

## SCHEDULE 1

### RSC ORDER 97

#### THE LANDLORD AND TENANT ACTS 1927(1), 1954(2) AND 1987(3)

##### **Interpretation**

**Rule 1.**—(1) In this Order, “the Act of 1927” means the Landlord and Tenant Act 1927, “the Act of 1954” means the Landlord and Tenant Act 1954 and “the Act of 1987” means the Landlord and Tenant Act 1987.

(2) In relation to any proceedings under Part II of the Act of 1954, any reference in this Order to a landlord shall, if the interest of the landlord in question is subject to a mortgage and the mortgagee is in possession or a receiver appointed by the mortgagee or by the court is in receipt of the rents and profits, be construed as a reference to the mortgagee.

##### **Assignment of proceedings to Chancery Division, etc.**

**Rule 2** All proceedings in the High Court under Part I of the Act of 1927 or Part II of the Act of 1954 or the Act of 1987 shall be assigned to the Chancery Division and, subject to rules 9A and 12, be begun by claim form.

##### **Issue, etc., of claim form**

**Rule 3.**—(1) Any claim or application under Part I of the Act of 1927 or Part II of the Act of 1954 or the Act of 1987 may be issued out of the district registry for the district in which the premises to which the claim or application relates are situated instead of Chancery Chambers.

(3) The court will set a day for the hearing of such a claim which shall be a day which will allow an interval of at least 14 days between the date of service of the claim form and the day so fixed.

##### **Claim for compensation in respect of improvement**

**Rule 4.**—(1) A claim under section 1 of the Act of 1927 for compensation in respect of any improvement, and a claim by a mesne landlord under section 8 of that Act, must be a written claim, signed by the claimant or his solicitor or agent, containing—

- (a) a statement of the name and address of the claimant and of the landlord against whom the claim is made,
- (b) a description of the holding in respect of which the claim is made and of the trade or business carried on there,
- (c) a concise statement of the nature of the claim,
- (d) particulars of the improvement, including the date when it was completed and the cost thereof, and
- (e) a statement of the amount claimed.

(2) Where any document relating to any proposed improvement, or to any claim, is sent to or served on a mesne landlord in pursuance of Part I of the Act of 1927, he must forthwith serve on his immediate superior landlord a copy of the document, together with a notice in writing stating

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(1) 1927 c. 36; section 1 was amended by the Landlord and Tenant Act 1954 (c. 56), section 47(5). Section 8 was amended by the 1954 Act, sections 45, 68(1) and schedule 7.

(2) 1954 c. 56.

(3) 1987 c. 31.

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the date on which he received the document, and if the last-mentioned landlord is himself a mesne landlord he must accordingly comply with this paragraph.

### **Proceedings under Part I of Act of 1927**

**Rule 5.**—(1) The claim form by which any claim or application under Part I of the Act of 1927 is made must state—

- (a) the nature of the claim or application or the matter to be determined,
- (b) the holding in respect of which the claim or application is made and the trade or business carried on there,
- (c) particulars of the improvement or proposed improvement to which the claim or application relates, and
- (d) if the claim is for payment of compensation, the amount claimed.

(2) The claimant's immediate landlord shall be made a defendant.

(3) No witness statement or affidavit shall be filed in the first instance in support of or in answer to any such claim form.

(4) Any certificate of the Court under section 3 of the Act of 1927 that an improvement is a proper improvement or has been duly executed shall be embodied in an order.

### **Application for new tenancy under section 24 of Act of 1954**

**Rule 6.**—(1) The claim form by which an application under section 24 of the Act of 1954<sup>(4)</sup> for a new tenancy is made must state—

- (a) the premises to which the application relates and where a business is carried on there, the nature of such business,
- (b) particulars of the claimant's current tenancy of the premises and of every notice or request given or made in respect of that tenancy under section 25 or 26 of that Act, and
- (c) the claimant's proposals as to the terms of the new tenancy applied for including, in particular, terms as to the duration thereof and as to the rent payable thereunder.

(2) The person who, in relation to the claimant's current tenancy, is the landlord as defined by section 44 of the Act of 1954<sup>(5)</sup> shall be made a defendant.

(3) A claim form under this rule must be served within 2 months after the date of issue whether served within or out of the jurisdiction and CPR rules 7.5(2) and 7.5(3) will not apply

### **Application to authorise agreement**

**Rule 6A.**—(1) An application under section 38 (4) of the Act of 1954 for the authorisation of an agreement shall be made without notice being served on any other party by claim form and may be heard and determined in private.

(2) Notwithstanding that the application must be made jointly by the landlord or proposed landlord and the tenant or proposed tenant and the claim form is accordingly issued by one solicitor on behalf of both of them, they may appear and be heard at any hearing by separate solicitors or counsel or, in the case of an individual applicant, in person; and where at any stage of the proceedings it appears to the Court that one of the applicants is not but ought to be separately represented, the Court may adjourn the proceedings until he is.

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(4) Section 24 was amended by the Law of Property Act 1969 (c. 59), sections 3(2) and 4(1).

(5) Section 44 was amended by the Law of Property Act 1969 (c. 59), section 14(1).

### **Evidence on application under section 24 of Act of 1954**

**Rule 7.**—(1) Not less than 14 days before the day fixed for the first hearing in an application under section 24 of the Act of 1954 for a new tenancy the claimant must file a witness statement or affidavit verifying the statements of fact made in the claim form.

(2) Not less than 4 days before the day fixed for the first hearing the defendant must file a witness statement or affidavit stating—

- (a) whether he opposes the grant of a new tenancy and, if he does, on what grounds;
- (b) whether, if a new tenancy is granted, he objects to any of the claimant’s proposals as to the terms thereof and, if he does, the terms to which he objects and the terms he proposes in so far as they differ from the terms proposed by the claimant;
- (c) whether he is a tenant under a lease having less than 14 years unexpired at the date of the termination of the claimant’s current tenancy, and, if he is, the name and address of his immediate landlord.

### **Parties to certain proceedings**

**Rule 8.**—(1) Any person affected by any proceedings under rule 5, 6, 14, 15, 16 or 17 may apply in private to be made a party to the proceedings and the Court may give such directions on the application as appear necessary.

(2) An application under paragraph (1) must in the first instance be made without notice being given to any other party but the Court may require notice thereof to be given to the parties to the proceedings before making any order.

(3) The foregoing provisions are without prejudice to the power of the Court, either with or without an application by any party, to order notice of the proceedings to be given to any person or any person to be made a party to the proceedings, but nothing in this rule shall be construed as requiring the Court to make any such order and, if it appears that any person though he is affected by the proceedings is not sufficiently affected for it to be necessary for him to be made a party to the proceedings or given notice thereof, the Court may refuse to make him a party or, as the case may be, to require him to be given notice of the proceedings.

### **Order dismissing application under section 24 which is successfully opposed**

**Rule 9** Where the Court hearing an application under section 24 of the Act of 1954 is precluded by section 31 of that Act from making an order for the grant of a new tenancy by reason of any of the grounds specified in section 30 (1) of that Act, the order dismissing the application shall state all the grounds by reason of which the Court is so precluded.

### **Application to determine interim rent**

**Rule 9A.**—(1) An application under section 24A of the Act of 1954 to determine an interim rent shall—

- (a) if the tenant has begun proceedings for a new tenancy under section 24 of the Act, be made by an application in accordance with CPR Part 23 in those proceedings, and
  - (b) in any other case, be made by claim form
- (2) The application may be heard and determined in private.

### **Other applications under Part II of Act of 1954**

**Rule 10.**—(1) An application for an order under section 31(2)(b) of the Act of 1954 and, unless made at the hearing of the application under section 24 thereof, an application for a certificate under section 37 (4) of that Act must be made without notice being served on any other party in private.

(2) The mesne landlord to whose consent an application for the determination of any question arising under paragraph 4 (3) of Schedule 6 to the Act of 1954 relates shall be made a defendant to the claim.

### **Transfer of proceedings from county court**

**Rule 11.**—(2) Any proceedings under Part I of the Act of 1927 or Part II of the Act of 1954 that have been transferred from a county court shall proceed in the High Court as if they had been begun by claim form issued out of Chancery Chambers, and within 7 days after receipt of notification of the transfer the claimant must apply to the court sitting in private for the appointment of a day and time for the attendance of the parties before the Court.

(3) If the claimant fails to apply for an appointment within the period prescribed by paragraph (2) the defendant may do so.

### **Application for relief under section 16, etc., of the Act of 1954**

**Rule 12** In any such proceedings as are mentioned in section 16 (1) of the Act of 1954, paragraph 9 (1) of Schedule 5 to that Act or paragraph 10 (1) of that Schedule, an application for relief under that section or paragraph, as the case may be, may be made—

- (a) in the applicant's statement of case, or
- (b) in accordance with CPR Part 23 at any time before the trial, or
- (c) at the trial.

### **Evidence of rateable value**

**Rule 13** Where any dispute as to the rateable value of any holding has been referred under section 37 (5) of the Act of 1954 to the Commissioners of Inland Revenue for decision by a valuation officer, any document purporting to be a statement by the valuation officer of his decision shall be admissible as evidence of the matters contained in it.

### **Application under section 19 of the Act of 1987**

**Rule 14** A copy of the notice served under section 19 (2)(a) of the Act of 1987 shall be appended to the claim form issued under section 19 (1) thereof, and an additional copy of the notice shall be filed.

### **Application for order under section 24 of the Act of 1987**

**Rule 15.**—(1) An application for an order under section 24 of the Act of 1987 shall state—

- (a) the premises to which the application relates,
- (b) the name and address of the applicant and of the landlord of the premises, or, where the landlord cannot be found or his identity ascertained, the steps taken to find him or ascertain his identity,
- (c) the name and address of every person known to the applicant who is likely to be affected by the application including, but not limited to, the other tenants of flats contained in the premises, any mortgagee or superior landlord of the landlord, and any tenants' association,

- (d) the name, address and qualifications of the person it is desired to be appointed manager of the premises,
- (e) the functions which it is desired that the manager shall carry out, and
- (f) the grounds of the application,

and a copy of the notice served on the landlord under section 22 of the Act of 1987 shall be appended to the claim form, unless the requirement to serve such a notice has been dispensed with, and an additional copy of the notice shall be filed.

(2) The defendant to an application for an order under section 24 of the Act of 1987 shall be the landlord of the premises.

(3) A copy of the claim form shall be served on—

- (a) each of the persons named by the applicant under paragraph (1)(c), together with a notice stating that he may apply under rule 8 to be made a party to the proceedings, and
- (b) the person named under paragraph (1)(d).

(4) Order 30, rules 2 to 8 shall apply to proceedings in which an application is made for an order under section 24 of the Act of 1987 as they apply to proceedings in which an application is made for the appointment of a receiver, and as if for the references in those rules to a receiver there were references to a manager under the Act of 1987.

#### **Application for acquisition order under section 29 of the Act of 1987**

**Rule 16.**—(1) An application for an acquisition order under section 29 of the Act of 1987 shall—

- (a) identify the premises to which the application relates and give such details of them as are necessary to show that section 25 of the Act of 1987 applies thereto,
- (b) give such details of the applicants as are necessary to show that they constitute the requisite majority of qualifying tenants,
- (c) state the name and address of the applicants and of the landlord of the premises, or, where the landlord cannot be found or his identity ascertained, the steps taken to find him or ascertain his identity,
- (d) state the name and address of the person nominated by the applicants for the purposes of Part III of the Act of 1987,
- (e) state the name and address of every person known to the applicants who is likely to be affected by the application, including, but not limited to, the other tenants of flats contained in the premises (whether or not they could have made an application), any mortgagee or superior landlord of the landlord, and any tenant's association, and
- (f) state the grounds of the application,

and a copy of the notice served on the landlord under section 27 of the Act of 1987 shall be appended to the claim form, unless the requirement to serve such a notice has been dispensed with, and an additional copy of the notice shall be filed.

(2) The defendants to an application for an acquisition order under section 29 of the Act of 1987 shall be the landlord of the premises and the nominated person, where he is not an applicant.

(3) A copy of the claim form shall be served on each of the persons named by the applicant under paragraph (1)(e), together with a notice stating that he may apply under rule 8 to be made a party to the proceedings.

(4) Where the nominated person pays money into court in accordance with an order under section 33 (1) of the Act of 1987, he shall file a copy of the certificate of the surveyor selected under section 33 (2)(a) thereof.

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### **Application for order under section 38 or section 40 of the Act of 1987**

**Rule 17.**—(1) An application for an order under section 38 or section 40 of the Act of 1987 shall state—

- (a) the name and address of the applicant and of the other current parties to the lease or leases to which the application relates,
- (b) the date of and parties to the lease or leases, the premises demised thereby, the relevant terms thereof and the variation sought,
- (c) the name and address of every person who the applicant knows or has reason to believe is likely to be affected by the variation, including, but not limited to, the other tenants of flats contained in the premises of which the demised premises form a part, any mortgagee or superior landlord of the landlord, any mortgagee of the applicant, and any tenants' association, and
- (d) the grounds of the application.

(2) The other current parties to the lease or leases shall be made defendants to the application.

(3) A copy of the application shall be served by the applicant on each of the persons named by the applicant under paragraph (1)(c) and by the defendant on any other person who he knows or has reason to believe is likely to be affected by the variation, together, in each case, with a notice stating that the person may apply under rule 8 to be made a party to the proceedings.

(4) Any application under section 36 of the Act of 1987 shall be contained in the defendant's witness statement or affidavit, and paragraphs (1) to (3) shall apply to such an application as if the defendant were an applicant.

### **Service of notices in proceedings under the Act of 1987**

**Rule 18** Where a notice is to be served in or before proceedings under the Act of 1987, it shall be served in accordance with section 54 and, in the case of service on a landlord, it shall be served at the address furnished under section 48 (1).

### **Tenants' associations**

**Rule 19** In rules 15, 16 and 17 a reference to a tenants' association is a reference to a recognised tenants' association within the meaning of section 29 of the Landlord and Tenant Act 1985(6) which represents tenants of the flats of which the demised premises form a part.

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(6) 1985 c. 70.