
CIVIL PROCEDURE NEWS

Special Issue 2
30 November 2020

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THE
WHITE
BOOK
SERVICE
2020

SWEET & MAXWELL

Possession Proceedings – Special Edition

No.2

This *Civil Procedure News Special Edition No.2* is issued due to the publication of the Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020 and the 125th CPR Update. Further commentary updates will be set out in January 2021's edition of *Civil Procedure News*.

Practice Updates

STATUTORY INSTRUMENTS

PUBLIC HEALTH (CORONAVIRUS) (PROTECTION FROM EVICTION AND TAKING CONTROL OF GOODS) (ENGLAND) REGULATIONS 2020

On **17 November 2020** the Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020 (SI 2020/1290) came into force. Its operative provisions prevent, as a general rule, the execution of writs or warrants of possession, warrants of restitution and the delivery of notices of eviction. The prohibition remains in force until 11 January 2021. Exceptions to the prohibition relating to trespassers are set out in the Regulations. It also prohibits the use of the procedure to take control of goods set out in Sch.12 to the Tribunals, Courts and Enforcement Act 2007. That prohibition remains in force until the expiry of the Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020 (SI 2020/1200). The Regulations only apply in England. No comparable Regulations applicable to Wales have, as yet, been published. Its operative provisions are as follows:

Residential Tenancies (Protection from Eviction)

- 2.—**(1) Subject to paragraphs (2), (3), and (5), no person may attend at a dwelling house for the purpose of—
- (a) executing a writ or warrant of possession;
 - (b) executing a writ or warrant of restitution; or
 - (c) delivering a notice of eviction.
- (2) Paragraph (1) does not apply where the court is satisfied that the notice, writ or warrant relates to an order for possession made—
- (a) against trespassers pursuant to a claim to which rule 55.6 (service of claims against trespassers) of the Civil Procedure Rules 1998 applies;
 - (b) wholly or partly under section 84A (absolute ground for possession for anti-social behaviour) of the Housing Act 1985;
 - (c) wholly or partly on Ground 2, Ground 2A or Ground 5 in Schedule 2 (grounds for possession of dwelling houses let under secure tenancies) to the Housing Act 1985;
 - (d) wholly or partly on Ground 7A, Ground 14, Ground 14A or Ground 17 in Schedule 2 (grounds for possession of dwelling houses let on assured tenancies) to the Housing Act 1988; or
 - (e) wholly or partly under case 2 of Schedule 15 (grounds for possession of dwelling-houses let on or subject to protected or statutory tenancies) to the Rent Act 1977.
- (3) Paragraph (1) does not apply where the court is satisfied that—
- (a) the case involves substantial rent arrears; and
 - (b) the notice, writ or warrant relates to an order for possession made wholly or partly—
 - (i) on Ground 1 in Schedule 2 to the Housing Act 1985;
 - (ii) on Ground 8, Ground 10 or Ground 11 in Schedule 2 to the Housing Act 1988; or
 - (iii) under case 1 of Schedule 15 to the Rent Act 1977.

- (4) (a) For the purposes of paragraph (3), a case involves substantial rent arrears if the amount of unpaid rent arrears outstanding at the date on which the order for possession is granted is at least an amount equivalent to 9 months' rent; and
- (b) for the purposes of sub-paragraph (a), any unpaid rent arrears accrued after 23rd March 2020 must be disregarded.
- (5) Paragraph (1) does not apply where the court is satisfied that the notice, writ or warrant relates to an order for possession made wholly or partly on Ground 7 in Schedule 2 to the Housing Act 1988.
- (6) Where paragraph (5) applies, the person attending at the dwelling house must take reasonable steps to satisfy themselves that the dwelling house is unoccupied before—
- (a) delivering a notice of eviction;
- (b) executing a writ or warrant of possession; or
- (c) executing a writ or warrant of restitution.

Taking Control of Goods

3. No person may use the procedure in Schedule 12 (taking control of goods) of the Tribunals, Courts and Enforcement Act 2007 to take control of goods located inside a dwelling house.

PRACTICE DIRECTIONS

CPR PRACTICE DIRECTION – 125th Update. This Practice Direction Update amends Practice Direction 51R, the Online Civil Money Claims Pilot. It entered into force at **11.00** on **16 November 2020**. It transferred what had previously been “new features” of the pilot scheme (concerning directions questionnaires, legal advisers, and the mediation scheme) into its standard features. It also enables defended claims to continue within the pilot scheme where a defendant is only able to take part through a paper process and is content to continue within the pilot scheme. In such circumstances, court staff will scan and upload any documents received by the defendant.

PRACTICE GUIDANCE

QUEEN'S BENCH DIVISION MASTERS – LISTING AND ACTION DEPARTMENT INFORMATION

On **20 November 2020** updated Listing and Action Department guidance was issued by the Queen's Bench Division Masters. A copy can be obtained at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/937513/RCJ_Notice_QB_Masters__Action_Department_20_Nov_2020.pdf?utm_medium=email&utm_source= [Accessed 30 November 2020].

QUEEN'S BENCH GENERAL, MEDIA AND COMMUNICATIONS INFORMATION FOR COURT USERS

On **24 November 2020** updated information concerning the Queen's Bench Division generally and its Media and Communications list was issued. A copy can be obtained at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/939167/RCJ_Notice_QB_General_30_Nov_2020.pdf?utm_medium=email&utm_source= [Accessed 30 November 2020].

ADMINISTRATIVE COURT GUIDANCE

On **24 November 2020** updated guidance concerning the Administrative Court was issued. A copy can be obtained at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/939155/RCJ_Administrative_Court_Information_for_Court_Users_30_Nov.pdf?utm_medium=email&utm_source= [Accessed 30 November 2020].

ROYAL COURTS OF JUSTICE FEES OFFICE GUIDANCE

On **24 November 2020** updated guidance for the Royal Courts of Justice Fees Office was issued. It noted that it will re-open to the public on 7 December 2020. A copy of the guidance can be obtained at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/939162/RCJ_Notice_Fees_Office_30_Nov_2020.pdf?utm_medium=email&utm_source= [Accessed 30 November 2020].

Zuckerman on Civil Procedure

4th Edition

Professor Adrian Zuckerman, assisted by a team of editors under the direction of Juliet Wells, including Professor Stuart Sime and Dr John Sorabji

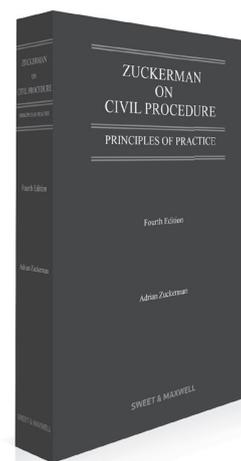
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- The Criminal Justice and Courts Act 2015, which provides for dismissal of personal injury claims in cases of fundamental dishonesty, a new 'different outcome' test in applications for judicial review, and costs-capping orders in judicial review claims.
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- The Disclosure Pilot in the Business and Property Courts.
- Revisions to the CPR, including Parts 36, 39 and 52.

Notable cases include: *Denton v TH White Ltd*, *Tchenguiz v Director of the Serious Fraud Office*, *Coventry v Lawrence, R (Haralambous) v St Albans Crown Court*, *Barton v Wright Hassall LLP* and *Cameron v Liverpool Victoria Insurance Co Ltd*.

The foreword to the 4th Edition is written by the Rt. Hon. Lord Briggs of Westbourne, Justice of the Supreme Court.



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