

## NOTES FOR CLAIMANT ON COMPLETING A CLAIM FORM

**Before you begin completing the claim form**

- Please read all these guidance notes. The notes follow the order in which information is required on the form.
- Copy the completed claim form and the defendant's notes for guidance so that you have one copy for yourself, one copy for the court and one copy for each defendant. Send or take the forms to the Courts Office with the appropriate fee. The court will tell you how much this is.
- Court staff can give information about court procedures, but cannot give legal advice. If you need legal advice, eg. about the likely success of your claim or the evidence you need to prove it, you should contact an advocate.

**Parties**

As the person issuing the claim, you are called the *claimant*; the person you are suing is called the *defendant*. Claimants who are under 18 years old (unless otherwise permitted by the court), and patients within the meaning of the Mental Health Act 1998, must have a litigation friend to issue and conduct court proceedings on their behalf.

**Providing information about yourself and the defendant**

You must provide the full address (including postcode) for yourself and each defendant. The postcode for an address in the Isle of Man is in the Isle of Man telephone directory or online.

You must provide the following information about yourself and each defendant according to the capacity in which you are suing and in which each defendant is being sued.

When suing or being sued as:-

an individual	<p>You must give his or her full unabbreviated name where known, including the first name, any middle name and surname and his or her residential address (including postcode).</p> <p>Where the individual is suing or being sued in a representative capacity you must say what that capacity is e.g. <i>Richard Robinson as executor of the will of Mary Robinson (deceased)</i>.</p>
a company incorporated or registered in the Isle of Man	<p>You must give the company's full name, including the appropriate suffix, ie. <i>Ltd</i> or <i>Plc</i>. You must give an address (including postcode) which is the company's registered office.</p>
a company incorporated outside the Isle of	<p>You must give the company's full name including any suffix. If the company carries on business in the Isle of Man, you must provide an address in the Isle of Man which is either the</p>

Man	registered address under s.313(1)(c) of the Companies Act 1931 or the address of the place of business having a real, or the most, connection with the claim. If the company does not carry on business in the Isle of Man, you must give an address which is the company's registered office or place of business.
any other corporation	You must give the full name of the corporation, and an address which is either its principal office or any other place where the corporation carries on activities and which has a real connection with the claim.
a person under 18	You must give the person's full name followed by <i>a minor by Mrs Jane Jones his litigation friend</i> or, if the person is conducting proceedings on his or her own behalf, <i>a minor</i> .
a patient within the meaning of the Mental Health Act 1998	You must give the person's full name followed by <i>by Jane Jones his litigation friend</i> .

Where your claim seeks revocation of a grant of probate or letters of administration every person who is entitled to or claims to be entitled to administer the estate under the grant must be made a party to the claim.

#### Brief details of claim

- You must set out under this heading a statement of the nature of your interest and the interest of each defendant in the estate.
- If you dispute another party's interest in the estate you must state this and set out your reasons.
- If you contend that:
  - at the time when a will was executed the testator did not know of and approve its contents;
  - a will was not duly executed; or
  - at the time of the execution of a will the testator was not of sound mind, memory and understanding; or
  - the execution of a will was obtained by undue influence or fraud,
  - you must set out the contention specifically and give particulars of the facts and matters relied upon.

#### Defendant's name and address

Enter in this box the title, full names, address and postcode of the defendant receiving the claim form (use one claim form for each defendant). *The address in this box must be in the Isle of Man, unless the defendant is to be served outside the Isle of Man (in which case you must obtain the court's permission). Use form HC8C*

*Application Notice (permission to serve outside the jurisdiction) to make an application.*

### Statement of truth

This must be signed by you<sup>1</sup>, or by your advocate or your litigation friend, if appropriate.

### Address for documents

Insert in this box the address at which you wish to receive documents and payments. The address must be in the Isle of Man. If you are willing to receive documents by fax or e-mail, add details.

### Documents to be filed

You must file any testamentary document of the deceased person which you have in your possession or control with your claim form.

A testamentary document means a will, a draft of a will, written instructions for a will made by or at the request of, or under the instructions of the testator and any documents purporting to be evidence of the contents, or to be a copy, of a will which is alleged to have been lost or destroyed.

In addition you must file written evidence about the documents which should be in the form annexed. It must be signed by you personally (and not your advocate) or by your litigation friend.

You may only file your claim form without the testamentary documents or evidence about them if the court gives permission. It will normally do this only in cases of urgency (eg. where you wish to apply for the immediate appointment of an administrator pending the determination of your claim and it is not possible to obtain the documents immediately).

If the court gives permission it will expect you to give an undertaking to lodge the documents by a specific date.

#### *Inspection of testamentary documents*

Except with the permission of the court, no party is allowed to inspect the testamentary documents or written evidence lodged or filed by another party until they have lodged their testamentary documents and filed their evidence.

*All written evidence whether in a witness statement or an affidavit must be typed and a typed copy of any manuscript evidence should also be exhibited to the relevant witness statement, affidavit or other document adducing the same.*

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<sup>1</sup> Where the claimant is a company or other corporation, the statement of truth must be signed by a person holding a senior position in the corporation (as to which, see rule 1.4(3) of the Rules of Court).

### Service of claim form

You must take or send to the court 2 copies of the claim form, plus an additional copy for each defendant to be served. The court will keep one copy, and stamp and return the others to you.

You must then arrange for the coroner to serve a stamped copy of the claim form on every defendant. (If a defendant is represented by an advocate who is authorised to accept service, you may serve the claim form by taking or sending them to the advocate's business address.)

The claim form must be served within 4 months after the date of issue (or, if the court has given leave for it to be served out of the jurisdiction, 6 months after the date of issue). As to service on 1 or more defendants outside of the Isle of Man service must be effected pursuant to any relevant order after application is made to the court. Use form *HC8C Application Notice (permission to serve outside the jurisdiction)* to make an application.

## FORM OF WITNESS STATEMENT OR AFFIDAVIT ABOUT TESTAMENTARY DOCUMENTS (typed)

*(Title of the claim as in claim form)*

I [*name and address*] the claimant in this claim state [on oath] that I have no knowledge of any document –

- (1) being or purported to be or having the form or effect of a will or codicil of [*name of deceased*] whose estate is the subject of this claim;
- (2) being or purporting to be a draft or written instructions for any such will or codicil made by or at the request of or under the instructions of the deceased;
- (3) being or purporting to be evidence of the contents or a copy of any such will or codicil which is alleged to have been lost or destroyed,

except —

*[details of any testamentary document of the deceased, and if it is not in your control, either give the name and address of the person who you believe has possession or control of it, or state that you do not know the name and address of that person]*

[I believe that the facts stated in this witness statement are true] [*or jurat for affidavit*]