
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 55

POSSESSION CLAIMS

[^{F1}I—GENERAL RULES

Textual Amendments

- F1** Pt. 55 inserted (15.10.2001) by [The Civil Procedure \(Amendment\) Rules 2001 \(S.I. 2001/256\)](#), rule 1(d), [Sch. 1](#) (with [rule 31](#))

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.

[^{F2}(Where a demotion claim or a suspension claim (or both) is made in the same claim form in which a possession claim is started, this Section of this Part applies as modified by rule 65.12. Where the claim is a demotion claim or a suspension claim only, or a suspension claim made in addition to a demotion claim, Section III of Part 65 applies).]

(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; ^{F3}...
- (b) does not apply where the claimant uses the procedure set out in Section II of this Part [^{F4}; and
- (c) does not apply where the claimant seeks an interim possession order under Section III of this Part except where the court orders otherwise or that Section so provides]

^{F5} ...

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: 1-GENERAL RULES. (See end of Document for details)

Textual Amendments

- F2** Words in rule 55.2(1) substituted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005 \(S.I. 2005/2292\)](#), rules 1(c), **43**
- F3** Word in rule 55.2(2)(a) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **22(b)(i)**
- F4** Rule 55.2(2)(c) and word inserted (2.12.2002) by [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **22(b)(ii)**
- F5** Words in rule 55.2(2) omitted (2.12.2002) by virtue of [The Civil Procedure \(Amendment\) Rules 2002 \(S.I. 2002/2058\)](#), rules 1(b), **22(b)(iii)**

Starting the claim

55.3.—^[F6](1) In the County Court—

- (a) the claimant may make the claim at any County Court hearing centre, unless paragraph (2) applies or an enactment provides otherwise;
- (b) the claim will be issued by the hearing centre where the claim is made; and
- (c) if the claim is not made at the County Court hearing centre which serves the address where the land is situated, the claim will be sent to the hearing centre serving that address when it is issued.

(Practice Direction 55A includes further direction in respect of claims which are not made at the County Court hearing centre which serves the address where the land is situated.)]

(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) ^[F7]Practice Direction 55A] 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 ^[F8]Practice Direction 55A].

Textual Amendments

- F6** Rule 55.3(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(a)**; S.I. 2014/954, art. 2(a)
- F7** Words in rule 55.3(3) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(a)**
- F8** Words in rule 55.3(5) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(b)**

Particulars of claim

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

(^[F9]Part 16 and Practice Direction 55A] provide details about the contents of the particulars of claim)

Textual Amendments

- F9** Words in rule 55.4 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **30(c)**

Hearing date

55.5.—(1) [^{F10}Subject to paragraph (1A), the court] will fix a date for the hearing when it issues the claim form.

[^{F11}(1A) If the claim is not made at the County Court hearing centre which serves the address where the land is situated, a date will be fixed for hearing when the claim is received by that hearing centre.]

(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)

Textual Amendments

- F10** Words in rule 55.5(1) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(b)(i)**; S.I. 2014/954, art. 2(a)
- F11** Rule 55.5(1A) inserted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **22(b)(ii)**; S.I. 2014/954, art. 2(a)

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, [^{F12}the claimant] must produce at the hearing a certificate of service of those documents and rule [^{F13}6.17(2)(a)] does not apply.

Textual Amendments

F12 Words in rule 55.8(6) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **28(a)(i)**

F13 Word in rule 55.8(6) substituted (1.10.2008) by [The Civil Procedure \(Amendment\) Rules 2008 \(S.I. 2008/2178\)](#), rules 1(2), **28(a)(ii)**

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; ^{F14}...
 - (d) the importance of vacant possession to the claimant [^{F15}; and
 - (e) if applicable, the alleged conduct of the defendant]
- (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 [^{F16}45.38] (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.

Textual Amendments

- F14** Word in rule 55.9(1)(c) omitted (30.6.2004) by virtue of [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **12(a)**
- F15** Rule 55.9(1)(e) and word inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rules 1(b), **12(b)**
- F16** Word in rule 55.9(3) substituted (1.10.2013) by [The Civil Procedure \(Amendment No.7\) Rules 2013 \(S.I. 2013/1974\)](#), rules 2, **24**

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.

[^{F17}(2) Within 5 days of receiving notification of the date of the hearing by the court, the claimant must send a notice to—

- (a) the property, addressed to “the tenant or the occupier”; ^{F18}...
 - (b) the housing department of the local authority within which the property is located [^{F19}; and]
 - [^{F20}(c) any registered proprietor (other than the claimant) of a registered charge over the property.]]
- (3) The notice referred to in [^{F21}paragraph (2)(a)] 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.

[^{F22}(3A) The notice referred to in paragraph 2(b) must contain the information in paragraph (3) and must state the full address of the property.]

- (4) The claimant must produce at the hearing—
- (a) a copy of the [^{F23}notices]; and
 - (b) evidence that [^{F24}they have been sent].

[^{F25}(4A) An unauthorised tenant of residential property may apply to the court for the order for possession to be suspended.]

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: 1-GENERAL RULES. (See end of Document for details)

Textual Amendments

- F17** Rule 55.10(2) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(a)**
- F18** Word in rule 55.10(2)(a) omitted (30.4.2010) by virtue of [The Civil Procedure \(Amendment\) Rules 2010](#) (S.I. 2010/621), rules 1(2), **10(a)(i)**
- F19** Word in rule 55.10(2)(b) substituted (30.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010](#) (S.I. 2010/621), rules 1(2), **10(a)(ii)**
- F20** Rule 55.10(2)(c) inserted (30.4.2010) by [The Civil Procedure \(Amendment\) Rules 2010](#) (S.I. 2010/621), rules 1(2), **10(a)(iii)**
- F21** Words in rule 55.10(3) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(b)**
- F22** Rule 55.10(3A) inserted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(c)**
- F23** Words in rule 55.10(4)(a) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(d)(i)**
- F24** Word in rule 55.10(4)(b) substituted (1.10.2009) by [The Civil Procedure \(Amendment\) Rules 2009](#) (S.I. 2009/2092), rules 1(2), **11(d)(ii)**
- F25** Rule 55.10(4A) inserted (1.10.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2010](#) (S.I. 2010/1953), rules 1(2), **7**

[^{F26}E] **Electronic issue of certain possession claims**

55.10A.—(1) A practice direction may make provision for a claimant to start certain types of possession claim in certain courts by requesting the issue of a claim form electronically.

(2) The practice direction may, in particular—

- (a) provide that only particular provisions apply in specific courts;
- (b) specify—
 - (i) the type of possession claim which may be issued electronically;
 - (ii) the conditions that a claim must meet before it may be issued electronically;
- (c) specify the court where the claim may be issued;
- (d) enable the parties to make certain applications or take further steps in relation to the claim electronically;
- (e) specify the requirements that must be fulfilled in relation to such applications or steps;
- (f) enable the parties to correspond electronically with the court about the claim;
- (g) specify the requirements that must be fulfilled in relation to electronic correspondence;
- (h) provide how any fee payable on the filing of any document is to be paid where the document is filed electronically.

(3) The Practice Direction may disapply or modify these Rules as appropriate in relation to possession claims started electronically.]]

Textual Amendments

- F26** Rule 55.10A inserted (1.10.2005) by [The Civil Procedure \(Amendment No.3\) Rules 2005](#) (S.I. 2005/2292), rules 1(c), **44**

Status:

Point in time view as at 22/04/2014.

Changes to legislation:

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: I-GENERAL RULES.