

2001 No. 256 (L. 7)

**SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment) Rules 2001

Made - - - - 23rd January 2001

Laid before Parliament 2nd February 2001

Coming into force in accordance with rule 1

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following Rules:—

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 2001 and shall come into force—

- (a) for the purposes of rules 2, 4 to 10, 12 to 16 and 19, and this rule, on 26th March 2001;
- (b) for the purposes of rules 22, 23, 26 and 28, on the date of entry into force of section 90 of the Access to Justice Act 1999(b);
- (c) for the purposes of rules 24 and 30, on the date of entry into force of section 23 of the Family Law Reform Act 1987(c); and
- (d) for all other purposes, on 15th October 2001.

2. In the following rules—

- (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(d);
- (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
- (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

Amendments to the Civil Procedure Rules 1998

3. After rule 6.1, in the cross-reference, for “proceedings for the recovery of land and mortgage possession actions — see RSC Order 10 r.4 and CCR Order 7 rr.15 and 15A” substitute “possession claims — see Part 55”.

4. In rule 6.24, in paragraph (1)(b)(ii), for “rule 6.26” substitute “rule 6.27”.

(a) 1997 c. 12.

(b) 1999 c. 22.

(c) 1987 c. 42.

(d) S.I. 1998/3132 as amended by S.I. 1999/1008, S.I. 2000/221, S.I. 2000/940, S.I. 2000/1317 and S.I. 2000/2092.

5. In rule 8.2A, for paragraphs (1) and (2), substitute—
- “(1) A practice direction may set out the circumstances in which a claim form may be issued under this Part without naming a defendant.
- (2) The practice direction may set out those cases in which an application for permission must be made by application notice before the claim form is issued.”.
6. At the end of Part 10, insert—
- “(Rule 19.8A modifies this Part where a notice of claim is served under that rule to bind a person not a party to the claim)”.
- 7.—(1) In rule 17.4, in paragraph (1)(b)—
- (a) at the end of sub-paragraph (ii), insert “or”; and
- (b) for sub-paragraphs (iii) and (iv), substitute—
- “(iii) any other enactment which allows such an amendment, or under which such an amendment is allowed.”.
- (2) After rule 17.4, in the cross-reference, for “Rule 19.4” substitute “Rule 19.5”.
8. In rule 19.5, in paragraph (1)—
- (a) at the end of sub-paragraph (b), insert “or”; and
- (b) for sub-paragraphs (c) and (d), substitute—
- “(c) any other enactment which allows such a change, or under which such a change is allowed.”.
9. After rule 19.5, insert—

“Special rules about parties in claims for wrongful interference with goods

19.5A—(1) A claimant in a claim for wrongful interference with goods must, in the particulars of claim, state the name and address of every person who, to his knowledge, has or claims an interest in the goods and who is not a party to the claim.

(2) A defendant to a claim for wrongful interference with goods may apply for a direction that another person be made a party to the claim to establish whether the other person—

- (a) has a better right to the goods than the claimant; or
- (b) has a claim which might render the defendant doubly liable under section 7 of the Torts (Interference with Goods) Act 1977(a).

(3) Where the person referred to in paragraph (2) fails to attend the hearing of the application, or comply with any directions, the court may order that he is deprived of any claim against the defendant in respect of the goods.

(Rule 3.1(3) provides that the court may make an order subject to conditions)

(4) The application notice must be served on all parties and on the person referred to in paragraph (2).”.

10. After rule 19.8, insert—

“Power to make judgments binding on non-parties

19.8A—(1) This rule applies to any claim in the High Court relating to—

- (a) the estate of a deceased person; or
- (b) property subject to a trust.

(2) The court may at any time direct that notice of the claim be served on a person who is not a party but who will or may be affected by any judgment made in the claim.

(a) 1977 c. 32.

- (3) An application under this rule—
 - (a) may be made without notice; and
 - (b) must be supported by written evidence which includes the reasons why the person to be served should be bound by the judgment in the claim.
- (4) Unless the court orders otherwise, the notice of the claim under this rule must be—
 - (a) in the form in the relevant practice direction;
 - (b) issued by the court; and
 - (c) accompanied by—
 - (i) a copy of the claim form;
 - (ii) all other statements of case served in the claim; and
 - (iii) a form of acknowledgment of service.
- (5) If a person served with notice of the claim files an acknowledgment of service within 14 days he will become a party to the claim.
- (6) If a person served with notice of the claim does not acknowledge service of the notice he will be bound by any judgment given in the claim as if he were a party.
- (7) If, after service of the notice of the claim on a person, the claim form is amended so as substantially to alter the relief claimed the court may direct that a judgment shall not bind that person unless a further notice, together with a copy of the amended claim form, is served on him.
- (8) The following rules of Part 10 (acknowledgment of service) apply—
 - (a) rule 10.4; and
 - (b) rule 10.5, subject to the modification that references to the defendant are to be read as references to the person served with the notice of the claim.
- (9) A notice under this rule is issued on the date entered on the notice by the court.”.

11. In rule 22.1, in paragraph (1)—

- (a) at the end of sub-paragraph (b), delete “and”; and
- (b) at the end of sub-paragraph (c), add—
 - “; and
 - (d) a certificate stating the reasons for bringing a possession claim or a landlord and tenant claim in the High Court in accordance with rules 55.3(2) and 56.2(2).”.

12. In rule 32.13, in paragraph (1), for “unless the court otherwise directs during the course of the trial” substitute “during the course of the trial unless the court otherwise directs”.

13. After rule 40.19, insert—

“III DECLARATORY JUDGMENTS

40.20 The court may make binding declarations whether or not any other remedy is claimed.”.

14. In rule 43.2—

- (a) in paragraph (1)(k)(i), after “a conditional fee agreement” insert “or a collective conditional fee agreement”;
- (b) after paragraph (1), in the cross-reference—
 - (i) after “The Conditional Fee Agreements Regulations 2000**(a)**” add “, the Collective Conditional Fee Agreements Regulations 2000**(b)**”; and
 - (ii) delete “respectively”.

(a) S.I. 2000/692.
 (b) S.I. 2000/2988.

15. In rule 44.16, in the cross-reference, at the end add—

“. Regulation 5(2)(b) of the Collective Conditional Fee Agreements Regulations 2000 makes similar provision in relation to collective conditional fee agreements”.

16.—(1) In rule 48.8—

(a) for paragraph (1), substitute—

“(1) This rule applies to every assessment of a solicitor’s bill to his client except a bill which is to be paid out of the Community Legal Service Fund under the Legal Aid Act 1988(a) or the Access to Justice Act 1999(b).”; and

(b) after paragraph (2), insert—

“(3) Where the court is considering a percentage increase, whether on the application of the legal representative under rule 44.16 or on the application of the client, the court will have regard to all the relevant factors as they reasonably appeared to the solicitor or counsel when the conditional fee agreement was entered into or varied.

(4) In paragraph (3), “conditional fee agreement” means an agreement enforceable under section 58 of the Courts and Legal Services Act 1990(c) at the date on which that agreement was entered into or varied.”.

(2) Omit rule 48.9.

17. After Part 54, insert Part 55 (Possession claims) as set out in Schedule 1.

18. After Part 55, insert Part 56 (Landlord and tenant claims and miscellaneous provisions about land) as set out in Schedule 2.

19. In RSC Order 15, omit rules 13A and 16.

20. In RSC Order 45, in rule 3—

(a) in paragraph (2)—

(i) delete “mortgage proceedings to which Order 88 applies”; and

(ii) after “made in” insert—

“proceedings by a mortgagee or mortgagor or by any person having the right to foreclose or redeem any mortgage, being proceedings in which there is a claim for—

(a) payment of moneys secured by the mortgage;

(b) sale of the mortgaged property;

(c) foreclosure;

(d) delivery of possession (whether before or after foreclosure or without foreclosure) to the mortgagee by the mortgagor or by any other person who is alleged to be in possession of the property;

(e) redemption;

(f) reconveyance of the land or its release from the security; or

(g) delivery of possession by the mortgagee”;

(b) after paragraph (2), insert—

“(2A) In paragraph (2) “mortgage” includes a legal or equitable mortgage and a legal or equitable charge, and reference to a mortgagor, a mortgagee and mortgaged land is to be interpreted accordingly.”; and

(a) 1988 c. 34.

(b) 1999 c. 22.

(c) 1990 c. 41. Section 58 was substituted by section 27 of the Access to Justice Act 1999 (c. 22) with effect from 1st April 2000 (the Access to Justice Act 1999 (Commencement No. 3, Transitional Provisions and Savings) Order 2000, S.I. 2000/774, and the Access to Justice Act 1999 (Transitional Provisions) Order 2000, S.I. 2000/900).

(c) in paragraph (3), after “permission”, insert “as is referred to in paragraph (2)”.

21. In RSC Order 62, in paragraph 1(2) of Part II of Appendix 3, for “Order 88, rule 1 (mortgage claims)” substitute “Order 45, rule 3(2)”.

22. In RSC Order 79, in paragraphs (6)(b), (8)(b) and (10)(b) of rule 9, for “clerk of” substitute “justices’ chief executive for”.

23. In RSC Order 109, in paragraph (5) of rule 4, for “clerk of” substitute “justices’ chief executive for”.

24. In RSC Order 112—

(a) for the heading, substitute “APPLICATIONS FOR USE OF SCIENTIFIC TESTS IN DETERMINING PARENTAGE”;

(b) for the words “blood samples”, wherever they appear, substitute the words “bodily samples”; and

(c) for the words “blood tests”, wherever they appear, substitute the words “scientific tests”.

25. In RSC Order 113, in paragraph (1) of rule 7, for “under this Order” substitute “in a possession claim against trespassers under Part 55”.

26. In RSC Order 116, in paragraph (14)(a) of rule 10, for “justices’ clerk” substitute “justices’ chief executive”.

27. In CCR Order 24—

(a) in paragraph (1) of rule 6, for “under this Order” substitute “in a possession claim against trespassers under Part 55”;

(b) in rule 9, for “proceedings for possession under Part I of this Order” substitute “a possession claim against trespassers under Part 55”;

(c) in paragraph (1) of rule 10, for “rules 2 to 7” substitute “Part 55”; and

(d) in paragraph (9)(c) of rule 12, paragraph (4) of rule 13 and paragraph (3)(c) of rule 14, for “Part I of this Order” substitute “Part 55”.

28. In CCR Order 27—

(a) in paragraph (1)(b) of rule 4, for “clerk to” substitute “justices’ chief executive for”, and for “clerk” substitute “chief executive”; and

(b) in paragraph (3) of rule 10, for “clerk of” substitute “justices’ chief executive for”.

29. In CCR Order 38, in paragraph 10 of the Table in Part III of Appendix B, for “rule 6 or 6A of Order 49” substitute “Section II of CPR Part 55 (Possession claims)”.

30. In CCR Order 47, in rule 5—

(a) for the words “blood samples”, wherever they appear, substitute the words “bodily samples”; and

(b) for the words “blood tests”, wherever they appear, substitute the words “scientific tests”.

Transitional provisions

31. Where a claim form—

(a) relates to proceedings to which Part 55 or Part 56 would apply if it was issued on or after the date of entry into force of rules 17 and 18 of these Rules, but

(b) is issued before that date,

those rules shall not apply, and the rules of court in force immediately before that date shall apply as if they had not been amended or revoked.

Revocations

32. The Orders set out in column 1 of Schedule 3 are revoked to the extent set out in column 2 of that Schedule.

Phillips of Worth Matravers, M.R.
Andrew Morritt, V-C.
Anthony May, L.J.
Richard Holman
Godfrey Gypps
John Leslie
Michael Black
David Foskett
Michelle Stevens-Hoare
David Greene
Tim Parker
Peter Watson
Alan Street

I allow these Rules

Dated 23rd January 2001

Irvine of Lairg, C.

PART 55
POSSESSION CLAIMS

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Interpretation

55.1 In this Part—

- (a) “a possession claim” means a claim for the recovery of possession of land (including buildings or parts of buildings);
- (b) “a possession claim against trespassers” means a claim for the recovery of land which the claimant alleges is occupied only by a person or persons who entered or remained on the land without the consent of a person entitled to possession of that land but does not include a claim against a tenant or sub-tenant whether his tenancy has been terminated or not;
- (c) “mortgage” includes a legal or equitable mortgage and a legal or equitable charge and “mortgagee” is to be interpreted accordingly; and
- (d) “the 1988 Act” means the Housing Act 1988(a).

I—GENERAL RULES

Scope

55.2—(1) The procedure set out in this Section of this Part must be used where the claim includes—

- (a) a possession claim brought by a—
 - (i) landlord (or former landlord);
 - (ii) mortgagee; or
 - (iii) licensor (or former licensor);
 - (b) a possession claim against trespassers; or
 - (c) a claim by a tenant seeking relief from forfeiture.
- (2) This Section of this Part—
- (a) is subject to any enactment or practice direction which sets out special provisions with regard to any particular category of claim; and
 - (b) does not apply where the claimant uses the procedure set out in Section II of this Part. (CCR Order 24, rule 10(1) provides that where an application for an interim possession order is made, unless otherwise provided, Part 55 does not apply)

Starting the claim

55.3—(1) The claim must be started in the county court for the district in which the land is situated unless paragraph (2) applies or an enactment provides otherwise.

(2) The claim may be started in the High Court if the claimant files with his claim form a certificate stating the reasons for bringing the claim in that court verified by a statement of truth in accordance with rule 22.1(1).

(3) The practice direction refers to circumstances which may justify starting the claim in the High Court.

(4) Where, in a possession claim against trespassers, the claimant does not know the name of a person in occupation or possession of the land, the claim must be brought against “persons unknown” in addition to any named defendants.

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

Particulars of claim

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

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

(a) 1988 c. 50.

Hearing date

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

(2) In a possession claim against trespassers the defendant must be served with the claim form, particulars of claim and any witness statements—

- (a) in the case of residential property, not less than 5 days; and
- (b) in the case of other land, not less than 2 days,

before the hearing date.

(3) In all other possession claims—

- (a) the hearing date will be not less than 28 days from the date of issue of the claim form;
- (b) the standard period between the issue of the claim form and the hearing will be not more than 8 weeks; and
- (c) the defendant must be served with the claim form and 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)

Service of claims against trespassers

55.6 Where, in a possession claim against trespassers, the claim has been issued against “persons unknown”, the claim form, particulars of claim and any witness statements must be served on those persons by—

- (a)
 - (i) attaching copies of the claim form, particulars of claim and any witness statements to the main door or some other part of the land so that they are clearly visible; and
 - (ii) if practicable, inserting copies of those documents in a sealed transparent envelope addressed to “the occupiers” through the letter box; or
- (b) placing stakes in the land in places where they are clearly visible and attaching to each stake copies of the claim form, particulars of claim and any witness statements in a sealed transparent envelope addressed to “the occupiers”.

Defendant’s response

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

(2) In a possession claim against trespassers rule 15.2 does not apply and the defendant need not file a defence.

(3) Where, in any other possession claim, 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.

(4) Part 12 (default judgment) does not apply in a claim to which this Part applies.

The hearing

55.8—(1) At the hearing fixed in accordance with rule 55.5(1) or at any adjournment of that hearing, the court may—

- (a) decide the claim; or
- (b) give case management directions.

(2) Where the 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 claim to a track or directions to enable it to be allocated.

(3) Except where—

- (a) the claim is allocated to the fast track or the multi-track; or
- (b) the court orders 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) Subject to paragraph (5), all witness statements must be filed and served at least 2 days before the hearing.

(5) In a possession claim against trespassers all witness statements on which the claimant intends to rely must be filed and served with the claim form.

(6) 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.

Allocation

55.9—(1) When the court decides the track for a possession claim, the matters to which it shall have regard include—

- (a) the matters set out in rule 26.8 as modified by the relevant practice direction;
- (b) the amount of any arrears of rent or mortgage instalments;
- (c) the importance to the defendant of retaining possession of the land; and
- (d) the importance of vacant possession to the claimant.

(2) The court will only allocate possession claims to the small claims track if all the parties agree.

(3) Where a possession claim has been allocated to the small claims track the claim shall be treated, for the purposes of costs, as if it were proceeding on the fast track except that trial costs shall be in the discretion of the court and shall not exceed the amount that would be recoverable under rule 46.2 (amount of fast track costs) if the value of the claim were up to £3,000.

(4) Where all the parties agree the court may, when it allocates the claim, order that rule 27.14 (costs on the small claims track) applies and, where it does so, paragraph (3) does not apply.

Possession claims relating to mortgaged residential property

55.10—(1) This rule applies where a mortgagee seeks possession of land which consists of or includes residential property.

(2) Not less than 14 days before the hearing the claimant must send a notice to the property addressed to “the occupiers”.

(3) The notice referred to in paragraph (2) must—

- (a) state that a possession claim for the property has started;
- (b) show the name and address of the claimant, the defendant and the court which issued the claim form; and
- (c) give details of the hearing.

(4) The claimant must produce at the hearing—

- (a) a copy of the notice; and
- (b) evidence that he has served it.

II—ACCELERATED POSSESSION CLAIMS OF PROPERTY LET ON AN ASSURED SHORTHOLD TENANCY

When this section may be used

55.11—(1) The claimant may bring a possession claim under this Section of this Part where—

- (a) the claim is brought under section 21 of the 1988 Act^(a) to recover possession of residential property let under an assured shorthold tenancy; and
- (b) all the conditions listed in rule 55.12 are satisfied.

(2) The claim must be started in the county court for the district in which the property is situated.

^(a) 1988 c. 50; section 21 was amended by the Local Government and Housing Act 1989 (c. 42), section 194(1) and Schedule 11, paragraph 103 and by the Housing Act 1996 (c. 52), sections 98 and 99.

Conditions

55.12 The conditions referred to in rule 55.11(1)(b) are that—

- (a) the tenancy and any agreement for the tenancy were entered into on or after 15 January 1989;
- (b) the only purpose of the claim is to recover possession of the property and no other claim is made;
- (c) the tenancy did not immediately follow an assured tenancy which was not an assured shorthold tenancy;
- (d) the tenancy fulfilled the conditions provided by section 19A or 20(1)(a) to (c) of the 1988 Act^(a);
- (e) the tenancy—
 - (i) was the subject of a written agreement;
 - (ii) arises by virtue of section 5 of the 1988 Act but follows a tenancy that was the subject of a written agreement; or
 - (iii) relates to the same or substantially the same property let to the same tenant and on the same terms (though not necessarily as to rent or duration) as a tenancy which was the subject of a written agreement; and
- (f) a notice in accordance with sections 21(1) or 21(4) of the 1988 Act^(b) was given to the tenant in writing.

Claim form

55.13—(1) The claim form must—

- (a) be in the form set out in the relevant practice direction; and
- (b) (i) contain such information; and
(ii) be accompanied by such documents,

as are required by that form.

- (2) All relevant sections of the form must be completed.
- (3) The court will serve the claim form by first class post.

Defence

55.14—(1) A defendant who wishes to—

- (a) oppose the claim; or
- (b) seek a postponement of possession in accordance with rule 55.18,

must file his defence within 14 days after service of the claim form.

- (2) The defence should be in the form set out in the relevant practice direction.

Claim referred to judge

55.15—(1) On receipt of the defence the court will—

- (a) send a copy to the claimant; and
- (b) refer the claim and defence to a judge.

(2) Where the period set out in rule 55.14 has expired without the defendant filing a defence—

- (a) the claimant may file a written request for an order for possession; and
- (b) the court will refer that request to a judge.

(3) Where the defence is received after the period set out in rule 55.14 has expired but before a request is filed in accordance with paragraph (2), paragraph (1) will still apply.

^(a) 1988 c. 50; section 19A was inserted by the Housing Act 1996 (c. 52), section 96(1); section 20(1) was amended by section 104 and Schedule 8, paragraph 2(3) of that Act.

^(b) 1988 c. 50; section 21(1) and 21(4) were amended by the Housing Act 1996 (c. 52), section 98.

(4) Where—

- (a) the period set out in rule 55.14 has expired without the defendant filing a defence; and
- (b) the claimant has not made a request for an order for possession under paragraph (2) within 3 months after the expiry of the period set out in rule 55.14,

the claim will be stayed.

Consideration of the claim

55.16—(1) After considering the claim and any defence, the judge will—

- (a) make an order for possession under rule 55.17;
- (b) where he is not satisfied as to any of the matters set out in paragraph (2)—
 - (i) direct that a date be fixed for a hearing; and
 - (ii) give any appropriate case management directions; or
- (c) strike out the claim if the claim form discloses no reasonable grounds for bringing the claim.

(2) The matters referred to in paragraph (1)(b) are that—

- (a) the claim form was served; and
- (b) the claimant has established that he is entitled to recover possession under section 21 of the 1988 Act against the defendant.

(3) The court will give all parties not less than 14 days' notice of a hearing fixed under paragraph (1)(b)(i).

(4) Where a claim is struck out under paragraph (1)(c)—

- (a) the court will serve its reasons for striking out the claim with the order; and
- (b) the claimant may apply to restore the claim within 28 days after the date the order was served on him.

Possession order

55.17 Except where rules 55.16(1)(b) or (c) apply, the judge will make an order for possession without requiring the attendance of the parties.

Postponement of possession

55.18—(1) Where the defendant seeks postponement of possession on the ground of exceptional hardship under section 89 of the Housing Act 1980(a), the judge may direct a hearing of that issue.

(2) Where the judge directs a hearing under paragraph (1)—

- (a) the hearing must be held before the date on which possession is to be given up; and
- (b) the judge will direct how many days' notice the parties must be given of that hearing.

(3) Where the judge is satisfied, on a hearing directed under paragraph (1), that exceptional hardship would be caused by requiring possession to be given up by the date in the order of possession, he may vary the date on which possession must be given up.

Application to set aside or vary

55.19 The court may—

- (a) on application by a party within 14 days of service of the order; or
- (b) of its own initiative,

set aside or vary any order made under rule 55.17.

(a) 1980 c. 51.

PART 56**LANDLORD AND TENANT CLAIMS AND MISCELLANEOUS PROVISIONS
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II—MISCELLANEOUS PROVISIONS ABOUT LAND

Scope	Rule 56.4
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I—LANDLORD AND TENANT CLAIMS**Scope and interpretation**

56.1—(1) In this Section of this Part “landlord and tenant claim” means a claim under—

- (a) the Landlord and Tenant Act 1927**(a)**;
- (b) the Leasehold Property (Repairs) Act 1938**(b)**;
- (c) the Landlord and Tenant Act 1954**(c)**;
- (d) the Landlord and Tenant Act 1985**(d)**; or
- (e) the Landlord and Tenant Act 1987**(e)**.

(2) A practice direction may set out special provisions with regard to any particular category of landlord and tenant claim.

Starting the claim

56.2—(1) The claim must be started in the county court for the district in which the land is situated unless paragraphs (2) or (4) apply or an enactment provides otherwise.

(2) The claim may be started in the High Court if the claimant files with his claim form a certificate stating the reasons for bringing the claim in that court verified by a statement of truth in accordance with rule 22.1(1).

(3) The practice direction refers to circumstances which may justify starting the claim in the High Court.

(4) A joint claim by a landlord and tenant to authorise an agreement under section 38(4) of the Landlord and Tenant Act 1954 may be started in the High Court or any county court.

Claims under section 24 of the Landlord and Tenant Act 1954

56.3—(1) This rule applies to a claim for a new tenancy under section 24 of the Landlord and Tenant Act 1954**(f)**.

-
- (a) 1927 c. 36.
 - (b) 1938 c. 34.
 - (c) 1954 c. 56.
 - (d) 1985 c. 70.
 - (e) 1987 c. 31.
 - (f) 1954 c. 56; section 24 was amended by the Law of Property Act 1969 (c. 59).

- (2) The claimant must use the Part 8 procedure but the following rules do not apply—
- (a) rule 8.3(1);
 - (b) rule 8.5; and
 - (c) rule 8.6(1).
- (3) The claim form must be served within 2 months after the date of issue and rules 7.5 and 7.6 are modified accordingly.
- (4) Within 14 days after service of the claim form the defendant must file and serve—
- (a) a notice that he wishes the claim to be stayed^(GL) for 3 months in order to facilitate negotiation of a new tenancy; or
 - (b) where he intends to contest the claim, his acknowledgment of service.
- (5) Where the defendant files and serves a notice in accordance with paragraph (4)(a), the claim will be stayed for 3 months.
- (6) Any party may file and serve a notice requesting the stay to be lifted.
- (7) Where a party files a notice in accordance with paragraph (6) the court—
- (a) will lift the stay; and
 - (b) may give directions about the future management of the claim.
- (8) Unless the court otherwise orders where—
- (a) the stay expires; and
 - (b) the defendant intends to contest the claim,
- he must file and serve his acknowledgment of service within 14 days after the day on which the stay expires.
- (9) Unless the court otherwise orders where—
- (a) the stay is lifted; and
 - (b) the defendant intends to contest the claim,
- he must file and serve his acknowledgment of service within 14 days after he is served with notification that the stay has been lifted.
- (10) The claimant must file and serve any written evidence on which he intends to rely within 14 days of service on him of the acknowledgment of service.
- (11) The defendant must file and serve any written evidence on which he intends to rely within 14 days of service on him of the claimant's evidence.
- (12) The court will give directions about the future management of the claim—
- (a) when it receives the written evidence of the defendant; or
 - (b) where the defendant fails to file any written evidence within the period set out in paragraph (11), after that period has expired.
- (13) No written evidence may be relied on at the hearing of the claim unless—
- (a) it has been served in accordance with paragraphs (10) or (11) (as the case may be); or
 - (b) the court gives permission.

II–MISCELLANEOUS PROVISIONS ABOUT LAND

Scope

56.4 A practice direction may set out special provisions with regard to claims under the following enactments—

- (a) the Chancel Repairs Act 1932**(a)**;
- (b) the Leasehold Reform Act 1967**(b)**;
- (c) the Access to Neighbouring Land Act 1992**(c)**; and
- (d) the Leasehold Reform, Housing and Urban Development Act 1993**(d)**.

SCHEDULE 3

Rule 32

<i>Order</i>	<i>Extent of revocation</i>
RSC Order 10	The whole Order.
RSC Order 88	Rules 1 to 5 and 7.
RSC Order 93	Rule 15.
RSC Order 97	The whole Order.
RSC Order 113	Rules 1 to 6 and 8.
CCR Order 4	Sub-paragraph (a) of rule 3.
CCR Order 6	Rules 3, 5 and 5A.
CCR Order 7	The whole Order.
CCR Order 24	Rules 1 to 5 and 7.
CCR Order 43	The whole Order.
CCR Order 49	Rules 1, 1A, 2, 4, 6A, 8, 9, 13 and 16.

(a) 1932 c. 20.
 (b) 1967 c. 88.
 (c) 1992 c. 23.
 (d) 1993 c. 28.

EXPLANATORY NOTE

(This note is not part of the Rules)

The Civil Procedure Rules 1998 include, in Schedules 1 and 2 respectively, rules from the former Rules of the Supreme Court and County Court Rules which still govern the procedure for a number of claims. The primary purpose of these amending Rules is to add to the Civil Procedure Rules new Parts 55 and 56 which will provide new procedures governing claims for the possession of land, and landlord and tenant claims. The previous rules are revoked, and there are many consequential amendments.

New rules are made governing claims for wrongful interference with goods, the power to make judgments binding on non-parties, and the power of the court to make declaratory judgments. There are rules consequential on the entry into force of section 90 of the Access to Justice Act 1999 (transfer of justices' clerks' functions to justices' chief executives), and of section 23 of the Family Law Reform Act 1987 (scientific tests for the determination of parentage).

The opportunity has also been taken to make a number of minor amendments to the rules currently in force.

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