
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 78

**EUROPEAN ORDER FOR PAYMENT AND
EUROPEAN SMALL CLAIMS PROCEDURES**

SECTION II - EUROPEAN SMALL CLAIMS PROCEDURE

ESCP claims made in a court in England and Wales

**[^{F1}Transfer of proceedings where the ESCP counterclaim exceeds the limit set in article 2(1)
of the ESCP Regulation – article 5(7) of the ESCP Regulation**

78.18.—(1) Where the ESCP counterclaim exceeds the limit set in article 2(1) of the ESCP Regulation, the court will—

- (a) notify the defendant of this in a transfer of proceedings notice; and
- (b) send a copy of the notice to the claimant,

when the court dispatches the defendant's response to the claimant.

(2) If the defendant wishes to withdraw the ESCP counterclaim, the defendant must notify the court and the claimant of this within 21 days of the date of the transfer of proceedings notice.

(3) If the defendant notifies the court and claimant under paragraph (2), the ESCP counterclaim is automatically withdrawn.

(4) If the defendant does not notify the court and claimant in accordance with paragraph (2)—

- (a) the claim will be treated as if it had been started as a claim under Part 7 and the ESCP claim form will be treated as a Part 7 claim form including particulars of claim;
- (b) the defendant's response and ESCP counterclaim are to be treated as the defence and counterclaim; and
- (c) thereafter, these Rules apply with necessary modifications and subject to this rule,

and the court will notify the parties.]

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](#)

Status:

Point in time view as at 05/04/2010. This version of this provision has been superseded.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 78.18.