

## 1981 No. 139

## LANDLORD AND TENANT

## RENT CONTROL, ETC., (ENGLAND AND WALES)

**The Rent Act (County Court Proceedings for Possession)  
Rules 1981**

*Made - - - - 4th February 1981*

*Coming into Operation 6th April 1981*

The Lord Chancellor, in exercise of the powers conferred on him by section 142 of the Rent Act 1977(a), hereby makes the following Rules:—

1.—(1) These Rules may be cited as the Rent Act (County Court Proceedings for Possession) Rules 1981 and shall come into operation on 6th April 1981.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(b), and a Case referred to by number means the Case so numbered in Schedule 15 to the Rent Act 1977.

2.—(1) These Rules apply to proceedings for recovery of possession of a dwelling-house—

(a) under Cases 11(c), 12(d) or 20(e), provided that

- (i) the dwelling-house is required as a residence for the owner or for any member of the owner's family who resided with him at his death or, where the proceedings are brought under Case 11, for any member of the owner's family who resided with him when he last occupied the dwelling-house as a residence and
- (ii) the tenant was given the requisite notice, not later than the relevant date, that possession might be recovered under the Case relied on;

(b) under Cases 13 to 18 inclusive;

(c) under Case 19(f) provided that the dwelling-house was let on a protected shorthold tenancy.

(2) Where these Rules apply, the person with a claim for possession may, instead of bringing an action for possession, make his claim pursuant to these Rules by an originating application in the county court for the district in which the dwelling-house is situated.

(3) Subject to the provisions of these Rules, the County Court Rules 1936 shall apply, with the necessary modifications, to proceedings begun by an

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(a) 1977 c.42 the Act has been amended in respects relevant to these Rules by the Housing Act 1980 (c. 51).

(b) S.R. & O. 1936/626; relevant amending instruments are S.R. & O. 1938/18; S.I. 1944/63, 1950/1993, 1957/1136, 1967/276, 1971/781 and 1974/1138.

(c) Case 11 has been amended by section 66(1) of the Housing Act 1980.

(d) Case 12 has been amended by section 66(2) of the Housing Act 1980.

(e) Case 20 has been added to Schedule 15 by section 67 of the Housing Act 1980.

(f) Case 19 has been added to Schedule 15 by section 55(1) of the Housing Act 1980.

originating application pursuant to these Rules; and any provision of these Rules authorising or requiring anything to be done in such proceedings shall be treated as if it were a provision of the County Court Rules 1936.

3. The originating application shall be in the form prescribed—

- (a) for any of Cases 11, 12 or 20, by Appendix A;
- (b) for any of Cases 13 to 18 inclusive, by Appendix B;
- (c) for Case 19, by Appendix C.

4. An affidavit shall be filed in support of the originating application which shall verify the statements in the application, depose to any other material matters and exhibit any material documents; and a copy of the affidavit and copies of any exhibits shall be served on the respondent with the documents mentioned in Order 6, Rule 4(2)(c).

5.—(1) Where possession is claimed under Case 11, 12 or 20, each respondent must be served at least seven clear days before the return day and in any other Case at least 14 clear days before the return day.

(2) Order 8, Rule 24 shall apply to the originating application, with such modifications as may be necessary, as if it were a summons in an action for the recovery of land.

6.—(1) The originating application may be heard by the registrar or may be referred by him to the judge.

(2) The judge or registrar may hear the application or any part of it in private or in open court as he may think desirable.

7. The Rent (County Court Proceedings) (Case 11) Rules 1978(a) are hereby revoked, except in relation to proceedings already commenced under those Rules.

Dated 4th February 1981.

*Hailsham of St. Marylebone, C.*

## APPENDIX A

FORM OF ORIGINATING APPLICATION FOR POSSESSION UNDER  
CASE 11, 12 OR 20

(Schedule 15 to the Rent Act 1977)

In the County Court  
No. of Application

In the Matter of the Rent Act 1977

Between

A.B.  
and  
C.D.

Applicant,  
Respondent.

1. I, [state name] of [state address and occupation of the applicant] apply to the Court for an order for recovery of possession of [here describe the premises] under Case [11]<sup>1</sup>, [12]<sup>2</sup>, [20]<sup>3</sup> of Schedule 15 to the Rent Act 1977.

2. The premises were let to the respondent on [here give the date] on a protected tenancy having the following terms [here set out the terms material to the proceedings].

3. Notice in writing was given to the respondent on [here give the date] that possession might be recovered under Case [11]<sup>1</sup>, [12]<sup>2</sup>, [20]<sup>3</sup> of Schedule 15 to the Rent Act 1977.

4. As regards previous lettings of the premises [since they became protected by the Rent Acts]<sup>1</sup> [since 14th August 1974]<sup>2</sup> [since 28th November 1980]<sup>3</sup>,

[Delete  
whichever  
two are not  
applicable]

(a) There has been no such letting; or

(b) There has been such a letting, but a notice, such as is mentioned in paragraph 3, was given on each occasion, namely [state, in respect of each notice, the date when it was given and the person to whom it was given];  
or

(c) There has been such a letting, or lettings, for which no notice, such as is mentioned in paragraph 3, was given and I ask the Court to make an order for possession notwithstanding on the grounds set out below. [Here identify the letting, or lettings, referred to and set out the grounds for dispensing with the requirements as to notice].

[5. I<sup>4</sup> previously occupied the premises as a residence.]<sup>1</sup>

[5. I<sup>4</sup> intended, at all material times, to occupy the premises as a residence on retirement and retired on [state the date].]<sup>2</sup>

[5. I<sup>4</sup> was a member of the regular armed forces of the Crown when the premises were acquired and when the tenancy was granted.]<sup>3</sup>

<sup>1</sup> Include this and delete the others where the claim is under Case 11.

<sup>2</sup> Include this and delete the others where the claim is under Case 12.

<sup>3</sup> Include this and delete the others where the claim is under Case 20.

<sup>4</sup> Where the original owner by whom the tenancy was granted has died substitute, for "I", the words "The original owner by whom the tenancy was granted"; and where Case 12 is relied on delete from paragraph 5 the words "and retired" to the end.

## 6. The premises are required as a residence

(a) for myself; or

[Delete  
whichever  
two are not  
applicable]

(b) for [here identify the person concerned], who is a member of the family of the original owner by whom the tenancy was granted and who was residing with the original owner at the time of his (or her) death; or

(c) for [here identify the person concerned], who was residing with me when I last occupied the premises as a residence.<sup>5</sup>

## 7. The protected tenancy has come to an end as follows:—

(a) by expiring on [here give date of expiry], or

[Delete  
whichever  
is not  
applicable]

(b) by a notice to quit being served on [here give the date] which expired on [here give the date],

but the respondent remains in occupation.

8. There are rent arrears in the sum of £ , calculated at the rate of [here give the weekly or other rent] and I apply to the Court for an order for payment. [Delete if inapplicable]

The names and addresses of the persons on whom it is intended to serve this application are: [state names and addresses of persons intended to be served].

My address for service is [state applicant's address for service].

Dated this            day of

[Signed]  
Applicant.

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<sup>5</sup> Sub-paragraph (c) applies to claims under Case 11 only.

## APPENDIX B

FORM OF ORIGINATING APPLICATION FOR POSSESSION UNDER  
CASES 13 TO 18 INCLUSIVE

(Schedule 15 to the Rent Act 1977)

*[Title: as in Appendix A]*

1. I, *[state name]* of *[state address and occupation of the applicant]* apply to the Court for an order for recovery of possession of *[here describe the premises]* under Case *[here identify the Case relied on]* of Schedule 15 to the Rent Act 1977.

2. *[As in Appendix A.]*

3. *[As in Appendix A except that the Case referred to in the notice must correspond with the Case cited in paragraph 1, above.]*

4, 5 and 6. *[Here set out the matters of substance on which the applicant relies as bringing the claim within the Case cited in paragraph 1, above, and state, where relevant, the purpose for which possession is required.]*

7 and 8. *[As in Appendix A.]*

The names and addresses of the persons on whom it is intended to serve this application are: *[state names and addresses of persons intended to be served]*.

My address for service is *[state applicant's address for service]*.

Dated this                      day of

*[Signed]*  
Applicant.

## APPENDIX C

FORM OF ORIGINATING APPLICATION FOR POSSESSION UNDER  
CASE 19

(Schedule 15 to the Rent Act 1977)

*[Title: as in Appendix A]*

1. I, *[state name]* of *[state address and occupation of applicant]* apply to the Court for an order for recovery of possession of *[here describe the premises]* under Case 19 of Schedule 15 to the Rent Act 1977.

2. On *[insert the date of the grant]* the respondent was granted a protected shorthold tenancy of the premises for a fixed term beginning on *[insert the date when the tenancy began]* and ending on *[insert the expiry date]*; the respondent did not at the time have a protected or statutory tenancy of the premises.

3. The respondent was given notice in writing, before the tenancy was granted, that it was to be a protected shorthold tenancy.

4. Before the grant, a rent for the premises was registered on *[insert the date]* *[Complete or delete as appropriate in the circumstances]*  
or  
Before the grant, a certificate of fair rent for the premises was issued on *[insert the date]*; and the rent payable under the tenancy did not exceed the rent specified in the certificate for any period before the registration of a rent; and an application for the registration of a rent was made on *[insert the date]* and not subsequently withdrawn.

5. The respondent's protected shorthold tenancy has ended and there is no subsisting protected tenancy in its place; but the respondent remains in occupation.

6. Notice in writing was given to the respondent on *[state the date when notice was served]* that proceedings for possession under Case 19 might be brought after the expiry of the notice on *[insert the date]*.

7. There are rent arrears in the sum of £ , calculated at the rate of *[here give the weekly or other rent]* and I apply to the Court for an order for payment.

The names and addresses of the persons on whom it is intended to serve this application are *[state names and addresses of persons intended to be served]*.

My address for service is *[state applicant's address for service]*.

Dated this            day of

*[Signed]*  
Applicant.

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules provide a special procedure, by originating application, for the recovery of possession from a protected or statutory tenant in cases where the court is bound to order possession if the relevant facts are proved; the procedure may be used as an alternative to the ordinary action for possession. The circumstances to which the Rules apply are, with certain exceptions, those set out in Part II of Schedule 15 to the Rent Act 1977, as amended by the Housing Act 1980, i.e. Cases 11 to 20. The main characteristics of the new procedure are that (a) the person bringing the proceedings has to file an affidavit in support of his claim, setting out the evidence on which he relies, (b) the period between the service of notice of the application (and a copy of the affidavit) and the hearing of the application need not be as long as 21 days, which is the usual minimum period for actions for possession; it may in some cases be as little as 7 days, and (c) the proceedings may be heard by a registrar even if defended, and may be heard in chambers. The Rules come into effect on 6th April 1981.

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