PART 58 – COMMERCIAL COURT

## **Scope of this Part and interpretation**

### **58.1**

(1) This Part applies to claims in the Commercial Court of the King’s Bench Division.

(2) In this Part and Practice Direction 58, ‘commercial claim’ means any claim arising out of the transaction of trade and commerce and includes any claim relating to –

(a) a business document or contract;

(b) the export or import of goods;

(c) the carriage of goods by land, sea, air or pipeline;

(d) the exploitation of oil and gas reserves or other natural resources;

(e) insurance and re-insurance;

(f) banking and financial services;

(g) the operation of markets and exchanges;

(h) the purchase and sale of commodities;

(i) the construction of ships;

(j) business agency; and

(k) arbitration.

## **Specialist list**

### **58.2**

(1) The commercial list is a specialist list for claims proceeding in the Commercial Court.

(2) One of the judges of the Commercial Court shall be in charge of the commercial list.

## **Application of the Civil Procedure Rules**

### **58.3**

These Rules and their practice directions apply to claims in the commercial list unless this Part or a practice direction provides otherwise.

## **Proceedings in the commercial list**

### **58.4**

(1) A commercial claim may be started in the commercial list.

(2) Rule 30.5 applies to claims in the commercial list, except that a Commercial Court judge may order a claim to be transferred to any other specialist list.

(Rule 30.5(3) provides that an application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list.)

## **Claim form and particulars of claim**

### **58.5**

(1) If, in a Part 7 claim, particulars of claim are not contained in or served with the claim form –

(a) 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;

(b) when the claim form is served, it must be accompanied by the documents specified in rule 7.8(1);

(c) the claimant must serve particulars of claim within 28 days of the filing of an acknowledgment of service which indicates an intention to defend; and

(d) rule 7.4(2) does not apply.

(2) A statement of value is not required to be included in the claim form.

(3) If the claimant is claiming interest, he must –

(a) include a statement to that effect; and

(b) give the details set out in rule 16.4(2),

in both the claim form and the particulars of claim.

## **Acknowledgment of service**

### **58.6**

(1) A defendant must file an acknowledgment of service in every case.

(2) Unless paragraph (3) applies, the period for filing an acknowledgment of service is 14 days after service of the claim form.

(3) Where the claim form is served out of the jurisdiction, or on the agent of a defendant who is overseas, the time periods provided by rules 6.12(3), 6.35 and 6.37(5) apply after service of the claim form.

## **Disputing the court’s jurisdiction**

### **58.7**

(1) Part 11 applies to claims in the commercial list with the modifications set out in this rule.

(2) An application under rule 11(1) must be made within 28 days after filing an acknowledgment of service.

(3) If the defendant files an acknowledgment of service indicating an intention to dispute the court’s jurisdiction, the claimant need not serve particulars of claim before the hearing of the application.

## **Default judgment**

### **58.8**

(1) If, in a Part 7 claim in the commercial list, a defendant fails to file an acknowledgment of service, the claimant need not serve particulars of claim before he may obtain or apply for default judgment in accordance with Part 12.

(2) Rule 12.7(1) applies with the modification that paragraph (a) shall be read as if it referred to the claim form instead of the particulars of claim.

## **Admissions**

### **58.9**

(1) Where the claim is for a specified amount of money and the defendant admits part of the claim, the claimant may apply under Part 14 for judgment on the admission but rules 14.2 and 14.6(5) to (7) do not apply.

## **Defence and Reply**

### **58.10**

(1) Part 15 (defence and reply) applies to claims in the commercial list with the modification to rule 15.8(a) that the claimant must –

(a) file any reply to a defence; and

(b) serve it on all other parties,

within 21 days after service of the defence.

(2) Rule 6.35 (in relation to the period for filing a defence where the claim form is served out of the jurisdiction) applies to claims in the commercial list, except that if the particulars of claim are served after the defendant has filed an acknowledgment of service the period for filing a defence is 28 days from service of the particulars of claim.

## **Statements of case**

### **58.11**

The court may at any time before or after the issue of the claim form order a claim in the commercial list to proceed without the filing or service of statements of case.

## **Part 8 claims**

### **58.12**

Part 8 applies to claims in the commercial list, with the modification that a defendant to a Part 8 claim who wishes to rely on written evidence must file and serve it within 28 days after filing an acknowledgment of service.

## **Case management**

### **58.13**

(1) All proceedings in the commercial list are treated as being allocated to the multi-track and Part 26 does not apply.

(2) The following parts only of Part 29 apply –

(a) rule 29.3(2) (legal representative to attend case management conferences and pre-trial reviews);

(b) rule 29.5 (variation of case management timetable) with the exception of rule 29.5(1)(c); and

(c) rule 29.2(1A) (order or encourage to engage in alternative dispute resolution).

(3) As soon as practicable the court will hold a case management conference which must be fixed in accordance with Practice Direction 58.

(4) At the case management conference or at any hearing at which the parties are represented the court may give such directions for the management of the case as it considers appropriate.

## **Disclosure – ships papers**

### **58.14**

(1) If, in proceedings relating to a marine insurance policy, the underwriters apply for specific disclosure under rule 31.12, the court may –

(a) order a party to produce all the ships papers; and

(b) require that party to use his best endeavours to obtain and disclose documents which are not or have not been in his control.

(2) An order under this rule may be made at any stage of the proceedings and on such terms, if any, as to staying the proceedings or otherwise, as the court thinks fit.

## **Judgments and orders**

### **58.15**

(1) Except for orders made by the court on its own initiative and unless the court orders otherwise, every judgment or order will be drawn up by the parties, and rule 40.3 is modified accordingly.

(2) An application for a consent order must include a draft of the proposed order signed on behalf of all the parties to whom it relates.

(3) Rule 40.6 (consent judgments and orders) does not apply.

# PRACTICE DIRECTION 58 – COMMERCIAL COURT

## **General**

### **1.1**

This practice direction applies to commercial claims proceeding in the commercial list of the King’s Bench Division. It supersedes all previous practice directions and practice statements in the Commercial Court.

### **1.2**

All proceedings in the commercial list, including any appeal from a judgment, order or decision of a master or district judge before the proceedings were transferred to the Commercial Court, will be heard or determined by a Commercial Court judge, except that –

(1) another judge of the King’s Bench Division or Chancery Division may hear urgent applications if no Commercial Court judge is available; and

(2) unless the court otherwise orders, any application relating to the enforcement of a Commercial Court judgment or order for the payment of money will be dealt with by a master of the King’s Bench Division or a district judge.

### **1.3**

Provisions in other practice directions which refer to a master or district judge are to be read, in relation to claims in the commercial list, as if they referred to a Commercial Court judge.

### **1.4**

The Admiralty and Commercial Registry in the Rolls Building is the administrative office of the court for all proceedings in the commercial list.

## **Starting proceedings in the Commercial Court**

### **2.1**

Claims in the Commercial Court must be issued in the Admiralty and Commercial Listing Office.

### **2.2**

Omitted

### **2.3**

The claim form must be marked in the top right hand corner ‘King’s Bench Division, Commercial Court’.

### **2.4**

A claimant starting proceedings in the commercial list, other than an arbitration claim, must use practice form [N1(CC)](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part58/pd_part58?a=18412) for Part 7 claims or practice form [N208(CC)](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part58/pd_part58?a=18412) for Part 8 claims.

## **Applications before proceedings are issued**

### **3.1**

A party who intends to bring a claim in the commercial list must make any application before the claim form is issued to a Commercial Court judge.

### **3.2**

The written evidence in support of such an application must state that the claimant intends to bring proceedings in the commercial list.

### **3.3**

If the Commercial Court judge hearing the application considers that the proceedings should not be brought in the commercial list, they may adjourn the application to be heard by a master or by a judge who is not a Commercial Court judge.

## **Transferring proceedings to or from the Commercial Court**

### **4.1**

If an application is made to a court other than the Commercial Court to transfer proceedings to the commercial list, the other court may –

(1) adjourn the application to be heard by a Commercial Court judge; or

(2) dismiss the application.

### **4.2**

If the Commercial Court orders proceedings to be transferred to the commercial list –

(1) it will order them to be transferred to the Commercial Court, Rolls Building (unless the hearing is held outside London – as to which reference should be made to the Commercial Court Guide); and

(2) it may give case management directions.

### **4.3**

An application by a defendant, including a Part 20 defendant, for an order transferring proceedings from the commercial list should be made promptly and normally not later than the first case management conference.

### **4.4**

A party applying to the Commercial Court to transfer a claim to the commercial list must give notice of the application to the court in which the claim is proceeding, and the Commercial Court will not make an order for transfer until it is satisfied that such notice has been given.

## **Acknowledgment of service**

### **5.1**

For Part 7 claims, a defendant must file an acknowledgment of service using practice form N9 (CC).

### **5.2**

For Part 8 claims, a defendant must file an acknowledgment of service using practice form N210 (CC).

## **Default judgment and admissions**

### **6.**

The practice directions supplementing Parts 12 and 14 apply with the following modifications –

(1) paragraph 4.1(1) of Practice Direction 12 is to be read as referring to the service of the claim form; and

(2) the references to ‘particulars of claim’ in paragraphs 2.1, 3.1 and 3.2 of Practice Direction 14 are to be read as referring to the claim form.

## **Variation of time limits**

### **7.1**

If the parties, in accordance with rule 2.11, agree in writing to vary a time limit, the claimant must notify the court in writing, giving brief written reasons for the agreed variation.

### **7.2**

The court may make an order overriding an agreement by the parties varying a time limit.

## **Amendments**

### **8.**

Paragraph 2.2 of Practice Direction 17 is modified so that amendments to a statement of case must show the original text, unless the court orders otherwise.

## **Service of documents**

### **9.**

Unless the court orders otherwise, the Commercial Court will not serve documents or orders and service must be effected by the parties.

## **Case management**

### **10.1**

The following parts only of Practice Direction 29 apply –

(1) paragraph 5 (case management conferences), excluding paragraph 5.9 and modified so far as is made necessary by other specific provisions of this practice direction; and

(2) paragraph 7 (failure to comply with case management directions).

### **10.2**

If the proceedings are started in the commercial list, the claimant must apply for a case management conference –

(a) for a Part 7 claim, within 14 days of the date when all defendants who intend to file and serve a defence have done so; and

(b) for a Part 8 claim, within 14 days of the date when all defendants who intend to serve evidence have done so.

### **10.3**

If the proceedings are transferred to the commercial list, the claimant must apply for a case management conference within 14 days of the date of the order transferring them, unless the judge held, or gave directions for, a case management conference when they made the order transferring the proceedings.

### **10.4**

Any party may, at a time earlier than that provided in paragraphs 10.2 or 10.3, apply in writing to the court to fix a case management conference.

### **10.5**

If the claimant does not make an application in accordance with paragraphs 10.2 or 10.3, any other party may apply for a case management conference.

### **10.6**

The court may fix a case management conference at any time on its own initiative. If it does so, the court will give at least 7 days’ notice to the parties, unless there are compelling reasons for a shorter period of notice.

### **10.7**

Not less than 7 days before a case management conference, each party must file and serve –

(1) a completed case management information sheet; and

(2) an application notice for any order which that party intends to seek at the case management conference, other than directions referred to in the case management information sheet.

### **10.8**

Unless the court orders otherwise, the claimant, in consultation with the other parties, must prepare –

(1) a case memorandum, containing a short and uncontroversial summary of what the case is about and of its material case history;

(2) a list of issues, with a section listing important matters which are not in dispute; and

(3) a case management bundle containing –

(a) the claim form;

(b) all statements of case (excluding schedules), except that, if a summary of a statement of case has been filed, the bundle should contain the summary, and not the full statement of case;

(c) the case memorandum;

(d) the list of issues;

(e) the case management information sheets and, if a pre-trial timetable has been agreed or ordered, that timetable;

(f) the principal orders of the court; and

(g) any agreement in writing made by the parties as to disclosure,

and provide copies of the case management bundle for the court and the other parties at least 7 days before the first case management conference or any earlier hearing at which the court may give case management directions.

### **10.9**

The claimant, in consultation with the other parties, must revise and update the documents referred to in paragraph 10.8 appropriately as the case proceeds. This must include making all necessary revisions and additions at least 7 days before any subsequent hearing at which the court may give case management directions.

## **Pre-trial review**

### **11.1**

At any pre-trial review or case management hearing, the court will ensure that case management directions have been complied with and give any further directions for the trial that are necessary.

### **11.2**

Advocates who are to represent the parties at the trial should represent them at the pre-trial review and any case management hearing at which arrangements for the trial are to be discussed.

### **11.3**

Before the pre-trial review, the parties must discuss and, if possible, agree a draft written timetable for the trial.

### **11.4**

The claimant must file a copy of the draft timetable for the trial at least two days before the hearing of the pre-trial review. Any parts of the timetable which are not agreed must be identified and short explanations of the disagreement must be given.

### **11.5**

At the pre-trial review, the court will set a timetable for the trial, unless a timetable has already been fixed or the court considers that it would be inappropriate to do so or appropriate to do so at a later time.

## **Case management where there is a counterclaim or other additional claim**

### **12.**

Paragraph 5 of Practice Direction 20 applies, except that, unless the court otherwise orders, the court will give case management directions for counterclaims or other additional claims at the same case management conferences as it gives directions for the main claim.

## **Evidence for applications**

### **13.1**

The general requirement is that, unless the court orders otherwise –

(1) evidence in support of an application must be filed and served with the application (see rule 23.7(3));

(2) evidence in answer must be filed and served within 14 days after the application is served; and

(3) evidence in reply must be filed and served within 7 days of the service of evidence in answer.

### **13.2**

In any case in which the application is likely to require an oral hearing of more than half a day the periods set out in paragraphs 13.1(2) and (3) will be 28 days and 14 days respectively.

### **13.3**

If the date fixed for the hearing of an application means that the times in paragraphs 13.1(2) and (3) cannot both be achieved, the evidence must be filed and served –

(1) as soon as possible; and

(2) in sufficient time to ensure that the application may fairly proceed on the date fixed.

### **13.4**

The parties may, in accordance with rule 2.11, agree different periods from those in paragraphs 13.1(2) and (3) provided that the agreement does not affect the date fixed for the hearing of the application.

## **Judgments and orders**

### **14.1**

An application for a consent order must include a draft of the proposed order signed on behalf of all parties to whom it relates (see paragraph 10.4 of Practice Direction 23A).

### **14.2**

Judgments and orders are generally drawn up by the parties (see rule 58.15).