PART 12 Disputing The Court’s Jurisdiction

PART 12

12.1

A defendant who wishes to:

(1) dispute the Court’s jurisdiction to try the claim; or

(2) argue that the Court should not exercise its jurisdiction;

may apply to the Court for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction which it may have.

12.2

A defendant who wishes to make such an application must first file an acknowledgment of service in accordance with Part 11.

12.3

A defendant who files an acknowledgment of service does not, by doing so, lose any right that he may have to dispute the Court’s jurisdiction.

12.4

An application under this Part must:

(1) be made within 14 days after filing an acknowledgment of service; and

(2) be supported by evidence.

12.5

If the defendant files an acknowledgment of service and does not make an application disputing the Court’s jurisdiction within the period specified in Rule 12.4:

(1) he is to be treated as having accepted that the Court has jurisdiction to try the claim; and

(2) if his acknowledgment of service indicates an intention to dispute jurisdiction, he will be treated as if he has not filed an acknowledgment of service for the purposes of any application for judgment in default under Part 13.

12.6

If the defendant files an acknowledgment of service indicating an intention to dispute the Court's jurisdiction, the claimant need not serve particulars of claim before the hearing of the application.

12.7

An order containing a declaration that the Court has no jurisdiction or will not exercise its jurisdiction may also make further provision including:

(1) setting aside the claim form;

(2) setting aside service of the claim form;

(3) discharging any order made before the claim was commenced or before the claim form was served; or

(4) staying the proceedings.

12.8

If on an application under this Part the Court does not make a declaration:

(1) the acknowledgment of service shall cease to have effect;

(2) the defendant may file a further acknowledgment of service within 14 days or such other period as the Court may direct; and

(3) the Court shall give directions as to the filing and service of the defence in a claim under Part 7 or the filing of evidence in a claim under Part 8 in the event that a further acknowledgment of service is filed.

12.9

If the defendant files a further acknowledgment of service in accordance with Rule 12.8(2) he shall be treated as having accepted that the Court has jurisdiction to try the claim.

12.10

If a defendant makes an application under this Part, he must file and serve his written evidence in support with the application notice, but he need not before the hearing of the application file:

(1) in a Part 7 claim, a defence; or

(2) in a Part 8 claim, any other written evidence.