



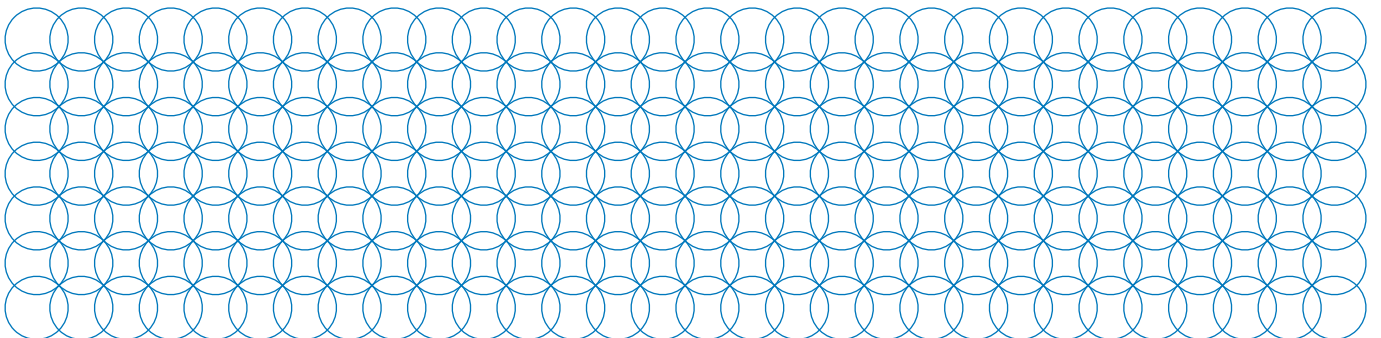
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Review of Part 6 of the Civil Procedure Rules: Service of Documents

Consultation Paper 14/07

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

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Executive summary

“Service” is the term used to describe the formal process by which documents in legal proceedings, for example including the claim form initiating proceedings, must be transmitted between the parties. The general principles governing service are contained in Part 6 of the Civil Procedure Rules (CPR).

The purpose of this consultation is to seek views on proposals to clarify and improve the rules relating to service within England and Wales (CPR rules 6.1 - 6.16). The proposals take account of a number of Court of Appeal decisions about the construction of the rules. It is proposed to re-structure Part 6 to make the rules easier to follow.

The paper seeks views on a number of issues, including:

- **Last known address** - where the claimant knows that the defendant no longer resides at the last known address, whether they should be required to make reasonable enquiries as to the current address and consider alternative methods of service;
- **Time limit for service of claim form** - whether the time limit for serving the claim form should relate to the period within which the claimant must despatch the claim form (rather than effect service);
- **Date of deemed service** – whether a common date should apply to all methods of service; whether the deemed date of service should always be a business day;
- **Method of service** – whether service by e-mail should be treated in the same way as service by fax;
- **Method of service in Scotland and Northern Ireland** - whether documents to be served on an address for service in Scotland or Northern Ireland may be served by a method permitted by the CPR;
- **Service by an alternative method** - whether the court should be given the power to authorise retrospectively service by an alternative method or at an alternative address in appropriate circumstances;
- **Service of Judicial Review proceedings** – whether the rules for civil proceedings against the Crown should be applied to judicial review claims against the Crown.

Introduction

This paper sets out consultation proposals aimed at improving and clarifying the operation of Part 6 of the Civil Procedure Rules (CPR) which deals with the service of documents.

This consultation is being conducted on behalf of the Civil Procedure Rule Committee (CPRC). The CPRC is an advisory Non-Departmental Public Body (NDPB) responsible for making the CPR governing civil cases in the Court of Appeal, High Court and county courts.

As an NDPB, the CPRC's consultations are not governed by the requirements of the Code of Practice on consultation issued by the Cabinet Office. However, this consultation adopts the spirit of the Code and complies with all the criteria set out at page 24. The consultation period is 12 weeks, and the consultation will end on 28 September 2007.

Most of the proposals in this paper are intended to codify and clarify the current law. An initial impact assessment has concluded that the proposals will not have a significant or measurable impact on business, charity or the voluntary and public sectors. If the CPRC decides to make changes along the lines suggested in the draft rule at **Annex A**, Her Majesty's Courts Service (HMCS) does not think it will be necessary to conduct a more detailed impact assessment. HMCS will reconsider this if the CPRC decides to adopt any of the other proposals on which views are sought.

Copies of the consultation paper are being sent to individuals and representative groups including:

Judicial and Legal bodies: including senior judiciary through the Judicial Office for England and Wales, HM Council of Circuit Judges, High Court Masters Group, the Association of District Judges, the Bar Council, the Law Society, other professional bodies.

Consumer Bodies and Stakeholder groups: including the Civil Justice Council, Civil Court Users Association, National Consumer Council, Advice Services Alliance, Citizens Advice, Equal Opportunities Commission, Disability Rights Commission; Commission for Racial Equality and business organisations like the Confederation of British Industries and the Federation of Small Businesses.

Other Government Bodies: including the Cabinet Office, Treasury Solicitor, Scottish Executive, Northern Ireland Courts Service and National Assembly for Wales.

The Department may wish to publish responses to this consultation document in due course. **Please ensure your response is marked clearly if you wish your response or name to be kept confidential.** Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

This consultation paper is available on the Ministry of Justice website at <http://www.justice.gov.uk/publications/publications.htm>.

A full list of consultees is available on request.

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or has views on the subject covered by this paper.

The Proposals

Background

1. “Service” is the term used to describe the formal process by which documents in legal proceedings, including the claim form initiating proceedings, must be transmitted between the parties.
2. In most civil cases, service is governed by the rules in Part 6 of the CPR (www.justice.gov.uk/civil/procrules_fin/index.htm). This includes rules about methods of service, the address for service, who is to serve and the time when service is deemed to occur.
3. The service rules need to balance the interests of the party serving a document (for convenience, referred to as the claimant) and the intended recipient known as the defendant). The claimant requires clarity about what he needs to do in order to serve the document with certainty. Equally, the rules need to ensure, as far as possible, that the defendant actually receives and can respond to the document, and is not disadvantaged if he does not actually receive it.
4. In recent years, the rules of service have been the subject of a considerable amount of litigation and case law. This has served to clarify the law in most respects, but in some cases has produced results that may be considered unfair.
5. Lord Justice Dyson’s opening comments in the case of *Collier v Williams*¹ are pertinent:

“We heard over three days six appeals which raised points on CPR Part 6 (the rules relating to service) and CPR Part 7.6 (the rule relating to the extending of time for service of the claim form). These rules have generated an inordinate amount of jurisprudence. This is greatly to be regretted. The CPR were intended to be simple and straightforward and not susceptible to frequent satellite litigation. In this area, that intention has not been fulfilled. As a result, the explicit aims of the Woolf reforms to reduce cost, complexity and delays in litigation have been frustrated.”
6. For this reason, and because of the fundamental importance of the service rules, which affect every single case, the CPRC has decided that a comprehensive review of Part 6 should be a priority.

¹ [2006] EWCA Civ 20

7. This paper sets out questions about the content of the service rules. It also includes for comment a revised draft of Part 6 and rules 7.5 & 7.6 (**Annex A**), which seeks to clarify the structure and language of the Part, as well as give effect to some of the changes proposed in the paper.
8. The existing text of Part 6 is at **Annex B**. References to rules by number in this paper are to the current rules unless the contrary is stated.

What constitutes good service

9. The service rules do not require the claimant to ensure or prove that the document is actually received by the defendant. Such a requirement would be too onerous. Aside from the practical difficulties that this may cause in many cases, the claimant might be unable to initiate his case if he cannot find the defendant's current address and some defendants might be able to deliberately avoid service.
10. The rules require the claimant to follow the appropriate prescribed procedures concerning address and method of service etc. If he does so, the document will be treated as properly served, regardless of whether or not it is actually received by the defendant, even if it becomes apparent that the defendant definitely did not receive it.
11. In these circumstances, the claimant will usually be able to proceed to obtain a judgment in default if a defence is not made by the defendant. However, when the existence of the judgment does become known to the defendant, he has a right to apply to the court to set aside the judgment. The court is likely to exercise its discretion to set aside a judgment if it is clear that the claim form was never received and that the defendant has a real prospect of successfully defending the claim. So the presumption of good service if the claimant follows the required procedures is, in that sense, rebuttable. This is considered to provide the necessary protection for the defendant while enabling the claimant to proceed with certainty.

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?

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 protection do you propose?

Reasonable enquiries into 'last known' address

12. Rule 6.5(6) prescribes the address where documents must be served when a party does not have a solicitor and has not given an address for service. In most cases, the relevant address is the usual or last known residence or place of business of the individual or business concerned.
13. This raises the issue of what constitutes a 'last known address'. In *Mersey Dock Property Holdings & Other v Kilgour*² it was held that 'last known place of business' meant the last place of business known to the claimant but that this required a claimant to take reasonable steps to ascertain the current place of business. It was held that there had not been valid service on an architect at an address he had left some years earlier. A search through the Yellow Pages or in the directory of his professional association would have easily produced his current address and the claimant should have taken these steps before attempting service.
14. This interpretation can cause problems for claimants. The extent of the reasonable enquiries a claimant must conduct before attempting service is not clear, and will vary from case to case depending on the information he has, how old the information is and the identity of the defendant. This can leave the claimant uncertain whether service on what he believes is the last known address will be treated as good service by the court.
15. It would be possible to amend the rules to state explicitly what is meant by "reasonable enquiries". Equally, it would be possible to amend the rules to provide that service may be on the last address known to the claimant without the need for further enquiries to be undertaken by the claimant.
16. A compromise position is proposed. This is to provide that reasonable enquiries are required if the claimant has knowledge that the last known address is no longer the current address, but not otherwise.

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?

17. If the claimant makes reasonable enquiries and is unable to discover the defendant's current usual residence or place of business, it may still be necessary to serve on the last known address, even though it is known not to be current.

² [2004] EWHC 1638

18. Rule 6.8 provides the court a discretion to allow service by an alternative method provided the application for alternative service is supported by written evidence stating the reasons why alternative service is sought and describing what steps have already been taken to attempt service by the permitted methods. An alternative method of service may include service at a recent address with some connection with the defendant e.g. family member's address or an employer's address.
19. At present there is no obligation upon a claimant to seek an order for an alternative method of service. It is suggested that if the claimant knows the address on which service is to be effected is no longer used by the defendant then there should be an obligation placed on him to consider alternative methods of service and, if an appropriate alternative method is available, to seek the court's permission to use that alternative method (rather than serve on the out-of-date last known address).

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?

Date of deemed service

20. Rule 6.7 deals with the date on which service is deemed to take place. This depends on the method used. For example, if a claim form is sent by first class post, service is deemed to take place on the second day after posting (regardless of when the letter is actually delivered). A letter posted on a Friday is therefore deemed served on a Sunday, even though there is no postal delivery that day.
21. The deemed date of service is irrebuttable, even if receipt of the document is known to occur on a different day. This provides certainty in determining whether the deadline for service has been met and the timetable for subsequent steps. It is not proposed to change this principle.
22. The deemed date of service currently has two effects. First, it is the date, which determines whether the claimant has met the obligation to serve within four months of issue under rule 7.5. Second, it is the start of the period within which the defendant must acknowledge and admit or defend the claim, and after which the claimant may seek default judgment.
23. A situation which has caused particular concern and generated satellite litigation is where the defendant receives the claim form on a particular day within the four months allowed by rule 7.5, but the claimant is deemed to have served it on a later day which is outside the four months allowed by rule 7.5.

This may be regarded as especially unfair where the limitation period has expired in the interim. A claimant may apply to extend the period for service stipulated by rule 7.5, but he cannot do so retrospectively, and may only do so where certain conditions apply.

24. It is proposed that the claimant's responsibility under rule 7.5 be re-defined to require the claimant to despatch the claim form within four months and not for it to be received by the defendant within that time.

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.

25. The only remaining purpose of the deemed date is to provide the parties with a clear unchanging date for subsequent steps in the litigation. Although the defendant may actually receive the claim form on a slightly earlier or later date, in most cases, the difference will only be a day or two. Providing different dates for different methods of service is arguably an unnecessary complexity. Given the proposal above, claimants will no longer require the benefit of a faster method to serve in time.

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)?

26. Whether or not the period for determining the date of deemed service is standardised, the question arises whether it should relate to calendar days or business days. The current rule is inconsistent: service by post, delivery and e-mail is deemed by reference to calendar days, but service by fax and personal service is only deemed to take place on business days. If different deeming periods are retained, there should be consistency between business & calendar days. A strict view is that deeming a date of service bears no relation to actual delivery so the nature of the deemed day is irrelevant. A more pragmatic view is that the rule should aim to combine certainty with allowing the defendant a reasonable period to respond in practice. It is therefore proposed that service should always be deemed on a business day.

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

27. At present, service by fax is deemed to take effect on the same day if transmitted before 4pm on a business day, but otherwise on the next business day. Service by e-mail or other electronic means is deemed to take effect on the second calendar day after transmission.

28. If different deeming periods are retained, the question arises whether the different treatment of different types of electronic method remains justified. The use of e-mail is increasingly commonplace, and probably now far more often used compared to fax. Both forms of transmission are received more or less immediately in most cases. It is true that e-mails can sometimes be delayed in 'cyberspace' for a period, but equally fax machines can malfunction. If a defendant has indicated that he will accept service by e-mail, he should ensure that his e-mails are checked, just as he must ensure that a fax machine is operational. By indicating acceptance of such a method of service, he is accepting some of the risks involved.
29. It is therefore suggested that the same deeming provisions could apply to e-mail as currently applies to fax. It is also suggested that the current time reference to 4pm as the time limit for same day deemed service be changed to 4.30pm.

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

Methods of Service

30. Rule 6.2(1) sets out the methods of service available to litigants, with detailed provisions in the supporting Practice Direction.

Postal service

31. Following the termination of the Royal Mail's monopoly in 2006, other (non- Royal Mail) methods of postal service, equivalent to first class, are now available. It is appropriate to amend the rules to encompass these. It is suggested that this extension should be defined in terms of services which 'provide for delivery on the next business day'. Views are sought on whether this kind of definition is workable in practice. An alternative might be to allow any postal service to be used, including second class post. If this suggestion is accepted, it may be appropriate to use a longer period than two days to define the deemed date 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?

Service by electronic method: E-mail and Fax

32. Rule 6.2(1)(e) allows service by fax or other means of electronic communication. The current practice direction supplementing Part 6 sets out the conditions when this method of service may be used. It is necessary that the party to be served had expressly indicated in writing to the party serving, that he is willing to accept service in this way. This indication may also be provided by a fax number or e-mail address in a statement of claim or a response filed with the court.
33. The practice direction (paragraph 3.1(2)) further provides that, for service by fax, it would be sufficient written indication if a fax number was set out on the writing paper of the legal representative of the party who is to be served. However this does not apply to e-mails - prior express authorisation is required. As stated above, e-mails are now a common method of communication and unnecessary restrictions on their use should be avoided. A possible reason for the more restrictive approach is that it ensures an opportunity to raise any requirement regarding compatible formats or the maximum size of attachments. However, the practice direction already places a requirement on the claimant to check these points before serving, so it is not clear whether this further restriction is necessary in practice.

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?

Service by an alternative method or at an alternative place

34. Rule 6.8 provides for applications may be made to the court for an order permitting service by an alternative method not provided by the general rules. This may include, in the case of an individual, service at an employer's address or at the address of a relative. If the court makes an order, the order will state the method of service to be used and the date on which the document will be deemed to be served.
35. At present it is not possible to obtain an order for service by an alternative method of service retrospectively.
36. It is proposed that the relevant rule should be amended to make clear that service by an alternative method includes service at an alternative address. It is also proposed that the practice direction should include examples of possible forms of alternative service, for example text message stating that documents have been left at a specified place.

37. It is proposed that an application should be able to be made retrospectively to cover cases where the claimant needs to serve a claim form as a matter of urgency, is genuinely unable to serve by the normal means permitted and attempts to serve by an appropriate alternative means. Such a claimant would have to accept the risk that the court might refuse the application, but it is suggested that there is no reason why it should not be in the court's power to sanction alternative service retrospectively in appropriate cases.

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.

Methods of Service in Scotland and Northern Ireland

38. The general rule is that service out of the jurisdiction must be effected in accordance with the law of the receiving country or a relevant international treaty. However, Scotland and Northern Ireland are special cases as they are separate legal jurisdictions but part of the same state, the United Kingdom. It is suggested that in relation to proceedings commenced in courts in England and Wales where the defendant is based in either Scotland or Northern Ireland, it would be simpler and easier for litigants if the claimant was able to serve documents on the defendant in Scotland and Northern Ireland by any method permitted in England and Wales. A particular issue for consideration is whether this should extend to personal service, where the Scottish and Northern Irish systems are more restrictive about who may effect personal service³.
39. Such a system would have to be by agreement with the authorities in Scotland and Northern Ireland and would no doubt be reciprocal. In Scottish and Northern Irish proceedings, the methods of service available in those jurisdictions would be permitted in England and Wales. HMCS has raised this proposal with its Scottish and Northern Irish colleagues, who will consider the implications for their respective jurisdictions.

Question 12: Do you agree, in principle, that the methods of service of claim forms or other document 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?

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

³ In Scotland, personal service must be carried out by a Scottish Court Officer (a Messenger at Arms in the case of High Court proceedings, otherwise a Sheriff Officer). In Northern Ireland, service in the county court is through a process server; in the High Court by the plaintiff or his agent. In England and Wales, personal service may be by the claimant, solicitor, agent or court bailiff.

Address for service

Service of claim forms in property claims

40. Addresses for service have to be provided in the context of certain property transactions. Registered proprietors must provide at least one postal address to the Land Registry and landlords are required to provide to tenants an address in England and Wales for service of notices under s.48 of the Landlord and Tenant Act 1987⁴ (1987 Act). However, these addresses may not be valid addresses for service of a claim form under rule 6.5, which will typically be the principal place of business of the landlord company.
41. This can give rise to unnecessary complexity in property claims against proprietors and landlords based overseas. In these circumstances, a claimant will have to apply to the court to serve out of the jurisdiction, even if the claimant is aware of an address in the jurisdiction given for other purposes in respect of the property to which the claim relates.
42. A possible solution would be to include registered addresses in England and Wales and addresses provided under the 1987 Act in the table of addresses for service of a claim form in the context of 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?

Addresses for service in proceedings: Scotland and Northern Ireland

43. The present rule 6.5(2) requires a party to give an address for the service of documents within the jurisdiction, i.e. England and Wales. This may be burdensome for parties who reside or carry on business outside of the jurisdiction who, as a result, are required to use a solicitor or agent who carries on business within England or Wales in order to accept service.
44. The reason for the requirement for an address for service within the jurisdiction seems to be historical, dating back to the time when personal service was the only valid method. However, a possible continuing rationale for this requirement may be that:
- it ensures that the claimant has a means to effect postal service quickly and cheaply; and /or

⁴ 1987 c.31.

- the claimant may find it easier to enforce a judgment if he has an address for service in the jurisdiction. However, this may be of little help if the address is the address of a solicitor or agent acting for the defendant and the defendant has no assets here.

45. The rationale above has little if any force with regard to parties based in Scotland or Northern Ireland. Arguably, it also has diminishing force with regard to other member states of the European Union (EU). Civil claims across EU borders are now governed by regulations on the service of documents and the mutual recognition and enforcement of judgments.

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

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

46. A further possibility would be to adopt the approach used for the Land Register. Registered proprietors are required to provide one postal address at which they may be served, and are entitled to provide up to two other addresses, which may be an electronic address or a P.O. box number. The option to provide alternative addresses might allow greater choice and flexibility for the parties, especially where one is based overseas, and encourage the greater use of electronic communications generally.

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?

Other issues

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

47. Where the claimant serves the claim form, rule 6.14(2) requires a claimant to file a certificate of service within seven days of service of the claim form to state that it has been deemed served. This is a pre-condition to obtaining default judgment (Rule 6.14(2)(b)). It is proposed that the time limit should be increased to 14 days to align it with the period for acknowledgement of service. The certificate can serve no purpose prior to the first date on which default judgment may be sought, and may be an otiose step if an acknowledgement of service is filed subsequently.

Question 18: Do you agree 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 acknowledgment of service? Is a certificate of service necessary when an acknowledgment of service has been filed?

Service of claim form on solicitor

48. Part 6 includes several provisions that refer to a party's solicitor. In particular, rule 6.4(2) requires that service must be made on a solicitor authorised to accept service when this authority has been notified to the other party. The reference to "solicitor" may be too narrow as there may be others who have the right to conduct litigation under the Courts and Legal Services Act 1990⁵.
49. It is suggested that "authorised litigator" be used in its place. This is defined in s.119 of the Act as meaning "*any person (including a solicitor) who has a right to conduct litigation granted by an authorised body in accordance with the provisions of this Act*".

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.

Service of Judicial Review Proceedings

50. Rule 6.4 prohibits personal service in all civil proceedings against the Crown. Part 66 of the CPR adopts the definition of "*civil proceedings by or against the Crown*" used in the Crown Proceedings Act 1947⁶. This does not include judicial review proceedings. It is considered that personal service on the Crown is equally inappropriate in judicial review cases and it is proposed to extend the prohibition of it accordingly.
51. In civil proceedings against the Crown, service on a government department must be effected on the solicitor acting for that department as required by Section 18 of the Crown Proceedings Act 1947. The details of the person acting as the solicitor for each government department are set out in the List of Authorised Government Departments annexed to the practice direction to Part 66 (annex 2). However, the requirement does not extend to judicial review and rule 6.5 does not specify the address at which government departments should be served in the absence of a solicitor's address. It is suggested that the rules should be amended to extend the application of the list annexed to Part 66 to judicial review claims. This would provide greater certainty for applicants and

⁵ 1990 c.41.

⁶ 1947 c.44.

reduce the risk of delay in these urgent cases due to service on an inappropriate or inconvenient address.

52. Judicial review claims are not made only against government departments or Ministers. Many are made against local authorities, NDPBs and courts or tribunals. It would probably not be practicable to draw up a definitive list of addresses for service covering all bodies that could be subject to judicial review. Views are sought on whether there are some categories, for example courts and tribunals, for which such a list would be practicable and useful.

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.

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

Rule 71.3 Order to obtain information

53. An order to attend court to give information must, unless the court otherwise orders, be served personally. Paragraph 3 of the Practice Direction supplementing Part 71 says: "*Service of an order to attend court for questioning must be carried out by the judgment creditor (or someone acting on his behalf), except that in county court proceedings if the judgment creditor is an individual litigant in person the order will be served by the court bailiff*".
54. It is unclear why there is this distinction between the county court (where a litigant in person has to use a bailiff to serve) and in the High Court (where he does not). It is suggested that the distinction be removed to allow an individual litigant in person to effect personal service in all courts.

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 in all courts? If not, why not?

Proposed draft rules

55. **Annex A** contains a re-drafted version of Part 6, its associated practice direction and certain other rules. This has been prepared for consultation by a sub-committee of the CPRC.

56. To help clarify the rules, it is proposed to re-structure Part 6. In particular, the new draft contains separate and largely self-contained sections dealing with service of the claim form within the jurisdiction and service of other documents within the jurisdiction. Similarly, there is a new section dealing with service in Scotland and Northern Ireland, reflecting the proposal to treat these differently from other foreign jurisdictions.

57. The new draft seeks to give effect to a number of the substantive changes proposed in this paper, including:

- reasonable enquiries as to current address (only) when last known address known to be out-of-date;
- time limit for service of claim form to turn on date of despatch or transmission, not deemed date of service;
- all dates for deemed service to be business days;
- postal service extended to non-Royal Mail equivalents of first class post;
- power to order alternative service retrospectively;
- ability to provide an address for service anywhere within the UK;
- no personal service of judicial review claims against the Crown.

58. The draft includes various other changes reflecting the new structure and to clarify the effect of existing case law. For example, new rule 6.13 states that the court will only dispense with service of the claim form in exceptional circumstances. The equivalent rule for other documents (6.23) is not so limited.

<p>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.</p>

Questionnaire

We would welcome responses to the following questions set out in this consultation.

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?

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?

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?

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 and, if appropriate, to apply for the court's permission?

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.

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)?

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

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.

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?

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?

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.

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?

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

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?

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

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

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?

Question 18: Do you agree 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 acknowledgment of service? Is a certificate of service necessary when an acknowledgment of service has been filed?

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?

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.

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

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?

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.

Thank you for participating in this consultation exercise

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

How to respond

All responses are requested to arrive by **28 September 2007**.

We would be grateful if you could send your response to us by e-mail, in MS Word. The e-mail address is: mujahid.al@hmcourts-service.gsi.gov.uk

If you wish to send your response by post, please send it to:-

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

Tel: 020 7210 8277

Fax: 020 7210 8825

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.justice.gov.uk/index.htm>

Publication of response

A paper summarising the responses to this consultation will be published shortly after the closing date of the consultation. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

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 time scale 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.

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 Ministry of Justice Consultation Co-ordinator, Laurence Fiddler, on 020 7210 2622, or email him at: consultation@justice.gov.uk.

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

**Laurence Fiddler
Consultation Co-ordinator
Ministry of Justice
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 under **the How to respond** section of this paper at page 22.

Annex A (proposed Part 6)

Part 6 SERVICE OF DOCUMENTS

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Interpretation	Rule 6.2

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I SCOPE OF THIS PART AND INTERPRETATION

Part 6 rules about service apply generally

- 6.1 The rules in this Part apply to the service of documents, except where –
- (a) any enactment, a rule in another Part, or a practice direction makes a different provision; or
 - (b) the court orders otherwise.
- (For service in possession claims, see Part 55.)

Interpretation

- 6.2 In this Part-
- (a) 'claim' includes petition and pre-action or originating application;
 - (b) 'claim form' includes petition and pre-action or originating application notice;
 - (c) 'business day' means any day except Saturday, Sunday, a bank holiday, Good Friday or Christmas Day; and
 - (d) 'bank holiday' means a bank holiday under the Banking and Financial Dealings Act 1971¹ in the part of the United Kingdom where service is to take place.

¹ 1971 c.80.

(‘Jurisdiction’, ‘claimant’ and ‘defendant’ are defined in rule 2.3(1).)

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 (or an alternative postal service which provides for delivery on the next business day);
- (c) leaving it at a place specified in rule 6.7;
- (d) through a document exchange in accordance with the practice direction supplementing this Section of this Part;
- (e) fax or other means of electronic communication in accordance with the practice direction supplementing this Section of this Part; or
- (f) any method authorised by the court under rule 6.12.

(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 -
 - (i) section 725 of the Companies Act 1985² (service by leaving a document at or posting it to an authorised place);
 - (ii) section 695 of that Act (service on overseas companies); and
 - (iii) section 694A of that Act (service of documents on companies incorporated outside the UK and Gibraltar and having a branch in Great Britain).³

(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(1) (service by leaving a document at or posting it to an authorised place).

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 a party must serve it;
- (b) the claimant notifies the court that he wishes to serve it himself;
- (c) the court orders or directs otherwise; or
- (d) the court has previously sent a notification of outcome of postal service to the claimant in accordance with rule 6.15.

(2) Where the court is to serve the claim form, it is for the court to decide which of the methods of service specified in rule 6.3 is to be used.

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

Personal service

² 1985 c.6.

³ Sections 694A, 695 and 725 of the Companies Act 1985 are to be repealed at a date to be confirmed by the Companies Act 2006 (2006 c.46). The draft rule will be amended to reflect the new provisions of the Companies Act 2006.

6.5 (1) A claim form must be served personally where required by an enactment, a rule in another Part, a practice direction or a court order.

- (2) In other cases, a claim form may be served personally except -
- (a) where rule 6.6 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) the claimant's solicitor or a person acting as an agent for or an employee of the solicitor; or
 - (c) a court officer.

Service of claim form on solicitor⁴

- 6.6 Subject to rule 6.5(1), where –
- (1) the defendant has given the business address of a solicitor as an address at which he can be served with the claim form; or
 - (2) a solicitor acting for the defendant has notified the claimant that he is authorised 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.

Where to serve the claim form

6.7 (1) The claim form must be served within the jurisdiction except as provided by Section IV and Section V of this Part.

- (2) The claim form must include an address at which the defendant is to be served. That address must include a full postcode, unless the court orders otherwise.

(Paragraph 2.4 of the practice direction supplementing Part 16 makes provision about postcodes.)

- (3) Subject to rule 6.6, the defendant may be served with the claim form at an address within the jurisdiction other than a Post Office Box which he has given for the purpose of being served with the proceedings.

⁴ "Solicitor" is kept here but it is dealt with in the consultation paper.

(4) Where –

- (a) rule 6.5(1) (personal service); or
- (b) rule 6.6 (service of claim form on solicitor);

do not apply and the defendant has not provided an address at which he may be served with the claim form under paragraph (3), the claim form must be served on the defendant at the place shown in the following table.

(Rule 6.3(2) sets out the statutory methods of service on a company.)

(Rule 6.3(3) sets out the methods of service on a limited liability partnership.)

Nature of defendant to be served	Place of service
Individual	Usual or last known residence
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
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.
Limited liability partnership	Principal office of the partnership; or Any place of business of the partnership within the jurisdiction which has a real connection with the claim
Corporation other than a company incorporated in England and Wales	Principal office of the corporation; or Any place within the jurisdiction where the corporation carries on its activities and which has a real connection with the claim.
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.
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.

(5) Where a claimant knows that the address at which he must serve the defendant is an address at which the defendant no longer resides or carries on business, the claimant must:

- (a) take reasonable steps to discover the address of the defendant's current residence or place of business; and
- (b) if he discovers that current address he must serve the claim form on that address. But if, having taken such reasonable steps, the claimant is unable to discover a current address, he may serve on the last known address in accordance with the table in paragraph (4).

(6) This rule does not apply where an order made by the court under rule 6.12 (service by an alternative method or at an alternative place) specifies where the claim form may be served.

(7) In civil proceedings against the Crown–

- (a) service on the Attorney General must be effected on the Treasury Solicitor;
- (b) service on a government department must be effected on the solicitor acting for that department as required by section 18 of the Crown Proceedings Act 1947⁵.

(The practice direction supplementing Part 66 gives the list published under section 17 of that Act of the solicitors acting for the different government departments on whom service is to be effected, and of their addresses.)

Service of claim form by contractually agreed method

6.8 (1) Where –

- (a) a contract contains a term providing that, in the event of a claim being issued in relation to the contract, the claim form may be served by a method specified in the contract; and
- (b) a claim form containing only a claim in respect of that contract is issued, the claim form may, subject to paragraph (2), be served on the defendant by a method specified in the contract.

(2) Where the claim form is served out of the jurisdiction in accordance with the contract, it may be served on the defendant–

- (a) if permission to serve it out of the jurisdiction has been granted under rule 6.31 or 6.41; or
- (b) without permission under rule 6.28 or 6.38.

Service of claim form on agent of principal who is overseas

6.9 (1) Where –

- (a) the defendant is overseas; and
 - (b) the conditions specified in paragraph (2) are satisfied,
- the court may, on an application, permit a claim form relating to a contract to be served on a defendant's agent.

(2) The court may not make an order under this rule unless it is satisfied that –

- (a) the contract to which the claim relates was entered into within the jurisdiction with or through the defendant's agent; and
- (b) at the time of the application either the agent's authority has not been terminated or he is still in business relations with the defendant.

(3) An application under this rule –

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

(4) An order under this rule must state a period within which the defendant must respond to the particulars of claim.

(Rule 9.2 sets out how a defendant may respond to particulars of claim.)

(5) The power conferred by this rule is additional to the power conferred by rule 6.12 (service by an alternative method or at an alternative place.).

(6) Where the court makes an order under this rule, the claimant must send to the defendant copies of –

- (a) the order; and
- (b) the claim form.

⁵ 1947 c.44.

Service of claim form on children and protected parties

6.10 (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.

('Child' and 'protected party' are defined in rule 21.1.)

(3) For the purposes of giving effect to this rule, any reference to a defendant or a party to be served in this Section 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 some 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.)

Deemed service

6.11 (1) A claim form which is served in accordance with these Rules or any relevant practice direction shall be deemed to be served on the day shown in the following table –

Method of service

First class post (or an alternative postal service which provides for delivery on the next business day)

Document exchange

Delivering the claim form to or leaving it at a permitted address

Deemed date of service

If the second day after it was posted is a business day, on that day; or in any other case, the next business day after that day.

If the second day after it was left at the document exchange is a business day, on that day; or, in any other case, the next business day after that day.

The next business day after it was delivered to or left at the permitted

Fax	address. If it is transmitted on a business day before 4.30 p.m., on that day; or in any other case, on the business day after the day on which it is transmitted.
Other electronic method	The business day after the day on which it is transmitted.

- (2) If a claim form is served personally –
- (a) after 4.30 p.m., on a business day; or
 - (b) at any time on a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday,
- it will be treated as being served on the next business day.

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

6.12 (1) Where it appears to the court that there is a compelling 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) An application for an order under paragraph (1) may be made by the claimant–
- (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; and
 - (b) the date when the claim form is to be deemed to be served.

Power of court to dispense with service of the claim form

6.13 (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

6.14 (1) Where a claim form is served by the court, the court will send to the claimant a notice which will include the date when the claim form is deemed to be served under rule 6.11.

- (2) Where the claim form is served by the claimant –
- (a) he must file a certificate of service within 7 days of service of the claim form; and
 - (b) he may not obtain judgment in default under Part 12 unless he has filed the certificate of service.
- (3) The certificate of service must state–
- (a) where rule 6.7(4) applies, the category of address at which the claimant believes he has served the claim form; and

(b) the details set out in the following table.

Method of service	Details to be certified
Post	Date of posting
Personal	Date of personal service
Document exchange	Date of delivery to the document exchange
Delivery of document to or leaving it at a permitted place	Date when the document was delivered to or left at the permitted place
Fax	Date and time of transmission
Other electronic means	Date of transmission and the means used
Alternative method or place permitted by the court	As required by the court

Notification of outcome of postal service by the court

6.15 (1) Where –

- (a) a claim form to be served by the court is served 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 given is not the relevant address for the purpose of rule 6.7.

Notice of non-service by bailiff

6.16 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 must send notification to the claimant.

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

Methods of services

6.17(1) A document may be served by any of the following methods –

- (a) personal service, in accordance with rule 6.18;
- (b) first class post (or an alternative postal service which provides for delivery on the next business day);
- (c) leaving it at a place specified in rule 6.19;
- (d) through a document exchange in accordance with the practice direction supplementing this Part;
- (e) fax or other means of electronic communication in accordance with the practice direction supplementing this Part; or
- (f) any method authorised by the court under rule 6.23.

(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 –
 - (i) section 725 of the Companies Act 1985 (service by leaving a document at or posting it to an authorised place);
 - (ii) section 695 of that Act (service on overseas companies); and
 - (iii) section 694A of that Act (service of documents on companies incorporated outside the UK and Gibraltar and having a branch in Great Britain).

- (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 (service by leaving a document at or posting it to an authorised place).

Who is to serve

- 6.18 (1) A party will serve a document which that party has prepared except where-
- (a) a rule or practice direction provides that the court must serve the document in question; or
 - (b) the court orders or directs otherwise.

- (2) The court will serve a document which it has issued and prepared except where-
- (a) a rule provides that a party must serve the document in question;
 - (b) the party on whose behalf the document is to be served notifies the court that he wishes to serve it himself;
 - (c) a practice direction provides otherwise; or
 - (d) the court orders otherwise.

(3) Where the court is to serve a document, it is for the court to decide which of the methods of service specified in rule 6.17 is to be used.

(4) Where a party prepares a document which is to be served by the court, that party must file a copy for the court and for each party to be served.

Personal Service

6.19 (1) A document must be served personally where required by an enactment, a rule under another Part, a practice direction or a court order.

(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 on an individual, a company or a partnership has the same meaning as if the document was 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

6.20 (1) A party to proceedings must give an address at which he 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 provision 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 the solicitor acting for the party to be served.

(Rule 42.1 provides that where a party gives the business address of his solicitor as his 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-

- (a) by first class post or an alternative method of postal service which provides for delivery on the next business day;
- (b) by leaving it at the place of service;
- (c) through a document exchange; or
- (d) by fax or some other means of electronic communication,

must be sent or transmitted to, or left at, the party's address for service under paragraph (2).

(Paragraph 3.3 of the practice direction supplementing this Section of this Part requires any fax number to be at the address for service and provides that an email address will be deemed to be at the address for service.)

(4) 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 6.7(7).

(5) This rule does not apply where an order made by the court under rule 6.23 (service by an alternative method or at an alternative place) specifies where a document may be served.

Service on children and protected parties

6.21 (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 21.8⁶.

(2) Any other document which would otherwise be served on a child or a protected party must be served on the litigation friend who is conducting the proceedings on behalf of the child or litigation friend.

(2) Rules 6.10(4) – (7) apply in relation to other documents as to the claim form.

Deemed Service

6.22 The provisions on deemed service contained in rule 6.11 apply to service of any document as they apply to the claim form.

Service by an alternative method or at an alternative place

6.23 Rule 6.12 applies to any document in the proceedings as it applies to the claim form.

Power to dispense with service

6.24 (1) The court may dispense with service of any document other than a claim form which is to be served in the proceedings.

(2) An application for an order to dispense with service may be made without notice.

Certificate of service

6.25 Where a rule, practice direction or court order requires a certificate of service, the certificate must state the details required by rule 6.14(3)(b).

⁶ Rule 21.8 will need to be amended.

IV SERVICE OF THE CLAIM FORM AND OTHER DOCUMENTS IN SCOTLAND AND NORTHERN IRELAND

Scope of this Section

6.26 This Section contains rules about –

- (a) service of the claim form and other documents in Scotland and Northern Ireland;
- (b) how to obtain the permission of the court to serve in Scotland and Northern Ireland; and
- (c) the procedure for service in Scotland and Northern Ireland.

Definitions

6.27 For the purposes of this Section, ‘the 1982 Act’ means the Civil Jurisdiction and Judgments Act 1982⁷.

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

6.28 (1) A claim form may be served on a defendant in Scotland or Northern Ireland where each claim included in the claim form made against the defendant to be served 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) paragraph 11 of Schedule 4 to the 1982 Act refers to the proceedings; or
- (iii) the defendant is a party to an agreement conferring jurisdiction to which paragraph 12 of Schedule 4 to the 1982 Act refers.

(2) A claim form may be served on a defendant in Scotland or Northern Ireland where each claim included in the claim form made against the defendant 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.

(3) Where a claim form is to be served in Scotland or Northern Ireland under this rule, it must contain a statement of the grounds on which the claimant is entitled to serve it out of the jurisdiction.

Period for acknowledging service or admitting the claim

6.29 (1) This rule sets out the period for filing an acknowledgment of service or filing or serving an admission where a claim form has been served out of the jurisdiction under rule 6.28.

(Part 10 contains rules about the acknowledgment of service and Part 14 contains rules about admissions.)

(2) If the claim form is to be served under rule 6.28(1) or (2) the period is –

- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 21 days after the service of the particulars of claim; and
- (b) in any other case, 21 days after service of the claim form.

Period for filing a defence

⁷ 1982 c.27.

6.30 (1) This rule sets out the period for filing a defence where a claim form has been served out of the jurisdiction under rule 6.28.

(Part 15 contains rules about the defence.)

(2) If the claim form is to be served under rule 6.28(1) or (2) the period is –

- (a) 21 days after service of the particulars of claim; or
- (b) if the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.

Service where the permission of the court is required: Scotland and Northern Ireland

6.31 In any proceedings to which rule 6.28 does not apply, a claim form may be served in Scotland or Northern Ireland with the permission of the court if any of the grounds set out in paragraph 3 of the practice direction supplementing this Section and Section V of this Part apply.

Application for permission to serve claim form in Scotland and Northern Ireland

6.32 (1) An application for permission under rule 6.31 must be supported by written evidence stating –

- (a) the grounds on which the application is made and which of the grounds set out in paragraph 3 of the practice direction supplementing this Section of this Part is relied upon;
- (b) that the claimant believes that his claim has a reasonable prospect of success; and
- (c) the defendant's address or, if not known, in what place the defendant is, or is likely, to be found.

(2) Where the application is made in respect of a claim referred to in paragraph 3(3) of the practice direction supplementing this Section of this Part, the written evidence must also state the grounds on which the witness believes that there is between the claimant and the person on whom the claim form has been, or will be served, 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) Where 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–

- (a) compare the cost and convenience of proceeding there or in the jurisdiction; and
- (b) (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 for a claim form to be served in Scotland or Northern Ireland, it will give directions, which may include directions about–

- (a) the method of service;
- (b) the period for filing an acknowledgment of service and a defence.

Service of documents other than the claim form: Scotland and Northern Ireland

6.33 (1) Where a party has given an address for service in Scotland or Northern Ireland, any document to be served–

- (a) by first class post (or an alternative service which provides for delivery on the next business day);

- (b) by leaving it at the place of service;
- (c) through a document exchange; or
- (d) by fax or other means of electronic communication

must be sent or transmitted to, or left at, the address for service given by the party to be served.

(2) Paragraph (3) applies if a party has not given an address for service in the United Kingdom.

(3) Unless paragraph (4) applies, where the permission of the court is required for a claim form to be served in Scotland or Northern Ireland the permission of the court must also be obtained for service in Scotland or Northern Ireland of any other document to be served in the proceedings.

(4) Where—

- (a) the court gives permission for a claim form to be served in Scotland or Northern Ireland; 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 in Scotland or Northern Ireland.

(5) Where any person on whom an application notice has been served is not a party to the proceedings in the jurisdiction in which the application is made, that person may make an application to the court under Part 11 as if he were a defendant and rule 11(2) does not apply.

General provisions about service in Scotland and Northern Ireland

Method of Service

6.34 (1) Where a claim form or any other document is to be served in Scotland or Northern Ireland, it must be served by a method permitted by Section II or Section III of this Part

(2) Nothing in this rule or in any court order authorises or requires any person to do anything in the place where the claim form or document is to be served which is contrary to the law of that country

Proof of service

6.35 Where—

- (a) a hearing is fixed when the claim form is issued; and
 - (b) the claim form is served on a defendant in Scotland or Northern Ireland;
- 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 showing that the claim form has been duly served.

V SERVICE OF THE CLAIM FORM AND OTHER DOCUMENTS OUT OF THE JURISDICTION OTHER THAN IN SCOTLAND AND NORTHERN IRELAND

Scope of this Section

6.36 This Section contains rules about—

- (a) service out of the jurisdiction other than in Scotland and Northern Ireland;
- (b) when the permission of the court is required and how that permission is obtained; and
- (c) methods of service.

Definitions

6.37 For the purposes of this Section –

- (a) ‘the 1982 Act’ means the Civil Jurisdiction and Judgments Act 1982;
- (b) ‘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;
- (c) ‘Contracting State’ has the meaning given by section 1(3) of the 1982 Act;
- (d) ‘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;
- (e) ‘Civil Procedure Convention’ means the Brussels and Lugano Conventions and any other Convention entered into by the United Kingdom regarding service outside the jurisdiction;
- (f) ‘the Service Regulation’ means Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters;
- (g) ‘United Kingdom Overseas Territory’ means those territories as set out in paragraph 5.2 of the practice direction supplementing this Section of this Part.
- (h) ‘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 Regulation State, in accordance with the Judgments Regulation and paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001⁸;
- (i) ‘the Judgments Regulation’ means Council Regulation (EC) No. 44/2001 of 22nd 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 19th 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; and
- (j) ‘Regulation State’ means a Member State.

(Rule 6.51 provides that where an application notice is to be served out of the jurisdiction under this Part, rules 6.39, 6.40 and 6.42(4) do not apply.)

Service of the claim form where the permission of the court is not required

6.38 (1) A claim form may be served on a defendant where each claim included in the claim form made against the defendant to be served 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) Article 16 of Schedule 1 or 3C to the 1982 Act refers to the proceedings; or
- (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1 or 3C to the 1982 Act refers.

(2) A claim form may be served on a defendant out of the jurisdiction where each claim included in the claim form made against the defendant to be served is a claim which the court has power to determine under the Judgments Regulation and–

⁸ S.I. 2001/3929.

- (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 Regulation State; and
 - (b) (i) the defendant is domiciled in the United Kingdom or in any Regulation State;
 - (ii) Article 22 of the Judgments Regulation refers to the proceedings; or
 - (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 23 of the Judgments Regulation refers.
- (3) A claim form may be served on a defendant where each claim included in the claim form made against the defendant to be served is a claim which the court has power to determine under any other enactment, although—
- (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.
- (4) Where a claim form is to be served under this rule, it must contain a statement of the grounds on which the claimant is entitled to serve it out of the jurisdiction.

Period for acknowledging service or admitting the claim

6.39 (1) This rule sets out the period for filing an acknowledgment of service or filing or serving an admission where a claim form has been served out of the jurisdiction under rule 6.38.

(Part 10 contains rules about the acknowledgment of service and Part 14 contains rules about admissions.)

- (2) If the claim form is to be served under rule 6.38(1) or (2) in the European territory of another Contracting State or Regulation State the period is –
- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 21 days after the service of the particulars of claim; and
 - (b) in any other case, 21 days after service of the claim form.
- (3) If the claim form is to be served under rule 6.38(1) in any other territory of a Contracting State the period is –
- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 31 days after the service of the particulars of claim; and
 - (b) in any other case, 31 days after service of the claim form.
- (4) If the claim form is to be served under –
- (a) rule 6.38(1) or (2) in a country not referred to in paragraph (2) or (3); or
 - (b) rule 6.38(3),
- the period is set out in the practice direction supplementing this Section of this Part.

Period for filing a defence

6.40 (1) This rule sets out the period for filing a defence where a claim form has been served out of the jurisdiction under rule 6.38.

(Part 15 contains rules about the defence.)

- (2) If the claim form is to be served under rule 6.38(1) or (2) in the European territory of another Contracting State or Regulation State the period is –
- (a) 21 days after service of the particulars of claim; or
 - (b) if the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.

(3) If the claim form is to be served under rule 6.38(1) in any other territory of a Contracting State the period is –

- (a) 31 days after service of the particulars of claim; or
- (b) if the defendant files an acknowledgment of service, 45 days after service of the particulars of claim.

(4) If the claim form is to be served under –

- (a) rule 6.38(1) or (2) in a country not referred to in paragraph (2) or (3); or
- (b) rule 6.38(3),

the period is set out in the practice direction supplementing this Section of this Part.

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

Where permission is required

6.41 In any proceedings to which rule 6.38 does not apply, a claim form may be served out of the jurisdiction with the permission of the court if one of the grounds contained in paragraph 3 of the practice direction supplementing this Section of this Part applies.

Application for permission to serve claim form out of jurisdiction

6.42 (1) An application for permission under rule 6.41 must be supported by written evidence stating –

- (a) the grounds on which the application is made and which of the grounds set out in paragraph 3 of the practice direction supplementing this Section of this Part is relied upon;
- (b) that the claimant believes that his claim has a reasonable prospect of success; and
- (c) the defendant's address or, if not known, in what place or country the defendant is, or is likely, to be found.

(2) Where the application is made in respect of a claim referred to in paragraph 3(3) of the practice direction supplementing this Section of this Part, the written evidence must also state the grounds on which the witness believes that there is, between the claimant and the person on whom the claim form has been or will be served, 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) An order giving permission to serve a claim form under Part 7 or Part 8 out of the jurisdiction will specify the periods within which the defendant may –

- (a) file an acknowledgment of service;
- (b) file or serve an admission;
- (c) file a defence; or
- (d) file any other response or document required by any other enactment, a rule in another Part or a practice direction.

(Part 11 sets out the procedure by which a defendant may dispute the court's jurisdiction.)

(The practice direction supplementing this Section of this Part sets out how the periods referred to in paragraphs (a), (b) and (c) are calculated.)

(5) Where the court gives permission for a claim form to be served out of the jurisdiction, it may-

- (a) give directions about the method of service;

- (b) give permission for service of other documents in the proceedings to be served out of the jurisdiction.

Method of service: service out of the jurisdiction

General provisions

6.43 (1) Where a claim form is to be served out of the jurisdiction, it may be served by any method –

- (a) permitted by the law of the country in which it is to be served;
- (b) provided for by –
 - (i) rule 6.44 (service through foreign governments, judicial authorities and British Consular authorities);
 - (ii) rule 6.46 (service in accordance with the Service Regulation); or
 - (iii) rule 6.47 (service on a State); or
- (c) permitted by a Civil Procedure Convention.

(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.>)

(2) Nothing in this rule or in any court order authorises or requires any person to do anything in the country where the claim form is to be served which is against the law of that country.

Service through foreign governments, judicial authorities and British Consular authorities

6.44 (1) Where a claim form is to be served on a defendant in any country which is a party to the Hague Convention, the claim form may be served –

- (a) through the authority designated under the Hague Convention 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.

(2) Where –

- (a) paragraph (4) (service in Isle of Man etc., other than under the Hague Convention) does not apply; and
- (b) a claim form is to be served on a defendant in any country which is a party to a Civil Procedure Convention (other than the Hague Convention) providing for service in that country,

the claim form may be served, 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).

(3) Where –

- (a) paragraph (4) (service in Isle of Man, etc., other than under the Hague Convention) does not apply; and
- (b) a claim form is to be served 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 may be served, if the law of that country so permits –

- (i) through the government of that country, where that government is willing to serve it; or
- (ii) through a British Consular authority in that country.

(4) Except where a claim form is to be served in accordance with paragraph (1) (service under the Hague Convention), the methods of service permitted by paragraphs (2) and (3) are not available where the claim form is to be served in –

- (a) the Isle of Man or the Channel Islands;
- (b) any Commonwealth State; or
- (c) any United Kingdom Overseas Territory.

(5) This rule does not apply where service is to be effected in accordance with the Service Regulation.

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

6.45 (1) This rule applies where the claimant wishes to serve the claim form through–

- (a) the judicial authorities of the country where the claim form is to be served;
- (b) a British Consular authority in that country;
- (c) the authority designated under the Hague Convention in respect of that country; or
- (d) the government of that country.

(2) Where this rule applies, the claimant must file –

- (a) a request for service of the claim form by the method in paragraph (1) that he has chosen;
- (b) a copy of the claim form;
- (c) any translation required under rule 6.48; and
- (d) any other documents, copies of documents or translations required by the relevant practice direction.

(3) When the claimant files the documents specified 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) The Senior Master will send documents forwarded under this rule –

- (a) where the claim form 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 to be served by the method indicated in the request for service filed under paragraph (2) or, where that request indicates alternative methods, by the most convenient method.

(5) An official certificate which –

- (a) states that the claim form has been served in accordance with this rule either personally, or in accordance with the law of the country in which service was effected;
- (b) specifies the date on which the claim form was served; and
- (c) 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) any other authority designated in respect of that country under the Hague Convention,

shall be evidence of the facts stated in the certificate.

(6) A document purporting to be an official certificate under paragraph (5) shall be treated as such a certificate, unless it is proved not to be.

(7) This rule does not apply where service is to be effected in accordance with the Service Regulation.

Service in accordance with the Service Regulation

6.46 (1) This rule applies where a claim form is to be served in accordance with the Service Regulation.

(2) The claimant must file the claim form and any translations or 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 6.50 does not apply.

(The Service Regulation is annexed to the relevant practice direction)

Service of claim form on a State where court permits service out of the jurisdiction

6.47 (1) This rule applies where a claimant wishes to serve the claim form on a State.

(2) 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; and

(c) any translation required under rule 6.48.

(3) The Senior Master will send documents filed under this rule to the Foreign and Commonwealth Office with a request that it arranges for the claim form to be served.

(4) 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 shall be evidence of that fact.

(5) A document purporting to be such a certificate shall be treated as such a certificate, unless it is proved not to be.

(6) Where –

(a) section 12(6) of the State Immunity Act 1978⁹ applies; and

(b) the State has agreed to a method of service other than through the Foreign and Commonwealth Office,

the claim 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) of that Act, which prescribes a method for serving documents on a State, does not prevent the service of a claim form or other document in a manner to which the State has agreed.)

(7) In this rule ‘State’ has the meaning given by section 14 of the State Immunity Act 1978.

⁹ 1978 c.33.

Translation of claim form

6.48 (1) Except where paragraph (4) or (5) applies, every copy of the claim form filed under rule 6.45 (service through judicial authorities, foreign governments etc.) or 6.47 (service on State) must be accompanied by a translation of the claim form.

(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 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 –

- (a) the name of the person making the translation;
- (b) his address; and
- (c) his qualifications for making a translation.

(4) The claimant is not required to file a translation of a claim form filed under rule 6.45 (service through judicial authorities, foreign governments etc.) where the claim form is to be served –

- (a) in a country of which English is an official language; or
- (b) on a British citizen.

unless a Civil Procedure Convention requires a translation.

(5) The claimant is not required to file a translation of a claim form filed under rule 6.47 (service on State) where English is an official language of the State in which the claim form is to be served.

Undertaking to be responsible for expenses of the Foreign and Commonwealth Office

6.49 Every request for service filed under rule 6.45 (service through judicial authorities, foreign governments etc.) or rule 6.47 (service 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

6.50 Where –

- (a) a hearing is fixed when the claim 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 that defendant until the claimant files written evidence showing that the claim form has been duly served in accordance with this Section.

Service of documents other than the claim form

6.51 (1) Where an application notice is to be served out of the jurisdiction under this Section of this Part –

- (a) rules 6.39, 6.40 and 6.42(4) do not apply; and
- (b) where the person on whom the application notice has been served is not a party to proceedings in the jurisdiction in which the application is made, that person may make an application to the court under rule 11(1) as if he were a defendant and rule 11(2) does not apply.

(Rule 6.39 provides rules for the period for acknowledging service or admitting the claim where the claim form is served out of the jurisdiction under rule 6.38.)

(Rule 6.40 provides rules for the period for filing a defence where the claim form is served out of the jurisdiction under rule 6.38.)

(Rule 6.42(4) provides that an order giving permission to serve a claim form out of the jurisdiction must specify the periods within which the defendant may (a) file an acknowledgment of service, (b) file or serve an admission, and (c) file a defence.)

(The practice direction supplementing this Section of this Part provides that where an application notice is to be served out of the jurisdiction in accordance with this Section of this Part, the court must have regard to the country in which the application notice is to be served in setting the date for the hearing of the application and giving any direction about service of the respondent's evidence.)

(Rule 11(1) provides that a defendant may make an application to the court to dispute the court's jurisdiction to try the claim or argue that the court should not exercise its jurisdiction. Rule 11(2) provides that a defendant who wishes to make such an application must first file an acknowledgment of service in accordance with Part 10.)

(2) Unless paragraph (3) applies, where the permission of the court is required for a claim form to be served out of the jurisdiction the permission of the court must also be obtained for service out of the jurisdiction of any other document to be served in the proceedings.

(3) Where –

(a) the court gives permission for a claim form to be served 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 out of the jurisdiction.

VI SERVICE OF FOREIGN PROCESS

Scope and definitions

6.52 (1) This Section of this Part –

(a) applies to the service in England or Wales of any court process in connection with civil or commercial proceedings in a foreign court or tribunal; but

(b) does not apply where the Service Regulation applies.

(The Service Regulation is annexed to the relevant practice direction.)

(2) In this Section –

(a) 'convention country' –

(i) means a foreign country in relation to which there is a civil procedure convention providing for service in that country of process of the High Court; and

(ii) includes a country which is a party to the Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters signed at the Hague on 15 November 1965; and

(b) 'process server' means –

(i) a process server appointed by the Lord Chancellor to serve documents to which this Section applies, or

(ii) his authorised agent.

Request for service

6.53 Process will be served where the Senior Master receives –

- (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 process to be served; and
- (d) unless the foreign court or tribunal certifies that the person to be served understands the language of the process, two copies of a translation of it into English.

Method of service

6.54 The process must be served as directed by the Senior Master.

After service

6.55 (1) The process server must –

- (a) send the Senior Master a copy of the process, and
 - (i) proof of service; or
 - (ii) a statement why the process could not be served; and
- (b) if the Senior Master directs, specify the costs incurred in serving or attempting to serve the process.

(2) The Senior Master will send the following documents 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 process 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 process; and
- (b) a copy of the process.

PRACTICE DIRECTION – SERVICE
THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 6
Contents of this Practice Direction

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METHODS OF SERVICE

1.1 The various methods of service are set out in rule 6.3 in relation to the claim form and rule 6.17 in relation to other documents.

1.2 The following provisions apply to the specific methods of service referred to in those rules.

SERVICE BY NON-ELECTRONIC MEANS

Service by Document Exchange

2.1 Service by document exchange (DX) may take place only where:

- (1) the party's address for service includes a numbered box at a DX, or
- (2) the writing paper of the party who is to be served or of his legal representative sets out the DX box number, and
- (3) the party or his legal representative has not indicated in writing that they are unwilling to accept service by DX.

2.2 Service by DX is effected by leaving the document addressed to the numbered box:

- (1) at the DX of the party who is to be served, or
- (2) at a DX which sends documents to that party's DX every business day.

SERVICE BY ELECTRONIC MEANS

3.1 Subject to the provisions of paragraph 3.3 below, where a document is to be served by electronic means –

- (1) the party who is to be served or his legal representative must previously have expressly indicated in writing to the party serving –
 - (a) that he is willing to accept service by electronic means; and
 - (b) the fax number, e-mail address or electronic identification to which it should be sent; and
- (2) the following are to be taken as sufficient written indication for the purposes of paragraph 3.1(1) –

- (a) a fax number set out on the writing paper of the legal representative of the party who is to be served; or
- (b) 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 seeks to serve a document by electronic means he should first seek to clarify with 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, including the format in which documents are to be sent and the maximum size of attachments that may be received).

3.3 An address for service given by a party under rule 6.20 must be within the United Kingdom and any fax number must be at the address for service. Where an e-mail address or electronic identification is given in conjunction with an address for service, the e-mail address or electronic identification will be deemed to be at the address for service.

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

SERVICE ON CERTAIN INDIVIDUALS

Personal service on partners

4. A claim form or particulars of claim which are served by leaving them with a person at the principal or last known place of business of the partnership, must at the same time have served with them a notice as to whether that person is being served:

- (1) as a partner,
- (2) as a person having control or management of the partnership business, or
- (3) as both.

Service on members of H.M. Forces and United States Air Force

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

Personal service on a company or other corporation

6.1 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'.

6.2 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 paragraph (1), the mayor, the chairman, the president, a town clerk or similar officer of the corporation.

CHANGE OF ADDRESS

7. A party or his legal representative who changes his address for service shall give notice in writing of the change, as soon as it has taken place, to the court and every other party.

REASONABLE STEPS TO DISCOVER DEFENDANT'S CURRENT ADDRESS

8.1 Rule 6.7(5) requires a claimant to take reasonable steps to discover the defendant's current residence or place of business where he knows that the address at which he intends to serve the claim form is one at which the defendant no longer resides or carries on business.

8.2 If the claimant discovers the address of the defendant's current residence or place of business, the claim form must be served at that address. Where the claimant is unable to discover the address of the defendant's current residence or

place of business, the claimant must consider whether there are any alternative places where there are reasonable prospects of effecting service upon the defendant. However, if the Claimant is unable to discover the defendant's current address, he may serve on the defendant's last known address in accordance with the table in rule 6.7(4).

SERVICE BY THE COURT

9.1 Where the court effects service of a document in accordance with rule 6.4(1) and (2) or 6.18(1) or 6.18(2), the method will normally be by first class post.

9.2 Where the court effects service of 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 provided –

- (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.

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

10.1 An application for an order for service by an alternative method or at an alternative place must be supported by evidence stating:

- (1) the reason an order is sought;
- (2) what steps have been taken to serve by a method or at a place permitted by Part 6;
- (3) where the application for an order is made before the document is served-
 - (a) what alternative method or place is proposed, and
 - (b) what steps the applicant has taken to ensure that service by that method or at that place will ensure that the document reaches the person to be served;and
- (4) 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-
 - (a) what alternative method was used to bring the document to the attention of the person to be served or at which alternative place was it brought to the attention of the person to be served;
 - (b) when the document was brought to the attention of the person to be served; and
 - (c) what steps the applicant has taken to ensure that the document has reached the person to be served.

Example

An application to serve by sending a SMS text message or leaving a voicemail message at a particular telephone number 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 will receive the message.

10.2 For the purpose of this paragraph, an 'alternative method of service' may take the form of a method for notifying the defendant of the existence of the claim form, for example by voicemail or text message, and where it can be found.

APPLICATION FOR SERVICE OF A CLAIM FORM ON AN AGENT

11. An application for service of a claim form relating to a contract on the agent of a principal who is overseas should be supported by evidence setting out:

- (1) full details of the contract and that it was entered into within the jurisdiction with or through an agent who is either an individual residing or carrying on business within the jurisdiction, or a registered company or corporation having a registered office or a place of business within the jurisdiction,
- (2) 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, neither an individual, registered company or corporation as described in (1) above, and
- (3) why service out of the jurisdiction cannot be effected.

**PRACTICE DIRECTION – SERVICE OUT OF THE JURISDICTION.
THIS PRACTICE DIRECTION SUPPLEMENTS SECTIONS IV AND V OF PART 6**

Service in other Member States of the European Union

1.1 Where service is to be effected in another Member of State of the European Union, Council Regulation (EC) No. 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ('the Service Regulation') applies.

1.2 The Service Regulation is annexed to this practice direction.

(Article 20(1) of the Service Regulation provides that the Regulation prevails over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member of States and in particular Article IV of the protocol to the Brussels Convention of 1968 and the Hague Convention of 15 November 1965.)

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

2.1 The usual form of words of the statement required by rule 6.28(3) or 6.38(4) where the court has power to determine the claim under the 1982 Act should be:–

'I state that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982 to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by section 1(3) of the Act.'

2.2 In proceedings to which rule 6.28(1)(b)(ii) or 6.38(1)(b)(ii) applies, the statement should be:–

'I state that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982, the claim having as its object rights in rem in immovable property or tenancies of immovable property (or otherwise in accordance with the provisions of Article 16 of Schedule 1 or 3C to that Act, or paragraph 11 of Schedule 4 to that Act) to which any of those provisions applies, to hear the claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by section 1(3) of the Act.'

2.3 In proceedings to which rule 6.28(1)(b)(iii) or 6.38(1)(b)(iii) applies, the statement should be:–

'I state that the High Court of England and Wales has power under the Civil Jurisdiction and Judgments Act 1982, the defendant being a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1 or 3C to that Act or paragraph 12 of Schedule 4 to that Act applies, to hear the claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or another Convention territory of any contracting state as defined by section 1(3) of the Act.'

2.4 The statement required by rule 6.38(2) where the Judgments Regulation applies should be: –

'I state that the High Court of England and Wales has power under Council Regulation (EC) No 44/2001 of 22nd December 2000 (on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or any other Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.'

2.5 However, in proceedings to which rule 6.38(2)(b)(ii) applies, the statement should be:–

'I state that the High Court of England and Wales has power under Council Regulation (EC) No 44/2001 of 22nd December 2000 (on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters), the claim having as its object rights in rem in immovable property or tenancies of immovable property (or otherwise in accordance with the provisions of Article 22 of that Regulation) to which Article 22 of that Regulation applies, to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or any other Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.'

2.6 And in proceedings to which rule 6.38(2)(b)(iii) applies, the statement should be:–

'I state that the High Court of England and Wales has power under Council Regulation (EC) No 44/2001 of 22nd December 2000 (on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters), the defendant being a party to an agreement conferring jurisdiction to which Article 23 of that Regulation applies, to hear this claim and that no proceedings are pending between the parties in Scotland, Northern Ireland or any other Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.'

2.7 In proceedings to which rule 6.28(2) or 6.38(3) applies, the statement should be:–

'I state that the High Court of England and Wales has power to hear this claim under [state the provisions of the relevant enactment] which satisfies the requirements of rule 6.28(2) or rule 6.38(3), and that no proceedings are pending between the parties in Scotland or Northern Ireland, or in another Contracting State or Regulation State as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982.'

2.8 A claim form appearing to be for service on a defendant under the provisions of rule 6.28 or rule 6.38 which does not include a statement in the form set out in paragraph 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 or 2.7 will be marked on issue 'Not for service out of the jurisdiction'.

2.9 Where a claim form is served without particulars of claim, it must be accompanied by a copy of Form N1C (notes for defendants).

SERVICE OUT OF THE JURISDICTION WHERE PERMISSION IS REQUIRED

3. A claim form may be served out of the jurisdiction with the permission of the court if one of the following grounds apply-

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 someone 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 that person 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, 154 or 175 of the Merchant Shipping Act 1995.

Claims under various enactments

(20) A claim is made under any of the following enactments:

- (1) The Nuclear Installations Act 1965,
- (2) The Social Security Contributions and Benefits Act 1992,
- (3) 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,
- (4) The Drug Trafficking Act 1994,
- (5) Part VI of the Criminal Justice Act 1988,
- (6) The Inheritance (Provision for Family and Dependents) Act 1975,
- (7) Part II of the Immigration and Asylum Act 1999,
- (8) Schedule 2 to the Immigration Act 1971,
- (9) The Financial Services and Markets Act 2000,
- (10) The Pensions Act 1995,
- (11) The Pensions Act 2004,
- (12) Section 20 of the Registered Designs Act 1949,
- (13) Section 72 of the Patents Act 1977,
- (14) Section 21 to 23 of the Plant Varieties Act 1997,
- (15) Section 46 of the Trade Marks Act 1994.

Documents to be filed under rule 6.45(2)(d)

4.1 A complete set of the following documents must be provided for each party to be served out of the jurisdiction–

- (1) a copy of particulars of claim if not already incorporated in or attached to the claim form;
- (2) a duplicate of the claim form, of the particulars of claim (if not already incorporated or attached to the claim form) and of any documents accompanying the claim and of any translation required by rule 6.48;
- (3) forms for responding to the claim; and
- (4) any translation required under rule 6.48 and paragraphs 6.1 and 6.2, in duplicate.

4.2 The documents to be served in certain countries require legalisation and the Foreign Process Section (Room E02), Royal Courts of Justice will advise on request. Some countries require legalisation and some require a formal letter of request, (see Form No. 34 to Table 2 of the practice direction supplementing Part 4) which must be signed by the Senior Master of the Queen’s Bench Division irrespective of the Division of the High Court or any county court in which the order was made.

Service in the Channel Islands, the Isle of Man, Commonwealth countries and United Kingdom Overseas Territories.

5.1 Where rule 6.44(4) applies, service should be effected by the claimant or his agent direct except in the case of a Commonwealth State where the judicial authorities have required service to be in accordance with rule 6.43(1)(b)(i). These are presently Malta and Singapore.

5.2 For the purposes of rule 6.44(4)(c), the following countries are United Kingdom Overseas Territories:–

- (a) Anguilla;
- (b) Bermuda;
- (c) British Antarctic Territory;
- (d) British Indian Ocean Territory;
- (e) Cayman Islands;
- (f) Falkland Islands;
- (g) Gibraltar;
- (h) Montserrat;
- (i) Pitcairn, Henderson, Ducie and Oeno;
- (j) St. Helena and Dependencies;
- (k) South Georgia and the South Sandwich Islands;
- (l) Sovereign Base Areas of Akrotiri and Dhekelia;
- (m) Turks and Caicos Islands; and
- (n) Virgin Islands.

Translations

6.1 Rule 6.48 applies to particulars of claim not included in a claim form as well as to claim forms.

6.2 Where a translation of a claim form is required under rule 6.48, the claimant must also file a translation of all the forms that will accompany the claim form. (It should be noted that English is not an official language in the Province of Quebec).

Service with the permission of the Court under certain Acts

7.1 Paragraph 3(20) provides that a claim form may be served out of the jurisdiction with the court's permission if the claim is made under various specified enactments.

7.2 Under the State Immunity Act 1978, the foreign state being served is allowed an additional two months over the normal period for filing an acknowledgment of service or defence or for filing or serving an admission allowed under paragraphs 8.3 and 8.4.

Service of petitions, application notices and orders

8.1 The provisions of Sections IV and V of Part 6 (provisions about service out of the jurisdiction) apply to service out of the jurisdiction of a petition, application notice or order.

(Rule 6.50(1) contains special provisions relating to application notices.)

8.2 Where an application notice is to be served out of the jurisdiction in accordance with Section IV or V of Part 6 the court must have regard to the country in which the application notice is to be served in setting the date for the hearing of the application and giving any direction about service of the respondent's evidence.

8.3 Where the permission of the court is required for a claim form to be served out of the jurisdiction the permission of the court, unless rule 6.33(1) or (4) or rule 6.51(3) applies, must also be obtained for service out of the jurisdiction of any other document to be served in the proceedings and the provisions of this Practice Direction will, so far as applicable to that other document, apply.

8.4 When 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 6.29, 6.30, 6.39 or 6.40 or (as the case may be) by the order permitting service out of the jurisdiction (see rule 6.32(5) or 6.42(4)).

Period for responding to a claim form

9.1 Where a claim form has been served out of the jurisdiction without permission under rule 6.28 or rule 6.38–

- (1) rules 6.29 and 6.39 set out the period for filing an acknowledgment of service or filing or serving an admission, and where rule 6.39(4) applies, the period will be calculated in accordance with paragraph 9.3 having regard to the Table below; and
- (2) rules 6.30 and 6.40 set out the period for filing a defence and where rule 6.40(4) applies, the period will be calculated in accordance with paragraph 9.4 having regard to the Table below.

9.2 Where an order grants permission to serve a claim form out of the jurisdiction, the periods within which the defendant may –

- (1) file an acknowledgment of service;
- (2) file or serve an admission; or
- (3) file a defence,

will be calculated in accordance with paragraphs 9.3 and 9.4 having regard to the Table below.

(Rule 6.32(5) and rule 6.42(4) permit an order giving permission for a claim form to be served out of the jurisdiction to specify the period within which the defendant may respond to the claim form.)

9.3 The period for filing an acknowledgment of service under Part 10 or filing or serving an admission under Part 14 is –

- (1) where the defendant is served with a claim form which states that particulars of claim are to follow, the number of days listed in the Table after service of the particulars of claim; and
- (2) in any other case, the number of days listed in the Table after service of the claim form.

For example, where a defendant has been served with a claim form (accompanied by particulars of claim) in the Bahamas, the period for acknowledging service or admitting the claim is 22 days after service.

9.4 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.

For example, where a defendant has been served with particulars of claim in Gibraltar and has acknowledged service, the period for filing a defence is 45 days after service of the particulars of claim.

Period for responding to an application notice

10. Where an application notice or order needs to be served out of the jurisdiction, the period for responding to service is 7 days less than the number of days listed in the Table.

Address for service & further information

11.1 A defendant is required by rule 6.20(1) to give an address for service within the United Kingdom.

11.2 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-Hercegovina Croatia Macedonia and Slovenia)	21
Zaire	25
Zambia	23
Zimbabwe	22

Other Amendments proposed

Rules 7.5 & 7.6

Service of a claim form

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

First class post (or an alternative service which provides for delivery on the next business day)	Placing the claim form in a post box
Document exchange	Placing the claim form in the document exchange
Delivering the document to or leaving it at a permitted address	Delivering to or leaving the document at the permitted address
Fax	Transmitting the fax
Other electronic method	Sending the e-mail

(2) Where the claim form is to be served out of the jurisdiction, the claim form must be [served][received or deemed to be received] in accordance with the law of the country in which it is to be served or otherwise as directed by the court within 6 months of the day 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.

Annex B - (Current Part 6)

Part 6

SERVICE OF DOCUMENTS

Contents of this part

I GENERAL RULES ABOUT SERVICE

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I GENERAL RULES ABOUT SERVICE

Part 6 rules about service apply generally

- 6.1 The rules in this Part apply to the service of documents, except where –
- (a) any other enactment, a rule in another Part, or a practice direction makes a different provision; or
 - (b) the court orders otherwise.

(For service in possession claims, see Part 55).

Methods of service – general

- 6.2 (1) A document may be served by any of the following methods –
- (a) personal service, in accordance with rule 6.4;
 - (b) first class post (or an alternative service which provides for delivery on the next working day);
 - (c) leaving the document at a place specified in rule 6.5;
 - (d) through a document exchange in accordance with the relevant practice direction; or
 - (e) by fax or other means of electronic communication in accordance with the relevant practice direction.

(Rule 6.8 provides for the court to permit service by an alternative method)

- (2) A company may be served by any method permitted under this Part as an alternative to the methods of service set out in –
- (a) section 725 of the Companies Act 1985(1) (service by leaving a document at or posting it to an authorised place);
 - (b) section 695 of that Act (service on overseas companies); and
 - (c) section 694A of that Act (service of documents on companies incorporated outside the UK and Gibraltar and having a branch in Great Britain).

Who is to serve

- 6.3 (1) The court will serve a document which it has issued or prepared except where –
- (a) a rule provides that a party must serve the document in question;
 - (b) the party on whose behalf the document is to be served notifies the court that he wishes to serve it himself;
 - (c) a practice direction provides otherwise;
 - (d) the court orders otherwise; or
 - (e) the court has failed to serve and has sent a notice of non-service to the party on whose behalf the document is to be served in accordance with rule 6.11.

(2) Where the court is to serve a document, it is for the court to decide which of the methods of service specified in rule 6.2 is to be used.

(3) Where a party prepares a document which is to be served by the court, that party must file a copy for the court, and for each party to be served.

Personal service

- 6.4 (1) A document to be served may be served personally, except as provided in paragraphs (2) and (2A).
- (2) Where a solicitor –
- (a) is authorised to accept service on behalf of a party; and
 - (b) has notified the party serving the document in writing that he is so authorised,

a document must be served on the solicitor, unless personal service is required by an enactment, rule, practice direction or court order.

(2A) In civil proceedings by or against the Crown, as defined in rule 66.1(2), documents required to be served on the Crown may not be served personally.

(3) A document is served personally on an individual by leaving it with that individual.

(4) A document is served personally on a company or other corporation by leaving it with a person holding a senior position within the company or corporation.

(The service practice direction sets out the meaning of 'senior position')

(5) A document is served personally on a partnership where partners are being sued in the name of their firm by leaving it with –

(a) a partner; or

(b) a person who, at the time of service, has the control or management of the partnership business at its principal place of business.

Address for service

6.5 (1) Except as provided by Section III of this Part (service out of the jurisdiction) a document must be served within the jurisdiction.

('Jurisdiction' is defined in rule 2.3)

(2) A party must give an address for service within the jurisdiction. Such address must include a full postcode, unless the court orders otherwise.

(Paragraph 2.4 of the Practice Direction to Part 16 contains provision about the content of an address for service).

(3) Where a party –

(a) does not give the business address of his solicitor as his address for service; and

(b) resides or carries on business within the jurisdiction,

he must give his residence or place of business as his address for service.

(4) Any document to be served –

(a) by first class post (or an alternative service which provides for delivery on the next working day);

(b) by leaving it at the place of service;

(c) through a document exchange; or

(d) by fax or by other means of electronic communication,

must be sent or transmitted to, or left at, the address for service given by the party to be served.

(5) Where –

(a) a solicitor is acting for the party to be served; and

(b) the document to be served is not the claim form;

the party's address for service is the business address of his solicitor.

(Rule 6.13 specifies when the business address of a defendant's solicitor may be the defendant's address for service in relation to the claim form)

(6) Where –

(a) no solicitor is acting for the party to be served; and

(b) the party has not given an address for service,

the document must be sent or transmitted to, or left at, the place shown in the following table.

(Rule 6.2(2) sets out the statutory methods of service on a company)

Nature of party to be served Individual	Place of service Usual or last known residence.
Proprietor of a business	Usual or last known residence; or Place of business or last known place of business.
Individual who is suing or being sued in the name of a firm	Usual or last known residence; or Principal or last known place of business of the firm.
Corporation incorporated in England and Wales other than a company	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.
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.
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.

(7) This rule does not apply where an order made by the court under rule 6.8 (service by an alternative method) specifies where the document in question may be served.

(Rule 42.1 provides that if the business address of his solicitor is given that solicitor will be treated as acting for that party).

- (8) In civil proceedings by or against the Crown, as defined in rule 66.1(2) –
- (a) service on the Attorney General must be effected on the Treasury Solicitor;
 - (b) service on a government department must be effected on the solicitor acting for that department as required by section 18 of the Crown Proceedings Act 1947.

(The practice direction to Part 66 gives the list published under section 17 of that Act of the solicitors acting for the different government departments on whom service is to be effected, and of their addresses).

Service of documents on children and patients

6.6 (1) The following table shows the person on whom a document must be served if it is a document which would otherwise be served on a child or a patient –

Type of document	Nature of party	Person to be served
Claim form	Child who is not also a patient	One of the child’s parents or guardians; or If there is no parent or guardian, the person with whom the child resides or in whose care the child is.
Claim form	Patient	The person authorised under Part VII of the Mental Health Act 1983(2) to conduct the proceedings in the name of the patient or on his behalf; or If there is no person so authorised, the person with whom the patient resides or in whose care the patient is.
Application for an order appointing a litigation friend, where a child or patient has no litigation friend	Child or patient	See rule 21.8.
Any other document	Child or patient	The litigation friend who is conducting proceedings on behalf of the child or patient.

(2) The court may make an order permitting a document to be served on the child or patient, or on some person other than the person specified in the table in this rule.

(3) An application for an order under paragraph (2) may be made without notice.

(4) The court may order that, although a document has been served on someone other than the person specified in the table, the document is to be treated as if it had been properly served.

(5) 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)

Deemed service

6.7 (1) A document which is served in accordance with these rules or any relevant practice direction shall be deemed to be served on the day shown in the following table –

Method of service	Deemed day of service
First class post (or an alternative service which provides for delivery on the next working day)	The second day after it was posted.
Document exchange	The second day after it was left at the document exchange.
Delivering the document to or the leaving it at a permitted address	The day after it was delivered to or left at permitted address.
Fax	If it is transmitted on a business day before 4 p.m., on that day; or In any other case, on the business day after the day on which it is transmitted.
Other electronic method	The second day after the day on which it is transmitted.

(2) If a document is served personally –
(a) After 5 p.m., on a business day; or
(b) At any time on a Saturday, Sunday or a Bank Holiday,

it will be treated as being served on the next business day.

(3) In this rule –

‘business day’ means any day except Saturday, Sunday or a bank holiday;

and

‘bank holiday’ includes Christmas Day and Good Friday.

Service by an alternative method

6.8 (1) Where it appears to the court that there is a good reason to authorise service by a method not permitted by these Rules, the court may make an order permitting service by an alternative method.

(2) An application for an order permitting service by an alternative method –
(a) must be supported by evidence; and
(b) may be made without notice.

(3) An order permitting service by an alternative method must specify –
(a) the method of service; and
(b) the date when the document will be deemed to be served.

Power of court to dispense with service

- 6.9 (1) The court may dispense with service of a document.
(2) An application for an order to dispense with service may be made without notice.

Certificate of service

- 6.10 Where a rule, practice direction or court order requires a certificate of service, the certificate must state the details set out in the following table

Method of service	Details to be certified
Post	Date of posting
Personal	Date of personal service
Document exchange	Date of delivery to the document exchange
Delivery of document to or leaving it at a permitted place	Date when the document was delivered to or left at the permitted place
Fax	Date and time of transmission
Other electronic means	Date of transmission and the means used
Alternative method permitted by the court	As required by the court

Notification of outcome of postal service by the court

- 6.11 Where –
(a) a document to be served by the court is served by post; and
(b) such document is returned to the court,

the court must send notification to the party who requested service stating that the document has been returned.

Notice of non-service by bailiff

- 6.11A Where –
(a) the court bailiff is to serve a document; and
(b) the bailiff is unable to serve it,

the court must send notification to the party who requested service.

II SPECIAL PROVISIONS ABOUT SERVICE OF THE CLAIM FORM

General rules about service subject to special rules about service of claim form

- 6.11 The general rules about service are subject to the special rules about service contained in rules 6.13 to 6.16.

Service of claim form by the court – defendant’s address for service

- 6.13 (1) Where a claim form is to be served by the court, the claim form must include the defendant’s address for service.

(2) For the purposes of paragraph (1), the defendant’s address for service may be the business address of the defendant’s solicitor if he is authorised to accept service on the defendant’s behalf but not otherwise.

(Rule 6.5 contains general provisions about the address for service)

(Paragraph 2.4 of the Practice Direction to Part 16 contains provision about the content of an address for service).

Certificate of service relating to the claim form

- 6.14 (1) Where a claim form is served by the court, the court must send the claimant a notice which will include the date when the claim form is deemed to be served under rule 6.7.

(2) Where the claim form is served by the claimant –

- (a) he must file a certificate of service within 7 days of service of the claim form; and
- (b) he may not obtain judgment in default under Part 12 unless he has filed the certificate of service.

(Rule 6.10 specifies what a certificate of service must show)

Service of claim form by contractually agreed method

- 6.15 (1) Where –

- (a) a contract contains a term providing that, in the event of a claim being issued in relation to the contract, the claim form may be served by a method specified in the contract; and
- (b) a claim form containing only a claim in respect of that contract is issued,

the claim form shall, subject to paragraph (2), be deemed to be served on the defendant if it is served by a method specified in the contract.

- (2) Where the claim form is served out of the jurisdiction in accordance with the contract, it shall not be deemed to be served on the defendant unless –

- (a) permission to serve it out of the jurisdiction has been granted under rule 6.20; or
- (b) it may be served without permission under rule 6.19.

Service of claim form on agent of principal who is overseas

6.16 (1) Where –

- (a) the defendant is overseas; and
- (b) the conditions specified in paragraph (2) are satisfied,

the court may, on an application only, permit a claim form relating to a contract to be served on a defendant's agent.

(2) The court may not make an order under this rule unless it is satisfied that –

- (a) the contract to which the claim relates was entered into within the jurisdiction with or through the defendant's agent; and
- (b) at the time of the application either the agent's authority has not been terminated or he is still in business relations with his principal.

(3) An application under this rule –

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

(4) An order under this rule must state a period within which the defendant must respond to the particulars of claim.

(Rule 9.2 sets out how a defendant may respond to particulars of claim)

(5) The power conferred by this rule is additional to the power conferred by rule 6.8 (service by an alternative method).

(6) Where the court makes an order under this rule, the claimant must send to the defendant copies of –

- (a) the order; and
- (b) the claim form.

III Special provisions about service out of the jurisdiction

Scope of this section

6.17 This Section contains rules about –

- (a) service out of the jurisdiction;
- (b) how to obtain the permission of the court to serve out of the jurisdiction; and
- (c) the procedure for serving out of the jurisdiction.

(Rule 2.3 defines 'jurisdiction')

Definitions

6.18 For the purposes of this Part –

- (a) 'the 1982 Act' means the Civil Jurisdiction and Judgments Act 1982(3);
- (b) 'the Hague Convention' means the Convention on the service abroad of judicial and extra-judicial documents in civil or commercial matters signed at the Hague on November 15, 1965(4);
- (c) 'Contracting State' has the meaning given by section 1(3) of the 1982 Act;

- (d) '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;
- (e) 'Civil Procedure Convention' means the Brussels and Lugano Conventions and any other Convention entered into by the United Kingdom regarding service outside the jurisdiction;
- (ea) 'the Service regulation' means Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters;
- (f) 'United Kingdom Overseas Territory' means those territories as set out in the relevant practice direction.
- (g) '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 Regulation State, in accordance with the Judgments Regulation and paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001;
- (h) 'claim form' includes petition and application notice;
- (i) 'claim' includes petition and application.
- (j) 'the Judgments Regulation' means Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters; and
- (k) 'Regulation State' has the same meaning as 'Member State' in the Judgments Regulation, that is all Member States except Denmark.

(Rule 6.30 provides that where an application notice is to be served out of the jurisdiction under this Part, rules 6.21(4), 6.22 and 6.23 do not apply)

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

6.19 (1) A claim form may be served on a defendant out of the jurisdiction where each claim included in the claim form made against the defendant to be served 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) Article 16 of Schedule 1 or 3C to the 1982 Act, or paragraph 11 of Schedule 4 to that Act, refers to the proceedings; or
 - (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1 or 3C to the 1982 Act, or paragraph 12 of Schedule 4 to that Act, refers.

(1A) A claim form may be served on a defendant out of the jurisdiction where each claim included in the claim form made against the defendant to be served 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 Regulation State; and
- (b)
 - (i) the defendant is domiciled in the United Kingdom or in any Regulation State;
 - (ii) Article 22 of the Judgments Regulation refers to the proceedings; or
 - (iii) the defendant is a party to an agreement conferring jurisdiction to which Article 23 of the Judgments Regulation refers.

(2) A claim form may be served on a defendant out of the jurisdiction where each claim included in the claim form made against the defendant to be served is a claim which, under any other enactment, the court has power to determine, although –

- (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.

(3) Where a claim form is to be served out of the jurisdiction under this rule, it must contain a statement of the grounds on which the claimant is entitled to serve it out of the jurisdiction.

Service out of the jurisdiction where the permission of the court is required

6.20 In any proceedings to which rule 6.19 does not apply, a claim form may be served out of the jurisdiction with the permission of the court if –

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 ordering (GL) the defendant to do or refrain from doing an act within the jurisdiction.

(3) a claim is made against someone 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 that person 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.

(3A) a claim is a Part 20 claim and the person to be served is a necessary or proper party to the claim against the Part 20 claimant.

Claims for interim remedies

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

Claims in relation to contracts

(5) 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.

(6) a claim is made in respect of a breach of contract committed within the jurisdiction.

(7) 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 (5).

Claims in tort

(8) 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

(9) a claim is made to enforce any judgment or arbitral award.

Claims about property within the jurisdiction

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

Claims about trusts etc.

(11) 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.

(12) 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.

(13) a claim is made in probate proceedings which includes a claim for the rectification of a will.

(14) 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.

(15) 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

(16) a claim is made by the Commissioners for HM 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

(17) 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(6) 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

(17A) 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, 154 or 175 of the Merchant Shipping Act 1995(a).

Claims under various enactments

(18) a claim is made under an enactment specified in the relevant practice direction.

Application for permission to serve claim form out of jurisdiction

- 6.21 (1) An application for permission under rule 6.20 must be supported by written evidence stating –
- (a) the grounds on which the application is made and the paragraph or paragraphs of rule 6.20 relied on;
 - (b) that the claimant believes that his claim has a reasonable prospect of success; and
 - (c) the defendant's address or, if not known, in what place or country the defendant is, or is likely, to be found.

(2) Where the application is made in respect of a claim referred to in rule 6.20(3), the written evidence must also state the grounds on which the witness believes that there is between the

claimant and the person on whom the claim form has been, or will be served, a real issue which it is reasonable for the court to try.

(2A) The court will not give permission unless satisfied that England and Wales is the proper place in which to bring the claim.

(3) 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 there, the court, in deciding whether to give permission, shall –
 - (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.

(4) An order giving permission to serve a claim form out of the jurisdiction must specify the periods within which the defendant may –

- (a) file an acknowledgment of service;
- (b) file or serve an admission; and
- (c) file a defence.

(Part 11 sets out the procedure by which a defendant may dispute the court's jurisdiction)

(The second practice direction to this Part sets out how the periods referred to in paragraphs (a), (b) and (c) are calculated.)

Period for acknowledging service or admitting the claim where the claim form is served out of the jurisdiction under rule 6.19

6.22 (1) This rule sets out the period for filing an acknowledgment of service or filing or serving an admission where a claim form has been served out of the jurisdiction under rule 6.19.

(Part 10 contains rules about the acknowledgment of service and Part 14 contains rules about admissions)

(2) If the claim form is to be served under rule 6.19(1) or (1A) in Scotland, Northern Ireland or in the European territory of another Contracting State or Regulation State the period is –

- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 21 days after the service of the particulars of claim; and
- (b) in any other case, 21 days after service of the claim form.

(3) If the claim form is to be served under rule 6.19(1) in any other territory of a Contracting State the period is –

- (a) where the defendant is served with a claim form which states that particulars of claim are to follow, 31 days after the service of the particulars of claim; and
- (b) in any other case, 31 days after service of the claim form.

(4) If the claim form is to be served under –

- (a) rule 6.19(1) or (1A) in a country not referred to in paragraphs (2) or (3); or
- (b) rule 6.19(2),

the period is set out in the relevant practice direction.

Period for filing a defence where the claim form is served out of the jurisdiction under rule 6.19

6.23 (1) This rule sets out the period for filing a defence where a claim form has been served out of the jurisdiction under rule 6.19.

(Part 15 contains rules about the defence)

(2) If the claim form is to be served under rule 6.19(1) or (1A) in Scotland, Northern Ireland or in the European territory of another Contracting State or Regulation State the period is –

(a) 21 days after service of the particulars of claim; or

(b) if the defendant files an acknowledgment of service, 35 days after service of the particulars of claim.

(3) If the claim form is to be served under rule 6.19(1) in any other territory of a Contracting State the period is –

(a) 31 days after service of the particulars of claim; or

(b) if the defendant files an acknowledgment of service, 45 days after service of the particulars of claim.

(4) If the claim form is to be served under –

(a) rule 6.19(1) or (1A) in a country not referred to in paragraphs (2) or (3); or

(b) rule 6.19(2),

the period is set out in the relevant practice direction.

Method of service – general provisions

6.24 (1) Where a claim form is to be served out of the jurisdiction, it may be served by any method –

(a) permitted by the law of the country in which it is to be served;

(b) provided for by –

(i) rule 6.25 (service through foreign governments, judicial authorities and British Consular authorities);

(ii) rule 6.26A (service in accordance with the Service Regulation); or

(iii) rule 6.27 (service on a State); or

(c) permitted by a Civil Procedure Convention.

(2) Nothing in this rule or in any court order shall authorise or require any person to do anything in the country where the claim form is to be served which is against the law of that country.

Service through foreign governments, judicial authorities and British Consular authorities

6.25 (1) Where a claim form is to be served on a defendant in any country which is a party to the Hague Convention, the claim form may be served –

(a) through the authority designated under the Hague Convention 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.

(2) Where –

(a) paragraph (4) (service in Scotland etc., other than under the Hague Convention) does not apply; and

(b) a claim form is to be served on a defendant in any country which is a party to a Civil Procedure Convention (other than the Hague Convention) providing for service in that country,

the claim form may be served, 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).

(3) Where –

- (a) paragraph (4) (service in Scotland etc., other than under the Hague Convention) does not apply; and
- (b) a claim form is to be served 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 may be served, if the law of that country so permits –

- (i) through the government of that country, where that government is willing to serve it; or
- (ii) through a British Consular authority in that country.

(4) Except where a claim form is to be served in accordance with paragraph (1) (service under the Hague Convention), the methods of service permitted by this rule are not available where the claim form is to be served in –

- (a) Scotland, Northern Ireland, the Isle of Man or the Channel Islands;
- (b) any Commonwealth State; or
- (c) any United Kingdom Overseas Territory.

(5) This rule does not apply where service is to be effected in accordance with the Service Regulation.

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

6.26 (1) This rule applies where the claimant wishes to serve the claim form through –

- (a) the judicial authorities of the country where the claim form is to be served;
- (b) a British Consular authority in that country;
- (c) the authority designated under the Hague Convention in respect of that country; or
- (d) the government of that country.

(2) Where this rule applies, the claimant must file –

- (a) a request for service of the claim form by the method in paragraph (1) that he has chosen;
- (b) a copy of the claim form;
- (c) any translation required under rule 6.28; and
- (d) any other documents, copies of documents or translations required by the relevant practice direction.

(3) When the claimant files the documents specified 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) The Senior Master will send documents forwarded under this rule –

- (a) where the claim form 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 to be served by the method indicated in the request for service

filed under paragraph (2) or, where that request indicates alternative methods, by the most convenient method.

- (5) An official certificate which –
- (a) states that the claim form has been served in accordance with this rule either personally, or in accordance with the law of the country in which service was effected;
 - (b) specifies the date on which the claim form was served; and
 - (c) 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) any other authority designated in respect of that country under the Hague Convention,

shall be evidence of the facts stated in the certificate.

(6) A document purporting to be an official certificate under paragraph (5) shall be treated as such a certificate, unless it is proved not to be.

(7) This rule does not apply where service is to be effected in accordance with the Service Regulation.

Service in accordance with the Service Regulation

6.26A (1) This rule applies where a claim form is to be served in accordance with the Service Regulation.

(2) The claimant must file the claim form and any translations or 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 6.31 does not apply.

(The Service Regulation is annexed to the relevant practice direction)

Service of claim form on State where court permits service out of the jurisdiction

6.27 (1) This rule applies where a claimant wishes to serve the claim form on a State.

(2) 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; and
- (c) any translation required under rule 6.28.

(3) The Senior Master will send documents filed under this rule to the Foreign and Commonwealth Office with a request that it arranges for the claim form to be served.

(4) 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 shall be evidence of that fact.

(5) A document purporting to be such a certificate shall be treated as such a certificate, unless it is proved not to be.

(6) Where –

- (a) section 12(6) of the State Immunity Act 1978(7) applies; and
- (b) the State has agreed to a method of service other than through the Foreign and Commonwealth Office,

the claim 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) of that Act, which prescribes a method for serving documents on a State, does not prevent the service of a claim form or other document in a manner to which the State has agreed)

(7) In this rule 'State' has the meaning given by section 14 of the State Immunity Act 1978.

Translation of claim form

6.28 (1) Except where paragraph (4) or (5) applies, every copy of the claim form filed under rule 6.26 (service through judicial authorities, foreign governments etc.) or 6.27 (service on State) must be accompanied by a translation of the claim form.

(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 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 –

- (a) the name of the person making the translation;
- (b) his address; and
- (c) his qualifications for making a translation.

(4) The claimant is not required to file a translation of a claim form filed under rule 6.26 (service through judicial authorities, foreign governments etc.) where the claim form is to be served –

- (a) in a country of which English is an official language; or
- (b) on a British subject,

unless a Civil Procedure Convention expressly requires a translation.

(5) The claimant is not required to file a translation of a claim form filed under rule 6.27 (service on State) where English is an official language of the State where the claim form is to be served.

Undertaking to be responsible for expenses of the Foreign and Commonwealth Office

6.29 Every request for service filed under rule 6.26 (service through judicial authorities, foreign governments etc.) or rule 6.27 (service on 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.

Service of documents other than the claim form

6.30 (1) Where an application notice is to be served out of the jurisdiction under this Section of this Part

–

- (a) rules 6.21(4), 6.22 and 6.23 do not apply; and

(b) where the person on whom the application notice has been served is not a party to proceedings in the jurisdiction in which the application is made, that person may make an application to the court under rule 11(1) as if he were a defendant and rule 11(2) does not apply.

(Rule 6.21(4) provides that an order giving permission to serve a claim form out of the jurisdiction must specify the periods within which the defendant may (a) file an acknowledgment of service, (b) file or serve an admission, and (c) file a defence.)

(Rule 6.22 provides rules for the period for acknowledging service or admitting the claim where the claim form is served out of the jurisdiction under rule 6.19)

(Rule 6.23 provides rules for the period for filing a defence where the claim form is served out of the jurisdiction under rule 6.19)

(The practice direction supplementing this Section of this Part provides that where an application notice is to be served out of the jurisdiction in accordance with this Section of this Part, the court must have regard to the country in which the application notice is to be served in setting the date for the hearing of the application and giving any direction about service of the respondent's evidence)

(Rule 11(1) provides that a defendant may make an application to the court to dispute the court's jurisdiction to try the claim or argue that the court should not exercise its jurisdiction. Rule 11(2) provides that a defendant who wishes to make such an application must first file an acknowledgment of service in accordance with Part 10)

(2) Unless paragraph (3) applies, where the permission of the court is required for a claim form to be served out of the jurisdiction the permission of the court must also be obtained for service out of the jurisdiction of any other document to be served in the proceedings.

(3) Where –

- (a) the court gives permission for a claim form to be served 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 out of the jurisdiction.

Proof of service

6.31 Where –

- (a) a hearing is fixed when the claim 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 take no further steps against that defendant until the claimant files written evidence showing that the claim form has been duly served.

IV Service of foreign process

Scope and definitions

- 6.32 (1) This Section of this Part –
- (a) applies to the service in England or Wales of any court process in connection with civil or commercial proceedings in a foreign court or tribunal; but
 - (b) does not apply where the Service Regulation applies.

(The Service Regulation is annexed to the relevant practice direction)

- (2) In this Section –
- (a) ‘convention country’ –
 - (i) means a foreign country in relation to which there is a civil procedure convention providing for service in that country of process of the High Court; and
 - (ii) includes a country which is a party to the Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters signed at the Hague on 15 November 1965; and
 - (b) ‘process server’ means –
 - (i) a process server appointed by the Lord Chancellor to serve documents to which this Section applies, or
 - (ii) his authorised agent.

Request for service

- 6.33 Process will be served where the Senior Master receives –
- (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 process to be served; and
 - (d) unless the foreign court or tribunal certifies that the person to be served understands the language of the process, two copies of a translation of it into English.

Method of service

- 6.34 The process must be served as directed by the Senior Master.

After service

- 6.35 (1) The process server must –
- (a) send the Senior Master a copy of the process, and
 - (i) proof of service; or
 - (ii) a statement why the process could not be served; and

(b) if the Senior Master directs, specify the costs incurred in serving or attempting to serve the process.

- (2) The Senior Master will send the following documents 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 process 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 process; and
 - (b) a copy of the process.

FOOTNOTES

1 1985 c.6.

2 1983 c.20.

3 1982 c.27, as amended by the Civil Jurisdiction and Judgments Act 1991 (c.12).

4 Cmnd. 3986.

5 1982 c.27. Section 25 has been amended by the Civil Jurisdiction and Judgments Act 1991 (c.12), Schedule 2, paragraph 12, and extended by S.I. 1997/302.

6 1981 c.54. Section 51 was substituted by section 4 of the Courts and Legal Services Act 1990 (c.41), and is amended prospectively by section 31 of the Access to Justice Act 1999 (c.22).

7 1978 c.33.