



Sir Robert Neil MP  
Chair of the Justice Committee  
House of Commons  
SW1A 0AA

24 August 2020

Dear Bob,

### **EXTENDING THE TEMPORARY STAY ON POSSESSION PROCEEDINGS**

In the spirit of keeping the Committee informed of changes we are making to mitigate the impact of Covid-19, I am writing to update you on our proposals to continue the stay on possession proceedings for a further short period to be sure that all practical arrangements to protect renters and homeowners are in place, before this stay is lifted.

The existing stay under the Civil Procedure (Amendment No.2) (Coronavirus) Rules 2020, CPR 55.29, came into force on 25 June 2020 and expires on 23 August 2020. This provision extended the stay on possession proceedings which was introduced on a pilot basis under Practice Direction PD51Z, in response to the pandemic to protect renters and home owners. The extension allowed a Working Group (led by senior judiciary, including government departments and agencies, legal representatives and members from the advice sector), to undertake work considering the arrangements needed for when the stay on possession proceedings is lifted to ensure that proceedings are safe and fair as cases resume in the courts following the end of the stay.

### **The Civil Procedure (Amendment No.4) (Coronavirus) Rules 2020**

The Civil Procedure (Amendment No.4) (Coronavirus) Rules 2020 introduced new Practice Direction 55C, which puts in place temporary arrangements for the resumption of possession proceedings when the stay ends, to ensure that all parties are properly protected when proceedings resume. The practice direction was intended come into force on 23 August 2020, immediately after the stay on possession proceedings is lifted.

No further extension was anticipated when the stay on possession proceedings was previously extended in June. The volume of Coronavirus cases had been steadily declining since the peak in April and had continued to do so until early July. More recently cases have started to increase again and a number of local areas have been placed into lockdown. Relatedly, comparable European countries such as France and Spain have seen an increase in their COVID cases resulting the Foreign and Commonwealth Office advising against non-essential travel.

In this context, we have reviewed the imminent end to the stay on possession proceedings. Our primary consideration is public health and the potential strain on public services. We are mindful of the possible increase of infection rates as we head into Winter, coupled with the annual flu season. We therefore do not believe it is appropriate to restart possession proceedings without all practical arrangements in place

to provide protections to tenants and homeowners in the ongoing pandemic. Continuing the stay for a further short period will allow time to ensure these arrangements are in place before the stay is lifted.

### **The Civil Procedure (Amendment No.5) (Coronavirus) Rules 2020**

On 20 August, I issued a notice to the Master of the Rolls under s. 3A of the Civil Procedure Act 1997 that I thought it expedient for the Civil Procedure Rules to include provision that would extend the stay imposed by Rule 55.29 by four weeks. That provision was agreed by the Civil Procedure Rule Committee in an extraordinary meeting on 21 August and is contained in this instrument which has been laid before parliament.

The Civil Procedure (Amendment No.5) (Coronavirus) Rules 2020 will amend CPR 55.29 by changing the date of expiry of the stay to 20 September, extending the stay further on a temporary basis, and PD 55C will now come into force on 20 September. This should provide sufficient time for arrangements to be finalised to provide protections to claimants and defendants when the courts reopen.

It has, unfortunately, not been possible to allow for the usual 21 days after laying for this instrument before it comes into force on 22 August. However, the circumstances are extreme and our overriding concern is that, for public health reasons, there should be not be a gap in the operation of any stay on possession proceedings.

I am placing a copy of this letter in the Libraries of both Houses.

Yours ever

A handwritten signature in black ink that reads "Robert Buckland". The signature is written in a cursive, slightly slanted style.

**RT HON ROBERT BUCKLAND QC MP**



# Justice Committee

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Rt Hon Robert Buckland QC MP  
Lord Chancellor & Secretary of State for Justice  
Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

xx September 2020

Dear Lord Chancellor,

Thank you for your letter on 24 August informing the Committee of the enactment of the Civil Procedure (Amendment No.5) (Coronavirus) Rules 2020 on 22 August and the extension of the stay on possession proceedings to 20 September. The Committee recognises the importance of providing stability to renters and homeowners during the public health crisis. The Committee welcomes the decision to take extraordinary steps to mitigate the effect of the possible increase of infection rates over the coming months and the need to ensure practical arrangements are in place to provide protections to tenants and homeowners for when the stay comes to an end.

The Civil Procedure (Amendment No.5) (Coronavirus) Rules 2020 concern a matter of major policy importance for the justice system: how the courts will deal with the impact of end to the stay on possession proceedings during the pandemic. Your letter mentions that the extension is designed to enable the Government to put in place practical arrangements to protect homeowners and tenants. The Committee would like to know the exact nature of the arrangements that are being put in place to ensure that possession proceedings function effectively once they resume on 20 September. The Committee understands that steps are being taken to ensure that there will be a duty desk in place so that tenants can receive legal advice. We would like to know what measures are being taken to ensure that legal advice can be effectively delivered remotely, especially to vulnerable individuals. Finally, the delay also raises the question of whether the Government intends to legislate to change the relationship between tenants and landlords. In the midst of the current uncertainty caused by the pandemic, there may be a case to bring forward any planned changes.

Your letter mentioned the breach of the 21-day rule necessitated by the need to act quickly to change the law to protect renters and homeowners ahead of the original deadline of 23 August. We recognise that in these circumstances it was not possible to comply with the 21-day rule. However, we remain concerned that this legal change is being undertaken in a way that does not facilitate parliamentary scrutiny and debate on this significant policy issue for the justice system. We recognise that in the past technical changes to the Civil Procedure Rules may not have generated much political interest. However, in the current circumstances changes made through statutory instruments can raise issues of major policy significance.

All Members in England and Wales will have constituents that will be affected by the end of the stay on possession proceedings and as such there is an expectation that such issues will be debated in the House of Commons. Managing possession proceedings during such extraordinary circumstances will be a major challenge for the courts. Parliamentary oversight is especially significant in this case as the retrospective extension of the stay of possession proceedings raises important issues for the rule of law. The end of the stay to possession proceedings was originally set by the Civil Procedure (Amendment No.2) (Coronavirus) Rules 2020, CPR 55.29, came in to force on 25 June 2020 and was due to end on 23 August 2020. Making these changes at the very last minute may be justified by circumstances on this occasion, but, it is clear by now that reasons cited in your letter—local lockdowns and growing numbers of cases in mainland Europe—are likely to remain part of national life in the medium term. As such, the Committee would ask the Government to provide reassurance that, given the long-term uncertainties caused by Covid-19, opportunities for consideration of significant changes to legislation will be brought forward at the earliest possible time. Legislative measures which raise significant policy questions and rule of law issues that take effect without any parliamentary oversight and which are commenced before they are laid in the Commons should not be normalised. One way of avoiding such practice, is to ensure that such changes are debated in the Commons, even after they have come into force, so that at the very least, their impact can be reviewed and evaluated. In this case, there is clear value to such a debate being held before 20 September.

I look forward to your response.

Yours sincerely

**Sir Robert Neill MP**  
Chair  
Justice Committee