

STATUTORY INSTRUMENTS

**1998 No. 3132**

The Civil Procedure Rules 1998

[<sup>F1</sup>PART 24

SUMMARY JUDGMENT

**Textual Amendments**

- F1** Pt. 24 substituted (1.10.2023 immediately after S.I. 2023/572 comes into force) by The Civil Procedure (Amendment No. 3) Rules 2023 (S.I. 2023/788), rule 1(1), Sch. 2

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**Scope of this Part**

**24.1.** This Part—

- (a) sets out a procedure by which the court may decide a claim or issue without a trial;
- (b) is subject to other Parts making special provision for particular types of case.

**Types of proceedings in which summary judgment is available**

**24.2.** The court may give summary judgment—

- (a) against a claimant in any type of proceedings;
- (b) against a defendant in any type of proceedings except proceedings for possession of residential premises against a mortgagor or tenant or contract-holder, or against a former tenant or former contract-holder holding over with protected occupancy.

### **Grounds for summary judgment**

**24.3.** The court may give summary judgment against a claimant or defendant on the whole of a claim or on an issue if—

- (a) it considers that the party has no real prospect of succeeding on the claim, defence or issue; and
- (b) there is no other compelling reason why the case or issue should be disposed of at a trial.

### **Timing of applications and hearing**

**24.4.—**(1) A claimant may not apply for summary judgment until the defendant against whom the application is made has filed an acknowledgment of service or a defence, unless—

- (a) the court gives permission; or
- (b) a rule or practice direction states otherwise.

(2) In civil proceedings against the Crown, as defined in rule 66.1(2), a claimant may not apply for summary judgment until after expiry of the period for filing a defence specified in rule 15.4.

(3) In a claim—

- (a) for specific performance or rescission of an agreement (whether in writing or not) for the sale, purchase, exchange, mortgage or charge of any property, or for the grant or assignment of a lease or tenancy of any property, with or without an alternative claim for damages; or
- (b) for the forfeiture or return of any deposit made under such an agreement,

the claimant may apply for summary judgment at any time after the claim form has been served, unless a rule or practice direction states otherwise.

(4) If a party applies for summary judgment before a defendant has filed a defence, the defendant by or against whom the application is made need not file a defence before the hearing.

(5) Where a summary judgment hearing is fixed, the respondent (or the parties where the hearing is fixed of the court's own initiative) must be given at least 14 days' notice of—

- (a) the date fixed for the hearing; and
- (b) the issues which it is proposed that the court will decide at the hearing.

(6) A rule or practice direction may provide for a different period of notice to be given.

### **Application notice and evidence**

**24.5.—**(1) The application notice must—

- (a) state that the application is for summary judgment;
- (b) identify concisely any point of law or document relied upon;
- (c) set out or attach any written evidence on which the applicant relies;
- (d) state that the applicant believes the respondent has no real prospect of succeeding on the claim, defence or issue to be determined;
- (e) state that the applicant knows of no reason why the disposal of the claim, defence or issue should await trial; and
- (f) draw the respondent's attention to their right to rely on evidence opposing the application.

(2) In claims falling within rule 24.4(3), the application notice must also have attached to it the text of the order sought by the claimant and must be served on the respondent not less than 4 days before the hearing of the application.

- (3) If a party wishes to rely on written evidence at the hearing, other than in a claim under rule 24.4(3), they must file and serve copies of such evidence on every other party at least—
- (a) 7 days before the hearing in the case of a respondent’s evidence, or evidence of any party where the hearing is fixed by the court of its own initiative;
  - (b) 3 days before the hearing in the case of an applicant’s evidence in reply, or reply evidence of any party where the hearing is fixed by the court of its own initiative.
- (4) This rule does not require written evidence—
- (a) to be filed if it has already been filed; or
  - (b) to be served on a party on whom it has already been served.

### **Disposal of applications**

- 24.6.** When the court determines a summary judgment application it may—
- (a) give directions as to the filing and service of a defence;
  - (b) give further directions about the management of the case;
  - (c) make its order subject to conditions in accordance with rule 3.1(3).]

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, PART 24.