

SCHEDULE 1

RSC ORDER 69

SERVICE OF FOREIGN PROCESS

Definitions

Rule 1 In this Order—

“a convention country” means a foreign country in relation to which there subsists a civil procedure convention providing for service in that country of process of the High Court, and includes a country which is a party to the Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters signed at the Hague on 15 November 1965;

“officer of the county court” means any clerk or bailiff in the service of a county court;

“process” includes a citation;

“process server” means the process server appointed under rule 4 or his authorised agent;

Applications

Rule 2 This Order applies to the service on a person in England or Wales of any process in connection with civil or commercial proceedings in a foreign court or tribunal where the Senior Master receives a written request for service—

- (a) from Her Majesty’s Principal Secretary of State for Foreign and Commonwealth Affairs, with a recommendation by him that service should be effected; or
- (b) where the foreign court or tribunal is in a convention country, from a consular or other authority of that country.

Service of process

Rule 3.—(1) The request shall be accompanied by a translation thereof in English, two copies of the process and, unless the foreign court or tribunal certifies that the person to be served understands the language of the process, two copies of a translation thereof.

(2) Subject to paragraphs (3) and (5) and to any enactment providing for the manner of service of documents on corporate bodies, the process shall be served by the process server’s leaving a copy of the process and a copy of the translation or certificate, as the case may be, with the person to be served.

(3) The provisions of CPR rule 6.2(1)(c) and CPR rule 6.7 regarding service by leaving at a place specified in CPR rule 6.5, shall apply to the service of foreign process as they apply to the service of claim form, except that service may be proved by a witness statement or affidavit or by a certificate or report in such form as the Senior Master may direct.

(4) The process server shall send to the Senior Master a copy of the process and a witness statement or affidavit, certificate or report proving due service of process or stating the reason why service could not be effected, as the case may be, and shall, if the Court so directs, specify the costs incurred in effecting or attempting to effect service.

(5) CPR rule 6.8 (Service by an alternative method) shall apply to the service of foreign process as it applies to the service of claim forms, except that the Senior Master may make an order for alternative service of foreign process on the basis of the process server’s witness statement or affidavit, certificate or report, without an application being made to him in that behalf.

Status: This is the original version (as it was originally made).

(6) The Senior Master shall send a certificate, together with a copy of the process, to the consular or other authority or the Secretary of State, as the case may be, stating—

- (i) when and how service was effected or the reason why service could not be effected, as the case may be;
- (ii) where appropriate, the amount certified by the costs judge to be the costs of effecting or attempting to effect service.

(7) The certificate under paragraph (6) shall be sealed with the seal of the Supreme Court for use out of the jurisdiction.

Appointment of process server

Rule 4 The Lord Chancellor may appoint a process server for the purposes of this Order.