
STATUTORY INSTRUMENTS

2017 No. 889

The Civil Procedure (Amendment No. 2) Rules 2017

Amendment of Part 78

10.—(1) For Rule 78.5(1)(a) and (b), substitute—

- “(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) After Rule 78.5, insert—

“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.

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

(3) In the heading to Rule 78.6, for “transferred under article 17 of the EOP Regulation”, substitute “treated as if started as a claim under Part 7”.

(4) In Rule 78.6(1), for “78.5(2)(b)” substitute “78.5A(2)(b)”.

(5) In the heading to Rule 78.7, after “Default judgment”, insert “where an EOP application is treated as if started as a claim under Part 7”.

(6) For Rule 78.12(2)(a), substitute—

- “(a) ‘ESCP Regulation’ means Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European small claims procedure, as amended by Regulation EU 2421/2015 of 16 December 2015;

(A copy of the amended ESCP Regulation can be found at Annex 2A. The relevant forms can be found at the end of the previous version of the ESCP Regulation at Annex 2B.)”.