

## SCHEDULE 2

### SECTION 1

#### *Housing Act 1996 injunctions*

#### **Scope of this Section and interpretation**

**65.2.**—(1) This Section applies to applications for an injunction and other related proceedings under Chapter III of Part V of the Housing Act 1996 (injunctions against anti-social behaviour).

(2) In this Section “the 1996 Act” means the Housing Act 1996.

#### **Applications for an injunction**

**65.3.**—(1) An application for an injunction under section 153A, 153B or 153D of the 1996 Act<sup>(1)</sup> shall be subject to the Part 8 procedure as modified by this rule and the relevant practice direction.

(2) The application must be—

- (a) made by a claim form in accordance with the relevant practice direction;
- (b) commenced in the court for the district in which the defendant resides or the conduct complained of occurred; and
- (c) supported by affidavit evidence which must be filed with the claim form.

(3) The claim form must state—

- (a) the matters required by rule 8.2; and
- (b) the terms of the injunction applied for.

(4) An application under this rule may be made without notice and where such an application without notice is made—

- (a) the affidavit in support of the application must state the reasons why notice has not been given; and
- (b) the following rules do not apply—
  - (i) 8.3;
  - (ii) 8.4;
  - (iii) 8.5(2) to (6);
  - (iv) 8.6(1);
  - (v) 8.7; and
  - (vi) 8.8.

(5) In every application made on notice, the application notice must be served, together with a copy of the affidavit, by the claimant on the defendant personally.

(6) An application made on notice may be listed for hearing before the expiry of the time for the defendant to file an acknowledgement of service under rule 8.3, and in such a case—

- (a) the claimant must serve the application notice and affidavit on the defendant not less than two days before the hearing; and
- (b) the defendant may take part in the hearing whether or not he has filed an acknowledgment of service.

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(1) 1996 c. 52. These sections were inserted by section 13 of the Anti-social Behaviour Act 2003.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Injunction containing provisions to which a power of arrest is attached**

**65.4.**—(1) In this rule “relevant provision” means a provision of an injunction to which a power of arrest is attached.

(Sections 153C(3) and 153D(4) of the 1996 Act(2) confer powers to attach a power of arrest to an injunction)

- (2) Where an injunction contains one or more relevant provisions—
  - (a) each relevant provision must be set out in a separate paragraph of the injunction; and
  - (b) subject to paragraph (3), the claimant must deliver a copy of the relevant provisions to any police station for the area where the conduct occurred.
- (3) Where the injunction has been granted without notice, the claimant must not deliver a copy of the relevant provisions to any police station for the area where the conduct occurred before the defendant has been served with the injunction containing the relevant provisions.
- (4) Where an order is made varying or discharging any relevant provision, the claimant must—
  - (a) immediately inform the police station to which a copy of the relevant provisions was delivered under paragraph (2)(b); and
  - (b) deliver a copy of the order to any police station so informed.

### **Application for warrant of arrest under section 155(3) of the 1996 Act(3)**

**65.5.**—(1) An application for a warrant of arrest under section 155(3) of the 1996 Act must be made in accordance with Part 23 and may be made without notice.

- (2) An applicant for a warrant of arrest under section 155(3) of the 1996 Act must—
  - (a) file an affidavit setting out grounds for the application with the application notice; or
  - (b) give oral evidence as to the grounds for the application at the hearing.

### **Proceedings following arrest**

- 65.6.**—(1) This rule applies where a person is arrested pursuant to—
- (a) a power of arrest attached to a provision of an injunction; or
  - (b) a warrant of arrest.
- (2) The judge before whom a person is brought following his arrest may—
- (a) deal with the matter; or
  - (b) adjourn the proceedings.
- (3) Where the proceedings are adjourned the judge may remand the arrested person in accordance with section 155(2)(b) or (5) of the 1996 Act.
- (4) Where the proceedings are adjourned and the arrested person is released—
- (a) the matter must be dealt with (whether by the same or another judge) within 28 days of the date on which the arrested person appears in court; and
  - (b) the arrested person must be given not less than 2 days' notice of the hearing.
- (5) An application notice seeking the committal for contempt of court of the arrested person may be issued even if the arrested person is not dealt with within the period mentioned in paragraph (4)(a).

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(2) 1996 c. 52. These sections were inserted by section 13 of the Anti-social Behaviour Act 2003.

(3) 1996 c. 52. This section was amended by section 13 of the Anti-social Behaviour Act 2003.

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(6) CCR Order 29, rule 1 shall apply where an application is made in a county court to commit a person for breach of an injunction, as if references in that rule to the judge included references to a district judge.

(For applications in the High Court for the discharge of a person committed to prison for contempt of court see RSC Order 52, rule 8. For such applications in the county court see CCR Order 29, rule 3)

### **Recognizance**

**65.7.**—(1) Where, in accordance with paragraph 2(2)(b) of Schedule 15 to the 1996 Act, the court fixes the amount of any recognizance with a view to it being taken subsequently, the recognizance may be taken by—

- (a) a judge;
- (b) a justice of the peace;
- (c) a justices' clerk;
- (d) a police officer of the rank of inspector or above or in charge of a police station; or
- (e) where the arrested person is in his custody, the governor or keeper of a prison,

with the same consequences as if it had been entered into before the court.

(2) The person having custody of an applicant for bail must release him if satisfied that the required recognizances have been taken.