

SCHEDULE 2

Rule 18

PART 65

PROCEEDINGS RELATING TO ANTI-SOCIAL BEHAVIOUR AND HARASSMENT

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Scope of this Part

65.1. This Part contains rules—

- (a) in Section I, about injunctions under the Housing Act 1996⁽¹⁾;
- (b) in Section II, about applications by local authorities under section 91(3) of the Anti-social Behaviour Act 2003⁽²⁾ for a power of arrest to be attached to an injunction;
- (c) in Section III, about claims for demotion orders under the Housing Act 1985⁽³⁾ and Housing Act 1988⁽⁴⁾ and proceedings relating to demoted tenancies;
- (d) in Section IV, about anti-social behaviour orders under the Crime and Disorder Act 1998⁽⁵⁾;
- (e) in Section V, about claims under section 3 of the Protection from Harassment Act 1997⁽⁶⁾.

(1) 1996 c. 52.
(2) 2003 c. 38.
(3) 1985 c. 68.
(4) 1988 c. 50.
(5) 1998 c. 37.
(6) 1997 c. 40.

SECTION I

Housing Act 1996 injunctions

Scope of this Section and interpretation

65.2.—(1) This Section applies to applications for an injunction and other related proceedings under Chapter III of Part V of the Housing Act 1996 (injunctions against anti-social behaviour).

(2) In this Section “the 1996 Act” means the Housing Act 1996.

Applications for an injunction

65.3.—(1) An application for an injunction under section 153A, 153B or 153D of the 1996 Act(7) shall be subject to the Part 8 procedure as modified by this rule and the relevant practice direction.

(2) The application must be—

- (a) made by a claim form in accordance with the relevant practice direction;
- (b) commenced in the court for the district in which the defendant resides or the conduct complained of occurred; and
- (c) supported by affidavit evidence which must be filed with the claim form.

(3) The claim form must state—

- (a) the matters required by rule 8.2; and
- (b) the terms of the injunction applied for.

(4) An application under this rule may be made without notice and where such an application without notice is made—

- (a) the affidavit in support of the application must state the reasons why notice has not been given; and
- (b) the following rules do not apply—
 - (i) 8.3;
 - (ii) 8.4;
 - (iii) 8.5(2) to (6);
 - (iv) 8.6(1);
 - (v) 8.7; and
 - (vi) 8.8.

(5) In every application made on notice, the application notice must be served, together with a copy of the affidavit, by the claimant on the defendant personally.

(6) An application made on notice may be listed for hearing before the expiry of the time for the defendant to file an acknowledgement of service under rule 8.3, and in such a case—

- (a) the claimant must serve the application notice and affidavit on the defendant not less than two days before the hearing; and
- (b) the defendant may take part in the hearing whether or not he has filed an acknowledgment of service.

(7) 1996 c. 52. These sections were inserted by section 13 of the Anti-social Behaviour Act 2003.

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Injunction containing provisions to which a power of arrest is attached

65.4.—(1) In this rule “relevant provision” means a provision of an injunction to which a power of arrest is attached.

(Sections 153C(3) and 153D(4) of the 1996 Act⁽⁸⁾ confer powers to attach a power of arrest to an injunction)

- (2) Where an injunction contains one or more relevant provisions—
 - (a) each relevant provision must be set out in a separate paragraph of the injunction; and
 - (b) subject to paragraph (3), the claimant must deliver a copy of the relevant provisions to any police station for the area where the conduct occurred.
- (3) Where the injunction has been granted without notice, the claimant must not deliver a copy of the relevant provisions to any police station for the area where the conduct occurred before the defendant has been served with the injunction containing the relevant provisions.
- (4) Where an order is made varying or discharging any relevant provision, the claimant must—
 - (a) immediately inform the police station to which a copy of the relevant provisions was delivered under paragraph (2)(b); and
 - (b) deliver a copy of the order to any police station so informed.

Application for warrant of arrest under section 155(3) of the 1996 Act⁽⁹⁾

65.5.—(1) An application for a warrant of arrest under section 155(3) of the 1996 Act must be made in accordance with Part 23 and may be made without notice.

- (2) An applicant for a warrant of arrest under section 155(3) of the 1996 Act must—
 - (a) file an affidavit setting out grounds for the application with the application notice; or
 - (b) give oral evidence as to the grounds for the application at the hearing.

Proceedings following arrest

- 65.6.**—(1) This rule applies where a person is arrested pursuant to—
 - (a) a power of arrest attached to a provision of an injunction; or
 - (b) a warrant of arrest.
- (2) The judge before whom a person is brought following his arrest may—
 - (a) deal with the matter; or
 - (b) adjourn the proceedings.
- (3) Where the proceedings are adjourned the judge may remand the arrested person in accordance with section 155(2)(b) or (5) of the 1996 Act.
- (4) Where the proceedings are adjourned and the arrested person is released—
 - (a) the matter must be dealt with (whether by the same or another judge) within 28 days of the date on which the arrested person appears in court; and
 - (b) the arrested person must be given not less than 2 days' notice of the hearing.
- (5) An application notice seeking the committal for contempt of court of the arrested person may be issued even if the arrested person is not dealt with within the period mentioned in paragraph (4)(a).

⁽⁸⁾ 1996 c. 52. These sections were inserted by section 13 of the Anti-social Behaviour Act 2003.

⁽⁹⁾ 1996 c. 52. This section was amended by section 13 of the Anti-social Behaviour Act 2003.

(6) CCR Order 29, rule 1 shall apply where an application is made in a county court to commit a person for breach of an injunction, as if references in that rule to the judge included references to a district judge.

(For applications in the High Court for the discharge of a person committed to prison for contempt of court see RSC Order 52, rule 8. For such applications in the county court see CCR Order 29, rule 3)

Recognizance

65.7.—(1) Where, in accordance with paragraph 2(2)(b) of Schedule 15 to the 1996 Act, the court fixes the amount of any recognizance with a view to it being taken subsequently, the recognizance may be taken by—

- (a) a judge;
- (b) a justice of the peace;
- (c) a justices' clerk;
- (d) a police officer of the rank of inspector or above or in charge of a police station; or
- (e) where the arrested person is in his custody, the governor or keeper of a prison,

with the same consequences as if it had been entered into before the court.

(2) The person having custody of an applicant for bail must release him if satisfied that the required recognizances have been taken.

SECTION II

Applications by local authorities for power of arrest to be attached to an injunction

Scope of this Section and interpretation

65.8.—(1) This Section applies to applications by local authorities under section 91(3) of the Anti-social Behaviour Act 2003⁽¹⁰⁾ for a power of arrest to be attached to an injunction.

(Section 91 of the 2003 Act applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972⁽¹¹⁾ (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants in their area))

(2) In this Section “the 2003 Act” means the Anti-social Behaviour Act 2003.

Applications under section 91(3) of the 2003 Act for a power of arrest to be attached to any provision of an injunction

65.9.—(1) An application under section 91(3) of the 2003 Act for a power of arrest to be attached to any provision of an injunction must be made in the proceedings seeking the injunction by—

- (a) the claim form;
- (b) the acknowledgment of service;
- (c) the defence or counterclaim in a Part 7 claim; or
- (d) application under Part 23.

(2) Every application must be supported by written evidence.

⁽¹⁰⁾ 2003 c. 38.

⁽¹¹⁾ 1972 c. 70.

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(3) Every application made on notice must be served personally, together with a copy of the written evidence, by the local authority on the person against whom the injunction is sought not less than 2 days before the hearing.

(Attention is drawn to rule 25.3(3)—applications without notice)

Injunction containing provisions to which a power of arrest is attached

65.10.—(1) Where a power of arrest is attached to a provision of an injunction on the application of a local authority under section 91(3) of the 2003 Act, the following rules in Section I of this Part shall apply—

- (a) rule 65.4; and
- (b) paragraphs (1), (2), (4) and (5) of rule 65.6.

(2) CCR Order 29, rule 1 shall apply where an application is made in a county court to commit a person for breach of an injunction.

SECTION III

Demotion claims and proceedings relating to demoted tenancies

Scope of this Section and interpretation

65.11.—(1) This Section applies to—

- (a) claims by a landlord for an order under section 82A of the Housing Act 1985⁽¹²⁾ or under section 6A of the Housing Act 1988⁽¹³⁾ (“a demotion order”); and
- (b) proceedings relating to a tenancy created by virtue of a demotion order.

(2) In this Section—

- (a) “a demotion claim” means a claim made by a landlord for a demotion order; and
- (b) “a demoted tenancy” means a tenancy created by virtue of a demotion order.

Demotion claims made in the alternative to possession claims

65.12. Where a demotion order is claimed in the alternative to a possession order, the claimant must use the Part 55 procedure and Section I of Part 55 applies, except that the claim must be made in the county court for the district in which the property to which the claim relates is situated.

Other demotion claims

65.13. Where a demotion claim is made other than in a possession claim, rules 65.14 to 65.19 apply.

Starting a demotion claim

65.14.—(1) The demotion claim must be made in the county court for the district in which the property to which the claim relates is situated.

(2) The claim form and form of defence sent with it must be in the forms set out in the relevant practice direction.

⁽¹²⁾ 1985 c. 68. This section was inserted by section 14 of the Anti-social Behaviour Act 2003.

⁽¹³⁾ 1988 c. 50. This section was inserted by section 14 of the Anti-social Behaviour Act 2003.

(The relevant practice direction and Part 16 provide details about the contents of the particulars of claim)

Particulars of claim

65.15. The particulars of claim must be filed and served with the claim form.

Hearing date

65.16.—(1) The court will fix a date for the hearing when it issues the claim form.

(2) The hearing date will be not less than 28 days from the date of issue of the claim form.

(3) The standard period between the issue of the claim form and the hearing will be not more than 8 weeks.

(4) The defendant must be served with the claim form and the particulars of claim not less than 21 days before the hearing date.

(Rule 3.1(2)(a) provides that the court may extend or shorten the time for compliance with any rule and rule 3.1(2)(b) provides that the court may adjourn or bring forward a hearing)

Defendant's response

65.17.—(1) An acknowledgement of service is not required and Part 10 does not apply.

(2) Where the defendant does not file a defence within the time specified in rule 15.4 he may take part in any hearing but the court may take his failure to do so into account when deciding what order to make about costs.

(3) Part 12 (default judgment) does not apply in a demotion claim.

The hearing

65.18.—(1) At the hearing fixed in accordance with rule 65.16(1) or at any adjournment of that hearing the court may—

(a) decide the demotion claim; or

(b) give case management directions.

(2) Where the demotion claim is genuinely disputed on grounds which appear to be substantial, case management directions given under paragraph (1)(b) will include the allocation of the demotion claim to a track or directions to enable it to be allocated.

(3) Except where—

(a) the demotion claim is allocated to the fast track or the multi-track; or

(b) the court directs otherwise,

any fact that needs to be proved by the evidence of witnesses at a hearing referred to in paragraph (1) may be proved by evidence in writing.

(Rule 32.2(1) sets out the general rule about evidence. Rule 32.2(2) provides that rule 32.2(1) is subject to any provision to the contrary)

(4) All witness statements must be filed and served at least two days before the hearing.

(5) Where the claimant serves the claim form and particulars of claim, he must produce at the hearing a certificate of service of those documents and rule 6.14(2)(a) does not apply.

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Allocation

65.19. When the court decides the track for a demotion claim, the matters to which it shall have regard include—

- (a) the matters set out in rule 26.8; and
- (b) the nature and extent of the conduct alleged.

Proceedings relating to demoted tenancies

65.20. A practice direction may make provision about proceedings relating to demoted tenancies.

SECTION IV

Anti-social behaviour orders under the Crime and Disorder Act 1998

Scope of this Section and interpretation

65.21.—(1) This Section applies to applications in proceedings in a county court under sub-sections (2), (3) or (3B) of section 1B of the Crime and Disorder Act 1998⁽¹⁴⁾ by a relevant authority, and to applications for interim orders under section 1D of that Act.

(2) In this Section—

- (a) “the 1998 Act” means the Crime and Disorder Act 1998;
- (b) “relevant authority” has the same meaning as in section 1(1A) of the 1998 Act; and
- (c) “the principal proceedings” means any proceedings in a county court.

Application where the relevant authority is a party in principal proceedings

65.22.—(1) Subject to paragraph (2)—

- (a) where the relevant authority is the claimant in the principal proceedings, an application under section 1B(2) of the 1998 Act for an order under section 1B(4) of the 1998 Act must be made in the claim form; and
- (b) where the relevant authority is a defendant in the principal proceedings, an application for an order must be made by application notice which must be filed with the defence.

(2) Where the relevant authority becomes aware of the circumstances that lead it to apply for an order after its claim is issued or its defence filed, the application must be made by application notice as soon as possible thereafter.

(3) Where the application is made by application notice, it should normally be made on notice to the person against whom the order is sought.

Application by a relevant authority to join a person to the principal proceedings

65.23.—(1) An application under section 1B(3B) of the 1998 Act by a relevant authority which is a party to the principal proceedings to join a person to the principal proceedings must be made—

- (a) in accordance with Section I of Part 19;
- (b) in the same application notice as the application for an order under section 1B(4) of the 1998 Act against the person; and
- (c) as soon as possible after the relevant authority considers that the criteria in section 1B(3A) of the 1998 Act are met.

(14) 1998 c. 37. Sections 1(1A) and 1B were amended by section 85 of the Anti-social Behaviour Act 2003 (c. 38).

- (2) The application notice must contain—
 - (a) the relevant authority’s reasons for claiming that the person’s anti-social acts are material in relation to the principal proceedings; and
 - (b) details of the anti-social acts alleged.
- (3) The application should normally be made on notice to the person against whom the order is sought.

Application where the relevant authority is not party in principal proceedings

- 65.24.**—(1) Where the relevant authority is not a party to the principal proceedings—
- (a) an application under section 1B(3) of the 1998 Act to be made a party must be made in accordance with Section I of Part 19; and
 - (b) the application to be made a party and the application for an order under section 1B(4) of the 1998 Act must be made in the same application notice.
- (2) The applications—
- (a) must be made as soon as possible after the authority becomes aware of the principal proceedings; and
 - (b) should normally be made on notice to the person against whom the order is sought.

Evidence

65.25. An application for an order under section 1B(4) of the 1998 Act must be accompanied by written evidence, which must include evidence that section 1E of the 1998 Act has been complied with.

Application for an interim order

- 65.26.**—(1) An application for an interim order under section 1D of the 1998 Act must be made in accordance with Part 25.
- (2) The application should normally be made—
- (a) in the claim form or application notice seeking the order; and
 - (b) on notice to the person against whom the order is sought.

SECTION V

Proceedings under the Protection from Harassment Act 1997

Scope of this Section

65.27. This Section applies to proceedings under section 3 of the Protection from Harassment Act 1997⁽¹⁵⁾ (“the 1997 Act”).

Claims under section 3 of the 1997 Act

- 65.28.** A claim under section 3 of the 1997 Act—
- (a) shall be subject to the Part 8 procedure; and
 - (b) must be commenced—

(15) 1997 c. 40.

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- (i) if in the High Court, in the Queen's Bench Division;
- (ii) if in the county court, in the court for the district in which the defendant resides or carries on business or the court for the district in which the claimant resides or carries on business.

Applications for issue of a warrant of arrest under section 3(3) of the 1997 Act

- 65.29.**—(1) An application for a warrant of arrest under section 3(3) of the 1997 Act—
- (a) must be made in accordance with Part 23; and
 - (b) may be made without notice.
- (2) The application notice must be supported by affidavit evidence which must—
- (a) set out the grounds for the application;
 - (b) state whether the claimant has informed the police of the conduct of the defendant as described in the affidavit; and
 - (c) state whether, to the claimant's knowledge, criminal proceedings are being pursued.

Proceedings following arrest

- 65.30.**—(1) The judge before whom a person is brought following his arrest may—
- (a) deal with the matter; or
 - (b) adjourn the proceedings.
- (2) Where the proceedings are adjourned and the arrested person is released—
- (a) the matter must be dealt with (whether by the same or another judge) within 28 days of the date on which the arrested person appears in court; and
 - (b) the arrested person must be given not less than 2 days' notice of the hearing.