

---

STATUTORY INSTRUMENTS

---

**1998 No. 3132**

The Civil Procedure Rules 1998

[<sup>F1</sup>PART 65

PROCEEDINGS RELATING TO ANTI-SOCIAL BEHAVIOUR AND HARASSMENT

[<sup>F1</sup>SECTION III

*Demotion claims and proceedings relating to demoted tenancies*

**Textual Amendments**

- F1** Pt. 65 inserted (30.6.2004) by [The Civil Procedure \(Amendment\) Rules 2004 \(S.I. 2004/1306\)](#), rule 1(b), [Sch. 2](#) (with [rule 20\(2\)\(a\)](#))

**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<sup>(1)</sup> or under section 6A of the Housing Act 1988<sup>(2)</sup> (“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.

---

(1) 1995 c. 21.  
(2) 1980 c. 58.

### **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.

(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.

#### **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.]

**Status:**

Point in time view as at 30/06/2004.

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, Cross Heading: SECTION III.