



## Residential Possession Proceedings: Coronavirus Lockdown

28 April 2020

Thus far, the two major steps taken in housing law to address the current coronavirus (COVID-19) crisis are:

- CPR PD 51Z
- Coronavirus Act 2020 s.3 and Sch.29

### CPR PD 51Z: Stay of Possession Proceedings

All possession proceedings brought under CPR 55 and all proceedings to enforce a possession order are stayed until 25 June 2020: CPR PD51Z para.2.

On 20 April 2020, two exceptions were added by CPR PD51Z para.2A:

- Trespassers actions against persons unknown
- Applications for interim possession orders under the Criminal Justice and Public Order Act 1994

Apart from these two exceptions, all residential possession proceedings (whether landlord and tenant, mortgage repossessions or trespassers actions) are stayed. The amendment on 2020 also made it clear that parties can apply for case management directions but only where these have been agreed. Note that CPR PD51Z is being challenged in *Arkin v Marshall* due to be heard by the Court of Appeal on 30 April 2020.

CPR PD51Z does not prevent proceedings being issued, although in reality this is currently difficult to do. Further, in *Coronavirus Act 2020 and renting: Annex A - technical guidance for landlords on the provisions of the Coronavirus Act 2020* (MHCLG, April 2020) the government says “We strongly advise landlords not to commence or continue possession proceedings during this challenging time without a very good reason to do so”. As this guidance is not statutory, the advice amounts to little more than aspiration. No examples are given of “good reasons” but some landlords will be faced with the situation where they have served

**4-5 Gray's Inn Square**  
London  
Gray's Inn  
London WC1R 5AH  
DX 1029 LDE  
+44 (0)20 7404 5252

**Birmingham**  
2nd Floor  
Two Snow Hill  
Birmingham B4 6GA  
+44 (0)121 231 7430

clerks@4-5.co.uk  
**www.4-5.co.uk**

4-5 Gray's Inn Square Ltd  
Registered office is, 5 Luke Street,  
London, EC2A 4PX  
Company number: 8685154  
VAT number: 163895665



notices which will lapse unless proceedings are issued within time: e.g. the twelve-month time limit on notices seeking possession imposed by s.83(4), Housing Act 1985, and the four-month time limit on s.21(4) notices imposed by s.21(4E), Housing Act 1988. The practice direction also draws attention to the fact that a claim for an injunction is not subject to the stay even if included in a possession action brought under CPR 55: CPR PD 51Z.3. For example, in an anti-social behaviour cases, landlords can still apply for injunctions (and, indeed, are doing so successfully).

### Notice Periods

Schedule 29 to the 2020 Act temporarily amends the notice periods for bringing possession proceedings. In each case, the notice period is extended to three months for any notice served during the period from 26 March 2020 to 30 September 2020. The prescribed forms for each notice are also amended by the Act. This extended period applies to the following:

- Notices seeking possession against assured tenants (s.8, Housing Act 1988)
- Notices requiring possession against assured shorthold tenants (s.12, Housing Act 1988)
- Notices seeking possession against secure tenants (s.83, Housing Act 1985) including under the absolute ground of possession for anti-social behaviour (s.84A, Housing Act 1985)
- Notices to recover possession at the end of a flexible tenancy (s.107D, Housing Act 1985)
- Notices seeking possession against introductory tenants (s.128, Housing Act 1996)
- Notices seeking possession against demoted tenants (s.143, Housing Act)

**4-5 Gray's Inn Square**  
London  
Gray's Inn  
London WC1R 5AH  
DX 1029 LDE  
+44 (0)20 7404 5252

**Birmingham**  
2nd Floor  
Two Snow Hill  
Birmingham B4 6GA  
+44 (0)121 231 7430

clerks@4-5.co.uk  
[www.4-5.co.uk](http://www.4-5.co.uk)

4-5 Gray's Inn Square Ltd  
Registered office is, 5 Luke Street,  
London, EC2A 4PX  
Company number: 8685154  
VAT number: 163895665



The powers to dispense with a notice seeking possession under s.83, Housing Act 1985, or under s.8, Housing Act 1988, remain in force.

The 2020 Act has introduced a new notice for statutory tenants: s.3(4A)-(4F), Rent Act 1977. Three months' written notice has to be given, which must:

- describe the statutory tenancy
- state the address of the dwelling, the name of the statutory tenant and the name and address of the landlord
- state that the landlord intends to commence proceedings to obtain possession of the dwelling-house as against the statutory tenant;
- state the ground or grounds on which the landlord intends to seek possession of the dwelling-house, and the reason or reasons why the landlord believes the ground or grounds to be applicable;
- state the date on or after which the landlord intends to commence the possession proceedings;
- explain that the landlord is prohibited from commencing those proceedings in reliance on the notice unless that date falls at least three months after the date on which the notice is given.

The court has power to dispense with notice where it considers it just and equitable to do so. If a landlord wishes to rely on a ground which is not specified in the notice or is not sufficiently particularise, he must ask for permission from the court.

In addition, an existing contractual, periodic Rent Act tenant has to be given three months' notice to quit: CA 2020 Sch.29, para.2(1).

### Protection for mortgagors

Apart from the current stay of ongoing possession proceedings, the only additional protection afford to mortgagors derives from the

**4-5 Gray's Inn Square**  
London  
Gray's Inn  
London WC1R 5AH  
DX 1029 LDE  
+44 (0)20 7404 5252

**Birmingham**  
2nd Floor  
Two Snow Hill  
Birmingham B4 6GA  
+44 (0)121 231 7430

clerks@4-5.co.uk  
**www.4-5.co.uk**

4-5 Gray's Inn Square Ltd  
Registered office is, 5 Luke Street,  
London, EC2A 4PX  
Company number: 8685154  
VAT number: 163895665



guidance given by the Financial Conduct Authority (FCA). In *Mortgages and coronavirus: our guidance for firms* (issued 20 March 2020 and updated 25 March 2025), the FCA states it expects all regulated mortgage lenders to offer three-month “payment holidays” to borrowers “who are experiencing or reasonably expect to experience payment difficulties because of coronavirus”. The guidance also warns that, unless there are exceptional circumstances, the FCA would take appropriate action against a lender if it commenced possession proceedings before the end of June 2020.

### Proposed New Protocol

The question of what will happen after the lockdown remains open. The Government has provided some specific assistance for some landlords and tenants. For tenants on benefits, the local housing allowance has been increased: Social Security (Coronavirus) (Further Measures) Regulations 2020 (SI 2020/371). The three-month payment holiday is also intended to be applied to buy-to-let landlords. Nevertheless, it is inevitable that many tenants will fall into rent arrears and have landlords who are unable or unwilling to grant them an indulgence. It appears that the intention is to address this in a revised pre-action protocol for rent arrears cases which will apply to private as well as social landlords.

**Andrew Dymond**

28 April 2020

**4-5 Gray's Inn Square**  
London  
Gray's Inn  
London WC1R 5AH  
DX 1029 LDE  
+44 (0)20 7404 5252

**Birmingham**  
2nd Floor  
Two Snow Hill  
Birmingham B4 6GA  
+44 (0)121 231 7430

clerks@4-5.co.uk  
**www.4-5.co.uk**

4-5 Gray's Inn Square Ltd  
Registered office is, 5 Luke Street,  
London, EC2A 4PX  
Company number: 8685154  
VAT number: 163895665