PROCEDURE

1954 No. 1394 (L. 12)

The County Court (Amendment) Rules, 1954

Made - - - - 20*th October*, 1954
Coming into Operation 15*th November*, 1954

1.—(1) These Rules may be cited as the County Court (Amendment) Rules, 1954.

(2) An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1936(**a**), as amended.

(3) A Form referred to by number in these Rules means the Form so numbered in Appendix A to the County Court Rules, 1936.

2. In the proviso to paragraph (6) of Rule 19 of Order V and in the proviso to paragraph (4) of Rule 13 of Order XVI after the words "any sum of money" there shall be inserted the words "and orders for transferring any sum of money from a deposit account to an investment account".

3. Order XXXV shall be amended as follows:—

(1) Rule 21 shall be amended as follows:—

(i) paragraph (1) shall be amended as follows:—

(*a*) At the end of sub-paragraph (*g*) there shall be added the words "or immediately before any measures were taken with reference to her presence, whichever was the earlier, and all subsequent alterations to the course or speed of the ship up to the time of the collision;".

(*b*) In sub-paragraph (*i*) for the words "and bearing" there shall be substituted the words "bearing and approximate heading".

(*c*) In sub-paragraph (*n*) for the word "part" there shall be substituted the word "parts" and at the end there shall be added the words "and the approximate angle between the two ships at the moment of contact;".

(ii) In proviso (*a*) to paragraph (3) for the words "and the plaintiff may" to the end of the proviso there shall be substituted the words "and the plaintiff may, with the leave of the court obtained *ex parte*, file a reply within 6 days of the receipt by him of the copy of the defence or counterclaim (if any), and deliver a copy thereof to the defendant."

(2) For sub-paragraph (*d*) of paragraph (1) of Rule 22 there shall be substituted the following sub-paragraph:—

"(*d*) The plaintiff may, with the leave of the court obtained *ex parte*, file a reply within 6 days of the receipt by him of the copy of the defence or counterclaim (if any), and deliver a copy thereof to the defendant."

(**a**) S.R. & O. 1936/626 (1936 I, p. 282).

(3) The following new Rule shall be inserted after Rule 27 and shall stand as Rule 27A:—

Early examination of witness before judge.

"27A.—(1) In any action where it appears desirable that the evidence of any person should be heard by the judge who will try the action, the court may, without that action having been set down for trial, make an order for the examination of that person on oath before the judge sitting in court as if for the trial of the action.

(2) Any order under the preceding paragraph may be made on such terms (including, in particular, terms as to the giving of discovery before the examination takes place) as the court may think fit.

(3) In actions for damage by collision between ships in which preliminary acts fall to be filed under Rule 21 of this Order, no order for the examination of any person shall be made before the preliminary acts have been filed, unless for special reasons the court thinks fit so to direct."

4. In paragraph (1) of Rule 2 of Order XXXVII after the word "action" there shall be inserted the words "or matter".

5. The following Rule shall be inserted in Order XXXVIII after Rule 2 and shall stand as Rule 3:—

Investment order by court.

"3. The court may of its own motion order any money in court to be transferred from a deposit account to an investment account."

6. The following Order shall be substituted for Order XL:—

"THE LANDLORD AND TENANT ACTS, 1927 AND 1954

PART I

COMPENSATION FOR IMPROVEMENTS OF BUSINESS PREMISES UNDER PART I OF THE ACT OF 1927

Manner of making claim.

1. A claim under section 1 of the Act of 1927 for compensation in respect of any improvement, or a claim by a mesne landlord under section 8 (1) of that Act, shall be made in writing signed by the claimant, his solicitor or agent, and shall contain—

(*a*) a statement of the name and address of the claimant and of the landlord against whom the claim is made;

(*b*) a description of the holding in respect of which the claim arises and of the trade or business carried on there;

(*c*) a concise statement of the nature of the claim:

(*d*) particulars of the improvement including the date when it was completed and the cost thereof; and

(*e*) a statement of the amount claimed.

Form of application. Forms 330, 331.

2.—(1) Proceedings under Part I of the Act of 1927 shall be commenced by originating application in Form 330 or 331, whichever is applicable.

(2) The respondent shall, within 8 days of the service of the application on him, inclusive of the day of service, file in the court office an answer, together with as many copies as there

are other parties to the proceedings, stating the grounds on which and the extent to which he resists the applicant's claim.

(3) On receipt of the answer and copies the registrar shall send a copy to the applicant and every other party to the proceedings.

Forms 332, 333.

(4) The order shall be in Form 332 or 333, whichever is applicable.

Mesne and superior landlords.

3. Where any document relating to any proposed improvement, or to any claim, is sent to or served on a mesne landlord in pursuance of Part I of the Act of 1927, he shall forthwith serve on his immediate landlord a copy of the document, together with a notice in writing stating the date when the document was received by the mesne landlord, and, if the immediate landlord is himself a mesne landlord, he shall, forthwith on receipt of the documents aforesaid, serve on his immediate landlord a similar copy and notice, and so on from landlord to landlord.

PART II

SECURITY OF TENURE FOR RESIDENTIAL TENANTS UNDER PART I OF THE ACT OF 1954

Determination of terms of statutory tenancy.

4.—(1) Proceedings under section 7 of the Act of 1954 for the determination of the terms of a statutory tenancy shall be commenced by originating application in Form 334.

Form 334.

(2) The respondent shall, within 8 days of the service of the application on him, inclusive of the day of service, file in the court office an answer, together with as many copies as there are other parties to the proceedings, stating whether he resists the applicant's proposals as to the terms of the statutory tenancy and, if he does so, setting out the terms which he proposes in place of the terms proposed by the applicant.

(3) On receipt of the answer and copies the registrar shall send a copy to the applicant and every other party to the proceedings.

Particulars of claim in application for possession.

5. An application under section 13 of the Act of 1954 for the recovery of possession shall be made by plaint and the particulars shall state, in addition to the matters set out in Order VII, Rule 3,—

(*a*) the date and term of the lease under which the tenant holds or has held the property;

(*b*) the date of service upon the tenant of the landlord's notice to resume possession and the date of termination specified in the notice;

(*c*) where the tenant has notified the landlord that he is not willing to give up possession, the date of notification; and

(*d*) where the plaintiff is not both the freeholder of the property comprised in the tenancy and the immediate landlord of the defendant, details of the interest constituting him the landlord for the purpose of proceedings under Part I of the Act of 1954.

Agreement discharging order for reduced rent.

6. Where an order has been made under paragraph 1 of the Second Schedule to the Act of 1954 for the reduction of rent of any premises on the ground of failure by the landlord to do initial repairs, and it is subsequently agreed between the landlord and the tenant that the repairs to which the order relates have

been carried out, the landlord shall file a copy of the agreement in the court office, and a note thereof shall be entered in the books of the court.

Relief against enforcement of covenants.

7.—(1) Where the court makes an order for the recovery of possession of property in proceedings to which paragraph 9 of the Fifth Schedule to the Act of 1954 applies, the plaintiff shall, if the occupying tenant is not a party to the proceedings, forthwith notify him of the terms of the order and inform him of his rights to obtain relief under sub-paragraph (2) of that paragraph.

(2) If a copy of a notice under section 16 (2) of the Act of 1954 or paragraph 9 (2) or 10 (2) of the Fifth Schedule to that Act is lodged in court, a note of the lodgment shall be entered in the books of the court.

PART III

SECURITY OF TENURE FOR BUSINESS TENANTS UNDER PART II OF THE ACT OF 1954

Application for new tenancy of business premises. Form 335

8.—(1) An application for a new tenancy under section 24 of the Act of 1954 shall be made by originating application in Form 335.

Form 336.

(2) The respondent shall, within 8 days of the service of the application on him, inclusive of the day of service, file in the court office an answer in Form 336 together with as many copies as there are other parties to the proceedings.

(3) On receipt of the answer and copies the registrar shall send a copy to the applicant and to every other party to the proceedings.

Form 337.

(4) The order shall be in Form 337 and a copy shall be served on every party to the proceedings.

(5) Where the court is precluded from making an order for the grant of a new tenancy on any grounds specified in section 30 of the Act of 1954, a note shall be entered in the books of the court stating all the grounds on which the court is so precluded.

Substitution of later date in landlord's notice or tenant's request.

9. Where a declaration has been made pursuant to subsection (2) of section 31 of the Act of 1954 and the tenant requires that the court shall make an order under paragraph (*b*) of that subsection, the tenant shall, within 14 days after the making of the declaration, give notice of his requirement to the registrar, who

Form 338.

shall thereupon make an order in Form 338 and serve a copy on every party to the proceedings.

Certificate of grounds for refusing new tenancy. Form 339. Form 340.

10. An application for a certificate under section 37 (4) of the Act of 1954 shall be made *ex parte* in Form 339, and the certificate shall be in Form 340.

PART IV

GENERAL

Proof of determination of rateable value.

11. Where pursuant to section 37 (5) of the Act of 1954 any dispute as to the rateable value of any premises has been referred to the Commissioners of Inland Revenue for decision by a valuation officer, whether for the purpose of section 37 (2) or of section 63 of that Act, any document purporting to be a notification by the valuation officer of his decision shall be admissible in any proceedings in a county court as *prima facie* evidence of the matters contained therein.

Transfer of proceedings to the High Court.

12. Where under section 63 (3) of the Act of 1954 the parties to any proceedings agree in writing that the jurisdiction of the court under Part I of the Act of 1927 or Part II of the Act of 1954 with respect to those proceedings shall be transferred to the High Court, either party may file the agreement in the court office and thereupon the provisions of Order XVI, Rule 19, shall apply, with such modifications as may be necessary, as if an order had been made for the transfer of the proceedings to the High Court.

Provisions as to assessors.

13.—(1) Where, in any proceedings under Part I of the Act of 1927 or Part I or II of the Act of 1954, an assessor is summoned by the judge under section 88 (1) of the County Courts Act, 1934, as extended by section 63 of the Act of 1954. then, whether or not the summons was issued pursuant to an application by one of the parties, the provisions of Rules 5, 6, 7 (1), 10 and 11 of Order XXXI shall not apply.

(2) Any party to any such proceedings who desires an assessor to be summoned to assist the judge shall, not less than 10 clear days before the day fixed for the hearing, file an application in Form 247, and thereupon the registrar shall send a copy of the application to the judge.

(3) If the judge summons an assessor, the registrar shall give notice to the parties in Form 248.

(4) Any report made by the assessor pursuant to paragraph (*a*) of section 63 (6) of the Act of 1954 shall be filed by the assessor in the court office, together with a copy for each party to the proceedings, and thereupon the registrar shall send a copy to each party and shall, if the further consideration of the proceedings has not been adjourned to a day named, fix a day for further consideration and give notice thereof to all parties in Form 72.

Notice to persons having intermediate interests.
Form 341.

14.—(1) Where an application is made by a landlord under section 2 (2), 3 (4) or 7 of the Act of 1954 and the applicant is not the immediate landlord of the respondent, the applicant shall, forthwith after filing the application, serve a notice of the proceedings in Form 341 on his tenant, who shall, if he is not the immediate landlord of the respondent, serve a similar notice on his tenant and so on from tenant to tenant.

(2) Where an application is made by a tenant under section 3 (4) or 24 of the Act of 1954 and the applicant is not the immediate tenant of the respondent, the applicant shall, forthwith after filing the application, serve a notice in Form 341 on his landlord, who shall, if he is not the immediate tenant of the respondent, serve a similar notice on his landlord and so on from landlord to landlord.

Form 341.

Notice to superior landlords.
Form 341.

15.—(1) Where an application is made by a landlord under section 3 (4) or 7 of the Act of 1954 and the applicant is not the freeholder of the property to which the application relates, he shall, forthwith after filing the application, serve notice in Form 341 on his landlord, who shall, if he is not the freeholder, serve a similar notice on his landlord and so on from landlord to landlord.

(2) Where an application is made by a tenant under section 3 (4) or 24 of the Act of 1954 or paragraph 13 of the First Schedule to that Act and the respondent is not the freeholder of the property to which the application relates, the respondent shall, forthwith after service of the application on him, serve notice of the proceedings in Form 341 on his landlord, who shall, if he is not the freeholder, serve a similar notice on his landlord and so on from landlord to landlord:

Form 341.

Provided that in the case of an application under section 24 of the Act of 1954 no such notice need be served by the respondent or any landlord who is a tenant under a lease having more than 14 years unexpired at the date of the termination of the current tenancy.

Notice to persons interested.

16. Where an application is made under section 24 of the Act of 1954, the applicant, the respondent, and any person who has received a notice in Form 341 shall, in addition to serving the notices prescribed by the last two preceding Rules, serve a notice in Form 341 upon any person having an interest in the property other than a freehold interest or tenancy, who, to the knowledge of the person serving the notice, is likely to be affected by the grant of a new tenancy.

Form 341.

Service of notices.

17. Documents and notices required to be served under Rules 3, 14, 15 and 16 of this Order shall be served in the manner prescribed by section 23 of the Act of 1927.

Directions.

18. An application to the court for directions may be made—

(*a*) by any person within 8 days of the receipt by him of notice under Rule 3 of this Order or a notice in Form 341, and

(*b*) by any person not served with a notice under Rule 3 of this Order or a notice in Form 341 who may be affected by the proceedings, at any time before the hearing;

and upon such application the court may order the applicant to be added as a party to the proceedings and may give such directions as may be just.

Consent order by registrar.

19. If on the day fixed for the hearing of an application under section 7 or section 24 of the Act of 1954 the registrar is satisfied that—

(*a*) the parties to the application have agreed, in the case of an application under section 7, on the matters specified in subsection (2) of that section, or, in the case of an application under section 24, on the subject, period and terms of the new tenancy;

(*b*) the owner of any reversionary interest in the property consents thereto; and

(*c*) there are no other persons with interests in the property who are likely to be affected,

the registrar shall have power to make an order giving effect to the agreement.

Interpretation.

20.—(1) In this Order "the Act of 1927" means the Landlord and Tenant Act, 1927, and "the Act of 1954" means the Landlord and Tenant Act, 1954.

17 & 18 Geo. 5. c. 36.

2 & 3 Eliz. 2. c. 56.

(2) In Parts II, III and IV of this Order any reference to a landlord shall, if the interest of the landlord in question is subject

to a mortage and the mortgagee is in possession or a receiver appointed by the mortgagee or by the court is in receipt of the rents and profits, be deemed to be a reference to the mortgagee instead of to that landlord.

7. Order XLA shall be revoked.

8. The following new Rule shall be added to Order XLVI and shall stand as Rule 15:—

"THE MERCHANT SHIPPING ACT, 1894

57 & 58 Vict. c. 60. 15. Proceedings under section 556 of the Merchant Shipping Act, 1894, for the apportionment of salvage, the aggregate amount of which has already been finally ascertained, shall be commenced by originating application."

9. The Forms in Appendix A shall be amended as follows:—

(*a*) In Form 248 for the words "on the application of " there shall be substituted the words "[on the application of]".

(*b*) Form 330 shall be amended as follows:—

(i) In the title for the words "or Relief in lieu of Compensation" there shall be substituted the words "for Improvement", and for "Order XL, Rule 4 (1)" there shall be substituted "Order XL, Rule 3 (1)".

(ii) In paragraph 1 the words "[*or* goodwill] [*or* the grant of a new lease]" shall be omitted.

(iii) For sub-paragraph (*j*) of paragraph 2 there shall be substituted:—

"(*j*) [*State particulars of improvement with the date thereof and the amount claimed as compensation therefor, and the date of service of the claim for compensation*]".

(iv) Sub-paragraphs (*k*) and (*l*) shall be omitted.

(v) In the Note the words "Unless the parties" to the end of the Note shall be omitted.

(*c*) Form 331 shall be amended as follows:—

(i) In the title for the words "or Relief in lieu of Compensation" there shall be substituted the words "for Improvement" and for "Order XL, Rule 4 (1)" there shall be substituted "Order XL, Rule 3 (1)".

(ii) In paragraph 1 the sub-paragraphs beginning with the words "[*or* the determination of what is a reasonable term", "[*or* the determination whether an offer" and "[*or* a declaration that the grant" shall be omitted.

(iii) In the Note the words "Unless the parties" to the end of the Note shall be omitted.

(*d*) Forms 332 to 339 shall be revoked.

(*e*) Form 340 shall stand as Form 332 and shall be amended as follows:—

(i) In the title for the words "Order XL, Rule 11" there shall be substituted the words "Order XL, Rule 3 (4)".

(ii) In the first paragraph the words "and on reading" to the end of the paragraph shall be omitted.

(iii) In the paragraph commencing "That the improvement" the words "*(and if necessary of referee's remuneration and expenses)*" shall be omitted.

(iv) In the final paragraph the words "*including any necessary provisions as to the payment of the referee's remuneration and expenses*" shall be omitted.

(*f*) Form 341 shall be revoked.

(*g*) Form 342 shall stand as Form 333 and shall be amended as follows:—

(i) In the title for the words "Order XL, Rule 11" there shall be substituted the words "Order XL, Rule 3 (4)".

(ii) The words "Upon reading the report dated the day of , 19 , of Mr. , the referee to whom the matter was referred for inquiry and report and" shall be omitted.

(iii) For the first paragraph commencing "And it is ordered" there shall be substituted the following paragraph:—

"And it is ordered that the respondent [*or* applicant] do pay the costs of these proceedings on Scale and do pay the amount of the said costs when taxed to the registrar of this court on or before the day of , 19 , or, if the costs have not been taxed before the expiration of that day, within 3 days after taxation."

(*h*) Forms 342A, 342B and 342C shall be revoked.

(*i*) The following new Forms shall be added and shall stand as Forms 334 to 341:—

(i) "FORM 334

ORIGINATING APPLICATION FOR STATUTORY TENANCY UNDER PART I OF THE LANDLORD AND TENANT ACT, 1954

Order XL, Rule 4 (1)

[*General Title—Form* 1]

1. I, of apply to the court for the settlement of the terms of a statutory tenancy pursuant to Part I of the Landlord and Tenant Act, 1954.

2. The following are the particulars of the long tenancy of the premises which has expired/is about to expire:—

(*a*) (*Address of premises*);

(*b*) (*Date of respondent's long lease and names of parties*);

(*c*) (*Term granted by the long lease*);

(*d*) (*Rent reserved by the long lease*);

(*e*) (*Rateable value of premises*).

3. The following are particulars of the termination of the long tenancy:—

(*a*) (*Date of service of notice proposing statutory tenancy*);

(*b*) (*Date specified in the notice as the date on which the long tenancy is to come to an end*);

(*c*) (*State whether the respondent has notified you that he is not willing to give up possession, and, if he has, the date of notification.*)

4. The following terms of the statutory tenancy have been agreed between the respondent and myself:—

(*State, if agreed,* (i) *premises to be comprised in statutory tenancy;*

(ii) *rent, intervals at which rent is to be paid and whether payable in advance or in arrear;*

(iii) *whether any, and if so what, initial repairs are to be carried out;*

(iv) *which, if any, of the initial repairs are to be carried out by you, and which, if any, by the respondent;*

(v) *which, if any, of the initial repairs to be carried out by you are required in consequence of failure by the respondent to fulfil his obligations under the long tenancy, and the estimated cost of those repairs (excluding any part recoverable otherwise than from the respondent or his predecessors in title);*

(vi) *the amount, if any, to be paid by the respondent in respect of the cost incurred by you in ascertaining the said repairs;*

(vii) *the amount, if any, to be paid by the respondent under section 6 of the Leasehold Property (Temporary Provisions) Act, 1951, in respect of the cost of work executed on the premises;*

(viii) *whether payment by the respondent for the amounts mentioned in items (v), (vi) and (vii), above, is to be made by instalments or otherwise, and if by instalments, the amount of each instalment, the time at which the first is to be payable and the frequency of the instalments;*

(ix) *obligations as to repairs other than the initial repairs mentioned above;*

(x) *any other terms.*).

5. The following are my proposals for the terms of the statutory tenancy which have not yet been agreed between the respondent and myself.

(*State your proposals on any of the matters listed under paragraph 4 of this application, on which agreement has not yet been reached*).

6. The name and address of the respondent on whom this application is intended to be served are:—

7. I undertake forthwith after filing this application to serve a notice in Form 341 on:—

(*If the respondent is not your immediate tenant, state the name and address of your tenant, and if you are not the freeholder, state the name and address of your landlord*).

8. My address for service is:—

Dated this day of , 19 .

Applicant.

Note to Respondent

Within 8 days of the service upon you of this application, you must file an answer in the court office, together with a copy for every other party to the proceedings, stating whether you resist any of the landlord's proposals for the terms of the new tenancy, and, if so, setting out your own proposals."

(ii) "FORM 335

ORIGINATING APPLICATION FOR NEW TENANCY UNDER PART II OF THE LANDLORD AND TENANT ACT, 1954

Order XL, Rule 8 (1)

[*General Title—Form* 1]

1. I of apply to the court for the grant of a new tenancy pursuant to Part II of the Landlord and Tenant Act, 1954.

2. The following are the particulars of my current tenancy of the premises:—

(*a*) (*Address of premises*);
(*b*) (*Date of lease or agreement for a lease or tenancy agreement*);
(*c*) (*Names of parties to lease or agreement*);
(*d*) (*Term granted by lease or agreement*);
(*e*) (*Rent reserved by lease or agreement*);
(*f*) (*Terms as to date and mode of termination of tenancy*);
(*g*) (*Nature of the business carried on by the tenant in the premises*);
(*h*) (*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 the business carried on by the tenant in the premises*);
(*j*) (*Tenant's proposals as to the period, rent and other terms of the new tenancy for which he is applying*).

3. The following are particulars of the termination of the current tenancy:—

((*a*) *Where the current tenancy has been terminated by notice given to the tenant by the landlord, state the date of the giving of such notice, the date specified therein as the date on which the tenancy is to come to an end and the date on which the tenant notified the landlord that he would not be willing at the date of termination to give up possession of the property comprised in the tenancy; or*

(*b*) *Where the current tenancy has been terminated by a tenant's request for a new tenancy, state the date of the making of the request, the date specified therein for the beginning of the new tenancy and, if the landlord has given notice to the tenant that he would oppose an application to the court for the grant of a new tenancy, the date of the giving of such notice*).

4. The name and address of the respondent on whom this application is intended to be served are:—

5. I undertake forthwith after filing this application to serve a notice in Form 341 on:—

(*State the name and address of your immediate landlord, if he is not the respondent, and of any other person having an interest in the premises, other than a freehold interest or tenancy, who to your knowledge is likely to be affected by the grant of a new tenancy*).

6. My address for service is:—

Dated this day of 19 .

Applicant.

To the Respondent

(1) If you are a tenant under a lease having less than 14 years unexpired at the date of the termination of the current tenancy, you must forthwith serve a notice in the form prescribed by County Court Rules (Form 341) on your landlord. You must also serve a notice in Form 341 on any other person having an interest in the property, other than a freehold interest or tenancy, who to your knowledge is likely to be affected by the grant of a new tenancy.

(2) Within 8 days of the service of this application, you must file in the court office an answer in the form prescribed by County Court Rules (Form 336), together with a copy for each other party to the proceedings."

(iii) "FORM 336

ANSWER TO ORIGINATING APPLICATION FOR NEW TENANCY UNDER PART II OF THE LANDLORD AND TENANT ACT, 1954

Order XL, Rule 8 (2)

[*General Title—Form* 1]

I, , of , the respondent in this matter, in answer to the application of for a new tenancy of the premises known as , say that—[*Strike out statements which do not apply*]

(1) I do not oppose the grant of a new tenancy *or*
I oppose the grant of a new tenancy on the following grounds stated in my notice under section 25 [*or* section 26 (6)] of the Act, namely [*here set out the grounds*].

(2) If a new tenancy is granted, I do not object to its being granted on the terms proposed by the applicant *or* I object to its being granted on the following terms proposed by the applicant, namely [*here set out the terms to which you object*].

(3) I am not a tenant under a lease having less than 14 years unexpired at the date of the termination of the applicant's current tenancy *or* I am a tenant under a lease having less than 14 years unexpired at the date of termination of the applicant's current tenancy, and the name and address of my immediate landlord are [*here set out the landlord's name and address*].

(4) The following persons are to my knowledge likely to be affected by the grant of a new tenancy [*here set out the names, addresses and nature of the interests in the premises of all persons, other than a freeholder or a tenant, who are likely to be so affected*].

[*If the applicant's current tenancy is one to which section* 32 (2) *of the Act applies, add, if you so require,*

(5) I require that any new tenancy ordered to be granted shall be a tenancy of the whole of the property comprised in the applicant's current tenancy.]

Dated this day of 19 .

Respondent."

(iv) "FORM 337

ORDER ON APPLICATION FOR A NEW TENANCY UNDER PART II OF THE LANDLORD AND TENANT ACT, 1954

Order XL, Rule 8 (5)

Seal

[*General Title—Form 1*]

It is ordered that a new tenancy of the premises described in the Schedule to this order be granted to the applicant for the period, at the rent and on the terms set forth in the said Schedule.

or It is ordered that the application of for a new tenancy of the premises known as be dismissed [*where the court is precluded from granting the application by reason of any grounds specified in section 30 of the Landlord and Tenant Act, 1954, add*—on the following grounds, namely that [*insert all the grounds on which the court is so precluded*].]

or It is hereby declared that the respondent has not established any ground on which he is entitled under section 30 of the Landlord and Tenant Act, 1954, to oppose the application of for a new tenancy of the premises known as but that the court would have been satisfied of the following ground, namely

if the date of termination specified in the landlord's notice under section 25 of the said Act [*or* the date specified in the applicant's request for a new tenancy under section 26 of the said Act as the date from which the new tenancy is to begin] had been the day of 19 [*insert such later date as the court may determine*].

And it is ordered that the do pay the costs of these proceedings on Scale and do pay the amount of the said costs when taxed to the registrar of this court on or before the day of , 19 , or, if the costs have not been taxed before the expiration of that day, within 3 days after taxation.

The Schedule"

(v) "FORM 338

ORDER SUBSTITUTING DATE IN LANDLORD'S NOTICE OR TENANT'S REQUEST

Order XL, Rule 9

Seal

[*General Title—Form 1*]

The court having declared that the respondent has not established any of the grounds on which he is entitled under section 30 of the Landlord and Tenant Act, 1954, to oppose the application of for a new tenancy of the premises known as but that the court would have been satisfied of the following ground, namely , if the date of termination specified in the landlord's notice under section 25 of the said Act [*or* the date specified in the applicant's request for a new tenancy under section 26 of the said Act as the date from which the new tenancy is to begin] had been the day of , 19 .

And the applicant having given notice to the registrar that he so requires,

It is ordered that the last mentioned date be substituted for the date specified in the said landlord's notice [*or* tenant's request]."

(vi) "FORM 339

APPLICATION FOR CERTIFICATE OF GROUND FOR REFUSING NEW TENANCY

Order XL, Rule 10

[*General Title—Form 1*]

I, , hereby apply for a certificate that the court is precluded by section 31 of the Landlord and Tenant Act, 1954, from making an order under Part II of that Act for the grant to me of a new tenancy of the premises known as , by reason of one or more of the grounds specified in paragraphs (*e*), (*f*) and (*g*) of subsection (1) of section 30 of the Act and not of any grounds specified in any other paragraph of that subsection."

(vii) "FORM 340

CERTIFICATE OF GROUND FOR REFUSING NEW TENANCY

Order XL, Rule 10

Seal

[*General Title—Form 1*]

On the application of , the tenant of premises known as ,

It is hereby certified that the court is precluded by section 31 of the Landlord and Tenant Act, 1954, from making an order under Part II of that Act for the grant of a new tenancy of the said premises to the applicant by reason of one or more of the grounds specified in paragraph (*e*), (*f*) and (*g*) of subsection (1) of section 30 of the said Act and not of any grounds specified in any other paragraph of that subsection.

Dated this day of , 19 .

Registrar."

(viii) "FORM 341

NOTICE OF PROCEEDINGS

Order XL, Rules 14, 15, 16

[*General Title—Form* 1]

To , of

Take notice that , the tenant [landlord] of the premises known as , has made an application to the County Court under the Landlord and Tenant Act, 1954, for [*here state shortly the nature of the relief claimed*], and that the application has been fixed for hearing at on , the day of 19 , at o'clock.

Your attention is drawn to the Notes below.

Notes

The County Court Rules provide that—

(1) Any person served with a notice in this form who wishes to be made a party to the proceedings must within 8 days from receipt of the notice apply to the court for directions.

(2) *Where the notice is served under Order XL, Rule* 14 (1),—If the person on whom this notice is served is not the immediate landlord of the respondent, he must, forthwith after receiving the notice, serve a similar notice on his immediate tenant.

[*or, Where the notice is served under Order XL, Rule* 14 (2),—

If the person on whom this notice is served is not the immediate tenant of the respondent, he must, forthwith after receiving this notice, serve a similar notice on his immediate landlord.]

[*or, Where the notice is served under Order XL, Rule* 15,—

If the person on whom this notice is served is not the freeholder of the property to which the application relates, he must, forthwith after receiving this notice, serve a similar notice on his landlord [*Or, in a case to which the proviso to Rule* 15 *applies*—If the person on whom this notice is served is a tenant under a lease having less than 14 years unexpired at the date of the termination of the applicant's current tenancy, he must, forthwith after receiving this notice, serve a similar notice on his landlord].]

(3) The person on whom this notice is served must, in addition to serving any notice in accordance with paragraph (2) above, serve a similar notice on any person having an interest in the property, other than a freehold interest or tenancy, who, to his knowledge, is likely to be affected by the grant of a new tenancy to the applicant."

10. Notwithstanding anything in Rules 6 and 9 of these Rules, Order XL and the Forms in Appendix A as they were in force immediately before the coming into operation of these Rules shall continue to apply in relation to—

(*a*) the taking of any step mentioned in paragraph 8 of the Ninth Schedule to the Landlord and Tenant Act, 1954, or

(*b*) the prosecution of any claim in accordance with the Landlord and Tenant Act, 1927, by virtue of paragraph 9 of the said Schedule.

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 99 of the County Courts Act, 1934(**a**), having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

Donald Hurst.
J. Alun Pugh.
Edgar T. Dale.
W. M. Andrew.
R. C. Essenhigh.
R. T. Monier-Williams.
Gilbert Hicks.

Approved by the Rule Committee of the Supreme Court.

G. P. Coldstream,
Secretary.
20th October, 1954.

I allow these Rules which shall come into force on the 15th day of November, 1954.

Simonds, C.
4th October, 1954.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules amend the County Court Rules, 1936. Their main purpose is to prescribe rules of procedure and Forms required in the County Court under the Landlord and Tenant Act, 1954.

The Rules also—

(i) substitute new rules of procedure in proceedings under the Landlord and Tenant Act, 1927 ;

(ii) give effect to the recommendations relating to Admiralty proceedings made by the Committee on Supreme Court Practice and Procedure in their Second Interim Report (Cmd. 8176), in so far as they apply to the County Court ;

(iii) extend to originating applications and other matters the power to set aside judgments and orders given in the absence of the defendant —a power which has hitherto been limited to actions ; and

(iv) give the court power of its own motion to transfer moneys in court from a deposit account to an investment account.

(**a**) 24 & 25 Geo. 5. c. 53.