

SCHEDULE 1

RSC ORDER 113

SUMMARY PROCEEDINGS FOR POSSESSION OF LAND

Proceedings to be brought by claim form

Rule 1.—(1) Where a person claims possession of land which he alleges is occupied solely by a person or persons (not being a tenant or tenants holding over after the termination of the tenancy) who entered into or remained in occupation without his licence or consent or that of any predecessor in title of his, the proceedings shall be brought by claim form in accordance with the provisions of this Order.

(2) Where proceedings of the type referred to in paragraph (1) are brought, the court will fix a day for the hearing when it issues the claim form.

Jurisdiction of Masters

Rule 1A Proceedings under this Order may be heard and determined by a master, who may refer them to a judge if he thinks they should properly be decided by the judge.

Forms of claim form

Rule 2.—(1) The claim form shall be as set out in the relevant practice direction and no acknowledgment of service of it shall be required.

(2) The claim form shall be endorsed with or contain a statement showing whether possession is claimed in respect of residential premises or in respect of other land.

Witness statement or affidavit in support

Rule 3 The claimant shall file in support of the claim form a witness statement or affidavit stating—

- (a) his interest in the land;
- (b) the circumstances in which the land has been occupied without licence or consent and in which his claim to possession arises; and
- (c) that he does not know the name of any person occupying the land who is not named in the claim form;

and, unless the Court directs, any such witness statement or affidavit may contain statements of information or belief with the sources and grounds thereof.

Service of claim form

Rule 4.—(1) Where any person in occupation of the land is named in the claim form, the claim form together with a copy of the witness statement or affidavit in support shall be served on him—

- (a) personally; or
- (b) by leaving a copy of the claim form and of the witness statement or affidavit or sending them to him, at the premises; or
- (c) in such other manner as the Court may direct.

Status: This is the original version (as it was originally made).

(2) Where any person not named as a defendant is in occupation of the land, the claim form shall be served (whether or not it is also required to be served in accordance with paragraph (1)), unless the court otherwise directs, by—

- (a) affixing a copy of the claim form and a copy of the witness statement or affidavit to the main door or other conspicuous part of the premises and, if practicable, inserting through the letter-box at the premises a copy of the claim form and a copy of the witness statement or affidavit enclosed in a sealed transparent envelope addressed to “the occupiers”, or
- (b) placing stakes in the ground at conspicuous parts of the occupied land, to each of which shall be affixed a sealed transparent envelope addressed to “the occupiers” and containing a copy of the claim form and a copy of the witness statement or affidavit.

(2A) Every copy of a claim form for service under paragraph (1) or (2) shall be sealed with the seal of the Office of the Supreme Court out of which the claim form was issued.

Application by occupier to be made a party

Rule 5 Any person not named as a defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as a defendant.

Order for possession

Rule 6.—(1) A final order for possession in proceedings under this Order shall, except in case of emergency and by permission of the court, not be made—

- (a) in the case of residential premises, less than five clear days after the date of service, and
- (b) in the case of other land, less than two clear days after the date of service.

(2) An order for possession in proceedings under this Order shall be in Form No. 42A.

(3) Nothing in this Order shall prevent the Court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been sought in a claim begun in accordance with CPR Part 7.

Writ of possession

Rule 7.—(1) Order 45, rule 3 (2) shall not apply in relation to an order for possession under this Order but no writ of possession to enforce such an order shall be issued after the expiry of three months from the date of the order without the permission of the Court.

An application for permission may be made without notice being served on any other party unless the Court otherwise directs.

(2) The writ of possession shall be in Form No. 66A.

Setting aside order

Rule 8 The court may, on such terms as it thinks just, set aside or vary any order made in proceedings under this Order.