

SCHEDULE 1

The Rules of the Supreme Court (Northern Ireland) 1980 COMMENCEMENT AND PROGRESS OF PROCEEDINGS

ORDER 19

DEFAULT OF PLEADINGS

Claim for possession of land

5.—(1) Where the plaintiff's claim against a defendant is for possession of land only, then, subject to paragraphs (2), (3) and (4), if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed by or under these Rules for service of the defence, and on producing a certificate by his solicitor, or (if he sues in person) an affidavit, stating that he is not claiming any relief in the action of the nature specified in Order 88, rule 1, enter judgment for possession of the land as against that defendant and costs, and proceed with the action against the other defendants, if any.

(2) The plaintiff shall not be entitled, except with the leave of the Court, to enter judgment under this rule unless he produces a certificate by his solicitor, or (if he sues in person) an affidavit, stating that the claim does not relate to a dwelling-house.

(3) The plaintiff shall not be entitled, except with the leave of the Court, to enter judgment under this rule where the writ is indorsed with a claim against a defendant for possession of land for non-payment of rent unless he produces a certificate by his solicitor, or (if he sues in person) an affidavit, stating that the land does not comprise or include a holding agricultural or pastoral or partly agricultural and partly pastoral.

(4) The plaintiff shall not be entitled to enter judgment under this rule where the writ is indorsed with a claim against a defendant for possession of land for non-payment of rent unless he files an affidavit made by the landlord, his agent, receiver or clerk, stating that there was at the date of issue of the writ at least one year's rent due over and above all just and fair allowances.

(5) An application for leave to enter judgment under paragraph (2) or (3) shall be by summons stating the grounds of the application, and the summons must, unless the Court otherwise orders and notwithstanding anything in Order 65, rule 9, be served on the defendant against whom it is sought to enter judgment.

(6) If the Court refuses leave to enter judgment, it may make or give any such order or directions as it might have made or given had the application been an application for judgment under Order 14, rule 1.

(7) Where there is more than one defendant, any judgment entered under this rule shall contain a stay of enforcement against any defendant unless and until judgment for possession of the land has been entered against all the defendants.

(8) Where the plaintiff is a superior landlord and he applies under paragraph (3) for leave to enter judgment against a defendant who is an immediate landlord the Court may, having regard to the provisions of section 12 of the Land Law (Ireland) Act 1896(1):—

- (a) give such directions as to notice to tenants and otherwise and grant leave subject to such limitations as to enforcement of the judgment and such provisions as to costs as it thinks just;

(1) 1896 c. 47

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) on proof by affidavit that the non-payment of rent by the defendant is due to the non-payment of rent by the tenant of the holding, issue a certificate to that effect.