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STATUTORY INSTRUMENTS

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**2022 No. 783**

**The Civil Procedure (Amendment No. 2) Rules 2022**

**Amendment of Part 55**

**22.**—(1) In the Table of Contents, after the entry for rule 55.28 insert—

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(2) After rule 55.29 insert—

## *“IV RENTING HOMES WALES - GENERAL RULES*

### Interpretation

**55.30.** In this Section of this Part—

- (a) “the 2016 Act” means the Renting Homes (Wales) Act 2016(1);
- (b) “a contract-holder” is the person who makes an occupation contract with a landlord and is a contract-holder under sections 7 and 48 of the 2016 Act(2);
- (c) “Convention rights” has the meaning provided by the Human Rights Act 1998(3);
- (d) “a dwelling” means a dwelling let under an occupation contract;
- (e) “an extended possession order” means an order for possession against a sub-holder under section 65(4) of the 2016 Act;
- (f) “an occupation contract” is a tenancy or licence that is an occupation contract under section 7 of the 2016 Act;
- (g) “a prohibited conduct standard contract order claim” means a claim under section 116(5) of the 2016 Act;
- (h) “a Renting Homes possession claim” means a claim for the recovery of possession of a dwelling under the 2016 Act;
- (i) “a sub-holder” has the meaning provided by section 59(6) of the 2016 Act;
- (j) “a standard contract” has the meaning provided by section 8(7) of the 2016 Act.

### Scope

**55.31.**—(1) The procedure set out in this Section of this Part must be used where the claim is a Renting Homes possession claim.

(Where a prohibited conduct standard contract order claim is made in the same claim form in which a Renting Homes possession claim is made, this Section of this Part applies. Where the claim is a prohibited conduct standard contract order claim only, 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;
- (b) does not apply where the claimant uses the procedure set out in Section V of this Part;
- (c) applies irrespective of whether an application for an extended possession order may be made in the course of the Renting Homes possession claim.

### Starting the claim

**55.32.**—(1) In the County Court—

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- (1) [2016 anaw 1](#). Section 257 makes provision about commencement. Part 11 of the Act came into force the day after the day on which the Act received Royal Assent (19 January 2016). Certain other provisions of the Act were brought into force by [S.I. 2016/813](#) for the purpose of making Regulations and issuing Guidance. The Welsh Government has announced that the remaining provisions of the Act are to come into force on 1st December 2022.
  - (2) [2016 anaw 1](#). Section 7 was brought into force for certain purposes by [S.I. 2016/813](#), art 2 Sch Part 1, paras 11 and 12.
  - (3) [1998 c.42](#). Section 1 was amended by [S.I. 2003/1887](#) article 1 and by [S.I. 2004/1574](#) article 2.
  - (4) [2016 anaw 1](#). Section 65(3) was amended by the Renting Homes (Amendment) (Wales) Act 2021 ([asc 3](#)), s 18 Sch 6 paras 1, 8.
  - (5) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 116(4) and (5) was brought into force for certain purposes by [S.I. 2016/813](#) article 2, Schedule Part 2 paragraph 21 and Part 1 paragraph 18 respectively.
  - (6) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument.
  - (7) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument.

- (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 is to be issued by the hearing centre where the claim is made; and
- (c) if that hearing centre does not serve the address where the dwelling is situated, the claim is to be sent, after issue, to the hearing centre serving that address.

(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 dwelling is situated.)

(2) The claim may be started in the High Court if the claimant files with their 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 claim form and form of defence sent with it must be in the forms specified in Practice Direction 55A.

### **Particulars of claim**

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

(Part 16 and Practice Direction 55A provide details about the contents of the particulars of claim.)

### **Hearing date**

**55.34.**—(1) Subject to paragraph (2), the court is to fix a date for the hearing when it issues the claim form.

(2) If the claim has been sent on to the hearing centre which serves the address where the dwelling is situated, that hearing centre is to fix a date for hearing when it receives the claim.

(3) In all Renting Homes possession claims—

- (a) the hearing date is to 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 is to 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.

### **Defendant's response and adding of sub-holder as a party**

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

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

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

(4) Where a sub-holder applies to the court to be added as a party to proceedings, the court must add them as a defendant if they are entitled to be a party under section 65(4)(8) of the 2016 Act.

### **The hearing**

**55.36.**—(1) At the hearing fixed in accordance with rule 55.34 or at any adjournment of that hearing, the court may—

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(8) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument.

- (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.

- (4) All witness statements must be filed and served at least 2 days before the hearing.

(5) Where the claimant serves the claim form and particulars of claim, the claimant must produce at the hearing a certificate of service of those documents and rule 6.17(2)(a) does not apply.

### **Allocation**

**55.37.**—(1) When the court decides the track for a Renting Homes possession claim, the matters it must consider 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;
- (c) the importance to the defendant of retaining possession of the dwelling;
- (d) the importance of vacant possession to the claimant; and
- (e) if applicable, the alleged conduct of the defendant.

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

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

### **Electronic issue of certain Renting Homes possession claims**

**55.38.**—(1) A practice direction may make provision for a claimant to start certain types of Renting Homes 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 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 claims started electronically.

*V RENTING HOMES WALES – ACCELERATED POSSESSION  
CLAIMS OF DWELLINGS LET ON A STANDARD CONTRACT*

### **Interpretation**

**55.39.** The definitions set out in rule 55.30 apply to this Section also.

### **When this Section may be used**

**55.40.—**(1) The claimant may bring a Renting Homes possession claim under this Section of this Part where—

- (a) the claim is brought under—
  - (i) section 170(9) of the 2016 Act to recover possession of a dwelling let under a periodic standard contract (following contract-holder’s notice);
  - (ii) section 178(10) of the 2016 Act to recover possession of a dwelling let under a periodic standard contract (landlord’s notice);
  - (iii) section 186(11) of the 2016 Act to recover possession of a dwelling let under a fixed term standard contract (landlord’s notice at end of fixed term);
  - (iv) section 191(12) of the 2016 Act to recover possession of a dwelling let under a fixed term standard contract (following contract-holder’s break clause); or
  - (v) section 199(13) of the 2016 Act to recover possession of a dwelling let on a fixed term standard contract (landlord’s break clause); and
- (b) all the conditions listed in rule 55.41 are satisfied.

(2) The claimant may make the claim at any County Court hearing centre, unless an enactment provides otherwise.

(3) The claim is to be issued by the hearing centre where the claim is made.

(4) If the hearing centre where the claim is made does not serve the address where the dwelling is situated, the claim is to be sent, after issue, to the hearing centre serving that address.

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(9) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 173(3) was repealed by the Renting Homes (Amendment) (Wales) Act 2021 (asc 3) section 121.

(10) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument.

(11) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 186 was amended by the Renting Homes (Amendment) (Wales) Act 2021 (asc 3) s10.

(12) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument.

(13) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument.

## Conditions

**55.41.** The conditions referred to in rule 55.40(1)(b) are that—

- (a) the only purpose of the claim is to recover possession of the dwelling and no other claim is made;
- (b) the claim relates to an occupation contract which is a standard contract; and
- (c) a prescribed notice in accordance with any of the following sections of the 2016 Act was given to the contract-holder—
  - (i) section 171 (if the claim is brought under section 170(14) of that Act);
  - (ii) section 173 (if the claim is brought under section 178(15) of that Act);
  - (iii) section 186(16) (if the claim is brought under that section);
  - (iv) section 192 (if the claim is brought under section 191(17) of that Act); or
  - (v) section 194(18) (if the claim is brought under section 199(19) of that Act).

## Claim form

**55.42.**—(1) The claim form must—

- (a) be in the form specified in Practice Direction 55A; and
- (b) contain all information and be accompanied by all documents as are required by that form.

(2) The court is to serve the claim form by first class post (or an alternative service which provides for delivery on the next working day).

## Defence

**55.43.**—(1) A defendant who wishes to—

- (a) oppose the claim; or
- (b) seek a postponement of possession in accordance with rule 55.47,

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

(2) The defence must be in the form specified in Practice Direction 55A.

## Claim referred to judge

**55.44.**—(1) On receipt of the defence the court must—

- (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 55.43 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 must refer that request to a judge.

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(14) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument.

(15) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument.

(16) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 186 was amended by the Renting Homes (Amendment) (Wales) Act 2021 (asc 3) s10.

(17) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument.

(18) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 194 was amended by the Renting Homes (Amendment) (Wales) Act 2021 (asc 3), s11.

(19) [2016 anaw 1](#). For commencement generally see footnote (a) to rule 24(2) of this instrument.

(3) Where the defence is received after the period set out in rule 55.43 has expired but before a request is filed in accordance with paragraph (2), paragraph (1) still applies.

(4) Where—

- (a) the period set out in rule 55.43 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 55.43,

the claim must be stayed.

### Consideration of the claim

**55.45.**—(1) After considering the claim and any defence, the judge may—

- (a) make an order for possession under rule 55.46 without requiring the attendance of the parties;
- (b) strike out the claim if the claim form discloses no reasonable grounds for bringing the claim; or
- (c) where paragraphs (2) or (3) apply—
  - (i) direct that a date be fixed for a hearing; and
  - (ii) give any appropriate case management directions.

(2) This paragraph applies where the judge is not satisfied either that the claim form was served or that the claimant has established that they are entitled to recover possession from the defendant.

(3) This paragraph applies where—

- (a) an application under section 36 (incomplete written statement) or section 37(20) (incorrect statement: contract-holder’s application to the court) of the 2016 Act has been made (and not disposed of) in connection with the occupation contract of the dwelling in respect of which the possession claim has been brought;
- (b) the claim is a claim under section 178 or section 199 of the 2016 Act, where the issue of retaliatory possession has been raised under section 217 of the 2016 Act(21);
- (c) the claim is a claim under section 170, section 178, section 186, section 191 or section 199(22) of the 2016 Act, where a defence based on the defendant’s Convention rights is raised.

(5) The court is to give all parties not less than 14 days’ notice of a hearing fixed under paragraph (1)(c)(i).

(6) Where a claim is struck out under paragraph (1)(b)—

- (a) the court is to 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 them.

### Possession order

**55.46.** Except where rules 55.45(1)(b) or (c) apply, the judge must make an order for possession without requiring the attendance of the parties.

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(20) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 37(2) was amended by the Renting Homes (Amendment) (Wales) Act 2021 (asc 3) s18, Sch 6, paras 1, 5.

(21) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument.

(22) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument. Section 186 was amended by the Renting Homes (Amendment) (Wales) Act 2021 (asc 3) s10.

### **Postponement of possession**

**55.47.**—(1) Where the defendant seeks postponement of possession on the ground of exceptional hardship under section 219(23) of the 2016 Act, 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 must 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, the judge may vary the date on which possession must be given up.

### **Application to set aside or vary**

**55.48.** 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 55.46.”.

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(23) 2016 anaw 1. For commencement generally see footnote (a) to rule 24(2) of this instrument.