
STATUTORY INSTRUMENTS

1951 No. 1401

The Reserve and Auxiliary Forces (Protection of Civil Interests) Rules 1951

PART IV COUNTY COURTS

Exercise of remedies

Other remedies

29.—(1) An application—

- (a) under subsection (2) of section 2 for leave to exercise a remedy specified in paragraph (a) of that subsection (other than the levying of distress) or to institute proceedings for possession of mortgaged property, or under subsection (1) of section 25 for leave to exercise a remedy specified in paragraph (b) of that subsection; or
- (b) for a declaratory order in respect of the exercise of any such remedy (including the levying of distress) or the institution of any such proceedings under the said subsection (2),

shall be made by originating application.

(2) An originating application for leave to exercise a remedy or to institute proceedings as aforesaid shall be in Form 7 and the notice required by Order VI, Rule 4 (2) (c) (ii), to be served on the respondent with a copy of the application shall be in Form 8 in lieu of the form prescribed in that subparagraph.

(3) Where default has been made in the payment of mortgage money or the performance of a mortgage obligation, then, without prejudice to the generality of any other provisions relating to the joinder of causes of action—

- (a) an application for leave to realise the security by selling the mortgaged property may be joined with an application for leave to take possession, or to institute proceedings for possession, of the property; and
- (b) an application for a declaratory order in respect of the realisation of the security by selling the mortgaged property may be joined with an application for a declaratory order in respect of the taking of possession, or the institution of proceedings for possession, of the property.

(4) The application shall be heard by the judge:

Provided that, with leave of the judge, the registrar may make such order as he thinks just—

- (a) if the judge is not present, or
- (b) if the respondent does not oppose the making of the order.