Crown should be served in the same way as civil proceedings against the Crown, in that service must be on the relevant solicitor for the particular Government Department as set out in the list of authorised Government Departments annexed to Part 66. If not please explain why not

Response: Yes: 38 No: 1 No comment: 21

The overwhelming majority of those who commented were in agreement with the proposal. The general view from those who commented was that the proposal would provide much needed certainty to both the applicant and the relevant government departments and minimise the risk of delay. Others commented that the proposals would simplify matters for solicitors.

The one respondent who did not agree answered this question in conjunction with the next and felt that it was impractical to draw up a definitive list of addresses for service of documents covering all bodies susceptible to judicial review proceedings.

Question 21: Are there other categories of judicial reviews where it would be desirable and practical to specify addresses for serving judicial review claims forms?

Response: Yes: 11 No: 15 No comment: 34

Eleven respondents were in favour of this proposal with fifteen against and thirty-four making no comment.

Eleven respondents were in favour of this proposal with fifteen against and thirty-four making no comment. Amongst those against the point was made that it is unlikely to be practical to draw up a definitive list of addresses for service for all bodies subject to judicial review. One respondent suggested that it may be more practical to require bodies that are subject to judicial review to publicise an address themselves and make it more easily available on request.

12. Rule 71.3 Order to obtain information

Question 22: Should the distinction between the county court and the High Court be removed so that a judgment creditor who is an individual litigant in person has the option to effect personal service personally in all courts?

Response: Yes: 41 No: 2 No comment: 17

The majority was in favour of this proposal with many commenting that they saw no reason for the distinction between the county court and the High court. Some concerns were raised that litigants in person may not serve documents properly but they are already able to do so in the High Court and no problems have been highlighted in the responses.

13. Proposed draft rules

Question 23: Do you have any comments on the proposed draft of Part 6? Please state what these are and give reasons for your views

Response: Yes: 29 No: 17 No comment: 14

General views were that the new rules were clear and intelligible. There were comments that the structure was clearer. The more detailed proposals were considered by the sub-Committee and incorporated into their recommendations where they felt it appropriate.

Conclusion and Next Steps

1. The responses to the consultation showed clear support for 17 of the 23 proposals. The Committee considered the responses and agreed that those proposals that were clearly supported should be taken forward. These include;
 - The claimant to dispatch the claim form within four months of issue, rather than it being received by the respondent in that time.
 - All deemed service to be on a business day
 - The claim will be deemed to be served two days after dispatch by whatever means of dispatching.

- The court will be given the power to order retrospectively that service by an alternative method or at an alternative place is valid.
 - Service in Scotland and Northern Ireland should be effected by methods provided in the CPR including personal service.
 - It should be possible to at an address provided under s.48 of the Landlord and Tenant Act 1987 in any proceedings between a Landlord and Tenant.
 - Parties should be allowed to give an address for service anywhere in the UK.
 - The time limit for filing a certificate of service should be extended to 21 days and the certificate should be waived if an acknowledgement of service is filed with the court.
 - References in CPR Part 6 to a solicitor should be replaced by 'a solicitor or other authorised litigator.'
 - Judicial reviews of Government departments should be treated in the same way as civil proceedings against the Crown for the purpose of service
2. The responses to six questions was not so clear cut; Questions 5,6,10,16,17 and 21. The arguments each way are set out in the body of this report. The Committee took the following views;
 3. Question 5 – *Do you agree that the time limit for serving the claim form should apply to the time within which the claimant must despatch the claim form after the date of issue? If not please explain why not?*

The Committee acknowledged that a number of respondents said that the current rule was clear and easily understood. However, they wished to give certainty to the claimant and agreed with the view that there was little detriment to the defendant as the proposal merely added two days to the theoretical period. The Committee were not persuaded that the proposed change would lead to additional litigation around defining the date of dispatch as this date needs to be known now to ascertain the deemed date of service. The Committee therefore agreed to amend rule 7.5 to require the claimant to dispatch the claim form within four months of issue and not for it to be deemed served on the defendant within that time.

4. Question 6 – *Should there be a standard period for determining the date of deemed service date for all methods of service, for example 2 days after despatch (being the longest current period)?*

The Committee considered the views of respondents and took the view that those who argued that faster methods are useful had a good point with regard

to documents other than the claim form. However, if the proposal in question five is accepted, the speed and method of service is irrelevant from the claimant's point of view.

The Committee therefore decided that the date for deemed service of a claim form should be two business days after dispatch, by whatever means. The case was different for other documents where a faster deemed date of service may be required. The Committee agreed that two days should be retained for post and DX and that the date for hand delivery and personal service should be aligned with the current service for fax/e-mail, in that if it is served before 4.30pm it is served that business day, or if it is served after 4.30pm, it is deemed to be served the next business day.

5. Question 10 – *Do you think that service on an e-mail address should be allowed as the same basis as service on a fax address (e.g. if the e-mail appears on the legal representatives letterhead)? If not are there any alternative options?*

The Committee recalled that similar arguments were put forward about the use of technology when fax service was proposed and were not convinced by some of the arguments relating to the technology. However, they were persuaded by the point that e-mail addresses tend to be specific to an individual, whereas a fax machine is a common resource that can more easily be monitored at all times. The Committee agreed that the PD be amended to allow specific e-mail addresses for service if a party requested it be used. Although strictly not necessary as this could be done now, a reference could encourage use of this option. In the longer term the Committee thought that provision of e-mail addresses by legal representatives should be made compulsory and this should be flagged up at an early stage.

- 6, Question 16 – *Should a party be able to give an address for service anywhere within the EU? If not why not*

The Committee was aware that we may be vulnerable to infraction proceedings in the European Court of Justice if we did not allow addresses in the EU. It was agreed this should be looked into further by the sub-Committee and a more detailed paper on this issue will be provided to the Committee for the March 2008 meeting. If changes have to be made the sub-Committee were attracted to the proposal that an EU address should only be provided where a party does not have a residential or business address, in England and Wales.

7. Question 17 - *Do you think that a party should be able to provide up to three addresses for service of which at least one should be a postal address within the UK (or EU)? If not why not*

The Committee felt that the responses indicated some confusion over the question, although three addresses would be provided it would be agreed at an early stage which of those would be used for service. The sub-Committee agreed that this issue should be looked at again along with consideration of question 16 and proposals will be brought to the main Committee in March.

8. Question 21 – *Are there other categories of judicial reviews where it would be desirable and practical to specify addresses for serving judicial review claims forms?*

The Committee agreed that it may well not be practical to draw up and maintain a definitive and up to date list within the Civil Procedure Rules. However, they wished to consider the matter further and to give officials the opportunity to discuss this with the Administrative Court and other Government Departments, before putting forward proposals to the Committee.

9. The sub-Committee will look again at the provision of address for service in the EU and providing more than one address for service (questions 16 and 17) and also consider extending the specified addresses for serving judicial reviews (question 21).
10. Attached are the draft Rules and Practice Directions. Further comments on the drafting of these are welcome. The Civil Procedure Rule Committee are not seeking comments that re-open policy decisions set out in this document but on how those changes have been given effect and the drafts generally. Comments should be sent to:

Sean Rigney
Her Majesty's Courts Service
Civil Law and Justice Division
5th Floor (post point 5.19)
Selborne House
54-60 Victoria Street
London
SW1E 6QW

Tel. 0207 210 1461
Fax. 0207 210 8825

Further comments are requested by 2 **May 2008**

11. The Committee will have a further opportunity to consider the drafting of the new rules and practice directions in May 2008 and will be asked to sign them off in June 2008 for implementation in October 2008.

Consultation Co-ordinator contact details

If you have any complaints or comments about the **consultation process** rather than about the topic covered by this paper, you should contact the Department for Constitutional Affairs Consultation Co-ordinator, Laurence Fiddler, on 020 7210 2622 or email him at consultation@dca.gsi.gov.uk

Alternatively, you may wish to write to the address below:

Laurence Fiddler
Consultation Co-ordinator
Department for Constitutional Affairs
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given on page 3.

The Consultation Criteria

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These criteria must be reproduced within all consultation documents.

Annex A: List of respondents

Judiciary

HH Judge Christopher Tetlow

District Judge Grand

Master Winegarten

Stuart Hunter – Deputy President to the Society of Messengers-at – Arms and Sheriff Officers (Scotland)

District Judge Mildred – Association of District Judges

HH Judge Neil Bidder QC-Council of Her Majesty's Circuit Judges

Legal Profession

Gemma Hadlow - PainSmith Solicitors

Richard Clarke - Solicitor

Aisha Abdallah -Hewitson Solicitors

David Melville QC- London

Common Law and Commercial Bar Assoc

Andrew Butler (Barrister)

Geoff R. Owen – Greenwoods Solicitors

Rupert Barnes

Sarah Teele –Olswang

Quentin Underhill – Eversheds LLP

Kate Elsmore – Mayer Brown International LLP

Anthony de Garr Robinson QC –Chancery Bar Association

Helen Anthony –Association of Personal Injury Lawyers

Kate Burnham –Allen & Overy LLP

Kate Menin –Addleshaw Goddard LLP

Jeff Lewis –Brabners Chaffe Street LLP

Simon James –Clifford Chance LLP

Richard Langley –Bircham Dyson Bell LLP

Suzanne Day –Beachcroft LLP

Chris Fletcher –Halliwells LLP

Ciara McDonald –Herbertsmith LLP

Sharon Flynn – The Institute of Legal Executives

Aileen McErlean –Geoffrey Leaver Solicitors

Jennie Walsh –Thompsons Solicitors

Paul McCulloch –Lovetts Plc

Christopher Hutson (Solicitor)-Fairchild Greig)

James Arrowsmith –Browne Jacobson LLP

Louise Fuller – Commercial Litigation Association, Barlow Robbins LLP

Nina Unthank – Personal Injuries Bar Association

Robert Thompson –Brachers

Giles Hutt-Lovells LLP

Melanie Rabassa- Deloitte & Touche LLP

Stella Dunn – City of London Law Society

Martin Heskins – Law Society

Sally Raeburn-Liverpool Law Society

Stephen Males QC- Commercial Court Committee

Kate Menin –Addleshaw Goddard LLP
Jeff Lewis –Brabners Chaffe Street LLP
Simon James –Clifford Chance LLP
Richard Langley –Bircham Dyson Bell LLP
Suzanne Day –Beachcroft LLP
Chris Fletcher –Halliwells LLP
Ciara McDonald –Herbertsmith LLP
Sharon Flynn – The Institute of Legal Executives
Aileen McErlean –Geoffrey Leaver Solicitors
Jennie Walsh –Thompsons Solicitors
Paul McCulloch –Lovetts Plc
Christopher Hutson (Solicitor)-Fairchild Greig)
James Arrowsmith –Browne Jacobson LLP
Louise Fuller – Commercial Litigation Association, Barlow Robbins LLP
Nina Unthank – Personal Injuries Bar Association
Robert Thompson –Brachers
Giles Hutt-Lovells LLP
Melanie Rabassa- Deloitte & Touche LLP
Stella Dunn – City of London Law Society
Martin Heskins – Law Society
Sally Raeburn-Liverpool Law Society
Stephen Males QC- Commercial Court Committee

Business

Mark W. Peachman – Sappire
Dominic Cooper –Daniels Silverman Ltd
John Roland Wynne Derwanz-1st Call Private Detectives Ltd
Tony Imossi – Solicitors Law Services
Rex Forrester – MDU Services Ltd
Claire Aynsley – Credit Services Association
Kate Atkinson –Institute of Credit Management
Pia-Cody Styles –Practical Law Company Ltd
Paul Greaves – Norwich Union General Insurance TCS-Legal
Liz Webb –Callcredit Limited
Caroline Abbott –Amlin Insurance Services
David Powell – Lloyd’s Market Association
Civil Court Users Association

Government Departments

Max Smith – HM Revenue and Customs
Ruth Wayte – Legal Services Commission
Steve Mccourt-Secretariat to the Sheriff Court Rules Council (Scotland)

Ianto Brychan – Welsh Language Board

Local Authority

Leigh Butler – Waveney District Council

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PART 6

SERVICE OF DOCUMENTS

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*I SCOPE OF THIS PART AND INTERPRETATION***Part 6 rules about service apply generally**

6.1. 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.

(For service in possession claims see Part 55.)

Interpretation

6.2. In this Part—

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

*II SERVICE OF THE CLAIM FORM IN THE JURISDICTION***Methods of service**

6.3.—(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 the practice direction 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 the practice direction supplementing this Section of 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(c) or the Companies Act 2006(d).

(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.

(a) 1990 c.41.
(b) 1971 c.80.
(c) 1985 c.6.
(d) 2006 c.46.

Who is to serve the claim form

6.4.—(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
- (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.

Personal service

6.5.—(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 66 contains provisions about Crown proceedings and Part 54 contains provisions about judicial review claims.)

(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.

(The practice direction supplementing this Section of this Part sets out the meaning of ‘senior position’.)

(4) A claim form may be served personally on any of the defendants referred to in paragraph (3) by—

- (a) the claimant or a person acting as the claimant’s agent;
- (b) a solicitor acting for the claimant or a person acting as an agent for or an employee of the claimant’s solicitor; or
- (c) a court officer.

Where to serve the claim form – general provisions

6.6.—(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.

Service of the claim form on a solicitor

6.7. Subject to rule 6.5(1), where—

- (a) the defendant has given the business address 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 that the solicitor is instructed by the defendant to accept service of the claim form on behalf of the defendant,

the claim form must be served at the business address of that solicitor.

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

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

6.8. 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 other than a Post Office Box 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(a).

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

6.9.—(1) Where—

- (a) rule 6.5 (personal service); and
- (b) rule 6.7 (service of claim form on solicitor);

do not apply and the defendant has not given an address under rule 6.8, the claim form must be served on the defendant at the place shown in the following table.

| <i>Nature of defendant to be served</i> | <i>Place of service</i> |
|--|--|
| 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 |

(a) 1987 c.31.

| | |
|---|---|
| 5. Corporation other than a company incorporated in England and Wales | connection with the claim. 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. |

(2) Where a claimant knows that the address of the defendant referred to in entries 1, 2 or 3 in the table in paragraph (1) is an address at which the defendant no longer resides or carries on business, the claimant must take reasonable steps to discover the address of the defendant's current residence or place of business.

(3) Where, having taken the reasonable steps required by paragraph (2), the claimant—

- (a) ascertains the defendant's current address, the claimant must serve the claim form 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, there is a real prospect of effecting service on the defendant.

(4) If, under paragraph (3)(b), there is such a place where or a method by which service could be effected, the claimant must make an application under rule 6.15.

(5) Only where the claimant—

- (i) cannot ascertain the defendant's current residence or place of place;
- (ii) cannot ascertain an alternative address or an alternative method under paragraph (3)(b); and
- (iii) the court does not make an order under rule 6.15,

may the claimant serve on the defendant's usual or last known address in accordance with the table in paragraph (1).

Service of the claim form in proceedings against the Crown

6.10. 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^(a) 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.)

^(a) 1947 c.44.

Service of the claim form by contractually agreed method

6.11.—(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.

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

6.12.—(1) The court may, on an 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 making the application, not within 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).

Service of the claim form on children and protected parties

6.13.—(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 served on 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.)

Deemed service

6.14.—(1) 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).

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

6.15.—(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) The claimant may make an application for an order under paragraph (1)—
- (a) before service of the claim form has taken place; or
 - (b) after the claimant has taken steps to bring the claim form to the attention of the defendant by an alternative method or at an alternative place.
- (3) An application for an order under paragraph (1)—
- (a) must be supported by evidence; and
 - (b) may be made without notice.
- (4) An order under paragraph (1) must specify—
- (a) the method or place of service;
 - (b) the date on which the claim form is to be deemed to be served; and
 - (c) the period for—
 - (i) filing an acknowledgment of service;
 - (ii) filing or serving an admission;
 - (iii) filing a defence.

Power of court to dispense with service of the claim form

6.16.—(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.

Notice and certificate of service relating to the claim form

6.17.—(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 to be 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 an acknowledgment 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.

| <i>Method of service</i> | <i>Details to be certified</i> |
|--|--|
| 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 date of 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 means | Date of sending the e-mail |
| 6. Alternative method or place | As required by the court |

Notification of outcome of postal service by the court

6.18.—(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.

Notice of non-service by bailiff

6.19. Where—

- (a) the court bailiff is to serve a claim form; and
- (b) the bailiff is unable to serve it upon the defendant,

the court will send notification to the claimant.

*III SERVICE OF DOCUMENTS OTHER THAN THE CLAIM FORM IN THE
JURISDICTION*

Methods of service

- 6.20.**—(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 the practice direction supplementing this Section of this Part;
 - (c) leaving it at a place specified in rule 6.23;
 - (d) fax or other means of electronic communication in accordance with the practice direction supplementing this Section of 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.

Who is to serve

- 6.21.**—(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 or directs 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.

Personal service

- 6.22.**—(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 where paragraph (3) applies.
- (3) In proceedings by or against the Crown, a document must not be served personally on the Crown.
- (4) Personal service of a document has the same meaning as if the document were a claim form in rule 6.5(3).
- (5) A document may be served personally by the persons referred to in rule 6.5(4) as if the document were a claim form.

Address for service

6.23.—(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 the content of an address for service.)

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

- (a) an address within the United Kingdom at which the party resides or carries on business; or
- (b) the business address of a solicitor acting for the party to be served.

(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 unless the provisions of Part 42 are complied with.)

(3) 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) unless it is to be served personally or the court orders otherwise.

(4) Where, in accordance with the practice direction 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.

(5) Where a party indicates in accordance with the practice direction 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.

(6) In proceedings by or against the Crown, service of any document in the proceedings on the Crown must be effected in the manner prescribed in rule 6.10.

(7) 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.

Change of address for service

6.24. 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.

Service on children and protected parties

6.25.—(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.

(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) Rules 6.13(4) to (7) apply in relation to other documents as they apply to the claim form.

Deemed Service

6.26. 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—

| <i>Method of service</i> | <i>Deemed date of service</i> |
|---|---|
| 1. First class post (or other service which provides for delivery on the next | The second day after it was posted, left with, delivered to or collected by the |

| | |
|--|--|
| business day) | 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 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 is 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 9.1 to 9.7 of the practice direction supplementing this Section contain examples of how the date of deemed service is calculated.)

Service by an alternative method or at an alternative place

6.27. Rule 6.15 applies to any document in the proceedings as it applies to a claim form.

Power to dispense with service

6.28.—(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.

Certificate of service

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

| <i>Method of Service</i> | <i>Details to be certified</i> |
|--|---|
| 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, 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 means | Date and time of sending e-mail |
| 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

Scope of this Section

6.30. 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).)

Definitions

6.31. 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;
- (b) ‘the 1982 Act’ means the Civil Jurisdiction and Judgments Act 1982(a);
- (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, 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(b);
- (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), and repealing Council Regulation (EC) no. 1348/2000(c), 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;
- (f) ‘Commonwealth State’ means a state listed in Schedule 3 to the British Nationality Act 1981(d);
- (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;

(a) 1982 c.27.
(b) OJ No. L 299, 16.11.2005, p62.
(c) OJ No L 324, 10.12.07, p79.
(d) 1981 c.61.

- (i) ‘domicile’ is to be determined—
 - (i) in relation to a Convention territory, in accordance with sections 41 to 46 of the 1982 Act;
 - (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(a); and
- (j) ‘United Kingdom Overseas Territory’ means those territories listed in paragraph 4.2 of the practice direction supplementing this Section.

Service of the claim form where the permission of the court is not required: Scotland and Northern Ireland

6.32.—(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 against the defendant to be served and included in the claim form made 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.

Service of the claim form where the permission of the court is not required: out of the United Kingdom

6.33.—(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
- (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 3C to the 1982 Act ; or
- (iii) the defendant is a party to an agreement conferring jurisdiction, within Article 17 of Schedule 1 or 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

(a) S.I. 2001/3929.

(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 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.

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

6.34.—(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.

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

6.35.—(1) This rule sets out the period for—

- (a) filing an acknowledgment of service;
- (b) filing or serving 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 Member State or a Convention territory within Europe

(3) Where the claimant serves the claim form on a defendant in a Member State or a Convention territory within Europe 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 of 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 the practice direction supplementing this Section.

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

6.36. 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 2.1 of the practice direction supplementing this Section apply.

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

6.37.—(1) An application for permission under rule 6.36 must set out—

- (a) which of the grounds in paragraph 2.1 of the practice direction supplementing this Section 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 2.1(3) of the practice direction supplementing this Section, 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 the practice direction supplementing this Section.)

Service of documents other than the claim form - permission

6.38.—(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.

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

6.39. Where an application notice is to be served out of the jurisdiction—

- (a) rules 6.35 and 6.37(5)(a)(i), (ii) or (iii) do not apply; and
- (b) where the person on whom the application notice has been served 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.)

Methods of service- general provisions

6.40.—(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 or Section III of this Part and rule 6.23(3) 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/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1045739525173>.)

Service in accordance with the Service Regulation

6.41.—(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 (GL) 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 the practice direction supplementing this Section.)

(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.)

Service through foreign governments, judicial authorities and British Consular authorities

6.42.—(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 the Hague Convention or 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 United Kingdom 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 the practice direction supplementing this Section provides otherwise.

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

6.43.—(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 the practice direction supplementing this Section; 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 (GL) 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 claim form has been served;
- (b) states the method of service;
- (c) specifies the date on which the claim form was served; and
- (d) is made by—
 - (i) a British Consular authority in the country where the claim form was served;
 - (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.

Service of claim form or other document on a State

6.44.—(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(a).

(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.)

Translation of claim form or other document

6.45.—(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

(a) 1978 c.33.

(b) on a British citizen (within the meaning of the British Nationality Act 1981), 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.)

Undertaking to be responsible for expenses

6.46. 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.

Proof of service before obtaining judgment

6.47. 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.

V SERVICE OF DOCUMENTS FROM FOREIGN COURTS OR TRIBUNALS

Scope of this Section

6.48. 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 applies.

Definitions

6.49. In this Section—

- (a) ‘convention country’—
 - (i) means a country in relation to which there is a Civil Procedure Convention (which has the same meaning as in rule 6.31(c)) providing for service in that country of process of the High Court; and
 - (ii) includes a country which is a party to the Hague Convention (which has the same meaning as in rule 6.31(a));
- (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.

Request for service

6.50. 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.

Method of service

6.51. The Senior Master will determine the method of service.

After service

6.52.—(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.

PRACTICE DIRECTION – SERVICE WITHIN THE JURISDICTION

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 6

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WHEN SERVICE MAY BE BY DOCUMENT EXCHANGE

- 1.1 Service by document exchange (DX) may take place only where—
- (1) the address at which the party is to be served includes a numbered box at a DX, or
 - (2) the writing paper of the party who is to be served or of the solicitor acting for that party sets out a DX box number, and
 - (3) the party or the solicitor acting for that party has not indicated in writing that they are unwilling to accept service by DX.

HOW SERVICE IS EFFECTED BY POST, AN ALTERNATIVE SERVICE PROVIDER OR DX

- 2.1 Service by post, DX or other service which provides for delivery on the next business day is effected by—
- (1) placing the document in a post box;
 - (2) leaving the document with or delivering the document to the relevant service provider; or
 - (3) having the document collected by the relevant service provider.

SERVICE BY FAX OR OTHER ELECTRONIC MEANS

- 3.1 Subject to the provisions of rule 6.23(4) and (5), where a document is to be served by fax or other electronic means—
- (1) the party who is to be served or the solicitor acting for that party must previously have indicated in writing to the party serving—
 - (a) that the party to be served or the solicitor is willing to accept service by fax or other electronic means; and

- (b) the fax number, e-mail address or other electronic identification to which it must be sent; and
- (2) the following are to be taken as sufficient written indications for the purposes of paragraph 3.1(1)—
 - (a) a fax number set out on the writing paper of the solicitor acting for the party to be served;
 - (b) an e-mail address set out on the writing paper of the solicitor acting for the party to be served but only where it is stated that the e-mail address may be used for service; or
 - (c) a fax number, e-mail address or electronic identification set out on a statement of case or a response to a claim filed with the court.

3.2 Where a party intends to serve a document by electronic means (other than by fax) that party must first ask the party who is to be served whether there are any limitations to the recipient's agreement to accept service by such means (for example, the format in which documents are to be sent and the maximum size of attachments that may be received).

3.3 Where a document is served by electronic means, the party serving the document need not in addition send or deliver a hard copy.

SERVICE ON MEMBERS OF H. M. FORCES AND UNITED STATES AIR FORCE

4.1 The provisions that apply to service on members of H.M. Forces and members of the United States Air Force are annexed to this practice direction.

PERSONAL SERVICE ON A COMPANY OR OTHER CORPORATION

5.1 Personal service on a registered company or corporation in accordance with rule 6.5(3) is effected by leaving a document with 'a person holding a senior position'.

5.2 Each of the following persons is a person holding a senior position—

- (1) in respect of a registered company or corporation, a director, the treasurer, the secretary of the company or corporation, the chief executive, a manager or other officer of the company or corporation; and
- (2) in respect of a corporation which is not a registered company, in addition to any of the persons set out in sub-paragraph (1), the mayor, the chairman, the president, a town clerk or similar officer of the corporation.

CERTIFICATE OF SERVICE WHERE CLAIMANT SERVES THE CLAIM FORM

6.1 Where, pursuant to rule 6.17(2), the claimant files a certificate of service, the claimant is not required to and should not file—

- (a) a further copy of the claim form with the certificate of service; and
- (b) a further copy of—
 - (i) the particulars of claim (where not included in the claim form); or
 - (ii) any document attached to the particulars of claim, with the certificate of service where that document has already been filed with the court.

(Rule 7.4 requires the claimant to file a copy of the particulars of claim (where served separately from the claim form) within 7 days of service on the defendant.)

SERVICE BY THE COURT

- 7.1 Where the court serves a document in accordance with rule 6.4 or 6.21(2), the method will normally be first class post.
- 7.2 Where the court serves a claim form, delivers a defence to a claimant or notifies a claimant that the defendant has filed an acknowledgment of service, the court will also serve or deliver a copy of any notice of funding that has been filed, if—
- (a) it was filed at the same time as the claim form, defence or acknowledgment of service, and
 - (b) copies of it were provided for service.

(Rule 44.15 deals with the provision of information about funding arrangements.)

APPLICATION FOR AN ORDER FOR SERVICE BY AN ALTERNATIVE METHOD OR AT AN ALTERNATIVE PLACE

- 8.1 Where an application for an order under rule 6.15 is made before the document is served, the application must be supported by evidence stating—
- (1) the reason why an order is sought;
 - (2) what alternative method or place is proposed, and
 - (3) why the applicant believes that the document is likely to reach the person to be served by the method or at the place proposed.
- 8.2 Where the application for an order is made after the applicant has taken steps to bring the document to the attention of the person to be served by an alternative method or at an alternative place, the application must be supported by evidence stating—
- (1) the reason why the order is sought;
 - (2) what alternative method or alternative place was used;
 - (3) when the alternative method or place was used; and
 - (4) why the applicant believes that the document is likely to have reached the person to be served by the alternative method or at the alternative place.
- 8.3 Examples—
- (1) an application to serve by posting or delivering to an address of a person who knows the other party must be supported by evidence that if posted or delivered to that address, the document is likely to be brought to the attention of the other party;
 - (2) an application to serve by sending a SMS text message or leaving a voicemail message at a particular telephone number saying where the document is must be accompanied by evidence that the person serving the document has taken, or will take, appropriate steps to ensure that the party being served is using that telephone number and is likely to receive the message; and
 - (3) an application to serve by e-mail to a company (where paragraph 3.1 does not apply) must be supported by evidence that the e-mail address to which the document will be sent is one which is likely to come to the attention of a person holding a senior position in that company.

DEEMED SERVICE OF A DOCUMENT OTHER THAN A CLAIM FORM

9.1 Rule 6.26 contains provisions about deemed service of a document other than a claim form. Examples of how deemed service is calculated are set out below.

Example 1

9.2 Where the document is posted (by first class post) on a Monday (a business day), the day of deemed service is the following Wednesday (a business day).

Example 2

9.3 Where the document is left in a numbered box at the DX on a Friday (a business day), the day of deemed service is the following Monday (a business day).

Example 3

9.4 Where the document is sent by fax on a Saturday and the transmission of that fax is completed by 4.30p.m. on that day, the day of deemed service is the following Monday (a business day).

Example 4

9.5 Where the document is served personally before 4.30p.m. on a Sunday, the day of deemed service is the next day (Monday, a business day).

9.6 *Example 5*

Where the document is delivered to a permitted address after 4.30p.m. on the Thursday (a business day) before Good Friday, the day of deemed service is the following Tuesday (a business day) as the Monday is a bank holiday.

Example 6

9.7 Where the document is posted (by first class post) on a bank holiday Monday, the day of deemed service is the following Wednesday (a business day).

PRACTICE DIRECTION – SERVICE OUT OF THE JURISDICTION.

THIS PRACTICE DIRECTION SUPPLEMENTS SECTION IV OF CPR PART 6

Contents of this Practice Direction

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| Service out of the jurisdiction where permission of the court is not required | Paragraph 1 |
| Service out the jurisdiction where permission is required | Paragraph 2 |
| Documents to be filed under rule 6.43(2)(c) | Paragraph 3 |
| Service in a Commonwealth State or United Kingdom Overseas Territories | Paragraph 4 |
| Period for responding to a claim form | Paragraph 5 |
| Period for responding to an application notice | Paragraph 6 |
| Further information | Paragraph 7 |

Service out of the jurisdiction where permission of the court is not required

1.1 Where rule 6.34 applies, the claimant must file practice form XXX when filing the claim form.

Service out of the jurisdiction where permission is required

2.1 The claimant may serve a claim form out of the jurisdiction with the permission of the court under rule 6.36 where—

General Grounds

- (1) A claim is made for a remedy against a person domiciled within the jurisdiction.
- (2) A claim is made for an injunction (GL) ordering the defendant to do or refrain from doing an act within the jurisdiction.
- (3) A claim is made against a person (“the defendant”) on whom the claim form has been or will be served (otherwise than in reliance on this paragraph) and—
 - (a) there is between the claimant and the defendant a real issue which it is reasonable for the court to try; and
 - (b) the claimant wishes to serve the claim form on another person who is a necessary or proper party to that claim.
- (4) A claim is an additional claim under Part 20 and the person to be served is a necessary or proper party to the claim or additional claim.

Claims for interim remedies

- (5) A claim is made for an interim remedy under section 25(1) of the 1982 Act.

Claims in relation to contracts

- (6) A claim is made in respect of a contract where the contract—
 - (a) was made within the jurisdiction;
 - (b) was made by or through an agent trading or residing within the jurisdiction;
 - (c) is governed by English law; or

- (d) contains a term to the effect that the court shall have jurisdiction to determine any claim in respect of the contract.
- (7) A claim is made in respect of a breach of contract committed within the jurisdiction.
- (8) A claim is made for a declaration that no contract exists where, if the contract was found to exist, it would comply with the conditions set out in paragraph (6).

Claims in tort

- (9) A claim is made in tort where—
 - (a) damage was sustained within the jurisdiction; or
 - (b) the damage sustained resulted from an act committed within the jurisdiction.

Enforcement

- (10) A claim is made to enforce any judgment or arbitral award.

Claims about property within the jurisdiction

- (11) The whole subject matter of a claim relates to property located within the jurisdiction.

Claims about trusts etc.

- (12) A claim is made for any remedy which might be obtained in proceedings to execute the trusts of a written instrument where—
 - (a) the trusts ought to be executed according to English law; and
 - (b) the person on whom the claim form is to be served is a trustee of the trusts.
- (13) A claim is made for any remedy which might be obtained in proceedings for the administration of the estate of a person who died domiciled within the jurisdiction.
- (14) A probate claim or a claim for the rectification of a will.
- (15) A claim is made for a remedy against the defendant as constructive trustee where the defendant's alleged liability arises out of acts committed within the jurisdiction.
- (16) A claim is made for restitution where the defendant's alleged liability arises out of acts committed within the jurisdiction.

Claims by HM Revenue and Customs

- (17) A claim is made by the Commissioners for H.M. Revenue and Customs relating to duties or taxes against a defendant not domiciled in Scotland or Northern Ireland.

Claim for costs order in favour of or against third parties

- (18) A claim is made by a party to proceedings for an order that the court exercise its power under section 51 of the Supreme Court Act 1981 to make a costs order in favour of or against a person who is not a party to those proceedings.

(Rule 48.2 sets out the procedure where the court is considering whether to exercise its discretion to make a costs order in favour of or against a non-party.)

Admiralty claims

- (19) A claim is—
- (a) in the nature of salvage and any part of the services took place within the jurisdiction; or
 - (b) to enforce a claim under section 153, 153A, 154, 175 or 176A of the Merchant Shipping Act 1995.

Claims under various enactments

- (20) A claim is made—
- (a) under an enactment which allows proceedings to be brought and those proceedings are not covered by any of the other grounds referred to in this paragraph; or
 - (b) under the Directive of the Council of the European Communities dated 15 March 1976 No. 76/308/EEC, where service is to be effected in a Member State of the European Union.

Documents to be filed under rule 6.43(2)(c)

- 3.1 The claimant must provide the following documents for each party to be served out of the jurisdiction—
- (1) a copy of the particulars of claim if not already contained in or served with the claim form;
 - (2) a duplicate of the claim form, of the particulars of claim (if not already contained in or served with the claim form) and of any documents accompanying the claim form;
 - (3) forms for responding to the claim; and
 - (4) any translation required under rule 6.45 in duplicate.
- 3.2 Some countries require legalisation of the document to be served and some require a formal letter of request which must be signed by the Senior Master. Any queries on this should be addressed to the Foreign Process Section (Room E02) at the Royal Courts of Justice.

Service in a Commonwealth State or United Kingdom Overseas Territories.

- 4.1 Rule 6.42(3) does not apply where in the case of a Commonwealth State the judicial authorities have required service to be in accordance with rule 6.42(1)(b)(i). This is presently Singapore.
- 4.2 For the purposes of rule 6.42(3)(c), the following are United Kingdom Overseas Territories—
- (a) Anguilla;
 - (b) Bermuda;
 - (c) British Antarctic Territory;
 - (d) British Indian Ocean Territory;
 - (e) British Virgin Islands;
 - (f) Cayman Islands;
 - (g) Falkland Islands;
 - (h) Gibraltar;
 - (i) Montserrat;
 - (j) Pitcairn, Henderson, Ducie and Oeno;
 - (k) St. Helena and Dependencies;
 - (l) South Georgia and the South Sandwich Islands;
 - (m) Sovereign Base Areas of Akrotiri and Dhekelia; and
 - (n) Turks and Caicos Islands.

Period for responding to a claim form

- 5.1 Where rule 6.35(5) applies, the periods within which the defendant must—
- (1) file an acknowledgment of service;
 - (2) file or serve an admission; or
 - (3) file a defence,
- will be calculated in accordance with paragraph 5.3, 5.4 or 5.5.
- 5.2 Where the court grants permission to serve a claim form out of the jurisdiction the court will determine in accordance with paragraph 5.3, 5.4 or 5.5 the periods within which the defendant must—
- (1) file an acknowledgment of service;
 - (2) file or serve an admission; or
 - (3) file a defence.

(Rule 6.37(5)(a) provides that when giving permission to serve a claim form out of the jurisdiction the court will specify the period within which the defendant may respond to the claim form.)

- 5.3 The period for filing an acknowledgment of service under Part 10 or for filing or serving an admission under Part 14 is the number of days listed in the Table after service of the particulars of claim
- 5.4 The period for filing a defence under Part 15 is—
- (1) the number of days listed in the Table after service of the particulars of claim, 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 the service of the particulars of claim.
- 5.5 Under the State Immunity Act 1978, where a State is served, the period permitted under paragraphs 5.3 and 5.4 for filing an acknowledgment of service or defence or for filing or serving an admission does not begin to run until 2 months after the date on which the State is served.
- 5.6 Where particulars of claim are served out of the jurisdiction any statement as to the period for responding to the claim contained in any of the forms required by rule 7.8 to accompany the particulars of claim must specify the period prescribed under rule 6.35 or by the order permitting service out of the jurisdiction under rule 6.37(5).

Period for responding to an application notice

- 6.1 Where an application notice or order is served out of the jurisdiction, the period for responding is 7 days less than the number of days listed in the Table.

Further information

- 7.1 Further information concerning service out of the jurisdiction can be obtained from the Foreign Process Section, Room E02, Royal Courts of Justice, Strand, London WC2A 2LL (telephone 020 7947 6691).

TABLE

| Place or country | Number of days |
|--------------------------|-----------------------|
| Abu Dhabi | 22 |
| Afghanistan | 23 |
| Albania | 25 |
| Algeria | 22 |
| Angola | 22 |
| Anguilla | 31 |
| Antigua | 23 |
| Antilles (Netherlands) | 31 |
| Argentina | 22 |
| Armenia | 21 |
| Ascension Island | 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 |
| 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 Guyana | 31 |
| French Polynesia | 31 |
| French West Indies | 31 |
| Gabon | 25 |
| Gambia | 22 |
| Georgia | 21 |
| Germany | 21 |
| Ghana | 22 |
| Gibraltar | 31 |
| Greece | 21 |
| Greenland | 31 |
| Grenada | 24 |
| Guatemala | 24 |
| Guernsey | 21 |
| 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 | 21 |
| Israel | 22 |
| Italy | 21 |

| | |
|--------------------------------|----|
| Ivory Coast | 22 |
| Jamaica | 22 |
| Japan | 23 |
| Jersey | 21 |
| Jordan | 23 |
| Kampuchea | 38 |
| Kazakhstan | 21 |
| Kenya | 22 |
| Kirgizstan | 21 |
| Korea (North) | 28 |
| Korea (South) | 24 |
| Kuwait | 22 |
| Laos | 30 |
| 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 |
| Maldive 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 |
| 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 |
| 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 |
| 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 |
| 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 |

Consequential amendments to CPR in light of new Part 6

There are numerous references to Part 6 and particular rules in Part 6 throughout the CPR. The amendments to these references will be presented to the Civil Procedure Rule Committee at a later meeting. However, below are the most important consequential amendments that will be needed:

Amendments to Part 7 (How to start proceedings – the claim form)

Rule 7.4

7.4 (1) Particulars of claim must—

- (a) be contained in or served with the claim form; or
- (b) subject to paragraph (2) be served on the defendant by the claimant within 14 days after service of the claim form.

(2) Particulars of claim must be served on the defendant no later than the latest time for serving a claim form.

(Rule 7.5 sets out the latest time for serving a claim form.)

(3) Where the claimant serves particulars of claim separately from the claim form in accordance with paragraph (1)(b), ~~he~~ the claimant must, within 7 days of service on the defendant, file a copy of the particulars of claim ~~with a certificate of service.~~

(Part 16 sets out what the particulars of claim must include.)

(Part 22 requires particulars of claim to be verified by a statement of truth.)

~~(Rule 6.10 makes provision for a certificate of service.)~~

Rules 7.5 and 7.6

New rules 7.5 and 7.6 are to be substituted with the following—

“Service of a claim form

7.5 (1) Where the claim form is to be served within the jurisdiction, the claimant must complete the step required by the following table in relation to the particular method of service chosen before 12.00 midnight on the calendar day four months after the date of issue of the claim form.

| | |
|---|---|
| First class post, document exchange or other service which provides for delivery on the next business day | Posting, leaving with, delivering to or collection by the relevant service provider |
| Delivery the document to or leaving it at the relevant place | Delivering to or leaving the document at the relevant place |
| Personal service under rule 6.5 | Completing the relevant step required by rule 6.5(3) |
| Fax | Completing the transmission of the fax |
| Other electronic method | Sending the e-mail or other electronic |

(2) Where the claim form is to be served out of the jurisdiction, the claim form must be served in accordance with Section IV of Part 6 within 6 months of the date of issue.

Extension of time for serving a claim form

7.6 (1) The claimant may apply for an order extending the period for compliance with rule 7.5.

(2) The general rule is that an application to extend the time for compliance with rule 7.5 must be made—

- (a) within the period specified by rule 7.5; or
- (b) where an order has been made under this rule, within the period for service specified by that order.

(3) If the claimant applies for an order to extend the time for compliance after the end of the period specified by rule 7.5 or by an order made under this rule, the court may make such an order only if—

- (a) the court has been unable to serve the claim form; or
- (b) the claimant has taken all reasonable steps to comply with rule 7.5 but has been unable to do so; and
- (c) in either case, the claimant has acted promptly in making the application.

(4) An application for an order extending the time for compliance with rule 7.5—

- (a) must be supported by evidence; and
- (b) may be made without notice.

Amendments to Part 56 (Landlord and tenant claims)

Rule 56.3

56.3(1) This rule applies to a claim for a new tenancy under section 24 and to a claim for the termination of a tenancy under section 29(2) of the 1954 Act.

(2) In this rule—

- (a) 'the 1954 Act' means the Landlord and Tenant Act 1954;
- (b) 'an unopposed claim' means a claim for a new tenancy under section 24 of the 1954 Act in circumstances where the grant of a new tenancy is not opposed;
- (c) 'an opposed claim' means a claim for—
 - (i) a new tenancy under section 24 of the 1954 Act in circumstances where the grant of a new tenancy is opposed; or
 - (ii) the termination of a tenancy under section 29(2) of the 1954 Act.

(3) Where the claim is an unopposed claim—

- (a) the claimant must use the Part 8 procedure, but the following rules do not apply—
 - (i) rule 8.5; and
 - (ii) rule 8.6; and
- (b) ~~the claim form must be served within 2 months after the date of issue and rules 7.5 and 7.6 are modified accordingly; and~~
- (c) the court will give directions about the future management of the claim following receipt of the acknowledgment of service.

- (4) Where the claim is an opposed claim the claimant must use the Part 7 procedure.
- ~~(a) the claimant must use the Part 7 procedure; but~~
 - ~~(b) the claim form must be served within 2 months after the date of issue, and rules 7.5 and 7.6 are modified accordingly.~~

(The practice direction to this Part contains provisions about evidence, including expert evidence in opposed claims.)

Amendments to the Practice Direction supplementing Part 71

Paragraph 3

A new paragraph 3 is substituted as follows—

“Service of order to attend court – rule 71.3

3. Service of an order to attend court for questioning may be carried out by—
 - (a) the judgment creditor (or someone acting on the judgment creditor’s behalf);
 - (b) a High Court enforcement officer; or
 - (b) a county court bailiff.”