

## SCHEDULE 2

### CCR ORDER 24

#### SUMMARY PROCEEDINGS FOR THE RECOVERY OF LAND

##### **Consideration of the application**

**Rule 12.**—(1) If the respondent has filed a witness statement or affidavit in accordance with rule 11 (5), he may attend before the court when the application for an interim possession order is considered to answer such questions on his witness statement or affidavit or on the applicant's witness statement or affidavit as the court may put to him.

(2) The parties' witness statements or affidavits shall be read in evidence and no oral evidence shall be adduced except in response to questions put by the court.

(3) If the court so directs, an application for an interim possession order may be dealt with in private and in the absence of one or both of the parties.

(4) In deciding whether to grant an interim possession order the court shall have regard to whether the applicant has given or is prepared to give undertakings in support of his application—

- (a) to reinstate the respondent if, after an interim possession order has been made, the court holds that the applicant was not entitled to the order;
- (b) to pay damages if, after an interim possession order has been made, the court holds that the applicant was not entitled to the order;
- (c) not to damage the premises pending final determination of the possession proceedings;
- (d) not to grant a right of occupation to any other person pending final determination of the possession proceedings; and
- (e) not to damage or dispose of any of the respondent's possessions pending final determination of the possession proceedings.

(5) The court shall make an interim possession order if—

- (a) the applicant has filed a witness statement or affidavit of service of the notice of application; and
- (b) the court is satisfied that—
  - (i) the conditions specified in rule 9 are met; and
  - (ii) any undertakings given by the applicant as a condition of making the order are adequate.

(6) An interim possession order shall be in a prescribed form and shall be to the effect that the respondent vacate the premises specified in the claim form within 24 hours of service of the order.

(7) On the making of an interim possession order, the court shall fix a return date for the hearing of the claim which shall be not less than 7 days after the date on which the interim possession order is made.

(8) Where an interim possession order is made, the court officer shall submit a draft of the order as soon as possible to the judge or district judge by whom it was made for approval, and when the draft order has been approved the court shall insert in the order the time limit for service under rule 13 (1).

(9) Where the court does not make an interim possession order—

- (a) the court officer shall fix a return date for the hearing of the claim;
- (b) the court may give directions for the further conduct of the matter; and

**Status:** This is the original version (as it was originally made).

(c) subject to such directions, the matter shall proceed in accordance with Part I of this Order.

(10) When it has considered the application for an interim possession order, the court shall give a copy of the respondent's witness statement or affidavit (if any) to the applicant, if the applicant requests such a copy.

(11) The court shall serve any directions made under paragraph (9) on the parties and at the same time shall serve on the respondent a copy of the claim form and witness statement or affidavit in support.