



**ADGM COURTS**

**PRACTICE DIRECTION 16**

**SHORT-TERM RESIDENTIAL LEASE CLAIMS**

## PRACTICE DIRECTION 16

### SHORT-TERM RESIDENTIAL LEASE CLAIMS

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## PRACTICE DIRECTION 16

### SHORT-TERM RESIDENTIAL LEASE CLAIMS

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This Practice Direction is to be read with, and is subject to, the ADGM Court Procedure Rules 2016 (“CPR”) and the Divisions and Jurisdiction (Court of First Instance) Rules 2015. In particular, Part 41 of the CPR contains special provisions dealing with short-term residential lease claims.

Unless this Practice Direction states otherwise, terms used in this Practice Direction have the meanings set out in the CPR, and a reference to a “Rule” is a reference to the CPR.

#### APPLICATION

This Practice Direction must be read together with the following Practice Directions:

- **Practice Direction 1 - General**
- **Practice Direction 6 - Service of Documents**
- **Practice Direction 8 - Evidence**
- **Practice Direction 9 - Costs**
- **Practice Direction 10 – Enforcement**
- **Practice Direction 13 - Court-Annexed Mediation**
- **Practice Direction 15 - Real Property Claims**

If the provisions of this Practice Direction differ from or are inconsistent with provisions of other Practice Directions, the provisions of this Practice Direction prevail with respect to short-term residential lease claims.

Unless the Court orders otherwise, the following provisions shall apply.

#### A. GENERAL PROVISIONS

- 16.1 A “short-term residential lease” means a lease of real property for use as a residential dwelling with a term of less than 4 years.
- 16.2 A “short-term residential lease claim” is a claim or dispute arising under or in relation to a short-term residential lease.

#### B. MAKING A SHORT-TERM RESIDENTIAL LEASE CLAIM [r.336]

- 16.3 A claimant shall make a short-term residential lease claim in accordance with **Form CFI 1B**.

### **Requirements**

16.4 The claim form must:

- (a) identify the short-term residential lease at issue and attach a copy of the lease;
- (b) state what final orders the claimant seeks;
- (c) include particulars of the claimant's case in numbered paragraphs, which shall include:
  - (i) the relevant facts;
  - (ii) details of any alleged breach(es) of the lease;
  - (iii) the principal amount(s) claimed, supported by calculations and any documents; and
  - (iv) details of any interest claimed;
- (d) include the name and address for service of the defendant together with the defendant's email address and mobile phone number (if known)<sup>1</sup>;
- (e) state whether the claimant is self-represented or is represented by an authorised officer or lawyer, and state as applicable the contact name, address, telephone number and email address of the claimant's representative
- (f) attach a copy of any document (other than any ADGM enactment) referred to in the claim form or relied on to prove any allegation contained in the claim form; and
- (g) where the claim form is to be served outside the jurisdiction, include the grounds on which the claimant is entitled to bring the claim against the defendant.

### ***Particular requirements for specific short-term residential lease claims***

16.5 Where the claim concerns:

- (a) unpaid rent due under a short-term residential lease, the claim form must: (i) set out the amount of unpaid rent that is due; (ii) identify the relevant provisions in the lease that the claimant relies on; (iii) provide evidence of the defendant's default (such as a returned cheque notification from the bank); and (iv) attach copies of any relevant correspondence between the landlord and tenant.

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<sup>1</sup> Where the defendant is a company, partnership or other entity, the claimant must include the defendant's registered office or any place of business of the defendant which has a real connection with the claim together with an email address and mobile phone number (if known) of a person who meets the description set out in Practice Direction 6, paragraph 6.14.

- (b) repair and maintenance obligations under a short-term residential lease, the claim form must: (i) identify the items requiring repair or maintenance; (ii) identify the repair and maintenance obligations in the lease or the relevant sections in the Real Property Regulations 2024 that the claimant relies on; (iii) provide or attach evidence of the cost of remedying the breach; and (iv) attach copies of any relevant correspondence between the landlord and tenant.
- (c) the return of the security deposit under a short-term residential lease, the claim form must: (i) provide or attach evidence of the security deposit lodged; (ii) provide details of the dispute concerning the return of the security deposit (including the amount of the security deposit retained by the landlord that is in dispute); (iii) identify the relevant clauses in the lease or the relevant sections in the Real Property Regulations 2024 that the claimant relies on; and (iv) attach copies of any relevant correspondence between the landlord and tenant.
- (d) lease renewals and/or rent increases, the claim form must: (i) provide details of the dispute; (ii) identify the relevant clauses in the lease or the relevant sections in the Real Property Regulations 2024 that the claimant relies on; and (iii) attach copies of any relevant notice(s) or other correspondence between the landlord and tenant.

16.6 Section O of this Practice Direction (“Short-Term Residential Lease Orders”) sets out additional information that must be included in a claim form for specific real property orders that may be sought in short-term residential lease claims.

#### ***Service of the claim form***

16.7 Rule 337 provides that the Registry will serve the claim form on the defendant, unless:

- (a) a defendant is to be served outside the United Arab Emirates, in which case the claim form must be served on the defendant by the claimant in accordance with Rule 15(7); or
- (b) any rule, practice direction, ADGM enactment or a Court order provides otherwise.

16.8 Part 4 of the CPR prescribes how a claim form may be served.

16.9 Where the claim form has not been served on a defendant by the Registry in accordance with paragraph 16.7, the claimant must file a certificate of service in accordance with Rule 21.

#### **C. RESPONDING TO A SHORT-TERM RESIDENTIAL LEASE CLAIM [r.338]**

16.10 A defendant is not required to file an acknowledgement of service in relation to a short-term residential lease claim.

16.11 Within 7 days after a defendant is served with a claim form, a defendant must file and serve either:

- (a) an admission and any request for time to pay in accordance with Rules 42 and 43;
- (b) an admission and any request for time to pay in accordance with Rules 42 and 43, and a defence, together with any counterclaim, if the defendant admits only part of the claim;
- (c) a defence, together with any counterclaim, if the defendant disputes the whole of the claim; or
- (d) an application to dispute the Court's jurisdiction to decide the claim.

***Admission and request for time to pay [r.42, r.43 and r.338(2)]***

16.12 The defendant may file and serve an admission, together with any request for time to pay, in accordance with **Form CFI 34** which must include:

- (a) whether the admission is for the whole or part of the claim;
- (b) details of the timing, amounts and frequency of payments proposed (with any payment plan not to exceed 3 years from the date the first payment is to be made);
- (c) reasons for the request for time to pay, and the reasonableness of the request; and
- (d) information about the employment (if applicable) and financial circumstances of the defendant.

***Disputing jurisdiction [r.338(2)]***

16.13 An application to dispute the Court's jurisdiction to decide the claim must be made by filing an application notice in accordance with **Form CFI 12C**.

16.14 If a defendant makes an application to dispute the Court's jurisdiction, he does not need to file a defence before the application is heard.

***Filing a defence and making a counterclaim [r.49, r.50 and r.338(2)]***

16.15 A defence must set out the defendant's answer to the particulars of the claim advanced by the claimant.

16.16 A defence shall be filed in accordance with **Form CFI 8**.

16.17 A defendant who wishes to make a counterclaim must:

- (a) identify the short-term residential lease at issue and attach a copy of the lease if not already filed on the eCourts Platform;

- (b) state what final orders the counterclaimant seeks by counterclaim;
- (c) include particulars of the counterclaim in numbered paragraphs within the form, which shall include:
  - (i) the relevant facts;
  - (ii) details of any alleged breach of the lease;
  - (iii) any relevant calculations for the amount or amounts claimed; and
  - (iv) details of any interest claimed.
- (d) if a counterdefendant is not a party to the claim<sup>2</sup>, include the name and address for service of the counterdefendant together with the counterdefendant's email address and mobile phone number (if known);<sup>3</sup>
- (e) state whether the counterclaimant is self-represented or is represented by an authorised officer or lawyer, and state as applicable the contact name, address, telephone and email address of the counterclaimant's representative;
- (f) include any of the matters set out in paragraph 16.4(g), 16.5 and 16.6 if they are relevant to the counterclaim being made.

- 16.18 A counterclaim shall be filed in accordance with **Form CFI 9A**.
- 16.19 A copy of any document (other than any ADGM enactment) referred to in a defence or counterclaim or relied on to prove any allegation contained in a defence or counterclaim must be attached to the defence or the counterclaim (as the case may be), unless that document has previously been filed on the eCourts Platform.

#### **D. REPLYING TO A DEFENDANT'S RESPONSE**

##### ***Response to admission and request for time to pay [r.43]***

- 16.20 A claimant must respond to a defendant's admission and request for time to pay in accordance with **Form CFI 45** within 7 days after the admission and request for time to pay is served on him.

##### ***Reply to a defence [r.339]***

- 16.21 The claimant may file a reply to a defence within 7 days after service of the defence setting out the claimant's reply to the defence.
- 16.22 A reply shall be filed in accordance with **Form CFI 10**.

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<sup>2</sup> Where a counterclaimant wishes to join a new party to the proceedings as a counterdefendant, the counterclaimant must first make an application that that person be added as an additional party in accordance with CPR 50(3).

<sup>3</sup> Above n1.

16.23 The claimant must attach to the reply, a copy of each document (other than an ADGM enactment) referred to in the reply or relied on to prove any allegation contained in the reply, unless that document has previously been filed on the eCourts Platform.

***Defence to any counterclaim and subsequent reply [r.49 and r.338, r.339]***

16.24 A party wishing to defend all or part of any counterclaim may file a defence to the counterclaim with 7 days of being served.

16.25 A defence to counterclaim shall be made in accordance with **Form CFI 8**.

16.26 A party who seeks to reply to a defence to counterclaim must file and serve a reply within 7 days after service of the defence to counterclaim.

16.27 A reply to a defence to counterclaim shall be filed in accordance with **Form CFI 10**.

16.28 A copy of any document (other than any ADGM enactment) referred to in a defence to counterclaim or reply to defence to counterclaim, or relied on to prove any allegation contained in a defence or reply, must be attached to the defence or reply (as the case may be), unless the document has previously been filed on the eCourts Platform.

**E. EXTENSION OF TIME TO RESPOND TO A CLAIM OR FILE A PLEADING [r.338]**

16.29 Rule 338(3)(b) provides that a defendant may request that the Court extend the time period for responding to a claim (including a counterclaim) by up to 7 days. Any request should be made by email to [registry@adgmcourts.com](mailto:registry@adgmcourts.com) and must:

- (a) identify the proceedings to which the request relates;
- (b) state the reason or reasons for the request;
- (c) specify how much additional time (up to a maximum of 7 days from the date the response is due) the defendant needs to respond; and
- (d) be made before the deadline for filing the response (otherwise paragraph 16.30 shall apply).

16.30 In all other cases, an application for an extension of time to file:

- (a) a defence, reply to defence, counterclaim, defence to counterclaim or reply to defence to counterclaim (each referred to for the purpose of this section as a “pleading”); or
- (b) a response to a claim (other than a defence as to which see sub-paragraph (a) above),

must be made by application notice in accordance with **Form CFI 12C**.

16.31 An application made pursuant to paragraph 16.30 must:

- (a) be made at least 2 clear days before the deadline for the filing of the pleading or response unless it is not practicable to do so;
- (b) attach or set out an outline of the pleading or response proposed to be filed (or a draft of the pleading or response if the application is made after the due date unless it is not possible to do so);
- (c) provide an explanation for why the pleading or response is/was not able to be filed within the relevant time period;
- (d) state the time by which the applicant proposes to file the pleading or response; and
- (e) attach the applicant's written request to the other parties to the proceedings seeking their consent to file the pleading or response and any response(s) received to that request.

#### **F. APPLICATION FOR DEFAULT JUDGMENT [r.340]**

- 16.32 An application for default judgment shall be made in accordance with **Form CFI 12B** and must include:
  - (a) the order or orders that the claimant seeks from the Court; and
  - (b) evidence addressing the default relied on and confirming that the default has not been remedied.
- 16.33 An application for default judgment may be made without notice if a defendant has failed to file a defence. Any evidence relied on by a claimant in support of his application need not be served on a party who has failed to file a defence.
- 16.34 Subject to Rule 40A, a default judgment may include interest at the rate agreed between the parties or, if there is no agreed rate, at the rate of 5 per cent per annum from the date the money was due.
- 16.35 A default judgment will be made available to the claimant through the eCourts Platform and will be served by the Registry on all other parties to the proceeding who are to be served within the United Arab Emirates.

#### **G. APPLICATION FOR SUMMARY JUDGMENT [r.341 and r.68-70]**

- 16.36 The Court may give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if it considers that:
  - (a) the claimant has no real prospect of succeeding on the claim or issue; or
  - (b) the defendant has no real prospect of successfully defending the claim or issue; and
  - (c) there is no other compelling reason why the case or issue requires a trial.

- 16.37 Summary judgment is only available once the defendant has filed a defence, unless the Court otherwise gives permission.
- 16.38 An application for summary judgment shall be made in accordance with **Form CFI 12C**.

#### **H. CASE MANAGEMENT [r.8, r.78, r.79, r.306 and r.342]**

- 16.39 The Court's power to manage proceedings shall be exercised with the aim of resolving a short-term residential lease claim within 2 months of the claim form being issued. The Court may make any order, give any direction or take any step it considers appropriate for the purpose of managing the proceedings.

##### ***Case management conference [r.8 and r.79]***

- 16.40 Within 4 days after the close of pleadings (which in the normal course will be after the filing of a reply), the parties shall each file a completed copy of the directions questionnaire set out in Appendix A. If all parties agree to try and settle the case by court-annexed mediation, a mediation shall take place within 21 days of the date that the last directions questionnaire was filed.
- 16.41 Subject to any referral of the case to court-annexed mediation under paragraph 16.40, the Court will convene a case management conference within 10 days after the close of pleadings. The case management conference will ordinarily be conducted by video conference as arranged by the Court.
- 16.42 At the case management conference, the Court will discuss the case with the parties based on the documents filed, including the parties' directions questionnaires, and will make such directions or determinations as it considers appropriate in relation to the following matters:
  - (a) whether it is appropriate to refer the dispute or any part of the dispute to mediation (if a mediation has not already been conducted);
  - (b) whether the Court has sufficient information to decide the case such that it can proceed to conduct a hearing at the case management conference or decide the case on the papers;
  - (c) whether the Court requires any additional information in order to decide the case, including whether it is necessary for the parties to file witness statement evidence or expert evidence;
  - (d) what further procedural steps should be undertaken by the parties before the case is to be decided;
  - (e) whether it is necessary to conduct a hearing at a later date or whether the case can be decided on the papers pending the provision of any further information by the parties.
- 16.43 Where the Court proceeds to conduct a hearing under paragraph 16.42(b) it may give its judgment on the case at that hearing.

16.44 If the Court considers it appropriate, it may dispense with the case management conference and give directions, or enter its judgment, in writing and without the need for a hearing.

***Court-ordered mediation [r.78 and r.306]***

16.45 The Court may, if it considers it appropriate, refer the parties to mediation at any stage of the proceedings whether at the request of a party or parties, or on its own initiative.

16.46 The Court's power to refer a dispute to mediation does not depend on the consent of all or any of the parties.

16.47 Where the Court refers the parties to mediation, the mediation shall be conducted in accordance with Parts D to N of Practice Direction 13.

***Timetables [r.8]***

16.48 The parties must comply with the Court's procedural timetable.

16.49 If a party seeks an adjustment to the procedural timetable, they must:

- (a) first seek the written consent of the other party or parties to the case; and
- (b) in any correspondence with Court, provide evidence that they have sought the written consent of the other party or parties to the case together with any response received.

16.50 If the parties agree that the timetable should be adjusted, the party who first sought the adjustment must file a written consent order to the adjusted timetable in accordance with **Form CFI 22**. The consent order must also be sent to the Registry by email in Word format.

16.51 If the parties cannot agree to make an adjustment to the timetable which is sought by a party and:

- (a) the due time has not passed for the carrying out of the step in respect of which the adjustment is sought and the adjustment sought will not affect or have a consequential impact on the dates fixed for a hearing or a trial:
  - (i) the party seeking the adjustment must file and serve, at least 4 days before the due time for carrying out the step in respect of which an adjustment is sought, a statement in accordance with **Form CFI 36** setting out its justification for the adjustment it seeks; and
  - (ii) the other party or parties must file and serve any response in accordance with **Form CFI 36** within 2 days of receipt of such statement. (The Court will ordinarily resolve that dispute on the papers);

or

(b) the due time has passed for carrying out the step in respect of which an adjustment is sought or the adjustment sought will affect or have a consequential impact on the dates fixed for a hearing or a trial, the party seeking the adjustment must make an application for an extension of time in accordance with **Form CFI 12C**.

#### I. **DISCLOSURE [r.345, r.85-91]**

16.52 If a party wishes to make standard disclosure of any additional documents that it will seek to rely on at trial that have not previously been filed on the eCourts Platform, such disclosure must be made within 7 days of the close of pleadings or before the case management conference, whichever is earlier.

16.53 Where a party has good reason to believe that documents held by the other party would be likely to support their case or adversely affect the other party's case, they may seek an order from the Court for the specific disclosure of such documents, and the Court may make an order for specific disclosure of those documents if it is satisfied that disclosure is necessary in order to dispose fairly of the claim or to save costs.

16.54 An application for specific disclosure must be made by application notice in accordance with **Form CFI 12C**.

16.55 Any application made to the Court for disclosure by a person who is not a party to the proceedings must be made in accordance with paragraphs 2.101-2.106 of Practice Direction 2.

#### J. **WITNESS STATEMENTS [r.97]**

16.56 The Court will make any order as to the filing of witness statements it considers appropriate. All witness statements ordered by the Court must be prepared and filed in accordance with **Form CFI 15**. Any supporting document referred to in a witness statement must be given an exhibit number and attached to the witness statement unless that document has previously been filed on the eCourts Platform (in which case an appropriate cross-reference should be made to that document in the witness statement).<sup>4</sup>

#### K. **EXPERT EVIDENCE [r.142(2) and r.346]**

16.57 Parties may only file expert evidence with the Court's permission.

16.58 Any request by a party to file expert evidence must be included in that party's directions questionnaire to be filed in advance of the case management conference in accordance with paragraph 16.41 above.

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<sup>4</sup> The purpose of this provision is that all supporting documents referred to in a witness statement must be able to be readily located by the Judge.

## L. HEARING [r.8, r.175 and r.343]

### ***Power to dispense with an oral hearing [r.343]***

16.59 The Court may decide the claim on the papers (that is, without an oral hearing):

- (a) if the parties agree as to the terms of any order or direction to be made or given by the Court;
- (b) if the parties agree that the Court should dispose of the claim without a hearing; or
- (c) where the Court considers that the claim can be fairly determined on the papers without a hearing and, in all of the circumstances, it would be appropriate to do so.

### ***Allocation of hearing date [r.8]***

16.60 Where an oral hearing is required on a short-term residential lease claim, the Court will give a hearing date as soon as reasonably possible.

16.61 The Court will inform the parties of the amount of time allowed for the oral hearing.

### ***Representation [r.175]***

16.62 A party is not required to have legal representation for a short-term residential lease claim.

16.63 A natural person who is a litigant in person shall have a right of audience in any hearing before the Court.

16.64 The Court may give permission to a party who is not a natural person to be represented at a hearing by an employee, director, officer or partner who is not a lawyer, on being satisfied that the person is likely to be able to present the party's case efficiently and to assist the Court in reaching a just result.

### ***Conduct of the hearing [r.8]***

16.65 The Court may adopt any method of proceedings at a hearing that it considers to be fair and appropriate.

## M. INTEREST

16.66 Where interest is payable on a judgment debt and there is no agreed rate, it shall be at the rate of 5 per cent per annum from the date that judgment is given until payment.

16.67 Subject to any ADGM enactment, where interest is payable on all of any part of a debt or damages in relation to a period prior to, or as at, the date of judgment and there is no agreed rate, it shall be at the rate of 5 per cent per annum.

## N. APPLICATIONS [Part 8 of CPR]

16.68 Subject to paragraph 16.69 below, an application made in relation to a short-term residential lease claim is to be filed in accordance with **Form CFI 12C** save that:

- (a) an application for default judgment must be made in accordance with Section F above in accordance with **Form CFI 12B**;
- (b) a pre-claim application must be made in accordance with **Form CFI 12A**, supported by witness statement evidence in accordance with **Form CFI 15**.

16.69 Paragraph 16.68 is to be read subject to the following:

- (a) Rule 108(2) sets out the circumstances in which affidavit evidence is required. If a Rule, Practice Direction or ADGM enactment requires the written evidence to be in the form of an affidavit, it must be made in accordance with **Form CFI 14**; and
- (b) Practice Direction 7 contains special provisions for particular types of applications which are to apply in relation to a short-term residential lease claim.

### ***Pre-Claim Applications [r.64(3),(4)]***

16.70 Ordinarily, applications should only be made once a claim has been filed. However, where an applicant requires urgent interim relief in relation to a short-term residential lease claim, an applicant may make an application before filing a claim on the undertaking that a claim will be filed within a period of 2 days after the application is filed.

16.71 A pre-claim application notice must include or attach:

- (a) the order or orders that the applicant seeks from the Court;
- (b) details of the short-term residential lease and attach a copy of the short-term residential lease;
- (c) the evidence that the applicant relies on in support of the application;
- (d) an undertaking by the applicant to file a claim within 2 days of the issuing of the application notice by the Court; and
- (e) a statement as to whether the applicant requests a hearing of the application and, if so, whether the hearing is to be conducted without notice to the respondent or on an expedited basis, including any reasons supporting the request.

16.72 Where the application is to be made with notice to the respondent, the application notice and evidence in support must be served by the applicant in accordance with Part 4 of the CPR on each respondent within 7 days after the filing of such documents,

and thereafter the applicant must file a certificate of service in accordance with **Form CFI 31** within a further 7 days.

16.73 If the respondent wishes to raise any matter before the Court in response to the application or in relation to the order(s) sought by the applicant, a respondent to an application notice must file a notice of appearance in accordance with **Form CFI 23** within 7 days of being served with the application notice.

#### ***Post-claim applications [r.64]***

16.74 A post-claim application notice must include or attach:

- (a) the order or orders that the applicant seeks from the Court;
- (b) details of the short-term residential lease and attach a copy of the short-term residential lease;
- (c) the evidence that the applicant relies on in support of the application; and
- (d) a statement as to whether the applicant requests a hearing of the application and, if so, whether the hearing is to be conducted without notice or on an expedited basis including any reasons supporting the request.

#### ***Without notice applications [r.64 and r.65]***

16.75 Applications made without notice are to be made in accordance with Practice Direction 7, paragraphs 7.4 to 7.7 (in respect of pre-claim applications) and Practice Direction 7, paragraphs 7.14 to 7.17 (in respect of post-claim applications).

#### ***Hearing [r.8, r.66 and r.175]***

16.76 The Court may give such directions regarding the hearing of an application as it considers appropriate. The Court may also determine the application on the papers without a hearing having regard to similar factors set out in 16.57.

#### ***Particular applications***

16.77 Subject to paragraph 16.68, an application:

- (a) for further information;
- (b) for security for costs;
- (c) to set aside a notice of discontinuance;
- (d) for a freezing injunction, or to vary or discharge a freezing injunction; or
- (e) for any other type of injunction;

(f) for permission to make a counterclaim against a claimant pursuant to Rule 50(1); or

(g) for permission to make a counterclaim against a person other than the claimant pursuant to Rule 50(3);

is to be dealt with in accordance with the applicable provisions in Practice Direction 7.

16.78 An application to set aside or vary a default judgment order must:

(a) be made by filing an application notice in accordance with **Form CFI 12C**; and

(b) address (as applicable) the matters set out in CPR 41.

## O. SHORT-TERM RESIDENTIAL LEASE ORDERS

16.79 The Court may make any order it considers appropriate in a short-term residential lease claim, including in relation to any order sought as set out in this section.

16.80 This section sets out certain specific orders that the Court may make in a short-term residential lease claim.

16.81 For the purposes of this section, a party may apply to the Court for an order in its:

(a) claim form in accordance with **Form CFI 1B**; or

(b) application notice in accordance with **Form CFI 12C** (if made after a claim has been commenced) or in accordance with **Forms CFI 12A and 15** (if made before a claim has been commenced).

### ***Order to terminate a short-term residential lease [r.347(3)]***

16.82 These provisions apply to any claim or application for an order to terminate a short-term residential lease prior to its expiration. Prior to the expiry of a short-term residential lease, a party may seek an order to:

(a) terminate it; or

(b) challenge its termination (as to which see 'Relief against forfeiture' under paragraphs 16.93 to 16.99 below).

16.83 An order to terminate a short-term residential lease may be sought on the grounds set out in Section 63 of the Real Property Regulations 2024 irrespective of the length of the lease.

16.84 A party seeking the termination of a short-term residential lease may simultaneously request an order for possession (see paragraphs 16.88 to 16.91 below).

16.85 Where a party seeks an order to terminate a short-term residential lease, the claim form or application (as applicable) must include or attach:

- (a) a copy of the lease;
- (b) details of the grounds for termination;
- (c) details of any breach of the short-term residential lease; and
- (d) details of every person who to the best of the claimant's knowledge is in possession of the real property that is the subject of the short-term residential lease.

16.86 If the Court orders the termination of a short-term residential lease, it may also specify the date by which the defendant must vacate the lease property.

16.87 If the defendant fails to vacate the lease property within the date specified in any order for possession, the claimant may apply for a writ of possession.

***Order for possession [r.347(1)(a)]***

16.88 These provisions apply to any claim or application for an order for possession of real property subject to a short-term residential lease.

16.89 Where a party seeks an order for possession of such property, the claim form or application (as applicable) must:

- (a) set out the grounds on which possession is sought;
- (b) include the details of every person who to the best of the claimant's knowledge is in possession of the property;
- (c) attach any statements of account reflecting any arrears under the short-term residential lease; and
- (d) provide details of any breaches of the short-term residential lease.

16.90 Where the order is sought by application on an urgent basis, the applicant may request an expedited hearing or for the hearing to be without notice to the respondent in circumstances where:

- (a) there is a threat of damage to the lease property;
- (b) there is actual or threatened anti-social behaviour;
- (c) there is actual or threatened use of the lease property for unlawful purposes; or
- (d) there are other urgent circumstances of the case.

16.91 The Court may make an order for possession at its discretion. Any order for possession shall include:

- (a) a date by which the respondent must vacate the lease property, which will be no less than 14 days from the date of the order;
- (b) permission for the applicant to apply for a writ of possession should the respondent fail to vacate the lease property by the specified date; and
- (c) any order as to costs.

16.92 The Court may also make an order for payment or specific performance of the short-term residential lease at its discretion.

***Relief against forfeiture [r.347(2)]***

16.93 These provisions apply to any claim or application seeking an order for relief against forfeiture of a short-term residential lease.

16.94 Where such an order is sought, the claim form or application (as applicable) must include details of or attach:

- (a) the alleged breach or grounds relied upon by the person seeking to exercise forfeiture;
- (b) evidence of any remedial action taken or willingness to rectify any breach by the person seeking relief against forfeiture;
- (c) evidence of why the person seeking relief against forfeiture alleges that the forfeiture was wrongful or has any reasonable grounds to remain in the property; and
- (d) evidence of any negotiations or communications between the parties concerning the relief sought<sup>5</sup>.

16.95 Following the filing of a request for an order for relief against forfeiture of a short-term residential lease, the Court may:

- (a) suspend forfeiture pending judicial determination;
- (b) grant other relief against forfeiture on terms that the Court considers appropriate; or
- (c) refuse to grant any relief.

16.96 The Court shall have power to grant relief against forfeiture in a summary manner, in accordance with Section 42(1) of the Courts Regulations 2015.

16.97 In making an order, the Court may consider:

- (a) the nature of the breach and whether it is remediable;

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<sup>5</sup> There is no requirement under this paragraph for the claimant to produce evidence of any negotiations or communications that were conducted on a without prejudice basis.

- (b) the parties' past conduct;
- (c) whether the party seeking relief against forfeiture is willing and able to:
  - (i) cure any breaches of the short-term residential lease; and
  - (ii) comply with future lease obligations; and
- (d) any exceptional circumstances of the case.

16.98 The Court may grant such relief on grounds and conditions that it considers just, including the payment of rent, costs or specific performance with the terms of the short-term residential lease.

16.99 Where the request for an order for relief against forfeiture is made by application, it may be made at any point in proceedings but must be made promptly.

***Writ of possession [r.347(1)(b)]***

16.100 These provisions apply where an applicant seeks to enforce an order for possession of real property.

16.101 A writ of possession for these purposes is also a writ of execution.

16.102 If the respondent fails to vacate the property by the date specified in an order for possession, an applicant may apply for a writ of possession. The applicant must not attempt eviction itself.

16.103 The application notice seeking a writ of possession must include or attach:

- (a) a copy of the order for possession;
- (b) details of every person who to the best of the applicant's knowledge is in possession of the property;
- (c) evidence of service of the order for possession on the respondent and notification of the order (if reasonably able to be provided) to all other persons that to the best of the applicant's knowledge are in possession of the property;
- (d) evidence that the respondent has failed to comply with the order for possession; and
- (e) an explanation of any delay in applying for a writ of possession since the issuance of the order for possession.

16.104 The Court may issue a writ of possession where:

- (a) the respondent has had an opportunity to vacate the property and has not done so within the time frame provided; and

- (b) there are no exceptional circumstances that would otherwise make it unjust to issue a writ of possession.

16.105 The Court may issue a penal notice in any writ of possession.

16.106 The Court may award the costs of obtaining and executing a writ of possession, including any applicable Court fees, enforcement agent fees and charges and the applicant's legal costs. If the respondent's delay in vacating the property has caused measurable harm to the applicant, the Court may award additional damages, which shall be included in the enforcement action.

16.107 Once a writ of possession has been issued, enforcement agents are authorised to enter the property and remove the respondent and any personal property.

16.108 Personal property of the respondent which has not been removed from the property must be treated with due care. The applicant is required to hold the items for the respondent for 14 days should the respondent fail to remove them, following which it may apply to the Court for an order to dispose of the items. Steps must be taken to inform the respondent and the respondent given an opportunity to collect the personal items.

16.109 A respondent can apply for relief against a writ of possession if it can demonstrate exceptional circumstances justifying delay or suspension of the enforcement.

**P. APPEALS TO THE COMMERCIAL AND CIVIL DIVISION OF THE COURT OF FIRST INSTANCE [r.348]**

16.110 Appeals against an order or judgement of the Real Property Division on a short-term residential lease claim shall be made to the Commercial and Civil Division of the Court of First Instance.

***Form of Notice [r.205]***

16.111 A notice of appeal must:

- (a) be filed and served within 14 days of the date of final judgment or order;
- (b) be filed in accordance with **Form CFI 19**;
- (c) not exceed 10 pages;
- (d) attach a copy of the reasons given for the judgment or order against which the appeal is brought;
- (e) state the question/s of law which the appellant alleges arise;
- (f) state in summary form why the appeal should be allowed; and
- (g) state what judgment or order the appellant alleges should have been given or made.

***Response to notice of appeal [r.205]***

16.112 A party who seeks to respond to a notice of appeal may file and serve on the other parties to the proceedings a written response within 14 days of being served with the notice.

16.113 Any response to a notice of appeal must:

- (a) be filed in accordance with **Form CFI 20**;
- (b) not exceed 10 pages; and
- (c) set out the grounds on which the appeal should be refused.

16.114 The Court may give written directions to the parties about the further conduct of the appeal.

***Conduct of the appeal [r.8 and r.205]***

16.115 The Court may decide the appeal on the papers without an oral hearing where the Court considers that the appeal can be fairly determined on the papers.

16.116 The decision by the Court on the appeal is final, and it may not be challenged by any proceeding in the Court, whether by way of review, appeal or otherwise.

### Appendix A – Directions Questionnaire

Case Details	
Division	Real Property Division
Case number	

Title of Proceedings	
[First] Claimant	[full name]
[Second Claimant] [include number of Claimants (if more than two)]	[#full name #number]
[First] Defendant	[full name]
[Second Defendant] [include number of Defendants (if more than two)]	[#full name #number]

Filing Details [Complete only fill if Party is not self-represented]	
Filed for	[name of party(ies)]
Legal representative	[name]
Firm	[name of firm]
Firm reference	[reference number]
Contact name	[name]
Contact telephone	[telephone]
Contact email	[email address]

*Please read the **Notes** section before completing each question in this form. The answers which you provide in this form are intended to help the Court manage the case in the most fair, proportionate and efficient manner having regard to the circumstances of the case.*

*Although it may be difficult to accurately answer any question due to the early stage of the proceedings, the parties are required to answer all questions on a “best efforts” basis. A failure by any party to do so, including a failure by a party to answer a question, may be considered by the Court when it deals with the question of costs, or may result in some other sanction being imposed on the defaulting party.*

*Wherever relevant, the parties are expected to consult and co-operate to the fullest extent possible on any question which would benefit from a joint discussion between the parties before completing and submitting this form.*

*You should note the date by which this questionnaire must be returned.*

*If you have settled this claim (or you settle it on a future date) and do not need to have it heard or tried, you must let the Court know immediately.*

<b>A: Settlement</b> <ol style="list-style-type: none"> <li>1. Do you wish to attempt to settle the claim by court-annexed mediation?</li> <li>2. If you answered 'No' to question 1, please state below the reasons why you consider it inappropriate to try and settle the claim at this stage.</li> </ol>	<p><i>If you think that you and the other party may be able to negotiate a settlement, you should answer 'Yes' to Q1.</i></p> <p><i>The parties are encouraged to read Practice Direction 13 (Court-annexed Mediation) and Court Procedure Rules 2016 ("CPR") Part 36 (Court-annexed Mediation) before completing this section.</i></p> <p><i>The Court may order that the parties go to court-annexed mediation, whether or not all the other parties to the claim agree. <u>You should still complete the whole of the form, even if you are requesting a referral to mediation.</u></i></p>
<b>B: Pre-trial Applications</b> <ol style="list-style-type: none"> <li>3. Do you intend to make, or foreshadow making, any future application(s) in this proceeding? If Yes: <ul style="list-style-type: none"> <li>• Provide details of all such applications including the Rule or provision pursuant to which each application will be made.</li> <li>• For each application, set out how the application will assist the Court with its determination of the issues in the proceeding.</li> <li>• If the application will not assist the Court with its determination of the issues in the proceeding, set out the reason why the application is proposed to be made.</li> </ul> </li> </ol>	<p><i>It is important for the Court to know if you intend to make any applications, what they will be for and when you wish them to be heard. The parties are encouraged to read Practice Direction 7 (Applications), the relevant sections of the CPR and this Practice Direction before completing this section.</i></p>
<b>C: Disclosure of Documents</b> <ol style="list-style-type: none"> <li>4. Approximately how many documents and how many pages of documents do you intend to rely on at trial?</li> <li>5. Have you made standard disclosure of all documents that you intend to rely on?</li> <li>6. Do you intend to seek specific disclosure from any other party? If so, please give as much detail as is currently available.</li> </ol>	<p><i>The parties are encouraged to read CPR Part 13 (Disclosure and Inspection of Documents) before completing this section.</i></p>
<b>D: Witnesses of Fact</b>	

<p>7. Do you think the Court will be assisted by witness evidence?</p> <p>8. If you answered 'Yes' to question 7, please state below the reasons why you consider witness evidence is necessary, how many witnesses of fact you intend to rely on and the date by which you can serve signed witness statements?</p>	<p><i>The parties are encouraged to read Practice Direction 8 (Evidence) and CPR Part 14 (Evidence) before completing this section.</i></p>
<p>9. Do you think that it is necessary to present expert evidence in order to prove your case/defence?</p> <p>10. If you answered 'Yes' to question 9, please:</p> <ul style="list-style-type: none"> <li>• state the discipline of each proposed expert;</li> <li>• explain broadly what issue(s) they will likely address which will help to resolve the issues in dispute;</li> <li>• state the reasons why you consider expert evidence is necessary and how it will assist the Court</li> </ul> <p>11. By what date can you serve signed expert reports?</p>	<p><i>The parties are encouraged to read Practice Direction 8 (Evidence) and CPR Part 17 (Expert and Assessors) before completing this section. In particular, the parties are reminded that CPR 142(1) mandates that expert evidence shall be restricted to that which reasonably is required to resolve the proceedings. Therefore, the Court requires a short explanation of any proposals with regard to expert evidence.</i></p>
<b>E: Trial</b>	
<p>12. What is your estimate of the minimum and maximum length of the trial?</p> <p>13. What is the earliest date by which you believe you can be ready for trial?</p>	