

## **PART 8 Alternative Procedure For Claims**

### **PART 8**

#### **Types of claim in which Part 8 procedure may be followed 8.1 - 8.4**

##### **8.1**

A claimant may use Part 8 procedure where:

(1) he seeks the Court's decision on a question which is unlikely to involve a substantial dispute of fact; or

(2) a Rule or Practice Direction in relation to a specified type of proceedings requires or permits the use of the Part 8 procedure.

##### **8.2**

Rule 8.1 does not apply if a Rule or Practice Direction provides that the Part 8 procedure may not be used in relation to the type of claim in question.

##### **8.3**

Where it appears to a Court Officer that a claimant is using the Part 8 procedure inappropriately, he may refer the claim to a Judge for the Judge to consider the point.

##### **8.4**

The Court may at any stage order the claim to continue as if the claimant had not used the Part 8 procedure and, if it does so, the Court may give any directions it considers appropriate.

#### **Application of Part 8 and other Rules and Practice Directions 8.5 - 8.7**

##### **8.5**

Part 8 contains Rules applicable to all claims, including those to which Part 8 applies. Those rules and directions should be applied where appropriate.

##### **8.6**

Where Part 8 procedure is followed:

(1) provision is made in this Part for the matters which must be stated in the claim form and the defendant is not required to file a defence and therefore:

(a) Part 16 (defence and reply) does not apply;

(b) Part 17 (statements of case) does not apply;

(c) any time limit in these Rules which prevents the parties from taking a step before a defence is filed does not apply;

(d) the requirement under Rule 7.35 to serve on the defendant a form for defending the claim does not apply;

(2) the claimant may not obtain default judgment under Part 13.

(3) the claimant may not obtain judgment by request on an admission and therefore:

(a) Rules 15.14 to 15.31 do not apply; and

(b) the requirement under Rule 7.35 to serve on the defendant a form for admitting the claim does not apply.

## 8.7

A Rule or Practice Direction may, in relation to a specified type of proceedings:

(1) require or permit the use of the Part 8 procedure; and

(2) disapply or modify any of the rules set out in this Part as they apply to those proceedings.

## Contents of the claim form 8.8

### 8.8

Where the claimant uses Part 8 procedure the claim form (Form P8/01) should be used and must state:

(1) that this Part applies;

(2) the question which the claimant wants the Court to decide; or the remedy which the claimant is seeking and the legal basis for the claim to that remedy;

(3) if the claim is being made under an enactment, what that enactment is;

(4) if the claimant is claiming in a representative capacity, what that capacity is; and

(5) if the defendant is sued in a representative capacity, what that capacity is.

## **Issue of claim form without naming defendants 8.9 - 8.12**

### **8.9**

A Practice Direction may set out circumstances in which a claim form may be issued under this Part without naming a defendant .

### **8.10**

The Practice Direction may set out those cases in which an application for permission must be made by application notice before the claim form is issued.

### **8.11**

The application notice for permission:

- (1) need not be served on any other person; and
- (2) must be accompanied by a copy of the claim form that the applicant proposes to issue.

### **8.12**

Where the Court gives permission it will give directions about the future management of the claim.

## **Acknowledgment of service 8.13 - 8.15**

### **8.13**

The defendant must:

- (1) file an acknowledgment of service in Form P8/02 not more than 14 days after service of the claim form; and
- (2) serve the acknowledgment of service on the claimant and any other party.

### **8.14**

The acknowledgment of service must state:

- (1) whether the defendant contests the claim; and

(2) if the defendant seeks a different remedy from that set out in the claim form, what that remedy is.

### **8.15**

The following rules of Part 11 (acknowledgment of service ) apply:

(1) Rule 11.6 (exceptions to the period for filing an acknowledgment of service ); and

(2) Rule 11.8 (contents of acknowledgment of service ).

## **Consequence of not filing an acknowledgment of service 8.16**

### **8.16**

Where:

(1) the defendant has failed to file an acknowledgment of service ; and

(2) the time period for doing so has expired;

the defendant may attend the hearing of the claim but may not take part in the hearing unless the Court gives permission.

## **Procedure where defendant objects to use of the Part 8 procedure 8.17 - 8.18**

### **8.17**

Where the defendant contends that the Part 8 procedure should not be used because:

(1) there is a substantial dispute of fact; and

(2) the use of the Part 8 procedure is not required or permitted by a Rule or Practice Direction;

he must state his reasons when he files his acknowledgment of service . If the statement of reasons includes matters of evidence, it should be verified by a statement of truth.

### **8.18**

When the Court receives the acknowledgment of service and any written evidence it will give directions as to the future management of the case.

## **Managing the claim 8.19 - 8.22**

### **8.19**

The Court may give directions immediately after a Part 8 claim form is issued, either on the application of a party or on its own initiative.

### **8.20**

Where the Court does not fix a hearing date when the claim form is issued, it will give directions for the disposal of the claim as soon as practicable after the defendant has acknowledged service of the claim form or, as the case may be, after the period for acknowledging service has expired.

### **8.21**

Certain applications may not require a hearing.

### **8.22**

The Court may convene a directions hearing before giving directions.

## **Filing and serving written evidence 8.23 - 8.33**

### **8.23**

The claimant must file any written evidence on which he intends to rely when he files his claim form.

### **8.24**

The claimant's evidence must be served on the defendant with the claim form (unless the evidence is contained in the claim form itself).

### **8.25**

Evidence will normally be in the form of a witness statement or an affidavit but a claimant may rely on the matters set out in his claim form provided that it has been verified by a statement of truth.

### **8.26**

A defendant who wishes to rely on written evidence must file it when he files his acknowledgment of service .

**8.27**

If he does so, he must also, at the same time, serve a copy of his evidence on the other parties.

**8.28**

The claimant may, within 14 days of service of the defendant's evidence on him, file further written evidence in reply.

**8.29**

If he does so, he must also, within the same time limit, serve a copy of his evidence on the other parties.

**8.30**

A party may apply to the court for an extension of time to serve and file evidence or for permission to serve and file additional evidence.

**8.31**

The parties may, subject to the following provisions, agree in writing on an extension of time for serving and filing evidence.

**8.32**

An agreement extending time for a defendant to file evidence:

- (1) must be filed by the defendant at the same time as he files his acknowledgement of service ; and
- (2) must not extend time by more than 14 days after the defendant files his acknowledgement of service .

**8.33**

An agreement extending time for a claimant to file evidence in reply must not extend time to more than 28 days after service of the defendant's evidence on the claimant .

**Evidence - General 8.34 - 8.36****8.34**

No written evidence may be relied on at the hearing of the claim unless:

- (1) it has been served in accordance with Rules 8.23 to 8.31; or
- (2) the Court gives permission.

**8.35**

The Court may require or permit a party to give oral evidence at the hearing.

**8.36**

The Court may give directions requiring the attendance for cross-examination of a witness who has given written evidence.

**Additional claims 8.37****8.37**

Where Part 8 procedure is used, Part 21 (counterclaims and other additional claims ) applies except that a party may not make an additional claim (as defined by Rule 21.2) without the Court's permission.

**Pre-action applications 8.38 - 8.39****8.38**

All applications made before a claim is commenced should be made under this Part, unless the Court orders otherwise.

**8.39**

The written evidence in support of such an application must state that the claimant intends to bring proceedings.