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## STATUTORY INSTRUMENTS

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# 1998 No. 3132

## The Civil Procedure Rules 1998

### PART 12

#### DEFAULT JUDGMENT

##### **Supplementary provisions where applications for default judgment are made**

**12.11.**—(1) Where the claimant makes an application for a default judgment, judgment shall be such judgment as it appears to the court that the claimant is entitled to on his statement of case.

(2) Any evidence relied on by the claimant in support of his application need not be served on a party who has failed to file an acknowledgment of service.

(3) An application for a default judgment on a claim against a child or [<sup>F1</sup>protected party] or a claim in tort between spouses [<sup>F2</sup>or civil partners] must be supported by evidence.

(4) An application for a default judgment may be made without notice if—

[<sup>F3</sup>(a) the claim under the Civil Jurisdiction and Judgments Act 1982, the Lugano Convention, the Judgments Regulation or the 2005 Hague Convention was served in accordance with rules 6.32(1), 6.33(1), 6.33(2) or 6.33(2B) as appropriate;]

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

(c) notice does not need to be given under any other provision of these Rules.

(5) Where an application is made against a State for a default judgment where the defendant has failed to file an acknowledgment of service—

(a) the application may be made without notice, but the court hearing the application may direct that a copy of the application notice be served on the State;

(b) if the court—

(i) grants the application; or

(ii) directs that a copy of the application notice be served on the State,

the judgment or application notice (and the evidence in support) may be served out of the jurisdiction without any further order;

(c) where paragraph (5)(b) permits a judgment or an application notice to be served out of the jurisdiction, the procedure for serving the judgment or the application notice is the same as for serving a claim form under [<sup>F4</sup>Section III of Part 6] except where an alternative method of service has been agreed under section 12(6) of the State Immunity Act 1978(1).

(Rule 23.1 defines “application notice”)

(6) For the purposes of this rule and rule 12.10—

[<sup>F5</sup>(a) “domicile” is to be determined—

*Status: Point in time view as at 03/10/2016. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the  
The Civil Procedure Rules 1998, Section 12.11. (See end of Document for details)*

- (i) in relation to a Convention territory, in accordance with sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982;
- (ii) in relation to a [<sup>F6</sup>Member State], in accordance with the Judgments Regulation and paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001;]
- (b) “Convention territory” means the territory or territories of any Contracting State, as defined by section 1(3) of the Civil Jurisdiction and Judgments Act 1982, to which the Brussels Conventions or Lugano Convention apply;
- (c) “State” has the meaning given by section 14 of the State Immunity Act 1978; <sup>F7</sup>...
- (d) “Diplomatic agent” has the meaning given by Article 1 (e) of Schedule 1 to the Diplomatic Privileges Act 1964; [<sup>F8</sup>and]
- [<sup>F9</sup>(e) “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 [<sup>F10</sup>, 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][<sup>F11</sup>.]
- [<sup>F12</sup>(f) “the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark and signed by the European Community on 30<sup>th</sup> October 2007.];]
- [<sup>F13</sup>(g) “the 2005 Hague Convention” means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague.]

#### Textual Amendments

- F1** Words in rule 12.11(3) substituted (1.10.2007) by The Civil Procedure (Amendment) Rules 2007 (S.I. 2007/2204), rules 1, **5(b)**
- F2** Words in rule 12.11(3) inserted (1.10.2005) by The Civil Procedure (Amendment No.3) Rules 2005 (S.I. 2005/2292), rules 1(c), **21**
- F3** Rule 12.11(4)(a) substituted (1.10.2015) by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015/1644), reg. 1(1), **Sch. para. 4(2)**
- F4** Words in rule 12.11(5)(c) substituted (2.5.2000) by The Civil Procedure (Amendment No. 2) Rules 2000 (S.I. 2000/940), rules 1, **8**
- F5** Rule 12.11(6)(a) substituted (1.3.2002) by The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(b), **14(b)(i)**
- F6** Words in rule 12.11(6)(a)(ii) substituted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **9(f)(i)**
- F7** Word in rule 12.11(6)(c) omitted (1.3.2002) by virtue of The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(b), **14(b)(ii)**
- F8** Word in rule 12.11(6)(d) inserted (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **9(f)(ii)**
- F9** Rule 12.11(6)(e)(f) inserted (1.3.2002) by The Civil Procedure (Amendment No. 5) Rules 2001 (S.I. 2001/4015), rules 1(b), **14(b)(iii)**
- F10** Words in rule 12.11(6)(e) inserted (1.7.2007) by The Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/1655), reg. 1, **Sch. para. 30(a)**
- F11** Rule 12.11(6)(e): full stop substituted for word (1.10.2008) by The Civil Procedure (Amendment) Rules 2008 (S.I. 2008/2178), rules 1(2), **9(f)(iii)**

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**Changes to legislation:** There are currently no known outstanding effects for the  
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**F12** Rule 12.11(6)(f) inserted (1.1.2010) by The Civil Jurisdiction and Judgments Regulations 2009 (S.I. 2009/3131), regs. 1(1), **33** (with reg. 48)

**F13** Rule 12.11(6)(g) inserted (1.10.2015) by The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (S.I. 2015/1644), reg. 1(1), **Sch. para. 4(3)**

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**Commencement Information**

**I1** Rule 12.11 in force at 26.4.1999, see **Signature**

**Status:**

Point in time view as at 03/10/2016. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Section 12.11.