

## SCHEDULE 5

### Limitation claims

**61.11.**—(1) This rule applies to limitation claims.

(2) A claim is started by the issue of a limitation claim form as set out in the practice direction.

(3) The—

- (a) claimant; and
- (b) at least one defendant

must be named in the claim form, but all other defendants may be described.

(4) The claim form—

- (a) must be served on all named defendants and any other defendant who requests service upon him; and
- (b) may be served on any other defendant.

(5) The claim form may not be served out of the jurisdiction unless—

- (a) the claim falls within section 22(2)(a), (b) or (c) of the Supreme Court Act 1981(1);
- (b) the defendant has submitted to or agreed to submit to the jurisdiction of the court; or
- (c) the Admiralty Court has jurisdiction over the claim under any applicable Convention; and

the court grants permission in accordance with Section III of Part 6.

(6) An acknowledgment of service is not required.

(7) Every defendant upon whom a claim form is served must—

- (a) within 28 days of service file—
  - (i) a defence; or
  - (ii) a notice that he admits the right of the claimant to limit liability; or
- (b) if he wishes to—
  - (i) dispute the jurisdiction of the court; or
  - (ii) argue that the court should not exercise its jurisdiction,

file within 14 days of service (or where the claim form is served out of the jurisdiction, within the time specified in rule 6.22) an acknowledgment of service as set out in the practice direction.

(8) If a defendant files an acknowledgment of service under paragraph (7)(b) he will be treated as having accepted that the court has jurisdiction to hear the claim unless he applies under Part 11 within 14 days after filing the acknowledgment of service.

(9) Where one or more named defendants admits the right to limit—

- (a) the claimant may apply for a restricted limitation decree in the form set out in the practice direction; and
- (b) the court will issue a decree in the form set out in the practice direction limiting liability only against those named defendants who have admitted the claimant's right to limit liability.

(10) A restricted limitation decree—

- (a) may be obtained against any named defendant who fails to file a defence within the time specified for doing so; and

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(1) 1981 c. 54.

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- (b) need not be advertised, but a copy must be served on the defendants to whom it applies.
- (11) Where all the defendants upon whom the claim form has been served admit the claimant's right to limit liability—
  - (a) the claimant may apply to the Admiralty Registrar for a general limitation decree in the form set out in the practice direction; and
  - (b) the court will issue a limitation decree.
- (12) Where one or more of the defendants upon whom the claim form has been served do not admit the claimant's right to limit, the claimant may apply for a general limitation decree in the form set out in the practice direction.
- (13) When a limitation decree is granted the court—
  - (a) may—
    - (i) order that any proceedings relating to any claim arising out of the occurrence be stayed;
    - (ii) order the claimant to establish a limitation fund if one has not been established or make such other arrangements for payment of claims against which liability is limited; or
    - (iii) if the decree is a restricted limitation decree, distribute the limitation fund; and
  - (b) will, if the decree is a general limitation decree, give directions as to advertisement of the decree and set a time within which notice of claims against the fund must be filed or an application made to set aside the decree.
- (14) When the court grants a general limitation decree the claimant must—
  - (a) advertise it in such manner and within such time as the court directs; and
  - (b) file—
    - (i) a declaration that the decree has been advertised in accordance with paragraph (a); and
    - (ii) copies of the advertisements.
- (15) No later than the time set in the decree for filing claims, each of the defendants who wishes to assert a claim must file and serve his statement of case on—
  - (a) the limiting party; and
  - (b) all other defendants except where the court orders otherwise.
- (16) Any person other than a defendant upon whom the claim form has been served may apply to the court within the time fixed in the decree to have a general limitation decree set aside.
- (17) An application under paragraph (16) must be supported by a declaration—
  - (a) stating that the applicant has a claim against the claimant arising out of the occurrence; and
  - (b) setting out grounds for contending that the claimant is not entitled to the decree, either in the amount of limitation or at all.
- (18) The claimant may constitute a limitation fund by making a payment into court.
- (19) A limitation fund may be established before or after a limitation claim has been started.
- (20) If a limitation claim is not commenced within 75 days after the date the fund was established—
  - (a) the fund will lapse; and
  - (b) all money in court (including interest) will be repaid to the person who made the payment into court.

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(21) Money paid into court under paragraph (18) will not be paid out except under an order of the court.

(22) A limitation claim for—

- (a) a restricted decree may be brought by counterclaim; and
- (b) a general decree may only be brought by counterclaim with the permission of the court.