



County Courts Act 1984

1984 CHAPTER 28

PART IX

MISCELLANEOUS AND GENERAL

Forfeiture for non-payment of rent

138 Provisions as to forfeiture for non-payment of rent.

- (1) This section has effect where a lessor is proceeding by action in a county court (being an action in which the county court has jurisdiction) to enforce against a lessee a right of re-entry or forfeiture in respect of any land for non-payment of rent.
- (2) If the lessee pays into court [^{F1}or to the lessor]not less than 5 clear days before the return day all the rent in arrear and the costs of the action, the action shall cease, and the lessee shall hold the land according to the lease without any new lease.
- (3) If—
 - (a) the action does not cease under subsection (2); and
 - (b) the court at the trial is satisfied that the lessor is entitled to enforce the right of re-entry or forfeiture,the court shall order possession of the land to be given to the lessor at the expiration of such period, not being less than 4 weeks from the date of the order, as the court thinks fit, unless within that period the lessee pays into court [^{F1}or to the lessor]all the rent in arrear and the costs of the action.
- (4) The court may extend the period specified under subsection (3) at any time before possession of the land is recovered in pursuance of the order under that subsection.
- (5)^{F1}
- (6) Subsection (2) shall not apply where the lessor is proceeding in the same action to enforce a right of re-entry or forfeiture on any other ground as well as for non-payment of rent, or to enforce any other claim as well as the right of re-entry or forfeiture and the claim for arrears of rent.

Status: Point in time view as at 01/07/1991.

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- (7) If the lessee does not—
- (a) within the period specified in the order; or
 - (b) within that period as extended under subsection (4),
- pay into court [^{F1}or to the lessor]—
- (i) all the rent in arrear; and
 - (ii) the costs of the action,
- the order shall be [^{F2}enforceable]in the prescribed manner and so long as the order remains unreversed the lessee shall [^{F3}, subject to subsection (8) and (9A),]be barred from all relief.
- (8) The extension under subsection (4) of a period fixed by a court shall not be treated as relief from which the lessee is barred by subsection (7) if he fails to pay into court [^{F1}or to the lessor]all the rent in arrear and the costs of the action within that period.
- (9) Where the court extends a period under subsection (4) at a time when—
- (a) that period has expired; and
 - (b) a warrant has been issued for the possession of the land,
- the court shall suspend the warrant for the extended period; and, if, before the expiration of the extended period, the lessee pays into court [^{F1}or to the lessor]all the rent in arrear and all the costs of the action, the court shall cancel the warrant.
- [^{F4}(9A) Where the lessor recovers possession of the land at any time after the making of the order under subsection (3) (whether as a result of the enforcement of the order or otherwise) the lessee may, at any time within six months from the date on which the lessor recovers possession, apply to the court for relief; and on any such application the court may, if it thinks fit, grant to the lessee such relief, subject to such terms and conditions, as it thinks fit.
- (9B) Where the lessee is granted relief on an application under subsection (9A) he shall hold the land according to the lease without any new lease.
- (9C) An application under subsection (9A) may be made by a person with an interest under a lease of the land derived (whether immediately or otherwise) from the lessee's interest therein in like manner as if he were the lessee; and on any such application the court may make an order which (subject to such terms and conditions as the court thinks fit) vests the land in such a person, as lessee of the lessor, for the remainder of the term of the lease under which he has any such interest as aforesaid, or for any lesser term.
- In this subsection any reference to the land includes a reference to a part of the land.]
- (10) Nothing in this section or section 139 shall be taken to affect—
- (a) the power of the court to make any order which it would otherwise have power to make as respects a right of re-entry of forfeiture on any ground other than non-payment of rent; or
 - (b) section 146(4) of the ^{M1}Law of Property Act 1925 (relief against forfeiture).

Textual Amendments

- F1** Words in s. 138(2)(3)(5)(7)(8)(9) inserted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para.17**; S.I. 1991/1364, art. 2, **Sch.**
- F2** Word in s. 138(7) substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 55(3)(a)
- F3** Words in s. 138(7) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 55(3)(b)

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F4 S. 138(9A),(9B),(9C) inserted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), ss. 55(4), 69(5), [Sch. 9 para. 13](#)

Marginal Citations

M1 1925 c. 20.

139 Service of summons and re-entry.

(1) In a case where section 138 has effect, if—

- (a) one-half-year’s rent is in arrear at the time of the commencement of the action; and
- (b) the lessor has a right to re-enter for non-payment of that rent; and
- (c) no sufficient distress is to be found on the premises countervailing the arrears then due,

the service of the summons in the action in the prescribed manner shall stand in lieu of a demand and re-entry.

(2) Where a lessor has enforced against a lessee, by re-entry without action, a right of re-entry or forfeiture as respects any land for non-payment of rent, the lessee may^{F5} . . . at any time within six months from the date on which the lessor re-entered apply to the county court for relief, and on any such application the court may, if it thinks fit, grant to the lessee such relief as the High Court could have granted.

[^{F6}(3) Subsections (9B) and (9C) of section 138 shall have effect in relation to an application under subsection (2) of this section as they have effect in relation to an application under subsection (9A) of that section.]

Textual Amendments

F5 Words in s. 139(2) repealed by [S.I. 1991/724](#), art. 2(8), [Schedule Part I](#)

F6 S. 139(3) inserted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 55(5)

Modifications etc. (not altering text)

C1 S. 139 amended by [S.I. 1990/776](#), art. 4(1)(g) and (2)
S. 139 extended by [S.I. 1991/724](#), art. 2(1)(l)

140 Interpretation of sections 138 and 139.

For the purposes of sections 138 and 139—

“lease” includes—

- (a) an original or derivative under-lease;
- (b) an agreement for a lease where the lessee has become entitled to have his lease granted; and
- (c) a grant at a fee farm rent, or under a grant securing a rent by condition;

“lessee” includes—

- (a) an original or derivative under-lessee;
- (b) the persons deriving title under a lessee;
- (c) a grantee under a grant at a fee farm rent, or under a grant securing a rent by condition; and

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- (d) the persons deriving title under such a grantee;
“lessor” includes—
 - (a) an original or derivative under-lessor;
 - (b) the persons deriving title under a lessor;
 - (c) a person making a grant at a fee farm rent, or a grant securing a rent by condition; and
 - (d) the persons deriving title under such a grantor;
“under-lease” includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted; and
“under-lessee” includes any person deriving title under an under-lessee.

Status:

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