

SCHEDULE 1

Rule 11

“PART 15
DEFENCE AND REPLY

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Part not to apply where claimant uses Part 8 procedure

15.1. This Part does not apply where the claimant uses the procedure set out in Part 8.

Filing a defence

15.2. A defendant who wishes to defend all or part of a claim must file a defence.
(Part 14 contains further provisions which apply where the defendant admits a claim.)

Consequence of not filing a defence

15.3. If a defendant fails to file a defence, the claimant may obtain default judgment if Part 12 allows it.

The period for filing a defence

- 15.4.—**(1) The general rule is that the period for filing a defence is—
- (a) 14 days after service of the particulars of claim; or
 - (b) if the defendant files an acknowledgment of service under Part 10, 28 days after service of the particulars of claim.
- (2) The general rule is subject to rules 3.4(7), 6.12(3), 6.35, 11 and 24.4(2).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Agreement extending the period for filing a defence

15.5.—(1) The defendant and the claimant may agree to extend the period for filing a defence specified in rule 15.4 by up to 28 days.

(2) Where the defendant and the claimant agree to extend the period for filing a defence, the defendant must notify the court in writing.

Service of copy of defence

15.6. A copy of the defence must be served on every other party.

(Part 16 sets out what a defence must contain.)

Making a counterclaim

15.7. Part 20 applies to a defendant who wishes to make a counterclaim. Where a defendant serves a counterclaim the defence and counterclaim should normally form one document with the counterclaim following the defence.

Reply to defence and defence to counterclaim

15.8 If a claimant files a reply to the defence—

- (a) the claimant must—
 - (i) file the reply with a directions questionnaire; and
 - (ii) serve the reply on the other parties at the same time as it is filed; and
- (b) the reply should form one document with any defence to counterclaim, with the defence to counterclaim following the reply, unless the dates on which they are due to be filed differ from one another.

No statement of case after a reply to be filed without court's permission

15.9. A party may not file or serve any statement of case after a reply without the permission of the court.

Claimant's notice where defence is that money claimed has been paid

15.10.—(1) Where—

- (a) the only claim (apart from a claim for costs and interest) is for a specified amount of money; and
- (b) the defendant states in his defence that he has paid to the claimant the amount claimed,

the court will send notice to the claimant requiring the claimant to state in writing whether the claimant wishes the proceedings to continue.

(2) A copy of the claimant's response must be served on the defendant at the same time as it is filed.

(3) If the claimant fails to respond within 28 days after service of the court's notice the claim shall be stayed.

(4) Any party may apply under Part 23 for the stay to be lifted. The application must include an explanation for the delay in proceeding with or responding to the claim.

(5) If the claimant files a notice stating a wish that the proceedings should continue, the procedure set out in Part 26 shall apply.

Claim stayed if it is not defended or admitted

15.11.—(1) Where—

- (a) at least 6 months have expired since the end of the period for filing a defence specified in rule 15.4;
- (b) no defendant has served or filed an admission or filed a defence or counterclaim; and
- (c) no party has entered or applied for judgment under Part 12 (default judgment), or Part 24 (summary judgment); and
- (d) no defendant has applied to strike out all or part of the claim form or particulars of claim,

the claim shall be stayed.

(2) Any party may apply under Part 23 for the stay to be lifted. The application must include an explanation for the delay in proceeding with or responding to the claim.”

SCHEDULE 2

Rule 19

“PART 49

SPECIFIC PROCEEDINGS

Practice directions for specific proceedings

49.1. The practice directions made under this Rule apply to proceedings of the types described in them.”