

PART 6 : STATEMENTS OF CASE

CHAPTER 1: GENERAL

6.1 Part not to apply in certain cases (16.1, PD 16)

- (1) Subject to paragraph (2), this Part, except —
 - (a) rules 6.2, 6.3, 6.4, 6.9 and 6.11,
 - (b) rule 6.19(1) and (2), and
 - (c) rules 6.37 and 6.40,

does not apply to a claim which is allocated to the chancery procedure.

(2) Chapter 9 (additional claims) applies to a claim which is allocated to the chancery procedure, except that a party may not make an additional claim without the court's permission.

(3) Where special provisions (eg. in Part 13) about statements of case are made by the rules applying to particular types of proceedings, this Part applies only to the extent that it is not inconsistent with those rules.

6.2 Statements of case: general (PD16.13)

A party may —

- (a) refer in his statement of case to any point of law on which his claim or defence, as the case may be, is based;
- (b) give in his statement of case the name of any witness he proposes to call; and
- (c) attach to or serve with his statement of case a copy of any document which he considers is necessary to his claim or defence, as the case may be (including any expert's report to be filed in accordance with Chapter 6 of Part 8).

6.3 Title of proceedings (PD16)

- (1) Every statement of case must be headed with the title of the proceedings.
- (2) The title must state —
 - (a) the number of the claim (when allocated under rule 4.1(4)(a)),
 - (b) the procedure referred to in rule 5.1 to which the proceedings are or are to be allocated;
 - (c) the full name of each party (so far as known to the party making the statement of case), and
 - (d) his status in the proceedings, described in accordance with Schedule 3.1.
- (3) For the purpose of paragraph (2)(c) the full name of a party is —
 - (a) in the case of an individual, his full unabbreviated name and title by which he is known;
 - (b) in the case of an individual carrying on business in a name other than his own name, the full unabbreviated name of the individual, together with the title by which he is known, and the full trading name;
 - (c) in the case of a partnership —
 - (i) where partners are being sued in the name of the partnership, the full name by which the partnership is known, together with the words '*a firm*'; or
 - (ii) where partners are being sued as individuals, the full unabbreviated name of each partner and the title by which he is known;
 - (d) in the case of a company registered in the Island, the full registered name, including suffix (plc, limited, llc, etc) if any;

- (e) in the case of any other company or corporation, the full name by which it is known, including suffix where appropriate.
- (4) This rule is subject to —
 - (a) any provision of Part 3 (parties), and
 - (b) any other rule relating to the title of proceedings or the description of parties.

6.4 Human rights (RHC 37A.3)

(1) A party who seeks to rely on any provision of or right arising under the Human Rights Act 2001 ('the Act') or seeks a remedy available under the Act must state that fact in a statement of case.

- (2) The statement of case must —
 - (a) give precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;
 - (b) specify the relief sought;
 - (c) state if the relief sought includes—
 - (i) a declaration of incompatibility in accordance with section 4 of the Act, or
 - (ii) damages in respect of a judicial act to which section 9(3) of the Act applies;
 - (d) where the relief sought includes a declaration of incompatibility in accordance with section 4 of the Act, give precise details of the legislative provision alleged to be incompatible and details of the alleged incompatibility;
 - (e) where the claim is founded on a finding of unlawfulness by another court or tribunal, give details of the finding; and
 - (f) where the claim is founded on a judicial act which is alleged to have infringed a Convention right of the party as provided by section 9 of the Act, the judicial act complained of and the court or tribunal which is alleged to have made it.

(3) A party who seeks to amend his statement of case to include a matter referred to in paragraph (1) or (2) must, unless the court orders otherwise, do so as soon as possible.

6.5 Court's power to dispense with statements of case (16.8)

If a claim form has been served, the court may order that the claim shall continue without any other statement of case.

6.6 Summary of long statement of case (PD16.1)

If a statement of case exceeds 10 pages (excluding schedules) an appropriate short summary must also be filed and served.

6.7 Address of party

Every statement of case must include the address for service of the party by whom it is filed or served.

6.8 Failure to verify a statement of case (22.2)

- (1) A statement of case must be verified by a statement of truth in accordance with rule 8.68.
- (2) If a party fails to verify his statement of case by a statement of truth —
 - (a) the statement of case shall remain effective unless struck out; but
 - (b) the party may not rely on the statement of case as evidence of any of the matters set out in it.

(3) The court may strike out a statement of case which is not verified by a statement of truth.

(4) Any party may apply for an order striking out a statement of case under paragraph (3).

CHAPTER 2: CLAIM FORM

6.9 Contents of claim form (8.2, 16.2)

(1) The claim form must —

- (a) contain a concise statement of the nature of the claim;
- (b) specify the remedy which the claimant seeks; and
- (c) where the claimant is making a claim for money, contain a statement of value in accordance with rule 6.10.

(2) Where the chancery procedure is specified in the claim form under rule 6.3, it must state —

- (a) either —
 - (i) the question which the claimant wants the court to decide; or
 - (ii) the remedy which the claimant is seeking and the legal basis for the claim to that remedy; and
- (b) if the claim is being made under a statutory provision, what that provision is.

(3) If the particulars of claim specified in rule 6.12 are neither contained in nor served with the claim form, the claimant must state on the claim form that the particulars of claim will follow.

(4) If the claimant is claiming in a representative capacity, the claim form must state what that capacity is.

(5) If the defendant is sued in a representative capacity, the claim form must state what that capacity is.

(6) The court may grant any remedy to which the claimant is entitled even if that remedy is not specified in the claim form.

(7) Where the claim is for a specified sum of money, the claim form must include a statement of —

- (a) the amount claimed;
- (b) the court fee payable on the issue of the claim form;
- (c) the coroner's fee for service of the claim form;
- (d) the fixed costs for starting the claim under Chapter 2 of Part 11;
- (e) the total of the amounts in sub-paragraphs (a) to (d).

6.10 Statement of value to be included in the claim form (16.3)

(1) This rule applies where the claimant is making a claim for money (including a claim for damages, whether of a specified amount or not).

(2) The claimant must, in the claim form, state —

- (a) the amount of money which he is claiming; or
- (b) that he expects to recover —
 - (i) not more than £10,000;
 - (ii) more than £10,000 but not more than £100,000; or
 - (iii) more than £100,000; or

(c) that he cannot say how much he expects to recover.

In the case of a claim for personal injuries, for '£10,000' substitute '£5,000' in sub-paragraph (b).

(3) When calculating how much he expects to recover, the claimant must disregard any possibility —

- (a) that he may recover —
 - (i) interest, or
 - (ii) costs;
- (b) that the court may make a finding of contributory negligence against him;
- (c) that the defendant may make a counterclaim or that the defence may include a set-off; or
- (d) that the defendant may be liable to pay an amount of money which the court awards to the claimant to the Department of Health and Social Security under section 6 of the Social Security (Recovery of Benefits) Act 1997 (an Act of Parliament).

(4) The statement of value in the claim form does not limit the power of the court to give judgment for the amount to which it finds the claimant is entitled.

6.11 Addresses of parties to be included in claim form (PD 16)

(1) The claim form must include an address at which the claimant resides or carries on business (in addition to his address for service).

(2) Where the defendant is an individual, the claim form must include an address at which the defendant resides or carries on business (so far as known to the claimant).

(3) Sub-paragraphs (1) and (2) apply even though —

- (a) the claimant's address for service is the business address of his advocate, or
- (b) the defendant's advocate has agreed to accept service on his behalf.

(4) If the claim form does not show a full address at which each party resides or carries on business, the claim form shall be issued but shall be retained by the court office and not served until —

- (a) the claimant has supplied a full address, or
- (b) the court has dispensed with the requirement to do so.

(5) The court office shall notify the claimant that the claim form has been retained under paragraph (4).

(6) Any address which is provided for the purpose of these provisions must include a postcode, unless the court orders otherwise.

CHAPTER 3: PARTICULARS OF CLAIM

6.12 Contents of particulars of claim (16.4)

(1) Particulars of claim must include —

- (a) a concise statement of the facts on which the claimant relies;
- (b) if the claimant is seeking interest, a statement to that effect and the details set out in paragraph (2);
- (c) if the claimant is seeking aggravated damages or exemplary damages, a statement to that effect and his grounds for claiming them;
- (d) if served separately from the claim form —
 - (i) the title of the proceedings, and
 - (ii) the claimant's address for service.
- (e) any other relevant matters specified in this Chapter.

- (2) If the claimant is seeking interest he must —
 - (a) state whether he is doing so —
 - (i) under the terms of a contract;
 - (ii) under a statutory provision, and if so which; or
 - (iii) on some other basis and, if so, what that basis is; and
 - (b) if the claim is for a specified amount of money, state —
 - (i) the percentage rate at which interest is claimed;
 - (ii) the date from which it is claimed;
 - (iii) the date to which it is calculated, which must not be later than the date on which the claim form is issued;
 - (iv) the total amount of interest claimed to the date of calculation; and
 - (v) the daily rate at which interest accrues after that date.

6.13 Personal injury claims (PD16.4)

- (1) In the case of a claim for personal injuries, the particulars of claim must contain —
 - (a) the claimant's date of birth, and
 - (b) brief details of the claimant's personal injuries.
- (2) The claimant must attach to his particulars of claim a schedule setting out —
 - (a) details of any past expenses and losses, and
 - (b) either estimates or a general description of any future expenses and losses, which he claims.
- (3) In a claim for provisional damages the particulars of claim must include —
 - (a) a statement to that effect;
 - (b) the claimant's grounds for claiming them;
 - (c) a statement that there is a chance that at some future time he will develop some serious disease or suffer some serious deterioration in his physical or mental condition; and
 - (d) a statement specifying the disease or type of deterioration in respect of which an application may be made at a future date.

6.14 Fatal accident claims (PD16.5)

- (1) In a fatal accident claim the claimant must state in his particulars of claim —
 - (a) that it is brought under the Fatal Accidents Act 1981,
 - (b) the dependants on whose behalf the claim is made,
 - (c) the date of birth of each dependant, and
 - (d) details of the nature of the dependency claim.
- (2) A fatal accident claim may include a claim for damages for bereavement.
- (3) In a fatal accident claim the claimant may also bring a claim under the Law Reform (Miscellaneous Provisions) Act 1938 on behalf of the estate of the deceased.

6.15 Hire-purchase claims (PD16.6)

- (1) Where the claim is for the delivery of goods let under a hire-purchase agreement or conditional sale agreement to a person other than a company or other corporation, the claimant must state in the particulars of claim —
 - (a) the date of the agreement,

- (b) the parties to the agreement,
- (c) the number or other identification of the agreement,
- (d) where the claimant was not one of the original parties to the agreement, the means by which the rights and duties of the creditor passed to him,
- (e) the place where the agreement was signed by the defendant,
- (f) the goods claimed,
- (g) the total price of the goods,
- (h) the paid-up sum,
- (i) the unpaid balance of the total price,
- (j) the date when the right to demand delivery of the goods accrued,
- (k) the amount (if any) claimed as an alternative to the delivery of goods, and
- (l) the amount (if any) claimed in addition to —
 - (i) the delivery of the goods, or
 - (ii) any claim under (k) above,
 with the grounds of each claim.

(2) Where the claim is not for the delivery of goods, the claimant must state in his particulars of claim —

- (a) the matters set out in sub-paragraph (1)(a) to (e),
- (b) the goods let under the agreement,
- (c) the amount of the total price,
- (d) the paid-up sum,
- (e) the amount (if any) claimed as being due and unpaid in respect of any instalment or instalments of the total price, and
- (f) the nature and amount of any other claim and how it arises.

(3) In this paragraph —

‘hire-purchase agreement’ has the same meaning as in the Hire-Purchase Act 1939;

‘conditional sale agreement’ has the meaning given by section 2(5) of the Hire-Purchase Act 1973.

6.16 Other matters to be included in particulars of claim (PD16.7)

(1) Where a claim is made for an injunction or declaration in respect of or relating to any land or the possession, occupation, use or enjoyment of any land the particulars of claim must —

- (a) state whether or not the injunction or declaration relates to residential premises, and
- (b) identify the land (by reference to a plan where necessary).

(2) Where a claim is brought to enforce a right to recover possession of goods the particulars of claim must contain a statement showing the value of the goods.

(3) Where a claim is based upon a written agreement —

- (a) a copy of the contract or documents constituting the agreement must be attached to or served with the particulars of claim and the original(s) must be available at the hearing, and
- (b) any general conditions of sale incorporated in the contract must also be attached.

(4) Where the contract is or the documents constituting the agreement are bulky, paragraph (3) is complied with by —

- (a) attaching or serving only the relevant parts of the contract or documents, and
- (b) including in the particulars of claim a statement that the complete contract or documents may be inspected, and copies of them taken, by any party at a place within the jurisdiction which is specified in the statement.

(5) Where a claim is based upon an oral agreement, the particulars of claim should set out the contractual words used and state by whom, to whom, when and where they were spoken.

(6) Where a claim is based upon an agreement by conduct, the particulars of claim must specify the conduct relied on and state by whom, when and where the acts constituting the conduct were done.

6.17 Matters to be specifically set out in the particulars of claim (PD16.8)

- (1) A claimant who wishes to rely on evidence —
 - (a) under section 11 of the Civil Evidence Act 1973 of a conviction of an offence, or
 - (b) under section 12 of that Act of a finding or adjudication of adultery or paternity,

must include in his particulars of claim a statement to that effect and give the following details —

- (i) the type of conviction, finding or adjudication and its date,
- (ii) the court, court-martial or tribunal which made the conviction, finding or adjudication, and
- (iii) the issue in the claim to which it relates.

(2) The claimant must specifically set out the following matters in his particulars of claim where he wishes to rely on them in support of his claim —

- (a) any allegation of fraud,
- (b) the fact of any illegality,
- (c) details of any misrepresentation,
- (d) details of all breaches of trust,
- (e) notice or knowledge of a fact,
- (f) details of unsoundness of mind or undue influence,
- (g) details of wilful default, and
- (h) any facts relating to mitigation of loss or damage.

6.18 Claim in foreign currency

Where a claim is for a sum of money expressed in a foreign currency the particulars of claim must expressly state —

- (a) that the claim is for payment in a specified foreign currency,
- (b) why it is for payment in that currency,
- (c) the sterling equivalent of the sum at the date of the claim, and
- (d) the source of the exchange rate relied on to calculate the sterling equivalent.

CHAPTER 4: ADMISSIONS

6.19 Admissions made after start of proceedings (14.1)

- (1) A party may admit the truth of the whole or any part of another party's case.

- (2) He may do this by giving notice in writing —
 - (a) in the form for admitting a claim referred to in rule 4.7 (an ‘admission form’);
 - (b) in a statement of case; or
 - (c) in a letter or other suitable document;

and references in these Rules to making, returning or filing an admission are to returning or filing a notice under this paragraph.

(3) Where the only remedy which the claimant is seeking is the payment of money, the defendant may also make an admission in accordance with —

- (a) rule 6.21(1) or (3) (admission: claim for specified amount); or
- (b) rule 6.22(2) or (4) (admission: claim for unspecified amount).

(4) Where the defendant makes an admission as mentioned in paragraph (3), the claimant has a right to enter judgment except where —

- (a) the defendant is a minor or patient; or
- (b) the claimant is a minor or patient and the admission is made under rule 6.21(3) or 6.22(4).

(5) The permission of the court is required to amend or withdraw an admission.

6.20 Period for making an admission (14.2)

(1) The period for filing and serving an admission under rule 6.21 or 6.22 is —

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

(2) Paragraph (1) is subject to any order under rule 2.41 (service out of the jurisdiction).

(3) A defendant may file and serve an admission under rule 6.21 or 6.22 after the end of the period specified in paragraph (1) if the claimant has not obtained default judgment under Chapter 2 of Part 10.

(4) If he does so, this Part shall apply as if he had made the admission within that period.

6.21 Admission of whole or part of claim for specified amount (14.4, 14.5)

(1) Where —

- (a) the only remedy which the claimant is seeking is the payment of a specified amount of money; and
- (b) the defendant admits the whole of the claim,

the defendant may admit the claim by filing an admission to that effect and serving a copy on the claimant.

(2) Where, on admitting a claim under paragraph (1), the defendant requests time to pay under rule 6.23, the claimant must, within 14 days after service of the admission, file and serve on the defendant a notice stating whether or not he accepts the defendant’s proposal as to payment.

(3) Where —

- (a) the only remedy which the claimant is seeking is the payment of a specified amount of money; and
- (b) the defendant admits part of the claim,

the defendant may admit part of the claim by filing an admission to that effect and serving a copy on the claimant.

(4) On receipt of an admission under paragraph (3), the claimant must, within 14 days after service of the admission, file and serve on the defendant a notice stating that —

- (a) he accepts the amount admitted in satisfaction of the claim and, if the defendant has requested time to pay, whether or not he accepts the defendant's proposal as to payment, or
- (b) he does not accept the amount admitted by the defendant and wishes the proceedings to continue.

(5) If the claimant does not file the notice under paragraph (2) or (4) within 14 days after the admission is served on him, the claim is stayed until he files the notice.

6.22 Admission of liability to pay claim for unspecified amount (14.6, 14.7)

(1) This rule applies where —

- (a) the only remedy which the claimant is seeking is the payment of money; but
- (b) the amount of the claim is not specified.

(2) Where the defendant admits liability but does not offer to pay a specified amount of money in satisfaction of the claim; he may admit the claim by filing an admission to that effect and serving a copy on the claimant.

(3) If the claimant does not file a request for judgment within 14 days after service of the admission on him, the claim is stayed until he files the request.

(4) Where the defendant —

- (a) admits liability; and
- (b) offers to pay a specified amount of money in satisfaction of the claim,

he may admit the claim by filing an admission to that effect and serving a copy on the claimant.

(5) On receipt of an admission under paragraph (4), the claimant must, within 14 days after service of the admission, file and serve on the defendant a notice stating that —

- (a) he accepts the amount in satisfaction of the claim and, and, if the defendant has requested time to pay, whether or not he accepts the defendant's proposal as to payment, or
- (b) he does not accept the amount admitted by the defendant and wishes the proceedings to continue.

(6) If the claimant does not file a notice under paragraph (5) within 14 days after the admission is served on him, the claim is stayed until he files the notice.

6.23 Request for time to pay (14.9-10)

(1) A defendant who makes an admission under rule 6.21 or 6.22 may make a request for time to pay.

(2) A request for time to pay is a proposal —

- (a) about the date of payment, or
- (b) to pay by instalments at the times and rate specified in the request.

(3) The defendant's request for time to pay must be filed and served with his admission.

(4) If the defendant requests time to pay he must —

- (a) complete as fully as possible the statement of means contained in the admission form, or
- (b) otherwise give in writing the same details of his means as could have been given in the admission form.

CHAPTER 5: DEFENCE

6.24 Filing a defence (15.2, 15.6)

A defendant who wishes to defend all or part of a claim must file a defence and serve a copy on every other party.

6.25 Consequence of not filing a defence (15.3)

If a defendant fails to file a defence, the claimant may obtain default judgment if Part 10 allows it.

6.26 Period for filing defence (15.4)

- (1) Subject to paragraph (2), 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 Chapter 3 of Part 4, 28 days after service of the particulars of claim.
- (2) Paragraph (1) is subject to the following—
 - (a) any order under rule 2.41 (service out of the jurisdiction);
 - (b) rule 4.16 (application disputing the court's jurisdiction); and
 - (c) rule 10.48 (application for summary judgment before defence filed).

6.27 Agreement extending period for filing defence (15.5)

(1) The defendant and the claimant may agree that the period for filing a defence specified in rule 6.26 shall be extended 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.

6.28 Claimant's notice on defence that claim has been paid (15.10)

- (1) This rule applies 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.
- (2) When serving the defence the defendant must give notice to the claimant requiring him to state in writing whether he wishes the proceedings to continue, and file a copy of the notice.
- (3) When the claimant responds to the notice, he must file a copy of his response.
- (4) If the claimant fails to respond to the notice within 28 days after service on him, the claim shall be stayed.
- (5) Where a claim is stayed under this rule any party may apply for the stay to be lifted.

6.29 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 6.26;
 - (b) no defendant has served or filed an admission or filed a defence or counterclaim; and
 - (c) the claimant has not entered or applied for judgment under Chapter 2 (default judgment) or Chapter 6 (summary judgment) of Part 10,
- the claim shall be stayed.

(2) Where a claim is stayed under this rule any party may apply for the stay to be lifted.

6.30 Lifting of stay (PD 15 para.3.3)

(1) Where a claim has been stayed under rule 6.28(4) or 6.29(1) any party may apply for the stay to be lifted.

(2) The application must give the reason for the applicant's delay in proceeding with or responding to the claim.

6.31 Content of defence (16.5, PD16.10)

(1) In his defence, the defendant must state —

- (a) which of the allegations in the particulars of claim he denies;
- (b) which allegations he is unable to admit or deny, but which he requires the claimant to prove; and
- (c) which allegations he admits.

(2) Where the defendant denies an allegation —

- (a) he must state his reasons for doing so; and
- (b) if he intends to put forward a different version of events from that given by the claimant, he must state his own version.

(3) A defendant who —

- (a) fails to deal with an allegation; but
- (b) has set out in his defence the nature of his case in relation to the issue to which that allegation is relevant,

shall be taken to require that allegation to be proved.

(4) Where the claim includes a money claim, a defendant shall be taken to require that any allegation relating to the amount of money claimed be proved unless he expressly admits the allegation.

(5) Subject to paragraphs (3) and (4), a defendant who fails to deal with an allegation shall be taken to admit that allegation.

(6) If the defendant disputes the claimant's statement of value under rule 6.10 he must —

- (a) state why he disputes it; and
- (b) if he is able, give his own statement of the value of the claim.

(7) If the defendant is defending in a representative capacity, he must state what that capacity is.

(8) Where the claim form —

- (a) does not contain an address at which the defendant resides or carries on business, or
- (b) contains an incorrect address for the defendant,

then, unless the court otherwise directs, the defendant must provide such an address in the defence (in addition to his address for service, if different).

(9) An address provided for the purpose of paragraph (8) must include a postcode, unless the court orders otherwise.

(10) Where a defendant to a claim or counterclaim is an individual, he must, in the acknowledgment of service, admission, defence, reply or other response, either provide his date of birth (if known) or state that he is over 18.

6.32 Defence of set-off (16.6)

Where a defendant —

- (a) contends he is entitled to money from the claimant; and
- (b) relies on this as a defence to the whole or part of the claim,

the contention may be included in the defence and set off against the claim, whether or not it is also an additional claim.

6.33 Defence: personal injury claims (PD16.12)

(1) Where the claim is for personal injuries and the claimant has attached a medical report in respect of his alleged injuries, the defendant must, if he has obtained his own medical report on which he intends to rely, —

- (a) state in his defence whether he —
 - (i) agrees,
 - (ii) disputes, or
 - (iii) neither agrees nor disputes but has no knowledge of, the matters contained in the claimant's medical report,
- (b) where he disputes any part of the claimant's medical report, give in his defence his reasons for doing so, and
- (c) attach his own medical report to his defence.

(2) Where the claim is for personal injuries and the claimant has included a schedule of past and future expenses and losses, the defendant should include in or attach to his defence a counter-schedule stating: —

- (a) which of those items he —
 - (i) agrees,
 - (ii) disputes, or
 - (iii) neither agrees nor disputes but has no knowledge of, and
- (b) where any items are disputed, supplying alternative figures where available.

6.34 Defence: limitation (PD16.13)

The defendant must in the defence give details of the expiry of any relevant limitation period relied on.

CHAPTER 6: REPLY

6.35 Reply to defence (15.8, 16.7)

(1) A claimant who does not file a reply to the defence shall not be taken to admit the matters raised in the defence.

- (2) A claimant who —
 - (a) files a reply to a defence; but
 - (b) fails to deal with a matter raised in the defence,

shall be taken to require that matter to be proved.

- (3) If a claimant files a reply to the defence, he must —
 - (a) file it within 14 days after service on him of the defence, and
 - (b) serve his reply on the other parties at the same time as he files it.

6.36 No statement of case after 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.

CHAPTER 7: AMENDMENT OF STATEMENT OF CASE

6.37 Amendment of statement of case (17.1)

(1) A party may amend his statement of case at any time before it has been served on any other party.

(2) If his statement of case has been served, a party may amend it only —

- (a) with the written consent of all the other parties; or
- (b) with the permission of the court.

(3) If a statement of case has been served, an application to amend it by removing, adding or substituting a party must be made in accordance with rule 3.8.

6.38 Power of court to disallow amendments made without permission (17.2)

(1) If a party has amended his statement of case where permission of the court was not required, the court may disallow the amendment.

(2) A party may apply to the court for an order under paragraph (1) within 14 days of service of a copy of the amended statement of case on him.

6.39 Amendment of statement of case with permission of the court (17.3)

(1) Where the court gives permission for a party to amend his statement of case, it may give directions as to —

- (a) amendments to be made to any other statement of case; and
- (b) service of any amended statement of case.

(2) The power of the court to give permission under this rule is subject to —

- (a) rule 3.2 (number of parties);
- (b) rule 3.10 (adding or substituting parties after end of limitation period); and
- (c) rule 6.40 (amendment of statement of case after the end of limitation period).

6.40 Amendment of statement of case after the end of limitation period (17.4)

(1) This rule applies where —

- (a) a party applies to amend his statement of case in one of the ways mentioned in this rule; and
- (b) a period of limitation has expired under —
 - (i) the Limitation Act 1984; or
 - (ii) any other statutory provision which allows such an amendment, or under which such an amendment is allowed.

(2) The court may allow an amendment whose effect will be to add or substitute a new claim, but only if the new claim arises out of the same facts or substantially the same facts as a claim in respect of which the party applying for permission has already claimed a remedy in the proceedings.

(3) The court may allow an amendment to correct a mistake as to the name of a party, but only where the mistake was genuine and not one which would cause reasonable doubt as to the identity of the party in question.

(4) The court may allow an amendment to alter the capacity in which a party claims if the new capacity is one which that party had when the proceedings started or has since acquired.

CHAPTER 8: FURTHER INFORMATION

6.41 Preliminary request for further information or clarification (PD18.1)

(1) Before making an application to the court for an order under rule 6.44, the party seeking clarification or information ('the first party') must first serve on the party from

whom it is sought ('the second party') a written request for that clarification or information (a 'request') stating a date by which the response to the request should be served. The date must allow the second party a reasonable time to respond.

(2) A request must be concise and strictly confined to matters which are reasonably necessary and proportionate to enable the first party to prepare his own case or to understand the case he has to meet.

(3) Requests must be made as far as possible in a single comprehensive document and not piecemeal.

(4) A request may be made by letter if the text of the request is brief and the reply is likely to be brief; otherwise the request should be made in a separate document.

(5) If a request is made in a letter, the letter must, in order to distinguish it from any other that might routinely be written in the course of a case, —

(a) state that it contains a request made under this rule, and

(b) deal with no matters other than the request.

(6) A request (whether made by letter or in a separate document) must —

(a) be headed with the title and number of the claim,

(b) in its heading state that it is a request made under this rule, identify the first party and the second party and state the date on which it is made,

(c) set out in a separate numbered paragraph each request for information or clarification,

(d) where a request relates to a document, identify that document and (if relevant) the paragraph or words to which it relates,

(e) state the date by which the first party expects a response to the request.

(7) A request which is not in the form of a letter may, if convenient, be prepared in such a way that the response may be given on the same document.

(8) For the purpose of sub-paragraph (7) the numbered paragraphs of the request should appear on the left hand half of each sheet so that the paragraphs of the response may then appear on the right.

(9) Where a request is prepared in that form an extra copy must be served for the use of the second party.

6.42 Responding to a request (PD18.2)

(1) A response to a request must be in writing, dated and signed by the second party or his advocate.

(2) Where the request is made in a letter the second party may give his response in a letter or in a formal reply.

(3) Such a letter must identify itself as a response to the request and deal with no other matters than the response.

(4) Unless the request is in the format described in rule 6.41(7) and the second party uses the document supplied for the purpose, a response must —

(a) be headed with the title and number of the claim,

(b) in its heading identify itself as a response to that request,

(c) repeat the text of each separate paragraph of the request and set out under each paragraph the response to it,

(d) refer to and have attached to it a copy of any document not already in the possession of the first party which forms part of the response.

(5) A second or supplementary response to a request must identify itself as such in its heading.

(6) The second party must when he serves his response on the first party serve on every other party and file a copy of the request and of his response.

6.43 Requests for further information: general (PD18.4)

(1) If the second party objects to complying with the request or part of it or is unable to do so at all or within the time stated in the request he must inform the first party promptly and in any event within that time.

(2) He may do so in a letter or in a separate document (a formal response), but in either case he must give reasons and, where relevant, give a date by which he expects to be able to comply.

(3) A second party need not apply to the court if he objects to a request or is unable to comply with it at all or within the stated time, and need only comply with subparagraph (1).

(4) Where a second party considers that a request can only be complied with at disproportionate expense and objects to comply for that reason he must say so in his reply and explain briefly why he has taken that view.

6.44 Order to provide further information (18.1)

- (1) The court may at any time order a party —
- (a) to clarify any matter which is in dispute in the proceedings; or
 - (b) to give additional information in relation to any such matter,

whether or not the matter is contained or referred to in a statement of case.

(2) Paragraph (1) is subject to any rule of law to the contrary.

(3) Where the court makes an order under paragraph (1), the party against whom it is made must —

- (a) file his response; and
- (b) serve it on the other parties,

within the time specified by the court.

6.45 Applications for orders under rule 6.44 (PD 18 paras.5.1-5.7)

(1) An application notice for an order under rule 6.44 must set out or have attached to it the text of the order sought and in particular should specify the matter or matters in respect of which the clarification or information is sought.

(2) If a request under rule 6.41 for the clarification or information has not been made, the application notice must, in addition, explain why not.

(3) If a request for clarification or information has been made, the application notice or the evidence in support must —

- (a) describe the response, if any, and
- (b) state in what respects the response is inadequate or unsatisfactory.

(4) Where —

- (a) the second party has made no response to a request served on him,
- (b) at least 14 days have passed since the request was served, and
- (c) the time stated in it for a response has expired,

the first party need not serve the application notice on the second party, and the court may deal with the application without a hearing.

(5) Unless paragraph (4) applies the application notice must be served on the second party and on all other parties to the claim.

(6) An order under rule 6.44 must be served on all parties to the claim.

6.46 Restriction on the use of further information (18.2)

The court may direct that information provided by a party to another party (whether given voluntarily or following an order under rule 6.44) must not be used for any purpose except for that of the proceedings in which it is given.

CHAPTER 9: ADDITIONAL CLAIMS

6.47 Additional claim to be treated as a claim for the purposes of the Rules (20.3)

(1) An additional claim shall be treated as if it were a claim for the purposes of these Rules, except as provided by this Chapter.

(2) The following rules do not apply to additional claims —

(a) rules 4.3 and 4.4 (time within which claim form may be served),

(b) Part 5 (procedures).

(3) Chapter 2 of Part 10 (default judgment) applies to an additional claim only if it is a counterclaim.

(4) With the exception of —

(a) rule 6.19(1) and (2) (admission); and

(b) rule 10.40 (application for judgment on admission),

which apply to all additional claims, Chapter 4 of Part 6 (admissions) and Chapter 5 of Part 10 (judgment on admission) apply to an additional claim only if it is a counterclaim.

6.48 Defendant's counterclaim against the claimant (20.4)

(1) A defendant may make a counterclaim against a claimant by filing particulars of the counterclaim.

(2) A defendant may make a counterclaim against a claimant —

(a) without the court's permission, if he files it with his defence; or

(b) with the court's permission, at any other time.

(3) Chapter 3 of Part 4 (acknowledgment of service) does not apply to a claimant who wishes to defend a counterclaim.

6.49 Counterclaim against a person other than the claimant (20.5)

(1) A defendant who wishes to counterclaim against a person other than the claimant must apply to the court for an order that that person be added as defendant to the counterclaim.

(2) An application for an order under paragraph (1) may be made without notice unless the court directs otherwise.

(3) Where the court makes an order under paragraph (1), it shall give directions as to the management of the case.

6.50 Defendant's claim for contribution or indemnity from co-defendant (20.6)

(1) A defendant who has filed an acknowledgment of service or a defence may make an additional claim for contribution or indemnity against another defendant by —

(a) filing a notice containing a statement of the nature and grounds of his claim; and

(b) serving that notice on the other defendant.

(2) A defendant may file and serve a notice under this rule —

(a) without the court's permission, if he files and serves it —

(i) with his defence; or

- (ii) if his claim for contribution or indemnity is against a defendant added to the claim later, within 28 days after that defendant files his defence; or
- (b) at any other time with the court's permission.

6.51 Procedure for making any other additional claim (20.7)

- (1) This rule applies to any additional claim except —
 - (a) a counterclaim; and
 - (b) a claim for contribution or indemnity made in accordance with rule 6.50.
- (2) An additional claim is made when the court issues an additional claim form.
- (3) A defendant may make an additional claim —
 - (a) without the court's permission if the additional claim is issued before or at the same time as he files his defence;
 - (b) at any other time with the court's permission.
- (4) Particulars of an additional claim must be contained in or served with the additional claim.
- (5) An application for permission to make an additional claim may be made without notice, unless the court directs otherwise.
- (6) Where an application is made for permission to make an additional claim, a copy of the proposed additional claim must be filed with the application notice.
- (7) An application for permission to make an additional claim must be supported by evidence stating —
 - (a) the stage which the action has reached,
 - (b) the nature of the claim to be made by the additional claimant or details of the question or issue which needs to be decided,
 - (c) a summary of the facts on which the additional claim is based, and
 - (d) the name and address of the proposed additional defendant.
- (8) Where delay has been a factor contributing to the need to apply for permission to make a additional claim, an explanation of the delay must be given in evidence.

6.52 Service of additional claim form (20.8)

- (1) Where an additional claim may be made without the court's permission, the additional claim form must —
 - (a) in the case of a counterclaim against an existing party only, be served on every other party when a copy of the defence is served;
 - (b) in the case of any other additional claim, be served on the person against whom it is made within 14 days after the date on which the additional claim is issued by the court.
- (2) Paragraph (1) does not apply to a claim for contribution or indemnity made in accordance with rule 6.50.
- (3) Where the court gives permission to make an additional claim it shall at the same time give directions as to the service of the additional claim.

6.53 Matters relevant to question of whether an additional claim should be separate from main claim (20.9)

- (1) This rule applies where the court is considering whether —
 - (a) to permit an additional claim to be made;
 - (b) to dismiss an additional claim; or

- (c) to require an additional claim to be dealt with separately from the claim by the claimant against the defendant.
- (2) The matters to which the court may have regard include —
 - (a) the connection between the additional claim and the claim made by the claimant against the defendant;
 - (b) whether the person who makes an additional claim is seeking substantially the same remedy which some other party is claiming from him; and
 - (c) whether the person who makes an additional claim wants the court to decide any question connected with the subject matter of the proceedings —
 - (i) not only between existing parties but also between existing parties and a person not already a party; or
 - (ii) against an existing party not only in a capacity in which he is already a party but also in some further capacity.

6.54 Effect of service of an additional claim (20.10)

(1) A person on whom an additional claim is served becomes a party to the proceedings if he is not a party already.

(2) When an additional claim is served on an existing party for the purpose of requiring the court to decide a question against that party in a further capacity, that party also becomes a party in the further capacity specified in the additional claim.

6.55 Procedural steps on service of an additional claim form on a non-party (20.12)

(1) Where an additional claim form is served on a person who is not already a party it must be accompanied by —

- (a) a form for defending the claim;
- (b) a form for admitting the claim;
- (c) a form for acknowledging service; and
- (d) a copy of —
 - (i) every statement of case which has already been served in the proceedings; and
 - (ii) such other documents as the court may direct.

(2) A copy of the additional claim form must be served on every existing party.

6.56 Case management where there is a defence to an additional claim (20.13)

(1) Where a person against whom an additional claim is made files a defence, other than to a counterclaim, he must at the same time make an application for a hearing to consider directions for the management of the additional claim.

(2) An application under paragraph (1) may be made by letter without notice to the other party or parties.

(3) The court shall give notice of the hearing to each party likely to be affected by any order made at the hearing.

- (4) At the hearing the court may —
 - (a) treat the hearing as a hearing of an application for summary judgment,
 - (b) order that the additional claim be dismissed,
 - (c) give directions about the way any claim, question or issue set out in or arising from the additional claim should be dealt with,
 - (d) give directions as to the part, if any, the person against whom the additional claim is made will take at the trial of the claim, and

- (e) give directions about the extent to which that person is to be bound by any judgment or decision to be made in the claim.
- (5) The court may make any of the orders in sub-paragraph (4) either before or after any judgment in the claim has been entered by the claimant against the defendant.
- (6) In giving directions under this rule the court shall ensure that, so far as practicable, the additional claim and the main claim are managed together.