

STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 78

^{F1}EUROPEAN ... PROCEDURES

[^{F1}SECTION I - EUROPEAN ORDER FOR PAYMENT PROCEDURE

Textual Amendments

F1 Pt. 78 inserted (12.12.2008 for specified purposes, 1.1.2009 in so far as not already in force) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rule 1(3), [Sch. 2](#)

Scope of this Section and interpretation

78.2.—(1) This Section applies to applications for European orders for payment and other related proceedings under Regulation [\(EC\) No 1896/2006](#) of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.

(2) In this Section—

- (a) “EOP Regulation” means Regulation [\(EC\) No 1896/2006](#) of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure. A copy of the EOP Regulation can be found at Annex 1;
- (b) “court of origin” has the meaning given by article 5(4) of the EOP Regulation;
- (c) “EOP” means a European order for payment;
- (d) “EOP application” means an application for an EOP;
- (e) “EOP application form A” means the Application for a European order for payment form A, annexed to the EOP Regulation at Annex I to that Regulation;
- (f) “European order for payment” means an order for payment made by a court under article 12(1) of the EOP Regulation;
- (g) “Member State” has the meaning given by article 2(3) of the EOP Regulation;
- (h) “Member State of origin” has the meaning given by article 5(1) of the EOP Regulation;
- (i) “statement of opposition” means a statement of opposition filed in accordance with article 16 of the EOP Regulation.

EOP applications made to a court in England and Wales

Application for a European Order for Payment

78.3. Where a declaration provided by the claimant under article 7(3) of the EOP Regulation contains any deliberate false statement, rule 32.14 applies as if the EOP application form A were verified by a statement of truth.

(An EOP application is made in accordance with the EOP Regulation and in particular article 7 of that Regulation.)

Withdrawal of EOP application

78.4.—(1) At any stage before a statement of opposition is filed, the claimant may notify the court that the claimant no longer wishes to proceed with the claim.

(2) Where the claimant notifies the court in accordance with paragraph (1)—

- (a) the court will notify the defendant that the application has been withdrawn; and
- (b) no order as to costs will be made.

Transfer of proceedings where an EOP application has been opposed

78.5.—(1) Where a statement of opposition is filed in accordance with article 16 of the EOP Regulation and the claimant has not opposed the transfer of the matter—

- [^{F2}(a) the EOP application will be treated as if it had been started as a claim under Part 7 if—
- (i) the claimant has requested under article 7 of the EOP Regulation that such a transfer be made in the event of opposition;
 - (ii) the claimant has requested that the claim be transferred to the ESCP procedure in the event of opposition, but the claim does not fall within the scope of the ESCP Regulation; or
 - (iii) the claimant has not specified a preferred procedure in the event of opposition; and
- (b) the EOP application will be treated as if it had been started under the ESCP Regulation if—
- (i) the claimant has requested under article 7 of the EOP Regulation that such a transfer be made in the event of opposition; and
 - (ii) the claim is within the scope of the ESCP Regulation.]

(2) When the court notifies the claimant in accordance with article 17(3) of the EOP Regulation the court will also—

- (a) notify the claimant—
 - (i) that the EOP application form A is now treated as a Part 7 claim form including particulars of claim; and
 - (ii) of the time within which the defendant must respond under rule 78.6; and
- (b) notify the defendant—
 - (i) that a statement of opposition has been received;
 - (ii) that the application will not continue under Part 78;
 - (iii) that the application has been transferred under article 17 of the EOP Regulation;
 - (iv) that the EOP application form A is now treated as a Part 7 claim form including particulars of claim; and
 - (v) of the time within which the defendant must respond under rule 78.6.

Textual Amendments

F2 Rule 78.5(1)(a)(b) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **10(1)**

[F3] Procedure where EOP application treated as if started as a claim under Part 7

78.5A.—(1) Where the EOP application is treated as if it had been started as a claim under Part 7, pursuant to Rule 78.5(1)(a)—

- (a) the EOP application form A will be treated as a Part 7 claim form including particulars of claim; and
- (b) thereafter, these Rules apply with necessary modifications and subject to this rule and rules 78.6 and 78.7.

(2) When the court notifies the claimant in accordance with article 17(3) of the EOP Regulation the court will also—

- (a) notify the claimant—
 - (i) that the EOP application form A is now treated as a Part 7 claim form including particulars of claim; and
 - (ii) of the time within which the defendant must respond under Rule 78.6; and
- (b) notify the defendant—
 - (i) that a statement of opposition has been received;
 - (ii) that the application will not continue under Part 78;
 - (iii) that the application has been transferred under article 17 of the EOP Regulation;
 - (iv) that the EOP application form A is now treated as a Part 7 claim form including particulars of claim; and
 - (v) of the time within which the defendant must respond under Rule 78.6.

Textual Amendments

F3 Rules 78.5A, 78.5B inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **10(2)**

Procedure where EOP application treated as if started as a claim under the ESCP Regulation

78.5B.—(1) Where an EOP application is treated as if it had been started as a claim under the ESCP Regulation pursuant to Rule 78.5(1)(b)—

- (a) the EOP application form A will be treated as an ESCP claim form; and
- (b) thereafter, these Rules apply subject to the ESCP Regulation and the modifications in paragraph (2).

(2) When the court notifies the claimant of the transfer in accordance with article 17(5) of the EOP Regulation the court will also—

- (a) notify the claimant—
 - (i) that the EOP application form A is now treated as ESCP claim form; and
 - (ii) of the time within which the defendant must respond under article 5 of the ESCP Regulation; and
- (b) notify the defendant—
 - (i) that a statement of opposition has been received;
 - (ii) that the application has been transferred under article 17 of the EOP Regulation;
 - (iii) that the EOP application form A is now treated as an ESCP claim form A; and

Status: Point in time view as at 01/10/2017.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I - EUROPEAN ORDER FOR PAYMENT PROCEDURE. (See end of Document for details)

- (iv) of the time within which the defendant must respond under article 5 of the ESCP Regulation.]

Textual Amendments

F3 Rules 78.5A, 78.5B inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **10(2)**

Filing of acknowledgment of service and defence where an EOP application is [^{F4}treated as if started as a claim under Part 7]

78.6.—(1) The defendant must file a defence within 30 days of the date of the notice issued by the court under rule [^{F5}78.5A(2)(b)].

- (2) If the defendant wishes to dispute the court’s jurisdiction, the defendant must instead—
- (a) file an acknowledgment of service within the period specified in paragraph (1); and
 - (b) make an application under Part 11 within the period specified in that Part.
- (3) Where this rule applies, the following rules do not apply—
- (a) rule 10.1(3);
 - (b) rule 10.3; and
 - (c) rule 15.4(1).

Textual Amendments

F4 Words in [rule 78.6 heading](#) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **10(3)**

F5 Word in [rule 78.6\(1\)](#) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **10(4)**

Default judgment [^{F6}where an EOP application is treated as if started as a claim under Part 7]

78.7.—(1) If—

- (a) the defendant fails to file an acknowledgment of service within the period specified in rule 78.6(2)(a); and
- (b) does not within that period—
 - (i) file a defence in accordance with Part 15 (except rule 15.4(1)) and rule 78.6(1); or
 - (ii) file an admission in accordance with Part 14,

the claimant may obtain default judgment if Part 12 allows it.

- (2) Where this rule applies, rule 10.2 does not apply.

Textual Amendments

F6 Words in [rule 78.7 heading](#) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **10(5)**

Review in exceptional cases

78.8. An application for a review under article 20 of the EOP Regulation must be made in accordance with Part 23.

Enforcement of EOPS in England and Wales

Enforcement of European orders for payment

78.9.—(1) A person seeking to enforce an EOP in England and Wales must file at the court in which enforcement proceedings are to be brought the documents required by article 21 of the EOP Regulation.

(2) Where a person applies to enforce an EOP expressed in a foreign currency, the application must contain a certificate of the sterling equivalent of the judgment sum at the close of business on the date nearest preceding the date of the application.

(Parts 70 to 74 contain further rules about enforcement.)

Refusal of enforcement

78.10.—(1) An application under article 22 of the EOP Regulation that the court should refuse to enforce an EOP must be made in accordance with Part 23 to the court in which the EOP is being enforced.

(2) The judgment debtor must, as soon as practicable, serve copies of any order made under article 22 on—

- (a) all other parties to the proceedings and any other person affected by the order (“the affected persons”); and
- (b) any court in which enforcement proceedings of the EOP are pending in England and Wales (“the relevant courts”).

(3) Upon service of the order on the affected persons, all enforcement proceedings of the EOP in the relevant courts will cease.

Stay of or limitation on enforcement

78.11.—(1) Where the defendant has sought a review and also applies for a stay of or limitation on enforcement in accordance with article 23 of the EOP Regulation, such application must be made in accordance with Part 23 to the court in which the EOP is being enforced.

(2) The defendant must, as soon as practicable, serve a copy of any order made under article 23 on—

- (a) all other parties to the proceedings and any other person affected by the order; and
- (b) any court in which enforcement proceedings are pending in England and Wales,

and the order will not have effect on any person until it has been served in accordance with this rule and they have received it.]

Status:

Point in time view as at 01/10/2017.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION I - EUROPEAN ORDER FOR PAYMENT PROCEDURE.