

**CJRS 12/2008**

**Subcommittee on Draft Subsidiary Legislation  
Relating to the Civil Justice Reform**

**Procedure under New Order 13A –  
Admissions in Claims for Payment of Money**

**Purpose**

On behalf of the Judiciary, the Judiciary Administration presents this paper, which sets out the procedure under the new Order 13A – Admissions in Claims for Payment of Money in the latest draft Rules of the High Court (Amendment) Rules 2008 (“Draft RHC”). It must be emphasised that where views on the law are expressed herein, such views are not to be taken as statements of law by the courts. Judicial determinations or statements of law may only be made in actual cases that come before the courts after hearing argument.

**Background**

2. At the Subcommittee meeting on 8.4.2008, the Judiciary Administration was requested to provide a written response to set out the procedures and the relevant forms to be used under the new O.13A.

**New Order 13A**

3. The purpose of the new O.13A is to provide a procedure for a defendant in a money claim (both liquidated and unliquidated) to make admission and propose payment terms as to time and instalments to satisfy the claim. This is intended to facilitate settlements and save court time and costs.

## Forms for Commencement of Money Claims

4. Under the existing rules, a plaintiff in a money claim may commence proceedings by -

- (a) a writ (**Form 1**), which has to be accompanied by an acknowledgment of service (**Form 14**) as required by O.10, r.1(6); or Form 1  
Form 14
- (b) an originating summons (**Form 8**), which has to be accompanied by an acknowledgment of service (**Form 15**) as required by O.10, r.5(1). Form 8  
Form 15

5. To cater for the new procedure under new Order 13A, the following amendments are proposed -

- (a) A writ (**Form 1**) has to include a statement (as required by O.6, r.2(1)) that the defendant may make an admission in accordance with O.13A by completing an appropriate form enclosed together with the accompanying Acknowledgment of Service (**Form 14**); and
- (b) The accompanying Acknowledgment of Service (**Form 14 or 15**) contains directions (paragraph 3 therein refers) informing the defendant of the option to make admission and the proper form to be used for making an admission (**Form 16 or 16C**). Form 16  
Form 16C

## Making an admission

6. Upon being served with an originating process, a defendant may make an admission within the prescribed time under rule 3 in accordance with rule 4, 5, 6 or 7, depending on the nature of the claim and admission. O.13A, r.2(1) reads -

- “(1) Where the only remedy that a plaintiff is seeking is the payment of money, the defendant may make an admission in accordance with –
- (a) rule 4 (admission of whole of claim for liquidated amount of money);
  - (b) rule 5 (admission of part of claim for liquidated amount of money);
  - (c) rule 6 (admission of liability to pay whole of claim for unliquidated amount of money); or
  - (d) rule 7 (admission of liability to pay claim for unliquidated amount of money where defendant offers a sum in satisfaction of the claim).”

7. For admissions made under rules 4 and 5 (for liquidated claim), the defendant should use **Form 16**; for admissions made under rules 6 and 7 (for unliquidated claim), the defendant should use **Form 16C**.

Form 16  
Form 16C

### **Procedure Subsequent to an Admission**

#### *Where the defendant has not requested for time to pay*

8. Where the defendant has not requested for time to pay, the plaintiff may request to enter judgment within 14 days -

#### Liquidated Claim

- (a) If the defendant admits the whole claim, the plaintiff may obtain judgment by filing a request in **Form 16A** (Rule 4);
- (b) If the defendant admits part of the claim in satisfaction of the whole claim, the plaintiff shall state whether he accepts the amount in satisfaction of the whole claim by filing a notice in **Form 16B**, and if he accepts, he may request for judgment in the same form (Rule 5);

Form 16A

Form 16B

#### Unliquidated Claim

- (c) If the defendant admits liability but does not offer to pay an amount in satisfaction of the claim, the plaintiff may obtain judgment by filing a request in **Form 16D** and the judgment so entered shall be for an amount to be decided by the court (Rule 6);
- (d) If the defendant admits liability and offers an amount in satisfaction of the claim, the plaintiff shall state whether he accepts the amount in satisfaction of the claim by filing a notice in **Form 16E**, and if he accepts, he may request for judgment under the same form (Rule 7).

Form 16D

Form 16E

9. The plaintiff may specify in his request for judgment -
- (a) the date by which the whole of the judgment debt is to be paid;  
or
  - (b) the times and rate at which it is to be paid by instalments  
(Rules 4(5), 5(6) and 7(6)).

The judgment entered shall then be for the amount to be paid by the date or at the times and rate specified in the request for judgment or if none is specified, immediately (Rules 4(7), 5(8), 7(8)).

*Where the defendant makes a request for time to pay*

10. When filing an admission in **Form 16 or 16C** under rule 4, 5 or 7, a defendant may make a request for time to pay, i.e. a proposal about the date of payment or a proposal to pay by instalments at the times and rate specified in the request (Rule 9).

11. If the plaintiff accepts the defendant's request for time to pay, he may obtain judgment by filing a request for judgment in **Form 16A, 16B or 16E** (as explained above depending on under what rule the defendant has made the admission.). In that case the court shall enter judgment for the appropriate amount and costs (O.13A, r.9(6)) and the amount shall be for payment by the date or at the times and rate specified in the defendant's request for time to pay.

12. If the plaintiff does not accept the defendant's request for time to pay, he shall file a notice (of non-acceptance) also in **Form 16A, 16B or 16E**, and may make his own proposal as to time to pay. After receiving the notice, the court shall enter judgment for the amount admitted to be paid by the date or at the times and rate of payment determined by the court (Rule 10). Either party may apply to the court for re-determination if the determination was made without a hearing (Rule 11).

13. If the plaintiff does not respond to an admission within 14 days after service of the admission on him, the claim will be stayed until he files the notice in accordance with **Forms 16A, 16B, 16D or 16E** (Rule 4(4), 5(4), 6(4) and 7(4)).

14. Unless the court otherwise orders, execution of the judgment is stayed pending payment (Rule 9(7)). If the defendant makes default in payment, the stay will cease and the plaintiff may enforce payment of the whole unpaid balance (Rule 9(8)).

### **Summary of Steps and Forms under New Order 13A**

15. The steps to be taken and forms to be used by the plaintiff and defendant in a money claim for the new procedure under new Order 13A are summarised at **Annex A** (liquidated claim) and **Annex B** (unliquidated claim).

**Annex A**  
**Annex B**

**Judiciary Administration**  
**April 2008**

## Order 13A

## Steps and Forms to be used for Liquidated Claim

Party	Steps and Forms to be Used
1. Plaintiff	To issue –  (a) Writ ( <b>Form 1</b> ) + Acknowledgment of Service ( <b>Form 14</b> ) + Admission Form ( <b>Form 16</b> ); or  (b) Originating Summons ( <b>Form 8</b> ) + Acknowledgment of Service ( <b>Form 15</b> ) + Admission Form ( <b>Form 16</b> ).
2. Defendant	May make admission by completing <b>Form 16</b> to indicate –  (a) admission of whole claim and whether request time to pay; or  (b) admission of part of the claim and whether request time to pay.
3. Plaintiff	May complete –  (a) <b>Form 16A</b> to request judgment in response to item 2(a); or  (b) <b>Form 16B</b> in response to item 2(b).

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## Order 13A

## Steps and Forms to be used for Unliquidated Claim

Party	Steps and Forms to be Used
1. Plaintiff	<p>To issue –</p> <p>(a) Writ (<b>Form 1</b>) + Acknowledgment of Service (<b>Form 14</b>) + Admission Form (<b>Form 16C</b>); or</p> <p>(b) Originating Summons (<b>Form 8</b>) + Acknowledgment of Service (<b>Form 15</b>) + Admission Form (<b>Form 16C</b>).</p>
2. Defendant	<p>May complete <b>Form 16C</b> to indicate –</p> <p>(a) admission of liability to pay whole claim without offering a liquidated amount; or</p> <p>(b) admission of liability and offer a liquidated amount and whether request time to pay.</p>
3. Plaintiff	<p>May complete –</p> <p>(a) <b>Form 16D</b> to obtain judgment in response to item 2(a); or</p> <p>(b) <b>Form 16E</b> in response to item 2(b).</p>