

POSSESSION CLAIMS ONLINE

This Practice Direction supplements CPR rule 55.10A.

SCOPE OF THIS PRACTICE DIRECTION

- 1.1** This practice direction provides for a scheme ('Possession Claims Online') to operate in specified county courts –
- (1) enabling claimants and their representatives to start certain possession claims under CPR Part 55 by requesting the issue of a claim form electronically via the PCOL website; and
 - (2) where a claim has been started electronically, enabling the claimant or defendant and their representatives to take further steps in the claim electronically as specified below.
- 1.2** In this practice direction –
- (1) 'PCOL website' means the website www.possessionclaim.gov.uk which may be accessed via Her Majesty's Courts Service website (www.hmcourts-service.gov.uk) and through which Possession Claims Online will operate; and
 - (2) 'specified court' means a county court specified on the PCOL website as one in which Possession Claims Online is available.

INFORMATION ON THE PCOL WEBSITE

- 2.1** The PCOL website contains further details and guidance about the operation of Possession Claims Online.
- 2.2** In particular the PCOL website sets out –
- (1) the specified courts; and
 - (2) the dates from which Possession Claims Online will be available in each specified court.
- 2.3** The operation of Possession Claims Online in any specified court may be restricted to taking certain of the steps specified in this practice direction, and in such cases the PCOL website will set out the steps which may be taken using Possession Claims Online in that specified court.

SECURITY

- 3.1** Her Majesty's Courts Service will take such measures as it thinks fit to ensure the security of steps taken or information stored electronically. These may include requiring users of Possession Claims Online –
- (1) to enter a customer identification number or password;
 - (2) to provide personal information for identification purposes; and
 - (3) to comply with any other security measures, before taking any step online.

FEES

- 4.1** A step may only be taken using Possession Claims Online on payment of the prescribed fee where a fee is payable. Where this practice direction provides for a fee to be paid electronically, it may be paid by –
- (1)** credit card;
 - (2)** debit card; or
 - (3)** any other method which Her Majesty's Courts Service may permit.
- 4.2** A defendant who wishes to claim exemption from payment of fees must do so through an organisation approved by Her Majesty's Courts Service before taking any step using PCOL which attracts a fee. If satisfied that the defendant is entitled to fee exemption, the organisation will submit the fee exemption form through the PCOL website to Her Majesty's Courts Service. The defendant may then use PCOL to take such a step.

(Her Majesty's Courts Service website contains guidance as to when the entitlement to claim an exemption from payment of fees arises. The PCOL website will contain a list of organisations through which the defendant may claim an exemption from fees).

CLAIMS WHICH MAY BE STARTED USING POSSESSION CLAIMS ONLINE

- 5.1** A claim may be started online if –
- (1)** it is brought under Section I of Part 55;
 - (2)** it includes a possession claim for residential property by –
 - (a)** a landlord against a tenant, solely on the ground of arrears of rent (but not a claim for forfeiture of a lease); or
 - (b)** a mortgagee against a mortgagor, solely on the ground of default in the payment of sums due under a mortgage, relating to land within the district of a specified court;
 - (3)** it does not include a claim for any other remedy except for payment of arrears of rent or money due under a mortgage, interest and costs;
 - (4)** the defendant has an address for service in England and Wales; and
 - (5)** the claimant is able to provide a postcode for the property.
- 5.2** A claim must not be started online if a defendant is known to be a child or patient.

STARTING A CLAIM

- 6.1** A claimant may request the issue of a claim form by –
- (1)** completing an online claim form at the PCOL website;
 - (2)** paying the appropriate issue fee electronically at the PCOL website or by some other means approved by Her Majesty's Courts Service.
- 6.2** The particulars of claim must be included in the online claim form and may not be filed separately. It is not necessary to file a copy of the tenancy agreement, mortgage deed or mortgage agreement with the particulars of claim.
- 6.3** Subject to paragraphs 6.3A and 6.3B, the particulars of claim must include a history of the rent or mortgage account, in schedule form setting out –

- (1) the dates and amounts of all payments due and payments made under the tenancy agreement, mortgage deed or mortgage agreement either from the first date of default if that date occurred less than two years before the date of issue or for a period of two years immediately preceding the date of issue; and
- (2) a running total of the arrears.

6.3A Paragraph 6.3B applies where the claimant has provided the defendant with –

- (1) the information required by MCOB 13.4.1 and MCOB 13.4.4 of the Mortgages: Conduct of Business Rules issued by the Financial Services Authority; or
- (2) in schedule form, the dates and amounts of all payments due and payments made under the tenancy agreement for a period of two years immediately preceding the date of issue, or if the first date of default occurred less than two years before the date of issue, from the first date of default and a running total of the arrears.

(MCOB 13.4.1 and MCOB 13.4.4 may be found at <http://fsahandbook.info/FSA/html/handbook/MCOB/13>)

6.3B Where this paragraph applies the claimant may, in place of the information required by paragraph 6.3, include in his particulars of claim a summary only of the arrears containing at least the following information –

- (1) The amount of arrears as stated in the notice of seeking possession served under either section 83 of the Housing Act 1985 or section 8 of the Housing Act 1988, or at the date of the claimant's letter before action, as appropriate;
- (2) the dates and amounts of the last three payments in cleared funds made by the defendant or, if less than three payments have been made, the dates and amounts of all payments made;
- (3) the arrears at the date of issue, assuming that no further payments are made by the defendant.

6.3C Where the particulars of claim include a summary only of the arrears the claimant must –

- (1) serve on the defendant not more than 7 days after the date of issue, a full arrears history containing at least the information required by paragraph 6.3; and
- (2) either –
 - (a) make a witness statement confirming that he has complied with sub-paragraph (1) or (2) of paragraph 6.3A as appropriate, and including or exhibiting the full arrears history; or
 - (b) verify by way of oral evidence at the hearing that he has complied with sub-paragraph (1) or (2) of paragraph 6.3A as appropriate and also produce and verify the full arrears history.

(Rule 55.8(4) requires all witness statements to be filed and served at least 2 days before the hearing.)

6.4 If the claimant wishes to rely on a history of arrears which is longer than two years, he should state this in his particulars and exhibit a full (or longer) schedule to a witness statement.

6.5 When an online claim form is received, an acknowledgment of receipt will automatically be sent to the claimant. The acknowledgment does not constitute notice that the claim form has been issued or served.

6.6 When the court issues a claim form following the submission of an online claim form, the claim is 'brought' for the purposes of the Limitation Act 1980 and any other enactment on the date on which the online claim form is received by the court's computer system. The court will keep a record, by electronic or other means, of when online claim forms are received.

6.7 When the court issues a claim form it will –

- (1) serve a printed version of the claim form and a defence form on the defendant; and

- (2) send the claimant notice of issue by post or, where the claimant has supplied an e-mail address, by electronic means.
- 6.8** The claim shall be deemed to be served on the fifth day after the claim was issued irrespective of whether that day is a business day or not.
- 6.9** Where the period of time within which a defence must be filed ends on a day when the court is closed, the defendant may file his defence on the next day that the court is open.
- 6.10** The claim form shall have printed on it a unique customer identification number or a password by which the defendant may access the claim on the PCOL website.
- 6.11** PCOL will issue the proceedings in the appropriate county court by reference to the post code provided by the claimant and that court shall have jurisdiction to hear and determine the claim and to carry out enforcement of any judgment irrespective of whether the property is within or outside the jurisdiction of that court.
- (CPR 30.2(1) authorises proceedings to be transferred from one county court to another.)

DEFENCE

- 7.1** A defendant wishing to file –
- (1) a defence; or
- (2) a counterclaim (to be filed together with a defence) to a claim which has been issued through the PCOL system,
- may, instead of filing a written form, do so by –
- (a) completing the relevant online form at the PCOL website; and
- (b) if the defendant is making a counterclaim, paying the appropriate fee electronically at the PCOL website or by some other means approved by Her Majesty's Courts Service.
- 7.2** Where a defendant files a defence by completing the relevant online form, he must not send the court a hard copy.
- 7.3** When an online defence form is received, an acknowledgment of receipt will automatically be sent to the defendant. The acknowledgment does not constitute notice that the defence has been served.
- 7.4** The online defence form will be treated as being filed –
- (1) on the day the court receives it, if it receives it before 4 p.m. on a working day; and
- (2) otherwise, on the next working day after the court receives the online defence form.
- 7.5** A defence is filed when the online defence form is received by the court's computer system. The court will keep a record, by electronic or other means, of when online defence forms are received.

STATEMENT OF TRUTH

- 8.1** CPR Part 22 requires any statement of case to be verified by a statement of truth. This applies to any online claims and defences and application notices.
- 8.2** CPR Part 22 also requires that if an applicant wishes to rely on matters set out in his application notice as evidence, the application notice must be verified by a statement of truth.

This applies to any application notice completed online that contains matters on which the applicant wishes to rely as evidence.

8.3 Attention is drawn to –

- (1) paragraph 2 of the practice direction supplementing CPR Part 22, which stipulates the form of the statement of truth; and
- (2) paragraph 3 of the practice direction supplementing CPR Part 22, which provides who may sign a statement of truth; and
- (3) CPR 32.14, which sets out the consequences of making, or causing to be made, a false statement in a document verified by a statement of truth, without an honest belief in its truth.

SIGNATURE

- 9.1** Any provision of the CPR which requires a document to be signed by any person is satisfied by that person entering his name on an online form.

COMMUNICATION WITH THE COURT ELECTRONICALLY BY THE MESSAGING SERVICE

- 10.1** If the PCOL website specifies that a court accepts electronic communications relating to claims brought using Possession Claims Online the parties may communicate with the court using the messaging service facility, available on the PCOL website ('the messaging service').
- 10.2** The messaging service is for brief and straightforward communications only. The PCOL website contains a list of examples of when it will not be appropriate to use the messaging service.
- 10.3** Parties must not send to the court forms or attachments via the messaging service.
- 10.4** The court shall treat any forms or attachments sent via the messaging service as not having been filed or received.
- 10.5** The court will normally reply via the messaging service where –
- (1) the response is to a message transmitted via the messaging service; and
 - (2) the sender has provided an e-mail address.

ELECTRONIC APPLICATIONS

- 11.1** Certain applications in relation to a possession claim started online may be made electronically ('online applications'). An online application may be made if a form for that application is published on the PCOL website ('online application form') and the application is made at least five clear days before the hearing.
- 11.2** If a claim for possession has been started online and a party wishes to make an online application, he may do so by –
- (1) completing the appropriate online application form at the PCOL website; and
 - (2) paying the appropriate fee electronically at the PCOL website or by some other means approved by Her Majesty's Courts Service.
- 11.3** When an online application form is received, an acknowledgment of receipt will automatically be sent to the applicant. The acknowledgment does not constitute a notice that the online application form has been issued or served.

- 11.4** Where an application must be made within a specified time, it is so made if the online application form is received by the court's computer system within that time. The court will keep a record, by electronic or other means, of when online application forms are received.
- 11.5** When the court receives an online application form it shall –
- (1) serve a copy of the online application endorsed with the date of the hearing by post on the claimant at least two clear days before the hearing; and
 - (2) send the defendant notice of service and confirmation of the date of the hearing by post; provided that
 - (3) where either party has provided the court with an e-mail address for service, service of the application and/or the notice of service and confirmation of the hearing date may be effected by electronic means.

REQUEST FOR ISSUE OF WARRANT

- 12.1** Where –
- (1) the court has made an order for possession in a claim started online; and
 - (2) the claimant is entitled to the issue of a warrant of possession without requiring the permission of the court
- the claimant may request the issue of a warrant by completing an online request form at the PCOL website and paying the appropriate fee electronically at the PCOL website or by some other means approved by Her Majesty's Courts Service.
- 12.2** A request under paragraph 12.1 will be treated as being filed –
- (1) on the day the court receives the request, if it receives it before 4 p.m. on a working day; and
 - (2) otherwise, on the next working day after the court receives the request.

(CCR Order 26 rule 5 sets out certain circumstances in which a warrant of execution may not be issued without the permission of the court. CCR Order 26 rule 17(6) applies rule 5 of that Order with necessary modifications to a warrant of possession.)

APPLICATION TO SUSPEND WARRANT OF POSSESSION

- 13.1** Where the court has issued a warrant of possession, the defendant may apply electronically for the suspension of the warrant, provided that:
- (1) the application is made at least five clear days before the appointment for possession; and
 - (2) the defendant is not prevented from making such an application without the permission of the court.
- 13.2** The defendant may apply electronically for the suspension of the warrant, by –
- (1) completing an online application for suspension at the PCOL website; and
 - (2) paying the appropriate fee electronically at the PCOL website or by some other means approved by Her Majesty's Courts Service.
- 13.3** When an online application for suspension is received, an acknowledgment of receipt will automatically be sent to the defendant. The acknowledgment does not constitute a notice that the online application for suspension has been served.
- 13.4** Where an application must be made within a specified time, it is so made if the online application for suspension is received by the court's computer system within that time. The court will keep a record, by electronic or other means, of when online applications for suspension are received.

13.5 When the court receives an online application for suspension it shall –

- (1) serve a copy of the online application for suspension endorsed with the date of the hearing by post on the claimant at least two clear days before the hearing; and
- (2) send the defendant notice of service and confirmation of the date of the hearing by post; provided that
- (3) where either party has provided the court with an e-mail address for service, service of the application and/or the notice of service and confirmation of the hearing date may be effected by electronic means.

VIEWING THE CASE RECORD

14.1 A facility will be provided on the PCOL website for parties or their representatives to view –

- (1) an electronic record of the status of claims started online, which will be reviewed and, if necessary, updated at least once each day; and
- (2) all information relating to the case that has been filed by the parties electronically.

14.2 In addition, where the PCOL website specifies that the court has the facility to provide viewing of such information by electronic means, the parties or their representatives may view the following information electronically –

- (1) court orders made in relation to the case; and
- (2) details of progress on enforcement and subsequent orders made.

