

## **PART 7 How To Start Proceedings — The Claim Form**

### **PART 7**

#### **How to start proceedings 7.1 - 7.4**

##### **7.1**

Except as provided by a Practice Direction proceedings must be started by a claim form under Part 7 or Part 8 using Form P7/01 or Form P8/01 respectively.

##### **7.2**

If a claimant wishes his claim to proceed under Part 8, or if the claim is required to proceed under Part 8, the claim form should so state. Otherwise the claim will proceed under Part 7.

##### **7.3**

Proceedings are started when the Court issues a claim form at the request of the claimant .

##### **7.4**

A claim form is issued on the date entered on the form by the Court .

#### **Date of start of proceedings 7.5 - 7.8**

##### **7.5**

Where the claim form as issued was received in the Registry on a date earlier than the date on which it was issued by the Court , the claim is 'brought' for the purposes of limitation on that earlier date.

##### **7.6**

The date on which the claim form was received by the Registry will be recorded by a date stamp either on the claim form held on the Court file or on the letter that accompanied the claim form when it was received by the Court .

##### **7.7**

An enquiry as to the date on which the claim form was received by the Registry should be directed to a Court Officer.

**7.8**

Parties proposing to start a claim which is approaching the expiry of the limitation period should recognise the potential importance of establishing the date the claim form was received by the Registry and should themselves make arrangements to record the date.

**Claims by and against partnerships within the DIFC or Dubai 7.9 - 7.11****7.9**

Rules 7.9 to 7.11 apply to claims that are brought by or against two or more persons who:

(1) were partners; and

(2) carried on that partnership business within the DIFC or Dubai,

at the time when the cause of action accrued.

**7.10**

For the purposes of Rules 7.9 and 7.11, “partners” includes persons claiming to be entitled as partners and persons alleged to be partners.

**7.11**

Where that partnership has a name, unless it is inappropriate to do so, claims must be brought in or against the name under which that partnership carried on business at the time the cause of action accrued.

**Partnership membership statements 7.12 - 7.14****7.12**

In Rules 7.13 and 7.14 a “partnership membership statement” is a written statement of the names and last known places of residence of all the persons who were partners in the partnership at the time when the cause of action accrued, being the date specified for this purpose in accordance with Rule 7.14.

**7.13**

If the partners are requested to provide a copy of a partnership membership statement by any party to a claim, the partners shall do so within 14 days of receipt of the request.

**7.14**

In that request the party seeking a copy of a partnership membership statement must specify the date when the relevant cause of action accrued.

**Persons carrying on business in another name 7.15 - 7.16****7.15**

Rule 7.16 applies where:

- (1) a claim is brought against an individual;
- (2) that individual carries on a business within the DIFC or Dubai (but need not himself be within the DIFC or Dubai); and
- (3) that business is carried on in a name other than his own name (“the business name”).

**7.16**

Where this Rule applies, the claim may be brought against the business name as if it were the name of a partnership.

**Right to use one claim form to start two or more claims 7.17****7.17**

A claimant may use a single claim form to start all claims which can be conveniently disposed of in the same proceedings.

**Title of proceedings 7.18 - 7.19****7.18**

The claim form and every other statement of case must be headed with the title of the proceedings. The title should state:

- (1) the number of proceedings,
- (2) the circuit or division of the Court (if any) or Tribunal in which they are proceeding,
- (3) the full name of each party,
- (4) his status in the proceedings (i.e. claimant /defendant ).

**7.19**

Where there is more than one claimant and/or more than one defendant , the parties should be described in the title as follows:

- (1) AB
- (2) CD
- (3) EF Claimants

and

- (1) GH
- (2) IJ
- (3) KL Defendants

**Service of claim form 7.20****7.20**

After a claim form has been issued, it must be served on the defendant by the claimant :

- (1) within 4 months after the date of issue where the claim form is to be served within the DIFC or Dubai; and
- (2) within 6 months after the date of issue where the claim form is to be served out of the DIFC or Dubai.

**Extension of time for serving a claim form 7.21 - 7.25****7.21**

The claimant may apply for an order extending the period within which the claim form may be served.

**7.22**

The general rule is that an application to extend the time for service must be made:

- (1) within the period for serving the claim form specified by Rule 7.20; or

(2) where an order has been made extending the period within which the claim form may be served, within the period for service specified by that order.

### 7.23

If the claimant applies for an order to extend the time for service of the claim form after the end of the periods specified by Rule 7.22 the Court may make such an order only if:

- (1) the Court has been unable to serve the claim form; or
- (2) the claimant has taken all reasonable steps to serve the claim form but has been unable to do so; and
- (3) in either case, the claimant has acted promptly in making the application.

### 7.24

An application for an order extending the time for service must be made in accordance with Part 23 and supported by evidence stating:

- (1) all the circumstances relied on,
- (2) the date of issue of the claim,
- (3) the expiry date of any Rule 7.21 extension, and
- (4) a full explanation as to why the claim has not been served.

### 7.25

The application may be made without notice.

## **Application by defendant for service of claim form 7.26 - 7.28**

### 7.26

Where a claim form has been issued against a defendant, but has not yet been served on him, the defendant may serve a notice on the claimant requiring him to serve the claim form or discontinue the claim within a period specified in the notice.

### 7.27

The period specified in a notice served under Rule 7.26 must be at least 14 days after service of the notice.

**7.28**

If the claimant fails to comply with the notice, the Court may, on the application of the defendant :

- (1) dismiss the claim; or
- (2) make any other order it thinks just.

**Statement of truth 7.29 - 7.30****7.29**

The claim form and, where they are not included in the claim form, the particulars of claim, must be verified by a statement of truth in accordance with Part 22.

**7.30**

The form of the statement of truth is as follows:

'[I believe][the claimant believes] that the facts stated in [this claim form] [these particulars of claim] are true.'

**Particulars of claim 7.31 - 7.36****7.31**

If particulars of claim are not contained in or served with the claim form:

- (1) the claim form must state that, if an acknowledgment of service is filed which indicates an intention to defend the claim, particulars of claim will follow;
- (2) the claimant must serve particulars of claim within 28 days of the filing of an acknowledgment of service which indicates an intention to defend.

**7.32**

If the claimant is claiming interest, he must:

- (1) include a statement to that effect; and
- (2) give the details set out in Rule 17.18,

in both the claim form and the particulars of claim.

**7.33**

Where the claimant serves particulars of claim separately from the claim form in accordance with Rule 7.31(2) he must within 7 days of service on the defendant , file a copy of the particulars together with a certificate of service .

**7.34**

All claim forms and counterclaims must state:

(a) the law which the claimant maintains governs the dispute. The defendant must expressly agree or disagree with that assertion (in the acknowledgment of service form); and

(b) the law which the claimant maintains gives rise to the jurisdiction of the DIFC Courts in respect of their claim. The defendant must expressly agree or disagree with that assertion (in the acknowledgment of service form).

**7.35**

When the claim form is served on a defendant , it must be accompanied by a cover letter indicating that: (a) a form for defending the claim; (b) a form for admitting the claim or; (c) a form for acknowledging service must be filed by the defendant using the Court's e-filing system.

**7.36**

Where the claimant is using the procedure set out in Part 8 (alternative procedure for claims), the claimant must serve with the claim form a cover letter indicating that a form for defending the claim, a form for admitting the claim or a form for acknowledging service must subsequently be filed by the defendant using the Court's e-filing system.

**Fixed date and other claims 7.37****7.37**

A Practice Direction:

(1) may set out the circumstances in which the Court may give a fixed date for a hearing when it issues a claim;

(2) may list claims in respect of which there is a specific claim form for use and set out the claim form in question; and

(3) may disapply or modify these Rules as appropriate in relation to the claims referred to in subparagraphs (1) and (2) above.