

SCHEDULE 1

Rule 6

“PART 10
ACKNOWLEDGMENT OF SERVICE

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Acknowledgment of service

10.1.—(1) This Part deals with the filing of an acknowledgment of service.

(2) Where the claimant uses the procedure set out in Part 8 (alternative procedure for claims) this Part applies subject to the modifications set out in rule 8.3.

(3) A defendant must file an acknowledgment of service if—

- (a) they are unable to file a defence within the period specified in rule 15.4; or
- (b) they wish to dispute the court’s jurisdiction.

(Part 11 sets out the procedure for disputing the court’s jurisdiction.)

Consequence of not filing an acknowledgment of service

10.2. If—

- (a) a defendant fails to file an acknowledgment of service within the period specified in rule 10.3; and
- (b) does not within that period file a defence in accordance with Part 15 or serve or file an admission in accordance with Part 14,

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

The period for filing an acknowledgment of service

10.3.—(1) The general rule is that the period for filing an acknowledgment of service is—

- (a) 14 days after service of the particulars of claim where the defendant is served with a claim form which states that particulars of claim are to follow; and
- (b) 14 days after service of the claim form in any other case.

(2) The general rule is subject to the following rules—

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- (a) rule 6.35 (which specifies how the period for filing an acknowledgment of service is calculated where the claim form is served out of the jurisdiction under rule 6.32 or 6.33);
- (b) rule 6.12(3) (which requires the court to specify the period for responding to the particulars of claim when it makes an order under that rule); and
- (c) rule 6.37(5) (which requires the court to specify the period within which the defendant may file an acknowledgment of service calculated by reference to Practice Direction 6B when it makes an order giving permission to serve a claim form out of the jurisdiction).

Notice to claimant that defendant has filed an acknowledgment of service

10.4. On receipt of an acknowledgment of service, the court must notify the claimant in writing.

Contents of acknowledgment of service

10.5.—(1) An acknowledgment of service must—

- (a) be on the relevant form;
- (b) be signed by the defendant or their legal representative or litigation friend; and
- (c) include the defendant's address for service;
- (d) set out the defendant's name in full. Where the defendant's name has been incorrectly set out in the claim form, it must be correctly set out in the acknowledgment of service followed by the words 'described as' and the incorrect name.

(Rule 6.23 makes provision in relation to addresses for service.)

(Rule 19.8A modifies this Part where a notice of claim is served under that rule to bind a person not a party to the claim.)

(2) If two or more defendants to a claim acknowledge service of the claim through the same legal representative at the same time, only one acknowledgment of service is required.

(3) Where a defendant is a company or other corporation, a person holding a senior position in the company or corporation may sign the statement of truth on its behalf but must state the position they hold.

(4) Each of the following is a person holding a senior position—

- (a) in respect of a registered company or corporation, a director, the treasurer, secretary, chief executive, manager or other officer of the company or corporation;
- (b) in respect of a corporation which is not a registered company, in addition to those persons set out in subparagraph (a), the mayor, chairman, president, town clerk or similar officer of the corporation.

(5) Where a defendant is a partnership—

- (a) service must be acknowledged in the name of the partnership on behalf of all persons who were partners at the time when the cause of action accrued; and
- (b) the acknowledgment of service may be signed by any of those partners, or by any person authorised by any of those partners to sign it.

(6) Children and protected parties may acknowledge service only by their litigation friend or legal representative unless the court otherwise orders.

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Amendment or withdrawal of an acknowledgment of service

10.6.—(1) An acknowledgment of service may be amended or withdrawn only with the permission of the court.

(2) An application for permission under paragraph (1) must be made in accordance with Part 23 and supported by evidence .”