

How to use this book

Since the publication of the first edition in January 1987, *Defending possession proceedings* has been a practical reference handbook dealing with all aspects of the law and practice relating to possession proceedings pursued against occupiers of *residential* property. It seeks to guide occupiers and their advisers in dealing with possession claims. It goes through the process, from the initial notice given to the occupier to the aftermath of the bailiff's eviction. The main content of the book deals with three principal types of occupier, namely, the social housing tenant, the private tenant and the mortgage-borrower.

The starting point for making best use of this book is to establish what form of right to occupation of the property the occupier enjoys (if any). For owner-occupiers, the reader needs to go straight to Part IV except in relation to shared ownership leaseholders (see chapter 22) or rental purchasers (chapter 21). If the occupier has, at the other end of the spectrum, no legal right of occupation at all; go to chapter 29. In between ownership and trespass the most common form of occupation will be under a tenancy. To make best use of this book in those cases, the *type* of tenancy will first need to be identified

Relatively few tenants will still be protected by the Rent Acts (see chapter 15). The great bulk will either be *secure* (chapter 1), *assured shorthold* (chapter 11) or full *assured* (chapter 12) tenants. Others will be *introductory*, *demoted*, *family intervention*, *replacement* or *wholly unprotected* tenants and chapters 7, 8, 9, 10 and 18 deal with them respectively.

Where an adviser is clear as to the type of tenancy which an occupier has, then reference should be made to the relevant part or chapter of the book. However, where it is unclear, the brief introduction to the types of tenancy, found at the beginning of each Part, should be considered. A particular difficulty in the recent past has been to identify the correct form of occupation of a resident of *social* housing. That has not been helped by recent changes in the descriptions given to particular types of social housing provider and to the arrangements

for the regulation of that sector. The book uses the modern statutory terms ‘private registered provider’ (PRP) for non-local authority social landlords in England and ‘registered social landlords’ (RSL) for those same landlords in Wales (and these terms are more fully explained in chapter 6). Wherever possible, ‘social housing’ is used to describe the whole class of rented accommodation outside the *private* rented accommodation sector.

Although the focus of the book is on possession proceedings, the text also covers the critical related issues that may trigger or affect possession claims. For example, chapter 20 deals with *death* of the occupier. chapter 30 tackles *bankruptcy*. The issues of *domestic violence*, *homelessness* and *housing benefit* are covered in chapters 35, 36 and 37 respectively. For the termination of accommodation linked to *employment* see chapter 19.

Part III of the book contains a discussion of possession procedure and related points as they affect residential tenants and other occupiers. Part IV deals with the procedure and other issues as they affect mortgage borrowers.

The relatively ‘modern’ defences to possession claims which rely on (1) *public law principles* or (2) *human rights* or (3) *disability discrimination* are described in chapters 25, 26 and 27 respectively. The law relating to all three was in ferment as the text of this edition was being prepared and advisers will need to note the references within them to relevant developments

The appendices contain a set of precedents which practitioners might find useful. An instructions checklist is provided as an aide-memoire. This edition also includes the texts of the two Protocols for claims based on rent arrears and claims based on mortgage arrears. The appendices also set out the text of the procedural rule governing possession cases – CPR Part 55 – and the practice directions to it.

For reasons of space, it has been impossible to include a complete range of citations of cases in individual footnotes. However, citations in all major law reports are included in the table of cases. Any reader who does not have access to the law reports referred to in a footnote citation should therefore refer to the table of cases.