

SCHEDULE 1

RSC ORDER 11

SERVICE OF PROCESS, ETC., OUT OF THE JURISDICTION

Principal cases in which service of claim form out of jurisdiction is permissible

Rule 1.—(1) Provided that the claim form does not contain any claim mentioned in Order 75, r.2 (1) and is not a claim form to which paragraph (2) of this rule applies, a claim form may be served out of the jurisdiction with the permission of the Court if—

- (a) a remedy is sought against a person domiciled within the jurisdiction;
- (b) an injunction is sought ordering the defendant to do or refrain from doing anything within the jurisdiction (whether or not damages are also claimed in respect of a failure to do or the doing of that thing);
- (c) the claim is brought against a person duly served within or out of the jurisdiction and a person out of the jurisdiction is a necessary or proper party thereto;
- (d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain any other remedy in respect of the breach of a contract, being (in either case) a contract which—
 - (i) was made within the jurisdiction; or
 - (ii) was made by or through an agent trading or residing within the jurisdiction on behalf of a principal trading or residing out of the jurisdiction; or
 - (iii) is by its terms, or by implication, governed by English law, or
 - (iv) contains a term to the effect that the High Court shall have jurisdiction to hear and determine any claim in respect of the contract;
- (e) the claim is brought in respect of a breach committed within the jurisdiction of a contract made within or out of the jurisdiction, and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of the jurisdiction that rendered impossible the performance of so much of the contract as ought to have been performed within the jurisdiction;
- (f) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, within the jurisdiction;
- (g) the whole subject—matter of the proceedings is land situate within the jurisdiction (with or without rents or profits) or the perpetuation of testimony relating to land so situate;
- (h) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting land situate within the jurisdiction;
- (i) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property, situate within the jurisdiction;
- (j) the claim is brought to execute the trusts of a written instrument being trusts that ought to be executed according to English law and of which the person to be served with the claim form is a trustee, or for any remedy which might be obtained in any such action;
- (k) the claim is made for the administration of the estate of a person who died domiciled within the jurisdiction or for any remedy which might be obtained in any such action;
- (l) the claim is brought in a probate action;

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- (m) the claim is brought to enforce any judgment or arbitral award;
 - (n) the claim is brought against a defendant not domiciled in Scotland or Northern Ireland in respect of a claim by the Commissioners of Inland Revenue for or in relation to any of the duties or taxes which have been, or are for the time being, placed under their care and management;
 - (o) the claim is brought under the Nuclear Installations Act 1965⁽¹⁾ or in respect of contributions under the Social Security Contributions and Benefits Act 1992⁽²⁾;
 - (p) the claim is made for a sum to which the Directive of the Council of the European Communities dated 15th March 1976 No. 76/308/EEC applies, and service is to be effected in a country which is a member State of the European Economic Community;
 - (q) the claim is made under the Drug Trafficking Offences Act 1994⁽³⁾;
 - (r) the claim is made under the Financial Services Act 1986⁽⁴⁾ or the Banking Act 1987⁽⁵⁾;
 - (s) the claim is made under Part VI of the Criminal Justice Act 1988⁽⁶⁾;
 - (t) the claim is brought for money had and received or for an account or other remedy against the defendant as constructive trustee, and the defendant's alleged liability arises out of acts committed, whether by him or otherwise, within the jurisdiction;
 - (u) the claim is made under the Immigration (Carriers' Liability) Act 1987⁽⁷⁾.
- (2) A claim form may be served out of the jurisdiction on a defendant without the permission of the Court provided that each claim against that defendant is either—
- (a) a claim which by virtue of the Civil Jurisdiction and Judgments Act 1982⁽⁸⁾ the Court has power to hear and determine, made in proceedings to which the following conditions apply—
 - (i) no proceedings between the parties concerning the same cause of action are pending in the courts of any other part of the United Kingdom or of any other Convention territory; and
 - (ii) either the defendant is domiciled in any part of the United Kingdom or in any other Convention territory, or the proceedings begun by the claim form are proceedings to which Article 16 of Schedule 1, 3C or 4 refers, or the defendant is a party to an agreement conferring jurisdiction to which Article 17 of Schedule 1, 3C or 4 to that Act applies; or
 - (b) a claim which by virtue of any other enactment the High Court has power to hear and determine notwithstanding that the person against whom the claim is made is not within the jurisdiction of the Court or that the wrongful act, neglect or default giving rise to the claim did not take place within its jurisdiction.
- (4) For the purposes of this rule, and of r.9 of this Order, domicile is to be determined in accordance with the provisions of sections 41 to 46 of the Civil Jurisdiction and Judgments Act 1982 and “Convention territory” means the territory or territories of any Contracting State, as defined by s.1 (3) of that Act, to which, as defined in s.1 (1) of that Act, the Brussels or the Lugano Convention apply.

(1) 1965. c.57.

(2) 1992 c. 4.

(3) 1994 c. 37.

(4) 1986 c. 60.

(5) 1987 c. 22.

(6) 1988 c. 33.

(7) 1987 c. 24.

(8) 1982 c. 27; Schedule 1 was substituted by S.I. 1989/1346; Schedule 3C was inserted by the Civil Jurisdiction and Judgments Act 1991(c. 12), section 1(3), schedule 1; Schedule 4 was amended by S.I. 1993/603. Sections 41 to 46 were amended by the Civil Jurisdiction and Judgments Act 1991, section 3, schedule 2, paragraphs 16 to 21.

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