

# PRACTICE DIRECTION – LANDLORD AND TENANT CLAIMS AND MISCELLANEOUS PROVISIONS ABOUT LAND

## THIS PRACTICE DIRECTION SUPPLEMENTS PART 56

**NOTE:** This Practice Direction does not come into force until 15 October 2001

### SECTION I – LANDLORD AND TENANT CLAIMS

- 1.1 In this section of this practice direction –
- (1) ‘the 1927 Act’ means the Landlord and Tenant Act 1927;
  - (2) ‘the 1954 Act’ means the Landlord and Tenant Act 1954;
  - (3) ‘the 1985 Act’ means the Landlord and Tenant Act 1985; and
  - (4) ‘the 1987 Act’ means the Landlord and Tenant Act 1987.

#### 56.2 – STARTING THE CLAIM

- 2.1 The claimant in a landlord and tenant claim must use the Part 8 procedure as modified by Part 56 and this practice direction.
- 2.2 Except where the county court does not have jurisdiction or rule 56.2(4) applies, landlord and tenant claims should normally be brought in the county court. Only exceptional circumstances justify starting a claim in the High Court.
- 2.3 If a claimant starts a claim in the High Court and the court decides that it should have been started in the county court, the court will normally either strike the claim out or transfer it to the county court on its own initiative. This is likely to result in delay and the court will normally disallow the costs of starting the claim in the High Court and of any transfer.
- 2.4 Circumstances which may, in an appropriate case, justify starting a claim in the High Court are if –
- (1) there are complicated disputes of fact; or
  - (2) there are points of law of general importance.
- 2.5 The value of the property and the amount of any financial claim may be relevant circumstances, but these factors alone will not normally justify starting the claim in the High Court.

#### CLAIM FOR NEW TENANCY UNDER SECTION 24 OF THE 1954 ACT

- 3.1 This paragraph applies to a claim for a new tenancy under section 24 of the 1954 Act.

## Claim form

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- 3.2 The claim form must include details of:
- (1) the property to which the claim relates;
  - (2) the nature of the business carried on at the property;
  - (3) the particulars of the current tenancy (including date, parties and duration), the current rent (if not the original rent) and the date and method of termination;
  - (4) whether any, and if so what, part of the property comprised in the tenancy is occupied neither by the tenant nor by a person employed by the tenant for the purposes of his business;
  - (5) particulars of every notice or request given or made under sections 25 or 26 of the 1954 Act;
  - (6) the claimant's proposed terms of the new tenancy;
  - (7) the name and address of anyone known to the claimant who –
    - (a) has an interest in the reversion in the property (whether immediate or in not more than 14 years) on the termination of the claimant's current tenancy; and
    - (b) who is likely to be affected by the grant of a new tenancy (other than a person whose only interest is a freeholder).
- 3.3 The claim form must be served on the persons referred to in paragraph 3.2(7).

## Defendant

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- 3.4 The person who, in relation to the claimant's current tenancy, is the landlord as defined by section 44 of the 1954 Act must be a defendant.

## Notice requesting stay

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- 3.5 The notice referred to in rule 56.3(4)(a) may be given by letter to the court.

## Acknowledgment of service

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- 3.6 The acknowledgment of service must state with particulars:
- (1) whether the defendant opposes the grant of a new tenancy and, if so, on what grounds;
  - (2) whether, if a new tenancy is granted, the defendant objects to any of the terms proposed by the claimant and, if so, the terms to which he objects and the terms which he proposes in so far as they differ from those proposed by the claimant;

- (3) whether the defendant 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 so, the name and address of any person who, to the knowledge of the defendant, has an interest in reversion in the property expectant (whether immediately or in not more than 14 years from that date) on the termination of the defendant's tenancy;
  - (4) the name and address of any person having an interest in the property other than a freehold interest or tenancy who is likely to be affected by the grant of a new tenancy;
  - (5) if the claimant's current tenancy is one to which section 32(2) of the 1954 Act applies, whether the defendant requires that any new tenancy shall be a tenancy of the whole of the property comprised in the claimant's current tenancy.
- 3.7 The acknowledgment of service may include or be accompanied by an application by the defendant for an order that the claimant pay an interim rent under section 24A of the 1954 Act.

## Evidence

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- 3.8 The evidence required to be served under rule 56.3(10) or (11) is that supporting the parties' positions so that the court can identify the issues and give appropriate further directions which may include directions about –
- (1) the trial of any preliminary issues;
  - (2) the service of –
    - (a) further witness statements; and
    - (b) any expert evidence.

## OTHER CLAIMS UNDER PART II OF THE 1954 ACT

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- 4.1 The mesne landlord to whose consent a claim for the determination of any question arising under paragraph 4(3) of Schedule 6 to the 1954 Act shall be made a defendant to the claim.
- 4.2 If any dispute as to the rateable value of any holding has been referred under section 37(5) of the 1954 Act to the Commissioners of Inland Revenue for decision by a valuation officer, any document purporting to be a statement of the valuation officer of his decision is admissible as evidence of the matters contained in it.

## CLAIM FOR COMPENSATION FOR IMPROVEMENTS UNDER PART I OF THE 1927 ACT

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- 5.1 This paragraph applies to a claim under Part I of the 1927 Act.

## The claim form

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- 5.2 The claim form must include details of:
- (1) the nature of the claim or the matter to be determined;
  - (2) the property to which the claim relates;
  - (3) the nature of the business carried on at the property;
  - (4) particulars of the lease or agreement for the tenancy including:
    - (a) the names and addresses of the parties to the lease or agreement;
    - (b) its duration;
    - (c) the rent payable;
    - (d) details of any assignment or other devolution of the lease or agreement;
  - (5) the date and mode of termination of the tenancy;
  - (6) if the claimant has left the property, the date on which he did so;
  - (7) particulars of the improvement or proposed improvement to which the claim relates; and
  - (8) if the claim is for payment of compensation, the amount claimed;
- 5.3 The court will fix a date for a hearing when it issues the claim form.

## Defendant

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- 5.4 The claimant's immediate landlord must be a defendant to the claim.
- 5.5 The defendant must immediately serve a copy of the claim form and any document served with it and of his acknowledgment of service on his immediate landlord. If the person so served is not the freeholder, he must serve a copy of these documents on his landlord and so on from landlord to landlord.

## Evidence

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- 5.6 Evidence need not be filed – with the claim form or acknowledgment of service.

## Certification under section 3 of the 1927 Act

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- 5.7 If the court intends to certify under section 3 of the 1927 Act that an improvement is a proper improvement or has been duly executed, it shall do so by way of an order.

### **Compensation under section 1 or 8 of the 1927 Act**

- 5.8 A claim under section 1(1) or 8(1) of the 1927 Act must be in writing, signed by the claimant, his solicitor or agent and include details of
- (1) the name and address of the claimant and of the landlord against whom the claim is made;
  - (2) the property to which the claim relates;
  - (3) the nature of the business carried on at the property;
  - (4) a concise statement of the nature of the claim;
  - (5) particulars of the improvement, including the date when it was completed and costs; and
  - (6) the amount claimed.
- 5.9 A mesne landlord must immediately serve a copy of the claim on his immediate superior landlord. If the person so served is not the freeholder, he must serve a copy of the document on his landlord and so on from landlord to landlord.

(Paragraphs 5.8 and 5.9 provide the procedure for making claims under section 1(1) and 8(1) of the 1927 Act – these ‘claims’ do not, at this stage, relate to proceedings before the court)

### **TRANSFER TO LEASEHOLD VALUATION TRIBUNAL UNDER 1985 ACT**

- 6.1 If a question is ordered to be transferred to a leasehold valuation tribunal for determination under section 31C of the 1985 Act the court will:
- (1) send notice of the transfer to all parties to the claim; and
  - (2) send to the leasehold valuation tribunal:
    - (a) copies certified by the district judge of all entries in the records of the court relating to the question;
    - (b) the order of transfer; and
    - (c) all documents filed in the claim relating to the question.

### **CLAIM TO ENFORCE OBLIGATION UNDER PART I OF THE 1987 ACT**

- 7.1 A copy of the notice served under section 19(2)(a) of the 1987 Act must accompany the claim form seeking an order under section 19(1) of that Act.

### **CLAIM FOR ACQUISITION ORDER UNDER SECTION 28 OF THE 1987 ACT**

- 8.1 This paragraph applies to a claim for an acquisition order under section 28 of the 1987 Act.

## Claim form

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- 8.2 The claim form must:
- (1) identify the property to which the claim relates and give details to show that section 25 of the 1987 Act applies;
  - (2) give details of the claimants to show that they constitute the requisite majority of qualifying tenants;
  - (3) state the names and addresses of the claimants and of the landlord of the property, or, if the landlord cannot be found or his identity ascertained, the steps taken to find him or ascertain his identity;
  - (4) state the name and address of:
    - (a) the person nominated by the claimants for the purposes of Part III of the 1987 Act; and
    - (b) every person known to the claimants who is likely to be affected by the application, including (but not limited to), the other tenants of flats contained in the property (whether or not they could have made a claim), any mortgagee or superior landlord of the landlord, and any tenants' association (within the meaning of section 29 of the 1985 Act); and
  - (5) state the grounds of the claim.

## Notice under section 27

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- 8.3 A copy of the notice served on the landlord under section 27 of the 1987 Act must accompany the claim form unless the court has dispensed with the requirement to serve a notice under section 27(3) of the 1987 Act.

## Defendants

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- 8.4 The landlord of the property (and the nominated person, if he is not a claimant) must be defendants.

## Service

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- 8.5 A copy of the claim form must be served on each of the persons named by the claimant under paragraph 8.2(4)(b) together with a notice that he may apply to be made a party.

## Payment into court by nominated person

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- 8.6 If the nominated person pays money into court in accordance with an order under section 33(1) of the 1987 Act, he must file a copy of the certificate of the surveyor selected under section 33(2)(a) of that Act.

## CLAIM FOR AN ORDER VARYING LEASES UNDER THE 1987 ACT

- 9.1 This paragraph applies to a claim for an order under section 38 or section 40 of the 1987 Act.

### Claim form

- 9.2 The claim form must state:
- (1) the name and address of the claimant and of the other current parties to the lease or leases to which the claim relates;
  - (2) the date of the lease or leases, the property to which they relate, any relevant terms and the variation sought;
  - (3) the name and address of every person known to the claimant who is likely to be affected by the claim, including (but not limited to), the other tenants of flats contained in premises of which the relevant property forms a part, any previous parties to the lease, any mortgagee or superior landlord of the landlord, any mortgagee of the claimant and any tenants' association (within the meaning of section 29 of the 1985 Act); and
  - (4) the grounds of the claim.

### Defendants

- 9.3 The other current parties to the lease must be defendants.

### Service

- 9.4 A copy of the claim form must be served on each of the persons named under paragraph 9.2(3).
- 9.5 If the defendant knows of or has reason to believe that another person or persons are likely to be affected by the variation, he must serve a copy of the claim form on those persons, together with a notice that they may apply to be made a party.

### Defendant's application to vary other leases

- 9.6 If a defendant wishes to apply to vary other leases under section 36 of the 1987 Act:
- (1) he must make the application in his acknowledgment of service;
  - (2) paragraphs 9.2 to 9.5 apply as if the defendant were the claimant; and
  - (3) Part 20 does not apply.

## **SERVICE OF DOCUMENTS IN CLAIMS UNDER THE 1987 ACT**

- 10.1 All documents must be served by the parties.
- 10.2 If a notice is to be served in or before a claim under the 1987 Act, it must be served –
  - (1) in accordance with section 54, and
  - (2) in the case of service on a landlord, at the address given under section 48(1).

## **SECTION II – MISCELLANEOUS PROVISIONS ABOUT LAND**

### **ACCESS TO NEIGHBOURING LAND ACT 1992**

- 11.1 The claimant must use the Part 8 procedure.
- 11.2 The claim form must set out:
  - (1) details of the dominant and servient land involved and whether the dominant land includes or consists of residential property;
  - (2) the work required;
  - (3) why entry to the servient land is required with plans (if applicable);
  - (4) the names and addresses of the persons who will carry out the work;
  - (5) the proposed date when the work will be carried out; and
  - (6) what (if any) provision has been made by way of insurance in the event of possible injury to persons or damage to property arising out of the proposed work.
- 11.3 The owner and occupier of the servient land must be defendants to the claim.

### **CHANCEL REPAIRS ACT 1932**

- 12.1 The claimant in a claim to recover the sum required to put a chancel in proper repair must use the Part 8 procedure.
- 12.2 A notice to repair under section 2 of the Chancel Repairs Act 1932 must –
  - (1) state –
    - (a) the responsible authority by whom the notice is given;
    - (b) the chancel alleged to be in need of repair;
    - (c) the repairs alleged to be necessary; and



- (d) the grounds on which the person to whom the notice is addressed is alleged to be liable to repair the chancel; and
  - (2) call upon the person to whom the notice is addressed to put the chancel in proper repair.
- 12.3 The notice must be served in accordance with Part 6.

## LEASEHOLD REFORM ACT 1967

- 13.1 In this paragraph a section or schedule referred to by number means the section or schedule so numbered in the Leasehold Reform Act 1967.
- 13.2 If a tenant of a house and premises wishes to pay money into court under sections 11(4), 13(1) or 13(3) –
- (1) he must file in the office of the appropriate court an application notice containing or accompanied by evidence stating –
    - (a) the reasons for the payment into court,
    - (b) the house and premises to which the payment relates;
    - (c) the name and address of the landlord; and
    - (d) so far as they are known to the tenant, the name and address of every person who is or may be interested in or entitled to the money;
  - (2) on the filing of the witness statement the tenant must pay the money into court and the court will send notice of the payment to the landlord and every person whose name and address are given in the witness statement;
  - (3) any subsequent payment into court by the landlord under section 11(4) must be made to the credit of the same account as the payment into court by the tenant and sub-paragraphs (1) and (2) will apply to the landlord as if he were a tenant;
  - (4) the appropriate court for the purposes of paragraph (a) is the county court for the district in which the property is situated or, if the payment into court is made by reason of a notice under section 13(3), any other county court as specified in the notice;
- 13.3 If an order is made transferring an application to a leasehold valuation tribunal under section 21(3), the court will:
- (1) send notice of the transfer to all parties to the application; and
  - (2) send to the tribunal copies of the order of transfer and all documents filed in the proceedings.
- 13.4 A claim under section 17 or 18 for an order for possession of a house and premises *must be made in accordance with Part 55*.
- 13.5 *In a claim under section 17 or 18, the defendant must:*

- (1) immediately after being served with the claim form, serve on every person in occupation of the property or part of it under an immediate or derivative sub-tenancy, a notice informing him of the claim and of his right under paragraph 3(4) of Schedule 2 to take part in the hearing of the claim with the permission of the court; and
- (2) within 14 days after being served with the claim form, file a defence stating the ground, if any, on which he intends to oppose the claim and giving particulars of every such sub-tenancy.

## **LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

### **14.1 In this paragraph:**

- (1) ‘the 1993 Act’ means the Leasehold Reform, Housing and Urban Development Act 1993; and
- (2) a section or schedule referred to by number means the section or schedule so numbered in the 1993 Act.

### **14.2 If a claim is made under section 23(1) by a person other than the reversioner:**

- (1) on the issue of the claim form in accordance with Part 8, the claimant must send a copy to the reversioner; and
- (2) the claimant must promptly inform the reversioner either:
  - (a) of the court’s decision; or
  - (b) that the claim has been withdrawn.

### **14.3 Where an application is made under section 26(1) or (2) or section 50(1) or (2):**

- (1) it must be made by the issue of a claim form in accordance with the Part 8 procedure which need not be served on any other party; and
- (2) the court may grant or refuse the application or give directions for its future conduct, including the addition as defendants of such persons as appear to have an interest in it.

### **14.4 An application under section 26(3) must be made by the issue of a claim form in accordance with the Part 8 procedure and:**

- (1) the claimants must serve the claim form on any person who they know or have reason to believe is a relevant landlord, giving particulars of the claim and the hearing date and informing that person of his right to be joined as a party to the claim;
- (2) the landlord whom it is sought to appoint as the reversioner must be a defendant, and must file an acknowledgment of service;

- (3) a person on whom notice is served under paragraph (1) must be joined as a defendant to the claim if he gives notice in writing to the court of his wish to be added as a party, and the court will notify all other parties of the addition.

14.5 If a person wishes to pay money into court under section 27(3), section 51(3) or paragraph 4 of Schedule 8 –

- (1) he must file in the office of the appropriate court an application notice containing or accompanied by evidence stating –
  - (a) the reasons for the payment into court,
  - (b) the interest or interests in the property to which the payment relates or where the payment into court is made under section 51(3), the flat to which it relates;
  - (c) details of any vesting order;
  - (d) the name and address of the landlord; and
  - (e) so far as they are known to the tenant, the name and address of every person who is or may be interested in or entitled to the money;
- (2) on the filing of the witness statement the money must be paid into court and the court will send notice of the payment to the landlord and every person whose name and address are given in the witness statement;
- (3) any subsequent payment into court by the landlord must be made to the credit of the same account as the earlier payment into court;
- (4) the appropriate court for the purposes of paragraph (1) is –
  - (a) where a vesting order has been made, the county court that made the order; or
  - (b) where no such order has been made, the county court in whose district the property is situated.

14.6 If an order is made transferring an application to a leasehold valuation tribunal under section 91(4), the court will:

- (1) send notice of the transfer to all parties to the application; and
- (2) send to the tribunal copies of the order of transfer and all documents filed in the proceedings.

14.7 If a relevant landlord acts independently under Schedule 1, paragraph 7, he is entitled to require any party to claims under the 1993 Act (as described in paragraph 7(1)(b) of Schedule 1) to supply him, on payment of the reasonable costs of copying, with copies of all documents which that party has served on the other parties to the claim.

