

STAYED CLAIMS AND NEW CLAIMS

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PD51Z

- Possession claims brought under CPR 55 and proceedings to enforce possession order by warrant or writ of possession stayed for 90 days from 27 March 2020 to 25 June 2020.
- Exceptions
 - Trespasser proceedings under CPR 55.6
 - IPO applications
 - Applications for agreed case management directions
 - Claims for injunctive relief



PD51Z

- Stay extended to 23 August 2020



CPR 55.29

- Stay extended until 20 September 2020



PD55C

- Modifies CPR 55 during the interim period: 20 September 2020 to 28 March 2021.
- Hearing dates for new claims may be longer than 8 weeks from issue.
- In relation to claims issued on or before 3rd August, the court will require a **reactivation notice** with details of knowledge the landlord has as to the effect of Covid 19 on the tenant and their defendants.
 - There is no prescribed form, so a letter containing all the requested information will be sufficient.
- In relation to claims after 3 August 2020, the court will require **written notice** with evidence from landlords that they have complied with the pre-action protocol and that they have considered the impact of Covid -19 on their tenants and their dependants.

CLAIMS BROUGHT BEFORE 3 AUGUST 2020

Summary – referred to as stayed claimed, need to serve written reactivation notice with appropriate exhibits including knowledge of the effect of covid-19

- Stayed claim= claim brought on or before 19 September 2020 including appeals from a decision in a possession claim
- PARA 2.1 TO 3.1 OF PD55C APPLY
 - 2.1 - One of the parties must file a written **reactivation notice** confirming that they wish the case to be listed, relisted, heard or referred.
 - 2.3 A reactivation notice must—
 - (a) confirm that the party filing and serving it wishes the case to be listed, relisted, heard or referred; and
 - (b) except in proceedings relating to an appeal, set out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants.
 - 2.4 Except in proceedings relating to an appeal, where a reactivation notice is filed and served by the Claimant and the **claim is based on arrears of rent**, the Claimant must provide with the notice an updated rent account for the previous two years.
 - 2.5 Unless the court orders otherwise, any trial date set prior to 27 March 2020 (the date on which Practice Direction 51Z came into force) shall be vacated and the case stayed unless a party complies with the provisions of paragraphs 2.1, 2.3, 2.4 and 5.1 not less than 42 days prior to the hearing date.
 - 2.6 If by 4.00 p.m. on 29 January 2021 no reactivation notice has been filed and served in relation to a stayed claim to which paragraph 2.1 applies, that claim will be automatically stayed.
 - 2.7 A stay under paragraph 2.5 or 2.6 is not a sanction for breach; and an application to lift the stay is accordingly not an application for relief from sanctions under rule 3.9.
 - 3.1 The court must, unless it directs otherwise, give at least 21 days' notice to the parties of any hearing listed or relisted in response to a reactivation notice.
- PARA 4.1 OF PD55C APPLY
 - 4.1 During the interim period¹, rule 55.5 applies with the following modifications—
 - (a) paragraph (1) is modified to read—
 - “(1) Subject to paragraph (1A), the court will fix a date for the hearing when or after it issues the claim form.”; and
 - (b) paragraph (3)(b) (standard period between issue and hearing of eight weeks) does not apply.
 - This means that the date for hearing may be fixed after the claim is issued, the date will not be fixed until the claim is received by the county court hearing centre which serves the address where the land is situated, the hearing date won't be less than 28 days from the date of issue of the claim form, the hearing

¹ 20th Sept 2020 to 28th March 2021

date may be more than 8 weeks from the issue of the claim, the claim form and particulars of claim must be served not less than 21 days before the hearing date. The court retains its powers under CPR 3.1(2)(a) to extend or shorten the time for compliance with any rule.

- PARA 5.1 TO 5.4 OF PD55C APPLY
 - 5.1 In relation to **a stayed claim** to which paragraph 2.1 applies² and in which case management directions were made before 20 September 2020, a party filing and serving a reactivation notice must file and serve with it—
 - (a) a copy of the last directions order together with new dates for compliance with the directions taking account of the stay before 20 September 2020; and
 - (b) either—
 - (i) a draft order setting out additional or alternative directions (including proposing a new hearing date) which are required; or
 - (ii) a statement in writing that no new directions are required and that an existing hearing date can be met; and
 - (c) a statement in writing whether the case is suitable for hearing by video or audio link.
 - 5.2 If the other parties do not agree with any of the matters advanced under paragraph 5.1(a), (b) and (c), they must file and serve a response within 14 days of service of the reactivation notice.
 - 5.3 If no party has complied with paragraph 5.1 by 4.00 p.m. on 29 January 2021, the claim will be automatically stayed.
 - 5.4 A stay under paragraph 5.3 is not a sanction for breach; and an application to lift the stay is accordingly not an application for relief from sanctions under rule 3.9.

CLAIM IN WHICH YOU ALREADY HAVE A FINAL POSSESSION ORDER

Summary - Classed as stayed claim, no need to serve re-activation notice

- Stayed claim= claim brought on or before 19 September 2020 including appeals from a decision in a possession claim
- PARA 2.1 TO 3.1, PARA 4.1 & PARA 5.1 TO 5.4 OF PD55C APPLY
 - Para 2.2. - The requirement for a reactivation notice does not apply to stayed claims in which a final possession order has been made

² i.e. stayed claim brought before 3rd August 2020 and in which a final possession order has not been made

CLAIMS BROUGHT ON OR AFTER 3 AUGUST 2020

Summary – classed as stayed claim, no need to serve reactivation notice, may be delay between issue and hearing date, need to serve notice of compliance with pre-action protocol & knowledge of effect of covid-19 on the tenants and their dependants

- Stayed claim= claim brought on or before 19 September 2020 including appeals from a decision in a possession claim
- PARA 2.1 TO 3.1 & 5.1 TO 5.4 OF PD55C APPLY
 - PARA 2.2 – The requirement for a reactivation notice does not apply to stayed claims brought on or after 3rd August 2020
- PARA 4.1 OF PD55C APPLIES
 - 4.1 During the interim period³, rule 55.5 applies with the following modifications—
 - (a) paragraph (1) is modified to read—
 - “(1) Subject to paragraph (1A), the court will fix a date for the hearing when or after it issues the claim form.”; and
 - (b) paragraph (3)(b) (standard period between issue and hearing of eight weeks) does not apply.
- PARA 6.1 OF PD55C APPLIES
 - 6.1 In any claim (whether a new claim or a stayed claim) brought on or after 3 August 2020, the Claimant must—
 - bring to the hearing **two copies of a notice**—
 - in a claim to which the Pre-Action Protocol for Possession Claims by Social Landlords is applicable, confirming that the Claimant has complied with that Pre-Action Protocol and detailing how the Claimant has done so; and
 - in all claims, setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants; and
 - serve on the Defendant not less than 14 days prior to the hearing the notices referred to in sub-paragraph (a) setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants.

CLAIMS BROUGHT BEFORE 19 SEPT 2020

Summary – referred to as stayed claim, no need to serve reactivation notice, may be delay between issue and hearing date, need to serve notice of compliance with pre-action protocol & knowledge of effect of covid-19 on the tenants and their dependants

³ 20th Sept 2020 to 28th March 2021

- Stayed claim= claim brought on or before 19 September 2020 including appeals from a decision in a possession claim
- PARA 2.1 TO 3.1 & 5.1 TO 5.4 OF PD55C APPLY
 - PARA 2.2 – The requirement for a reactivation notice does not apply to stayed claims brought on or after 3rd August 2020
 - Para 2.2. - The requirement for a reactivation notice does not apply to stayed claims in which a final possession order has been made
- PARA 4.1 OF PD55C APPLIES
 - 4.1 During the interim period⁴, rule 55.5 applies with the following modifications—
 - (a) paragraph (1) is modified to read—
 - “(1) Subject to paragraph (1A), the court will fix a date for the hearing when or after it issues the claim form.”; and
 - (b) paragraph (3)(b) (standard period between issue and hearing of eight weeks) does not apply.
- PARA 6.1 OF PD55C APPLIES
 - 6.1 In any claim (whether a new claim or a stayed claim) brought on or after 3 August 2020, the Claimant must—
 - bring to the hearing two copies of a notice—
 - in a claim to which the Pre-Action Protocol for Possession Claims by Social Landlords is applicable, confirming that the Claimant has complied with that Pre-Action Protocol and detailing how the Claimant has done so; and
 - in all claims, setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants; and
 - serve on the Defendant not less than 14 days prior to the hearing the notices referred to in sub-paragraph (a) setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants.

CLAIMS BROUGHT BETWEEN 19 SEPT AND 28 MARCH 2021 (“the INTERIM PERIOD”)

Summary – referred to as a new claim, *may be delay between issue and hearing date, need to serve notice of compliance with pre-action protocol & knowledge of effect of covid-19 on the tenants and their dependants*

- New claim = claim brought after 19th September 2020 (CPR 55C)
- PARA 4.1 OF PD55C APPLIES

⁴ 20th Sept 2020 to 28th March 2021

- 4.1 During the interim period⁵, rule 55.5 applies with the following modifications—
 - (a) paragraph (1) is modified to read—
 - “(1) Subject to paragraph (1A), the court will fix a date for the hearing when or after it issues the claim form.”; and
 - (b) paragraph (3)(b) (standard period between issue and hearing of eight weeks) does not apply.
- PARA 6.1 OF PD55C APPLIES
 - 6.1 In any claim (whether a new claim or a stayed claim) brought on or after 3 August 2020, the Claimant must—
 - bring to the hearing two copies of a notice—
 - in a claim to which the Pre-Action Protocol for Possession Claims by Social Landlords is applicable, confirming that the Claimant has complied with that Pre-Action Protocol and detailing how the Claimant has done so; and
 - in all claims, setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants; and
 - serve on the Defendant not less than 14 days prior to the hearing the notices referred to in sub-paragraph (a) setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants.
- Para 1.7 - PARA 6.2 OF PD55C APPLIES ONLY to new claims to which Section II of Part 55 applies
 - 6.2 In any claim (whether a new claim or a stayed claim) brought on or after 3 August 2020 to which Section II of Part 55⁶ applies the Claimant must file with the claim form for service with it a notice setting out what knowledge that party has as to the effect of the Coronavirus pandemic on the Defendant and their dependants.

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Hardwicke

10 September 2020

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⁵ 20th Sept 2020 to 28th March 2021

⁶ Accelerated possession claims of property let on an AST

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