

## SCHEDULE 2

### CCR ORDER 43

#### THE LANDLORD AND TENANT ACTS 1927, 1954, 1985 AND 1987

##### **Interpretation**

**Rule 1.**—(1) In this order “the Act of 1927” means the Landlord and Tenant Act 1927(1), “the Act of 1954” means the Landlord and Tenant Act 1954(2), “the Act of 1985” means the Landlord and Tenant Act 1985 and “the Act of 1987” means the Landlord and Tenant Act 1987.

(2) In relation to any proceedings under the Act of 1954 any reference in this Order to a landlord shall, if the interest of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver appointed by the mortgagee or by the court is in receipt of the rents and profits, be construed as a reference to the mortgagee.

##### **Commencement of proceedings and answer**

**Rule 2.**—(1) Proceedings in a county court under the Act of 1927 or of 1954, or of 1985 or of 1987 shall be commenced by claim form and the respondent shall file an answer.

(2) The court shall fix a return day which, unless it otherwise directs, shall be a day fixed for the case management hearing of the proceedings.

##### **Claim for compensation in respect of improvement**

**Rule 3.**—(1) A claim under section 1 of the Act of 1927 for compensation in respect of any improvement, or a claim by a mesne landlord under section 8 (1) of that Act, shall be in writing, signed by the claimant, his solicitor or agent, and shall contain—

- (a) a statement of the name and address of the claimant and of the landlord against whom the claim is made;
- (b) a description of the holding in respect of which the claim arises and of the trade or business carried on there;
- (c) a concise statement of the nature of the claim;
- (d) particulars of the improvement including the date when it was completed and the cost of it; and
- (e) a statement of the amount claimed.

(2) Where any document relating to any proposed improvement, or to any claim, is sent to or served on a mesne landlord in pursuance of Part I of the Act of 1927, he shall forthwith serve on his immediate landlord a copy of the document, together with a notice in writing stating the date when the document was received by the mesne landlord, and if the immediate landlord is himself a mesne landlord, he shall, forthwith on receipt of the documents aforesaid, serve on his immediate landlord a similar copy and notice and so on from landlord to landlord.

(3) Any document required to be served under paragraph (2) shall be served in the manner prescribed by section 23 of the Act of 1927.

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(1) 1927 c. 36; section 1 was amended by the Landlord and Tenant Act 1954 (c. 56), section 47(5); and section 8 by the 1954 Act, sections 45, 68(1) and schedule 7.

(2) 1954 c. 56.

### **Proceedings under Part I of the Act of 1927**

**Rule 4.**—(1) Subject to paragraph (2), the claim form by which proceedings under Part I of the Act of 1927 are commenced shall state—

- (a) the nature of the claim or application or matter to be determined;
- (b) the holding in respect of which the claim or application is made, its rateable value and the trade or business carried on there;
- (c) particulars of the improvement or proposed improvement to which the claim or application relates; and
- (d) if the claim is for payment of compensation, the amount claimed.

(2) In any case to which rule 3 (1) relates the particulars required by paragraph (1) may, so far as they are contained in a claim made in accordance with that rule, be given by appending a copy of the claim to the claim form.

(3) The applicant's immediate landlord shall be made respondent to the application.

(4) Any certificate of the court under section 3 of the Act of 1927 that an improvement is a proper improvement or has been duly executed shall be embodied in an order.

### **Proceedings under Part I of the Act of 1954**

**Rule 5.**—(1) A respondent to an application under section 7 of the Act of 1954<sup>(3)</sup> who resists any of the applicant's proposals as to the terms of a statutory tenancy shall state in his answer the terms which he proposes in their place.

(2) The particulars in an application under section 13 of the Act of 1954 for the recovery of possession shall state, in addition to the matters set out in Order 6, rule 3—

- (a) the date and terms of the lease under which the tenant holds or has held the property;
- (b) the date of service upon the tenant of the landlord's notice to resume possession and the date of termination specified in the notice;
- (c) where the tenant has notified the landlord that he is not willing to give up possession, the date of the notification; and
- (d) where the claimant is not both the freeholder of the property comprised in the tenancy and the immediate landlord of the defendant, details of the interest constituting him the landlord for the purpose of proceedings under Part I of the Act of 1954.

(3) Where an order has been made under paragraph 1 of the Second Schedule to the Act of 1954 for the reduction of rent of any premises on the ground of failure by the landlord to do initial repairs, and it is subsequently agreed between the landlord and the tenant that the repairs to which the order relates have been carried out, the landlord shall file a copy of the agreement, and a note thereof shall be entered in the records of the court.

(4) Where the court makes an order for the recovery of possession of the property in proceedings to which paragraph 9 of the Fifth Schedule to the Act of 1954 applies, the claimant shall, if the occupying tenant is not a party to the proceedings, forthwith notify him of the terms of the order and inform him of his rights to obtain relief under sub-paragraph (2) of that paragraph.

(5) If a copy of a notice under section 16 (2) of the Act of 1954 or paragraph 9 (2) or 10 (2) of the Fifth Schedule to that Act is lodged in court, a note of the lodgment shall be entered in the records of the court.

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(3) Section 7 was amended by the Leasehold Reform Act 1967 (c. 88), section 39(2), schedule 5, paragraph 3(1)(b).

### **Application for new tenancy under section 24 of the Act of 1954**

**Rule 6.**—(1) An application under section 24 of the Act of 1954(4) for a new tenancy shall state—

- (a) the premises to which the application relates, their rateable value and the business carried on there;
- (b) particulars of the applicant's current tenancy of the premises and of every notice or request given or made in respect of that tenancy under section 25 or 26 of that Act;
- (c) the applicant's proposals as to the terms of the new tenancy applied for, including, in particular, terms as to the duration thereof and as to the rent payable thereunder;
- (d) the name and address of any person other than the respondent who, to the knowledge of the applicant, has an interest in reversion in the premises expectant (whether immediately or in not more than 14 years) on the termination of the applicant's current tenancy; and
- (e) the name and address of any person having an interest in the premises other than a freehold interest or tenancy who, to the knowledge of the applicant, is likely to be affected by the grant of a new tenancy.

(2) The person who, in relation to the applicant's current tenancy, is the landlord as defined by section 44 of the Act of 1954(5) shall be made respondent to the application.

(3) A claim form under this rule must be served within 2 months after the date of issue whether served within or out of the jurisdiction and CPR rule 7.5(2) and 7.5(3) will not apply

### **Answer to application for new tenancy under section 24 of the Act of 1954**

**Rule 7** Every answer by a respondent to an application to which rule 6 relates shall state—

- (a) whether or not the respondent opposes the grant of a new tenancy and, if so, on what grounds;
- (b) whether or not, if a new tenancy is granted, the respondent objects to any of the terms proposed by the applicant and, if so, the terms to which he objects and the terms which he proposes in so far as they differ from those proposed by the applicant;
- (c) whether the respondent is a tenant under a lease having less than 14 years unexpired at the date of the termination of the applicant's current tenancy and, if he is, the name and address of any person who, to the knowledge of the respondent, has an interest in reversion in the premises expectant (whether immediately or in not more than 14 years from the said date) on the termination of the respondent's tenancy;
- (d) the name and address of any person having an interest in the premises other than a freehold interest or tenancy who is likely to be affected by the grant of a new tenancy; and
- (e) if the applicant's current tenancy is one to which section 32 (2) of the Act of 1954 applies, whether the respondent requires that any new tenancy ordered to be granted shall be a tenancy of the whole of the property comprised in the applicant's current tenancy.

### **Order dismissing application under section 24 which is successfully opposed**

**Rule 8** Where the court hearing an application under section 24 of the Act of 1954 is precluded by section 31 of that Act from ordering the grant of a new tenancy by reason of any of the grounds specified in section 30 (1) of that Act, the order dismissing the application shall state all the grounds by reason of which the court is so precluded.

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(4) Section 24 was amended by the Law of Property Act 1969 (c. 59), sections 3(2) and 4(1).

(5) Section 44 was amended by the Law of Property Act 1969 (c. 59), section 14(1).

### **Other applications under Part II of the Act of 1954**

**Rule 9** An application for an order under section 31 (2)(b) of the Act of 1954 and, unless made at the hearing of the application under section 24, an application for a certificate under section 37 (4) of that Act(6) may be made to the district judge without notice being served on any other party.

### **Service of order in proceedings under Part II of the Act of 1954**

**Rule 10** A copy of any order made on an application to which rule 6 or 9 relates shall be sent by the court to every party to the proceedings.

### **Proof of determination of rateable value**

**Rule 11** Where pursuant to section 37 (5) of the Act of 1954 any dispute as to the rateable value of any premises has been referred to the Commissioners of Inland Revenue for decision by a valuation officer, whether for the purpose of section 37 (2) or of section 63 of that Act(7), any document purporting to be a notification by the valuation officer of his decision shall be admissible in any proceedings in a county court as evidence of the matters contained therein.

### **Provisions as to assessors**

**Rule 13.**—(1) This rule applies to proceedings under Part I of the Act of 1927 or Part I or II of the Act of 1954, where an assessor is summoned by the judge under section 63 (1) of the County Courts Act 1984(8), as extended by section 63 of the Act of 1954.

(3) Any report made by the assessor pursuant to paragraph (a) of section 63 (6) of the Act of 1954 shall be filed by the assessor, together with a copy for each party to the proceedings, and thereupon the court shall send a copy to each party and shall, if the further consideration of the proceedings has not been adjourned to a day named, fix a day for further consideration and give notice thereof to all parties.

### **District judge's jurisdiction**

**Rule 15.**—(1) If on the day fixed for the hearing of an application under section 7 or section 24 of the Act of 1954 the district judge is satisfied that—

- (a) the parties to the application have agreed, in the case of an application under section 7, on the matters specified in subsection (2) of that section, or, in the case of an application under section 24, on the subject, period and terms of the new tenancy;
- (b) the owner of any reversionary interest in the property consents thereto; and
- (c) there are no other persons with interests in the property who are likely to be affected,

the district judge shall have power to make an order giving effect to the agreement.

(2) An application under section 38 (4) of the Act of 1954(9) for the authorisation of an agreement may be heard and determined by the district judge and may be dealt with in private.

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(6) Section 37 was amended by the Law of Property Act 1969 (c. 59), section 11; and by the Local Government and Housing Act 1989 (c. 42), section 149(6), schedule 7, paragraph 2.

(7) Section 63 was amended by S.I. 1991/724.

(8) 1984 c. 28; section 63 was amended by S.I. 1998/2940.

(9) Section 38 was amended by the Law of Property Act 1969 (c. 59), section 5.





flats contained in the premises of which the demised premises form a part, any previous parties to the lease, any mortgagee or superior landlord of the landlord, any mortgagee of the applicant, and any tenants' association; and

(d) the grounds of the application.

(2) The other current parties to the lease or leases shall be made respondents to the application.

(3) A copy of the application shall be served by the applicant on each of the persons named by the applicant under paragraph (1)(c) and by the respondent on any other person who he knows or has reason to believe is likely to be affected by the variation, together, in each case, with a notice stating that the person may apply under rule 14 to be made a party to the proceedings.

(4) An application under section 36 of the Act of 1987 shall be contained in the respondent's answer, and paragraphs (1) to (3) shall apply to such an application as if the respondent were the applicant.

#### **Service of documents in proceedings under the Act of 1987**

**Rule 21.**—(1) Where a claim form or answer is to be served in proceedings under the Act of 1987 it shall be served by the applicant or, as the case may be, by the respondent.

(2) Where a notice is to be served in or before proceedings under the Act of 1987, it shall be served in accordance with section 54 and, in the case of service on a landlord, it shall be served at the address furnished under section 48 (1).

#### **Tenants' associations**

**Rule 22** In rules 18, 19 and 20 a reference to a tenants' association is a reference to a recognised tenants' association within the meaning of section 29 of the Act of 1985 which represents tenants of the flats of which the demised premises form a part.