

---

STATUTORY INSTRUMENTS

---

**2015 No. 1648**

**The Competition Appeal Tribunal Rules 2015**

**PART 4**

**CLAIMS UNDER SECTION 47A OF THE 1998 ACT**

**Application of Rules to proceedings in Scotland**

**29.** In respect of proceedings in Scotland, references in this Part to “claimant” and “defendant” are to be read respectively as references to “pursuer” and “defender”.

**COMMENCEMENT OF PROCEEDINGS**

**Manner of commencing proceedings under section 47A of the 1998 Act**

**30.**—(1) A claim under section 47A of the 1998 Act (proceedings before the Tribunal: claims for damages etc.)(1) shall be made by filing a claim form.

(2) The claim form shall state—

- (a) the full name and address of the claimant;
- (b) the full name and address of the claimant’s legal representative, if any;
- (c) an address for service in the United Kingdom; and
- (d) the name and address of the defendant to the proceedings.

(3) The claim form shall contain—

- (a) a statement as to whether the claim is in respect of an infringement decision, and if so, whether that decision has become final within the meaning of section 58A of the 1998 Act (infringement decisions)(2);
- (b) observations on the question in which part of the United Kingdom the proceedings of the Tribunal are to be treated as taking place under rule 18;
- (c) a concise statement of the relevant facts, identifying, where applicable, any relevant findings in an infringement decision;
- (d) a concise statement of any contentions of law which are relied on;
- (e) the relief sought in the proceedings, including (where applicable)—
  - (i) an estimate of the amount claimed in damages, supported by an explanation of how that amount has been calculated;
  - (ii) details of any other claim for a sum of money;
  - (iii) in proceedings in England and Wales or Northern Ireland, a statement that the claimant is making a claim for an injunction;
- (f) such other matters as may be specified by practice direction.

---

(1) 1998 c. 41; section 47A was substituted by paragraph 4 of Schedule 8 to the Consumer Rights Act 2015 (c.15).

(2) Section 58A was substituted by paragraph 14 of Schedule 8 to the Consumer Rights Act 2015.

(4) The contents of the claim form shall be verified by a statement of truth signed and dated by the claimant or on its behalf by its duly authorised officer or legal representative.

(5) There shall be annexed to the claim form—

- (a) a copy of any infringement decision referred to in paragraph (3)(a);
- (b) copies of any documents referred to in the claim form;
- (c) any application for the claim to be subject to the fast-track procedure under rule 58 supported by reasons for the application and cross-referenced to the claim form; and
- (d) such other documents or annexes as may be specified by practice direction.

(6) Unless the Tribunal otherwise directs, the signed original of the claim form shall be accompanied by five copies of the form and its annexes certified by the claimant or its legal representative as conforming to the original.

(7) When filing the claim form the claimant shall also indicate the method by which the claimant (or the claimant's representative) proposes to effect service on the defendant and provide any other information with regard to service of the claim form as may be specified by practice direction.

### **Service out of the jurisdiction**

**31.**—(1) Where the claim form is to be served on one or more foreign defendants and the permission of the Tribunal is not required for service out of the jurisdiction, the claimant shall file with the claim form a notice verified by a statement of truth signed and dated by the claimant or on its behalf by its duly authorised officer or legal representative, setting out—

- (a) the grounds on which the claimant is entitled to serve the claim form out of the jurisdiction; and
- (b) any material facts relied on.

(2) Where the permission of the Tribunal is required for service of the claim form on one or more foreign defendants out of the jurisdiction, the claimant shall make an application for permission verified by a statement of truth setting out—

- (a) the address of such foreign defendant or, if not known, in what place that defendant is, or is likely, to be found; and
- (b) that the claimant believes that the claim against any such foreign defendant has a reasonable prospect of success; and
- (c) if under rule 30(3)(b), the claimant contends that the proceedings are to be treated as taking place in England and Wales, which ground set out in paragraph 3.1 of Practice Direction 6B of the CPR is relied on; or
- (d) if under rule 30(3)(b), the claimant contends that the proceedings are to be treated as taking place in Scotland, which ground set out in Schedule 8 of the Civil Jurisdiction and Judgments Act 1982(3) is relied on; or
- (e) if under rule 30(3)(b), the claimant contends that the proceedings are to be treated as taking place in Northern Ireland, which ground set out in rule 1(1) of Order 11 of the Rules of the Court of Judicature (Northern Ireland) 1980(4) is relied on; and
- (f) any material facts relied on.

(3) Where paragraph (2) applies, the Tribunal shall not give permission for service out of the jurisdiction unless satisfied that the Tribunal is the proper place in which to bring the claim.

(3) 1982 c. 27; Schedule 8 was substituted by S.I. 2001/3929 and amended by SI 2011/1484.

(4) S.R. 1980/346; the Rules of the Supreme Court (Northern Ireland) 1980 were renamed in accordance with paragraph 3 of Schedule 11 to the Constitutional Reform Act 2005 (c.4).

### **Amendments to claim form**

- 32.**—(1) A claim form may only be amended—
- (a) with the written consent of all the parties; or
  - (b) with the permission of the Tribunal.
- (2) Where any relevant period of limitation has expired, the Tribunal may permit an amendment—
- (a) 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;
  - (b) 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; or
  - (c) to alter the capacity in which a party claims, but only if the new capacity is one which that party had when the proceedings started or has since acquired.

### **RESPONSE TO A CLAIM**

### **Acknowledgment, service and notification**

**33.**—(1) On receiving a claim the Registrar shall send an acknowledgment of receipt to the claimant and, except where paragraph (2) applies, shall direct that the claimant or its representative serve the claim form on the defendant.

(2) Where service of the claim form outside the jurisdiction requires the permission of the Tribunal in accordance with rule 31, the claim form shall be served on the defendant only if permission is granted.

(3) The Registrar's direction for service under paragraph (1) may specify any matter the Registrar may consider appropriate with regard to the service of the claim form, including—

- (a) the time within and the method by which service of the claim form is to be effected;
- (b) the documents that are to accompany the claim form, including an acknowledgment of service in the form required by the Tribunal;
- (c) the information to be provided to the Registrar by the claimant concerning the date of service and the calculation of the time limit for acknowledging service and filing a defence;
- (d) the provision of any other information that may be required by the Registrar (whether by way of certificate of service verified by a statement of truth, witness statement or otherwise) regarding the service of the claim form; and
- (e) the time within which any information required by the Registrar is to be provided.

(4) The defendant shall within seven days of receipt of the copy of the claim form file an acknowledgment of service of the claim in the form required by the Tribunal.

(5) Where the claim form is served on a foreign defendant, the period for acknowledging service set out in paragraph (4) is varied so as to accord with the period applicable under Part 6 of the CPR in relation to proceedings in England and Wales or the equivalent provisions in the equivalent procedural rules for Scotland or Northern Ireland in relation to proceedings taking place in Scotland or Northern Ireland respectively.

(6) The Registrar shall, as soon as practicable, notify the claimant of the receipt of an acknowledgment of service from a defendant.

(7) The claimant shall send a copy of the claim form to the CMA at the same time as it is served on the other parties to the claim.

(8) The Registrar shall publish a summary of the claim on the Tribunal website and in any other manner the President may direct.

**Disputing the Tribunal's jurisdiction**

**34.**—(1) A defendant who wishes to—

- (a) dispute the Tribunal's jurisdiction to hear the claim; or
- (b) argue that the Tribunal should not exercise its jurisdiction,

may apply to the Tribunal for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction which it might have.

(2) A defendant who wishes to make such an application shall first file an acknowledgment of service in accordance with rule 33.

(3) A defendant who files an acknowledgment of service does not by doing so lose any right it may have to dispute the Tribunal's jurisdiction and does not need to file a defence before the hearing of its application under this rule.

(4) An application under this rule shall—

- (a) be made within 14 days after filing an acknowledgment of service; and
- (b) be supported by evidence.

(5) If the defendant—

- (a) files an acknowledgment of service; and
- (b) does not make an application within the period specified in paragraph (4),

the defendant is to be treated as having accepted that the Tribunal has jurisdiction to hear the claim.

(6) An order containing a declaration that the Tribunal has no jurisdiction or will not exercise its jurisdiction may also make further provision as to the disposal or stay of the proceedings.

(7) If on an application under this rule the Tribunal does not make a declaration under paragraph (6), the Tribunal shall give directions regarding the future conduct of the proceedings.

**Defence to a claim**

**35.**—(1) Subject to rule 34, within 28 days of service of the copy of the claim form the defendant shall file a defence—

- (a) setting out in sufficient detail which of the facts and contentions of law in the claim form the defendant admits or denies, on what grounds and on what other facts or contentions of law the defendant relies; and
- (b) containing observations on the question in which part of the United Kingdom the proceedings of the Tribunal are to be treated as taking place under rule 18.

(2) The contents of the defence shall be verified by a statement of truth signed and dated by the defendant or on its behalf by its duly authorised officer or legal representative.

(3) As far as practicable, there shall be annexed to the defence a copy of every document referred to in the defence (except where such documents have been annexed to the claim form).

(4) Unless the Tribunal otherwise directs, the signed original of the defence shall be accompanied by five copies of the defence and its annexes certified by the defendant or its legal representative as conforming to the original.

(5) The defendant shall serve a copy of the defence and any accompanying documents on each other party at the same time as it files the defence.

(6) The defendant shall send a copy of the defence to the CMA at the same time as it is served on the other parties to the claim.

(7) Where the claim form is served on a foreign defendant, the period for filing a defence set out in paragraph (1) is varied so as to accord with the period applicable under Part 6 of the CPR in relation

to proceedings in England and Wales or the equivalent provisions in the equivalent procedural rules for Scotland or Northern Ireland in relation to proceedings taking place in Scotland or Northern Ireland respectively.

### **Reply to defence**

**36.**—(1) Within 21 days of receipt of the copy of the defence, the claimant may file a reply to the defence.

(2) The contents of the reply shall be verified by a statement of truth signed and dated by the claimant or on its behalf by its duly authorised officer or legal representative.

(3) If the claimant files a reply to the defence, it shall send a copy of the reply and any accompanying documents to each other party at the same time as it files the reply.

(4) The claimant shall send a copy of the reply to the CMA at the same time as it is served on the other parties to the claim.

### **Further pleadings**

**37.** No further pleadings may be filed without the permission of the Tribunal.

## **ADDITIONAL PARTIES AND ADDITIONAL CLAIMS**

### **Additional parties**

**38.**—(1) The Tribunal may grant permission to remove, add or substitute a party in the proceedings.

(2) An application for permission under this rule shall be served on the parties to the proceedings and may be made by—

- (a) an existing party; or
- (b) a person who wishes to become a party.

(3) The Tribunal may order any person to cease to be a party if it is not desirable for that person to be a party to the proceedings.

(4) Before the expiry of a relevant period of limitation, the Tribunal may order a person to be added as a new party if—

- (a) it is desirable to add or substitute the new party so that the Tribunal can resolve the matters in dispute in the proceedings; or
- (b) there is an issue involving the new party and an existing party that is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so as to resolve that issue.

(5) Before the expiry of a relevant period of limitation, the Tribunal may order a new party to be substituted for an existing one if—

- (a) the existing party's interest or liability has passed to the new party; and
- (b) it is desirable to substitute the new party so that the court can resolve the matters in dispute in the proceedings.

(6) After the expiry of a relevant period of limitation, the Tribunal may add or substitute a party only if—

- (a) that limitation period was current when the proceedings were started; and
- (b) the addition or substitution is necessary.

(7) The addition or substitution of a new party, as the case may be, is necessary for the purpose of paragraph (6)(b) only if the Tribunal is satisfied that—

- (a) the new party is to be substituted for a party who was named in the claim form by mistake;
- (b) the claim cannot properly be carried on by or against the original party unless the new party is added or substituted as claimant or defendant; or
- (c) the original party has died or had a bankruptcy order made against it and its interest or liability has passed to the new party.

### **Additional claims**

**39.**—(1) In this rule and rule 40 an “additional claim” means—

- (a) a counterclaim by a defendant against the claimant or against the claimant and some other person;
- (b) a claim by a defendant against any person (whether or not already a party) for contribution or indemnity or some other remedy; or
- (c) where an additional claim has been made against a person who is not already a party, any claim made by that person against any other person (whether or not already a party).

(2) An additional claim is to be treated as if it were a claim for the purpose of these Rules.

(3) A defendant may make an additional claim under section 47A of the 1998 Act<sup>(5)</sup> (other than a claim for contribution or indemnity falling within paragraph (4))—

- (a) without the Tribunal’s permission, if it files that claim with its defence; or
- (b) at any other time, with the permission of the Tribunal.

(4) A defendant who has filed an acknowledgment of service or a defence, may make an additional claim for a contribution or indemnity against an existing party to the proceedings—

- (a) without the Tribunal’s permission, if it files that claim with its defence, or, if the additional claim is a claim against a party added to the claim later, within 28 days after that party files its defence; or
- (b) at any other time, with the permission of the Tribunal.

### **Powers on receipt of an additional claim**

**40.**—(1) The Tribunal may—

- (a) permit an additional claim to be made;
- (b) dismiss an additional claim;
- (c) require an additional claim to be dealt with separately from the claim by the claimant against the defendant;
- (d) direct that the additional claim is transferred in accordance with rule 71.

(2) The matters to which the Tribunal may have regard in deciding whether to exercise any of its powers under paragraph (1) include—

- (a) the connection between the additional claim and the claim made by the claimant against the defendant;
- (b) whether the additional claimant is seeking substantially the same remedy which some other party is claiming from it;

(5) 1998 c. 41; section 47A was substituted by paragraph 4 of Schedule 8 to the Consumer Rights Act 2015 (c.15).

- (c) whether the additional claimant wants the Tribunal 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 it is already a party but also in some further capacity.
- (3) Where the Tribunal exercises any of its powers under paragraph (1), it may make further orders or give further directions as it thinks appropriate.

## SUMMARY DISPOSAL

### Power to strike out

**41.**—(1) The Tribunal may, of its own initiative or on the application of a party, after giving the parties an opportunity to be heard, strike out in whole or in part a claim at any stage of the proceedings if—

- (a) it considers that the Tribunal has no jurisdiction to hear or determine the claim;
- (b) it considers that there are no reasonable grounds for making the claim;
- (c) it is satisfied that the claimant has habitually and persistently and without any reasonable ground—
  - (i) instituted vexatious proceedings, whether against the same person or different persons; or
  - (ii) made vexatious applications in any proceedings; or
- (d) the claimant fails to comply with any rule, practice direction issued under rule 115, or any order or direction of the Tribunal.

(2) When the Tribunal strikes out a claim it may make any other consequential order it considers appropriate.

### Default judgment

**42.**—(1) The Tribunal may of its own initiative or on the application of a party give default judgment without a hearing of the claim where—

- (a) the defendant has not filed an acknowledgment of service;
- (b) the defendant has not filed a defence to the claim or any part of the claim; or
- (c) a counterclaim has been made under rule 39 and a defence to the counterclaim has not been filed,

and, in any of those cases, the relevant time for filing has expired.

(2) A default judgment may not be given if the defendant has made an application—

- (a) disputing the Tribunal's jurisdiction under rule 34;
- (b) to have the claim struck out under rule 41; or
- (c) for summary judgment under rule 43,

and that application has not been disposed of.

(3) Where the claim form has been served on the defendant in accordance with the directions of the Registrar, the claimant may not obtain default judgment unless the claimant has complied with any directions concerning proof of service.

(4) A default judgment given under this rule shall be—

- (a) such judgment as it appears to the Tribunal that the claimant is entitled to on the claim form;
  - (b) for an amount to be decided by the Tribunal as to damages, costs and interest or for such other relief to be decided by the Tribunal in accordance with any directions it may give for the determination of those matters.
- (5) A default judgment may be given against one of two or more defendants and the claimant may proceed against the other defendants.
- (6) The Tribunal may only give a default judgment against one of two or more defendants in accordance with paragraph (5) if it is satisfied that the claim against that defendant can be dealt with separately from the claim against the other defendants.
- (7) The Tribunal shall set aside a default judgment if the judgment was wrongly entered because any of the conditions set out in paragraph (1) were not satisfied.
- (8) In any other case, the Tribunal may set aside or vary a default judgment (and attach any conditions it may think fit) if—
- (a) the defendant has a real prospect of defending the claim; or
  - (b) it appears to the Tribunal that there is some other good reason why—
    - (i) the judgment should be set aside or varied; or
    - (ii) the defendant should be allowed to defend the claim;
- (9) In considering whether to set aside or vary a default judgment under paragraph (8)(b), the matters to which the Tribunal shall have regard include whether the person seeking to set aside the judgment made an application to do so promptly.
- (10) Where—
- (a) the claimant claimed a remedy in addition to damages;
  - (b) the claimant has abandoned its claim for that remedy in order to apply for default judgment; and
  - (c) the default judgment is set aside,
- the abandoned claim is restored when the default judgment is set aside.

### **Summary judgment**

**43.—**(1) The Tribunal may of its own initiative or on the application of a party, after giving the parties an opportunity to be heard, give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if—

- (a) it considers that—
  - (i) the claimant has no real prospect of succeeding on the claim or issue; or
  - (ii) the defendant has no real prospect of successfully defending the claim or issue; and
- (b) there is no other compelling reason why the case or issue should be disposed of at a substantive hearing.

(2) The Tribunal may give any directions it considers appropriate for dealing with an application under this rule.

(3) Upon giving summary judgment, the Tribunal may make any consequential order it considers appropriate.

### **Withdrawal of the claim**

**44.—**(1) The claimant may withdraw its claim only—

- (a) with the consent of the defendant; or
- (b) with the permission of the Tribunal or, if no Tribunal has been constituted, the President.
- (2) Where a claim is withdrawn, the Tribunal may make any consequential order it thinks fit.

## OFFERS TO SETTLE

### Settlement offers

**45.**—(1) For the purposes of this rule and rules 46 to 49—

“Rule 45 Offer” means an offer to settle which is made in accordance with this rule; and

“relevant period” means—

- (a) in the case of an offer made not less than 21 days before the main substantive hearing of the claim, the period specified under paragraph (3)(c) or such longer period as the parties agree; or
- (b) in any other case, the period up to the end of the main substantive hearing of the claim.

(2) A Rule 45 Offer may be made at any time, including before the commencement of proceedings.

(3) A Rule 45 Offer shall—

- (a) be in writing;
- (b) state on its face that it is intended to be a Rule 45 Offer under these Rules;
- (c) except where the Rule 45 Offer is made less than 21 days before the start of the substantive hearing of the claim, specify a period of not less than 21 days within which the defendant will be liable for the claimant’s costs in accordance with rule 48 if the offer is accepted;
- (d) state whether it relates to the whole of the claim, to part of it or to an issue that arises in it and, if so, to which part or issue;
- (e) state whether it takes into account any counterclaim; and
- (f) where it is made by some, but not all, of a number of defendants, state whether or not it is made in satisfaction of the claim against all defendants.

(4) A Rule 45 Offer which offers to pay or offers to accept a sum of money is to be treated as inclusive of all interest until—

- (a) the date on which the period specified under paragraph (3)(c) expires; or
- (b) where paragraph (3)(c) does not apply, a date 21 days after the date the Rule 45 Offer was made.

(5) A defendant’s offer that includes an offer to pay all or part of the sum at a date later than 14 days following the date of acceptance is not to be treated as a Rule 45 Offer unless the claimant accepts the offer.

(6) A Rule 45 Offer is accepted by serving written notice of acceptance on the offeror.

(7) A Rule 45 Offer may—

- (a) be accepted any time before the substantive hearing of the claim, unless it has already been withdrawn;
- (b) only be accepted after the substantive hearing of the claim has started with the permission of the Tribunal.

(8) The fact that a Rule 45 Offer has been made shall not be communicated to the members of the Tribunal deciding the case until all questions of liability and the amount of money to be awarded have been agreed between the parties or determined by the Tribunal.

(9) Paragraph (8) does not apply where—

- (a) the offeror and offeree agree in writing to that effect; or
- (b) although the case has not been decided—
  - (i) any part of, or issue in, the case has been decided; and
  - (ii) the Rule 45 Offer relates only to parts or issues that have been decided.

(10) In a case to which paragraph (9)(b)(i) applies, the members of the Tribunal deciding the case may be told whether or not there are Rule 45 Offers other than those referred to in paragraph (9)(b)(ii), but must not be told the terms of any such other offers unless the offeror and offeree agree in writing to that effect.

(11) Where the claimant wishes to accept a Rule 45 Offer made by one or more, but not all, of a number of defendants—

- (a) if the claimant alleges that the defendants are jointly and severally liable and the Rule 45 Offer states that it is in satisfaction of the claim against all defendants, the claimant may accept the Rule 45 Offer and the Tribunal shall then direct that the claim against the defendants who did not make the Rule 45 Offer be discontinued;
- (b) if the claimant alleges that the defendants are jointly and severally liable and the Rule 45 Offer states that it is in satisfaction of the claim against those defendants making it, the claimant may—
  - (i) serve notice on the defendants making the Rule 45 Offer agreeing not to continue its claims against them in return for payment of the sum offered; and
  - (ii) continue with the claims against the other defendants;
- (c) if the claimant alleges that the defendants are severally but not jointly liable, the claimant may—
  - (i) accept the Rule 45 Offer; and
  - (ii) continue with its claims against the other defendants;
- (d) if the defendants are sued only jointly or in the alternative, the claimant may accept the Rule 45 Offer if—
  - (i) the claimant discontinues the claim against those defendants who have not made the Rule 45 Offer; and
  - (ii) those defendants give written consent to the acceptance of the Rule 45 Offer.

(12) Service of a notice under paragraph (11)(b)(i) is to be treated as acceptance of the Rule 45 Offer for the purposes of rules 47 to 49 and references in those rules to notice of acceptance are to be construed as including a reference to notice under paragraph (11)(b)(i).

(13) A Rule 45 Offer is to be treated as “without prejudice except as to costs”.

(14) This rule does not preclude a party from making an offer to settle at any time or by any other means but, if not made in accordance with this rule, it shall not have the consequences specified in rules 48 and 49.

### **Clarification of a Rule 45 Offer**

**46.—**(1) The offeree may, within seven days of a Rule 45 Offer being made, request the offeror to clarify the offer.

(2) If the offeror does not give the clarification requested under paragraph (1) within seven days of receiving the request, the offeree may, unless the substantive hearing of the claim has started, apply for an order that the offeror do so.

(3) If the Tribunal makes an order under paragraph (2), it shall specify the date when the Rule 45 Offer is to be treated as having been made.

### **Withdrawing or changing a Rule 45 Offer**

**47.—**(1) A Rule 45 Offer may only be withdrawn, or its terms changed, if the offeree has not previously served notice of acceptance.

(2) The offeror withdraws the offer or changes its terms by serving written notice of the withdrawal or change of terms on the offeree.

(3) Subject to paragraph (1), after the expiry of the relevant period—

(a) the offeror may withdraw the Rule 45 Offer or change its terms without the permission of the Tribunal; or

(b) the Rule 45 Offer may be automatically withdrawn in accordance with its terms.

(4) Where the offeror changes the terms of a Rule 45 Offer to make it more advantageous to the offeree, such improved offer is to be treated, not as the withdrawal of the original Rule 45 Offer, but as the making of a new Rule 45 Offer on improved terms.

(5) Subject to paragraphs (1) and (6), if the offeror serves notice, before the expiry of the relevant period, of withdrawal of the Rule 45 Offer or change of its terms to be less advantageous to the offeree, that notice has effect on the expiry of the relevant period.

(6) If the offeree serves notice of acceptance of the original Rule 45 Offer before expiry of the relevant period but after the offeror has served a notice of withdrawal of that offer or change of its terms to be less advantageous to the offeree, that acceptance has effect unless the Tribunal gives permission for the original Rule 45 Offer to be withdrawn or its terms changed.

(7) The offeror shall apply for such permission—

(a) within seven days of the offeree's notice of acceptance; or

(b) if earlier, before the first day of the substantive hearing.

(8) On an application under paragraph (7), the Tribunal may give permission for the original Rule 45 Offer to be withdrawn or its terms changed if satisfied that there has been a change of circumstances since the making of the original Rule 45 Offer and that it is in the interests of justice to give permission.

### **Costs consequences of acceptance of a Rule 45 Offer**

**48.—**(1) Subject to paragraphs (4) and (5), where a Rule 45 Offer is accepted within the relevant period, the claimant is entitled to the relevant costs of the proceedings up to the date on which notice of acceptance of the Rule 45 Offer was served on the offeror.

(2) Subject to paragraph (4), where a Rule 45 Offer is accepted after the expiry of the relevant period, unless the parties have agreed the liability for costs or the Tribunal otherwise directs—

(a) the claimant is entitled to the relevant costs of the proceedings up to the date on which the relevant period expired; and

(b) the offeree is liable for the offeror's relevant costs for the period from the date of expiry of the relevant period to the date on which notice of acceptance was served on the offeror.

(3) The relevant costs for the purposes of paragraphs (1) and (2) are the costs related to the proceedings against the defendants making or accepting the Rule 45 Offer, except where rule 45(11) (a) applies when they are the costs of the proceedings against all defendants.

(4) Where—

- (a) a Rule 45 Offer made less than 21 days before the start of the substantive hearing of the claim is accepted, or
- (b) subject to paragraph (5), a Rule 45 Offer which does not relate to the whole of the claim is accepted at any time,

the Tribunal shall make an order as to costs unless the parties have agreed the liability for costs.

(5) Where—

- (a) a defendant's Rule 45 Offer relates to part only of the claim; and
- (b) at the time of serving notice of acceptance within the relevant period the claimant abandons the balance of the claim,

the claimant is only entitled to the costs of such part of the claim unless the Tribunal otherwise directs.

### **Costs consequences following judgment**

**49.**—(1) This rule applies where a Rule 45 Offer is not accepted and upon judgment being handed down—

- (a) a claimant fails to obtain a judgment more advantageous than a defendant's Rule 45 Offer; or
- (b) judgment against the defendant is at least as advantageous to the claimant as the proposals contained in a claimant's Rule 45 Offer.

(2) Where paragraph (1)(a) applies, the Tribunal shall, unless it considers it unjust to do so, order that any defendant who made the Rule 45 Offer, either alone or jointly with any other defendant, is entitled to—

- (a) costs from the date on which the relevant period expired; and
- (b) interest on those costs.

(3) Where paragraph (1)(b) applies, the Tribunal shall, unless it considers it unjust to do so, order that the claimant is entitled to—

- (a) interest on the whole or part of any sum of money (excluding interest) awarded, at a rate not exceeding 10% above base rate for some or all of the period starting with the date on which the relevant period expired;
- (b) costs on the indemnity basis from the date on which the relevant period expired;
- (c) interest on those costs at a rate not exceeding 10% above base rate; and
- (d) an additional amount to be determined by the Tribunal in accordance with CPR Rule 36.17(4)(d)(6).

(4) In considering whether it would be unjust to make the orders referred to in paragraphs (1) and (2), the Tribunal shall take into account all the circumstances of the case including—

- (a) the terms of any Rule 45 Offer;
- (b) the stage in the proceedings when any Rule 45 Offer was made, including in particular how long before the substantive hearing of the claim started the offer was made;
- (c) the information available to the parties to the Rule 45 Offer at the time when the Rule 45 Offer was made;
- (d) the conduct of the parties to the Rule 45 Offer with regard to the giving or refusal to give information for the purposes of enabling the Rule 45 Offer to be made or evaluated; and
- (e) whether the offer was a genuine attempt to settle the proceedings.

- (5) Paragraphs (2) and (3) do not apply to a Rule 45 Offer—
- (a) which has been withdrawn;
  - (b) which has been changed so that its terms are less advantageous to the offeree, where the offeree has beaten the less advantageous offer; or
  - (c) made less than 21 days before the substantive hearing of the claim, unless the Tribunal has abridged the relevant period.

## INTERVENTION, CONSOLIDATION AND FORUM

### Intervention

**50.**—(1) Rule 16 (except paragraphs (2) and (8) to (10)) applies to claims falling within this Part.

(2) The CMA may submit written observations to the Tribunal on issues relating to the application of Article 101 or 102 of the TFEU or Chapter I or II of Part 1 of the 1998 Act and, with the permission of the Tribunal, submit oral observations to the Tribunal.

### Consolidation

**51.** Rule 17 applies to claims falling within this Part.

### Forum

**52.** Rule 18 applies to claims falling within this Part.

## CASE MANAGEMENT

### Directions

**53.**—(1) The Tribunal may at any time, on the request of a party or of its own initiative, at a case management conference, pre-hearing review or otherwise, give such directions as are provided for in paragraph (2) or such other directions as it thinks fit to secure that the proceedings are dealt with justly and at proportionate cost.

(2) The Tribunal may give directions—

- (a) as to the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of the oral hearing;
- (b) that the parties file a rejoinder or other additional pleadings or particulars;
- (c) for the preparation and exchange of skeleton arguments;
- (d) requiring clarification of any matter in dispute or additional information in relation to any such matter;
- (e) for the appointment and instruction of experts, whether by the Tribunal or by the parties;
- (f) for the filing of a list of issues;
- (g) for the production of bundles for any hearing;
- (h) for the creation of a confidentiality ring;
- (i) as to the fixing of time limits with respect to any aspect of the proceedings;
- (j) as to the abridgement or extension of any time limits, whether or not expired;
- (k) that the whole or part of any proceedings or judgment be stayed either generally or until a specified date or event;
- (l) for the disclosure and the production by a party or third party of documents or classes of documents;

- (m) for the costs management of proceedings, including for the provision of such schedules of incurred and estimated costs as the Tribunal thinks fit;
  - (n) for the award of costs or expenses, including any allowances payable to persons in connection with their attendance before the Tribunal;
  - (o) for the hearing of any issues as preliminary issues prior to the main substantive hearing; and
  - (p) for hearing a person who is not a party where, in any proceedings, it is proposed to make an order or give a direction in relation to that person.
- (3) The Tribunal may also, of its own initiative—
- (a) put questions to the parties;
  - (b) invite the parties to make written or oral submissions on certain aspects of the proceedings;
  - (c) ask the parties or third parties for information or particulars;
  - (d) ask for documents or any papers relating to the case to be produced;
  - (e) summon the parties' representatives or the parties in person to meetings.
- (4) A request by a party for directions shall—
- (a) be made in writing as soon as practicable;
  - (b) be supported by reasons and indicate whether it is agreed or contested by the other parties;
  - (c) be served on any other party who might be affected by such directions; and
  - (d) be determined by the Tribunal taking into account the observations of the parties.

#### **Case management conference etc.**

**54.**—(1) Where it appears to the Tribunal that any proceedings would be facilitated by holding a case management conference or pre-hearing review the Tribunal may, on the request of a party or of its own initiative, give directions for such a conference or review to be held.

(2) Unless the Tribunal otherwise directs, a case management conference is to be held as soon as practicable after the service of the reply or the expiry of the time for the filing of the reply if none is served.

(3) The purpose of a first case management conference or pre-hearing review is to give directions for the efficient conduct of the proceedings including—

- (a) to set a timetable up to an oral hearing in the proceedings, and if appropriate fix a date for that hearing;
- (b) to clarify the forms of order sought by the parties, their arguments of fact and law and the points at issue between them;
- (c) to determine any issues relating to confidentiality;
- (d) to ensure that all agreements that can be reached between the parties about the matters in issue and the conduct of the proceedings are made and recorded;
- (e) to consider any issues relating to disclosure and the provision of a disclosure report and completed Electronic Documents Questionnaire in accordance with rule 60;
- (f) to facilitate the settlement of the proceedings; and
- (g) to determine whether the parties should be given permission to adduce expert evidence and, if so, to what extent.

(4) Where it appears to the Tribunal that any proceedings would be facilitated by holding a subsequent case management conference, the Tribunal may, on the request of a party or of its own initiative, give directions for such a conference to be held.

(5) The Tribunal may authorise the President or a chairman to carry out on its behalf a case management conference, pre-hearing review or any other preparatory measure relating to the organisation or disposal of the proceedings.

## **Evidence**

**55.**—(1) The Tribunal may give directions as to—

- (a) the provision by the parties of statements of agreed matters;
- (b) the issues on which it requires evidence, and the admission or exclusion from the proceedings of evidence;
- (c) the nature of the evidence which it requires to decide those issues;
- (d) whether the parties are permitted to provide expert evidence;
- (e) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
- (f) the way in which evidence is to be placed before the Tribunal;
- (g) the submission in advance of a hearing of any witness statements or expert reports;
- (h) the examination or cross-examination of witnesses.

(2) Unless the Tribunal otherwise directs, no witness of fact or expert witness may be heard unless the relevant witness statement or expert report has been submitted in advance of the hearing and in accordance with any directions of the Tribunal under paragraph (1).

(3) The Tribunal may require any witness to give evidence on oath or affirmation or, if in writing, by way of affidavit.

(4) The Tribunal may allow a witness to give evidence through a video link or by other means.

(5) The Tribunal may dispense with the need to call a witness to give oral evidence if a witness statement or expert report has been submitted in respect of that witness.

(6) The Tribunal may limit cross-examination of witnesses to any extent or in any manner it considers appropriate.

## **Summoning or citing of witnesses**

**56.**—(1) Subject to paragraphs (2) and (3), the Tribunal may, at any time, at the request of any party, issue a summons (or in relation to proceedings taking place in Scotland, a citation) in any form, requiring any person wherever that person may be in the United Kingdom to do one or both of the following—

- (a) attend as a witness before the Tribunal, at the time and place set out in the summons or citation;
- (b) answer any questions or produce any documents or other material in the possession or under the control of that person which relate to any matter in question in the proceedings.

(2) A request by a party for the issue of a summons or citation under this rule shall state with reasons—

- (a) upon which facts the witness is to be questioned; and
- (b) the documents or material required to be produced.

(3) No person may be required to attend in compliance with a summons or citation under this rule unless the person—

- (a) has been given at least seven days' notice of the hearing; and

- (b) is offered or paid such sum as would be recoverable by that witness in respect of attendance in proceedings before the Senior Courts of England and Wales, the Court of Session or the Court of Judicature of Northern Ireland, as appropriate according to any determination of the Tribunal under rule 18.
- (4) The Tribunal may make the summoning or citation of a witness in accordance with paragraph (1) conditional upon the deposit with the Registrar of a sum determined by the Tribunal as sufficient to cover—
  - (a) the costs of the summons or citation;
  - (b) the sum referred to in paragraph (3)(b).
- (5) The Tribunal may direct a party to serve on its behalf a summons issued under this rule and pay the sum referred to in paragraph (3)(b).

### **Failure to comply with directions**

- 57.**—(1) If any party fails to comply with any direction given in accordance with these Rules, the Tribunal may, if it considers that the justice of the case so requires, order that—
- (a) the requirements of the direction be waived;
  - (b) the failure be remedied;
  - (c) such party be debarred from taking any further part in the proceedings without the permission of the Tribunal;
  - (d) such party (or its representative) be subject to an order for any costs the Tribunal sees fit.
- (2) Before making an order under paragraph (1)(c) or (d), the Tribunal shall give the party (or its representative) the opportunity to make submissions as to why the order should not be made.

## **FAST-TRACK PROCEDURE**

### **Fast-track procedure**

- 58.**—(1) The Tribunal may, at any time, either of its own initiative or on the application of a party, make an order that particular proceedings be, or cease to be, subject to the fast-track procedure.
- (2) Where the Tribunal has ordered that particular proceedings be subject to the fast-track procedure—
- (a) the main substantive hearing is to be fixed to commence as soon as practicable and in any event within six months of an order of the Tribunal stating that the particular proceedings are to be subject to the fast-track procedure; and
  - (b) the amount of recoverable costs is to be capped at a level to be determined by the Tribunal.
- (3) In deciding whether to make particular proceedings subject to the fast-track procedure the Tribunal shall take into account all matters it thinks fit, including—
- (a) whether one or more of the parties is an individual or a micro, small or medium-sized enterprise within the meaning of Commission Recommendation No. 361 (EC) of 2003 concerning the definition of micro, small and medium-sized enterprises<sup>(7)</sup>;
  - (b) whether the time estimate for the main substantive hearing is three days or less;
  - (c) the complexity and novelty of the issues involved;
  - (d) whether any additional claims have been or will be made in accordance with rule 39;
  - (e) the number of witnesses involved (including expert witnesses, if any);

(7) OJ No L124 20.05.2003 p.36.

- (f) the scale and nature of the documentary evidence involved;
- (g) whether any disclosure is required and, if so, the likely extent of such disclosure; and
- (h) the nature of the remedy being sought and, in respect of any claim for damages, the amount of any damages claimed.

## SECURITY FOR COSTS

### Security for costs

**59.**—(1) A defendant to a claim may seek security for its costs of the proceedings.

(2) A request for security for costs shall be supported by written evidence.

(3) Where the Tribunal makes an order for security for costs, it shall—

- (a) determine the amount of security; and
- (b) direct—
  - (i) the manner in which, and
  - (ii) the time within which,

the security must be given.

(4) The Tribunal may make an order for security for costs under this rule if it is satisfied, having regard to all the circumstances of the case, that it is just to make such an order, and—

- (a) one or more of the conditions in paragraph (5) or, as the case may be, paragraph (6) applies; or
- (b) an enactment permits the Tribunal to require security for costs.

(5) Where a defendant seeks security for costs against the claimant, the conditions are that—

- (a) the claimant is—
  - (i) resident out of the jurisdiction; but
  - (ii) not resident in a Brussels Contracting State, a State bound by the Lugano Convention or a Regulation State, as defined in section 1(3) of the Civil Jurisdiction and Judgments Act 1982<sup>(8)</sup>;
- (b) the claimant is a company or other body (whether incorporated in or outside the United Kingdom) and there is reason to believe that it will be unable to pay the defendant's costs if ordered to do so;
- (c) the claimant has changed its address since the claim was commenced with a view to evading the consequences of the litigation;
- (d) the claimant failed to give its address in the claim form, or gave an incorrect address in that form;
- (e) the claimant is acting as a nominal claimant, other than under section 47B of the 1998 Act (collective proceedings)<sup>(9)</sup>, and there is reason to believe that it will be unable to pay the defendant's costs if ordered to do so;
- (f) the claimant has been authorised to act as the class representative in collective proceedings under rule 78 and there is reason to believe that the claimant will be unable to pay the defendant's costs if ordered to do so;
- (g) the claimant has taken steps in relation to its assets that would make it difficult to enforce an order for costs against it.

<sup>(8)</sup> 1982 c. 27; relevant amendments were made to section 1 by section 2(2) of the Civil Jurisdiction and Judgments Act 1991 (c. 12), S.I. 1989/1346, S.I. 1990/2591, S.I. 2000/1824, S.I. 2007/1655, S.I. 2009/3131, S.I. 2012/1809 and S.I. 2014/2947.

<sup>(9)</sup> 1998 c. 41; section 47B was substituted by paragraph 5 of Schedule 8 to the Consumer Rights Act 2015 (c. 15).

(6) Where a defendant seeks security for costs against someone other than the claimant, the conditions are that the person—

- (a) has assigned the right to the claim to the claimant with a view to avoiding the possibility of a costs order being made against the person; or
- (b) has contributed or agreed to contribute to the claimant's costs in return for a share of any money or property which the claimant may recover in the proceedings,

and is a person against whom a costs order may be made.

## DISCLOSURE

### Disclosure by parties to the proceedings

**60.**—(1) In this rule, and in rules 61 to 65—

- (a) a party discloses a document by stating that the document exists or has existed;
- (b) a “disclosure report” means a report verified by a statement of truth, which—
  - (i) describes briefly what documents exist or may exist that are or may be relevant to the matters in issue in the case;
  - (ii) describes where and with whom those documents are or may be located;
  - (iii) in the case of electronic documents, describes how those documents are stored;
  - (iv) estimates the broad range of costs that could be involved in giving disclosure in the case, including the costs of searching for and disclosing any electronically stored documents; and
  - (v) states which directions are to be sought regarding disclosure;
- (c) an “Electronic Documents Questionnaire” means a questionnaire in the form of the questionnaire in the Schedule to Practice Direction 31B of the CPR.

(2) Subject to paragraph (3) and unless the Tribunal otherwise thinks fit—

- (a) at the first case management conference, the Tribunal shall decide whether and when the disclosure report and a completed Electronic Documents Questionnaire should be filed; and
- (b) at a subsequent case management conference, the Tribunal shall decide, having regard to the governing principles and the need to limit disclosure to that which is necessary to deal with the case justly, what orders to make in relation to disclosure.

(3) The Tribunal may at any point give directions as to how disclosure is to be given, and in particular—

- (a) what searches are to be undertaken, of where, for what, in respect of which time periods and by whom and the extent of any search for electronically stored documents;
- (b) whether lists of documents are required;
- (c) in what format documents are to be disclosed (and whether any identification is required);
- (d) what is required in relation to documents that once existed but no longer exist; and
- (e) whether disclosure is to take place in stages.

(4) A party's duty to disclose documents is limited to documents which are or have been in its control; and for this purpose, a party has or has had a document in its control if—

- (a) the document is or was in its physical possession;
- (b) it has or has had a right to possession of the document; or
- (c) it has or has had a right to inspect or take copies of the document.

(5) A party need not disclose more than one copy of a document, and for that purpose a copy of a document that contains a modification, obliteration or other marking or feature is to be treated as a separate document.

(6) Any duty of disclosure continues until the proceedings are concluded.

(7) If documents to which such a duty extends come to a party's notice at any time during the proceedings, it shall immediately notify every other party.

#### **Documents referred to in statements of case etc.**

**61.** A party may request disclosure of any document mentioned in—

- (a) a claim form, defence, or reply to a defence;
- (b) a witness statement or affidavit; or
- (c) an expert report, except that any instructions referred to in an expert's report shall not (unless the party serving the report consents) be disclosed without an order of the Tribunal.

#### **Disclosure before proceedings start**

**62.—**(1) This rule applies where an application is made to the Tribunal for disclosure before proceedings have started.

(2) The application shall be supported by evidence.

(3) The Tribunal may make an order under this rule only where—

- (a) the respondent, or an associated body corporate (as defined in section 256 of the Companies Act 2006<sup>(10)</sup>), is likely to be a party to subsequent proceedings;
- (b) the applicant is also likely to be a party to those proceedings;
- (c) disclosure before proceedings have started is desirable in order to—
  - (i) dispose fairly of the anticipated proceedings;
  - (ii) assist the dispute to be resolved without proceedings; or
  - (iii) save costs; and
- (d) the Tribunal would, if proceedings had started, have ordered disclosure under rule 60.

(4) An order under this rule shall—

- (a) specify the documents or the classes of documents which the respondent shall disclose; and
- (b) require the respondent, when making disclosure, to specify any of those documents—
  - (i) which are no longer in its control; or
  - (ii) in respect of which it claims a right or duty to withhold disclosure.

(5) Such an order may—

- (a) require the respondent to indicate what has happened to any documents which are no longer in its control; and
- (b) specify the time and place for disclosure.

#### **Orders for disclosure against a person not a party**

**63.—**(1) This rule applies where an application is made to the Tribunal by a party for disclosure by a person who is not a party to the proceedings.

(2) The application shall be supported by evidence.

---

(10) 2006 c.46.

- (3) The Tribunal may make an order under this rule only where—
  - (a) the documents of which disclosure is sought are likely to support the case of the applicant or adversely affect the case of one of the other parties to the proceedings; and
  - (b) disclosure is necessary in order to dispose fairly of the claim or to save costs.
- (4) An order under this rule shall—
  - (a) specify the documents or the classes of documents which the respondent must disclose; and
  - (b) require the respondent, when making disclosure, to specify any of those documents—
    - (i) which are no longer in its control; or
    - (ii) in respect of which it claims a right or duty to withhold inspection.
- (5) Such an order may—
  - (a) require the respondent to indicate what has happened to any documents which are no longer in its control; and
  - (b) specify the time and place for disclosure.

#### **Claim to withhold inspection or disclosure of a document**

- 64.**—(1) A person may apply, without notice, for an order permitting that person to withhold disclosure of a document on the ground that disclosure would damage the public interest.
- (2) Unless the Tribunal orders otherwise, an order of the Tribunal under paragraph (1)—
    - (a) shall not be served on any other person; and
    - (b) shall not be open to inspection by any person.
  - (3) A person who wishes to claim a right or a duty to withhold inspection of a document, or part of a document, shall state in writing—
    - (a) that that person is claiming such a right or duty; and
    - (b) the grounds on which that person claims that right or duty.
  - (4) The statement referred to in paragraph (3) shall be made—
    - (a) in the list in which the document is disclosed; or
    - (b) if there is no list, to the person wishing to inspect the document.
  - (5) A party may apply to the Tribunal to decide whether a claim made under paragraph (3) should be upheld.
  - (6) For the purpose of deciding an application under paragraph (1) or paragraph (5) the Tribunal may—
    - (a) require the person seeking to withhold disclosure or inspection of a document to produce that document to the Tribunal;
    - (b) invite any person, whether or not a party, to make representations; and
    - (c) give any directions it considers appropriate.
  - (7) An application under paragraph (1) or paragraph (5) shall be supported by evidence.
  - (8) This rule does not affect any rule of law which permits or requires a document to be withheld from disclosure or inspection on the ground that its disclosure or inspection would damage the public interest.

### **Restriction on use of a privileged document inspection of which has been inadvertently allowed**

65. Where a party inadvertently discloses a privileged document, the party who has seen the document may use it or its contents only with the permission of the Tribunal.

## **INTERIM PAYMENTS**

### **Interim payments on claims**

66.—(1) An interim payment is an order for payment by the defendant (in one sum or in instalments) on account of any damages or other sum of money (except costs) which the Tribunal may hold the defendant liable to pay.

(2) The claimant may not apply for an order for an interim payment before the end of the period for filing a defence by the defendant against whom the claim is made.

(3) The claimant may make more than one application for an order for an interim payment.

(4) The Tribunal may make an interim payment order if—

- (a) the defendant against whom the order is sought has admitted liability to pay damages to the claimant;
- (b) the claimant has obtained judgment against that defendant for damages to be assessed or for a sum of money (other than costs) to be assessed; or
- (c) it is satisfied that, if the claim were to be heard, the claimant would obtain judgment for a substantial amount of money (other than costs) against that defendant.

(5) The Tribunal shall not order an interim payment of more than a reasonable proportion of the likely amount of the final judgment.

(6) An application for an interim payment shall be supported by evidence and include—

- (a) the grounds on which an interim payment is sought; and
- (b) any directions necessary in the opinion of the claimant for the determination of the application.

(7) On receiving an application for an interim payment the Registrar shall send a copy to all the other parties to the proceedings and shall inform them of the date by which they may submit written or oral observations to the Tribunal.

## **INJUNCTIONS**

### **Injunctions generally**

67.—(1) This rule and rules 68 to 70 do not apply to proceedings in Scotland.

(2) The Tribunal may by order (whether interim or final) grant an injunction in all cases in which it appears to the Tribunal to be just and convenient to do so.

(3) Any such order may be made either unconditionally or on such terms and conditions as the Tribunal thinks just.

### **Interim injunctions**

68.—(1) An order for an interim injunction may be made at any time, including—

- (a) before proceedings are started; and
- (b) after judgment has been given.

(2) The Tribunal may grant an interim remedy whether or not there has been a claim for a final remedy of that kind.

(3) The Tribunal may grant an interim injunction before proceedings are started only if—

- (a) the matter is urgent; or
- (b) it is otherwise necessary to do so in the interests of justice.

(4) Where it grants an interim remedy before proceedings are started, the Tribunal may give directions requiring a claim to be commenced.

(5) In proceedings subject to the fast-track procedure in accordance with rule 58, the Tribunal may grant an interim injunction—

- (a) without requiring the applicant to provide an undertaking as to damages; or
- (b) subject to a cap on the amount of the undertaking as to damages.

### **How to apply for an interim remedy**

**69.**—(1) The Tribunal may grant an interim remedy on an application made without notice if it appears to the Tribunal that there are good reasons for not giving notice.

(2) An application for an interim remedy shall be supported by evidence, unless the Tribunal orders otherwise.

(3) The evidence in support of the application shall—

- (a) include all material information regarding the applicant's ability to pay under any undertaking as to damages that the Tribunal may require to be given; and
- (b) if the application is made without notice, state the reasons why notice has not been given.

### **Enforcement**

**70.**—(1) After the granting of an injunction by the Tribunal, if a party contends that the party subject to the injunction has failed to comply, the party so contending may apply to the Tribunal for certification of the matter to the High Court in accordance with paragraph 1A of Schedule 4 to the 2002 Act (Tribunal: procedure)(**11**).

(2) Any evidence relied on in an application made under paragraph (1) shall be served on all other parties to the proceedings.

(3) The Tribunal may, after giving the parties an opportunity to be heard, make any directions as it thinks fit for determining whether to certify the matter to the High Court.

## **TRANSFERS**

### **Transfer of claims from the Tribunal**

**71.** The Tribunal may, at any stage of the proceedings, on the request of a party or of its own initiative, and after considering any observations of the parties, direct that all or part of a claim made in proceedings brought under section 47A of the 1998 Act (proceedings before the Tribunal: claims for damages etc.)(**12**) be transferred to—

- (a) the High Court or the county court in England and Wales or Northern Ireland; or
- (b) the Court of Session or the Sheriff Court in Scotland.

(11) 2002 c. 40; paragraph 1A of Schedule 4 to the Enterprise Act 2002 was inserted by paragraph 24 of Schedule 8 to the Consumer Rights Act 2015 (c.15).

(12) 1998 c. 41; section 47A was substituted by paragraph 4 of Schedule 8 to the Consumer Rights Act 2015.

### **Transfer of claims to the Tribunal**

**72.**—(1) This rule applies where any court has ordered the transfer to the Tribunal of all or part of any proceedings.

(2) The person bringing the claim shall within seven days of the order of the court transferring the claim or such other period directed by that court, file—

- (a) a certified copy of the order of the court transferring the claim to the Tribunal;
- (b) any pleadings and documents in support of the claim filed with the court in which the claim was begun; and
- (c) any directions sought for the further progress of the claim.

(3) As soon as practicable after receipt of the documents referred to in paragraph (2) a case management conference shall be held in accordance with rule 54.