
STATUTORY INSTRUMENTS

1991 No. 724

The High Court and County Courts Jurisdiction Order 1991

Title and commencement

1. This Order may be cited as the High Court and County Courts Jurisdiction Order 1991 and shall come into force on 1st July 1991.

Jurisdiction

2.—(1) A county court shall have jurisdiction under—

- (a) sections 30, 146 and 147 of the Law of Property Act 1925**(1)**,
- (b) section 58C of the Trade Marks Act 1938**(2)**,
- (c) section 26 of the Arbitration Act 1950**(3)**,
- (d) section 63(2) of the Landlord and Tenant Act 1954**(4)**,
- (e) section 28(3) of the Mines and Quarries (Tips) Act 1969**(5)**,
- (f) section 66 of the Taxes Management Act 1970**(6)**,
- (g) section 41 of the Administration of Justice Act 1970**(7)**,
- (h) section 139(5)(b) of the Consumer Credit Act 1974**(8)**,
- (i) section 13 of the Torts (Interference with Goods) Act 1977**(9)**,
- (j) section 87 of the Magistrates' Courts Act 1980**(10)**,
- (k) sections 19 and 20 of the Local Government Finance Act 1982**(11)**,
- (l) sections 15, 16, 21, 25 and 139 of the County Courts Act 1984**(12)**,
- (m) section 39(4) of, and paragraph 3(1) of Schedule 3 to, the Legal Aid Act 1988**(13)**,

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- (1) 15 & 16 Geo. 5 c.20; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and Part II of Schedule 2.
 - (2) 1 & 2 Geo. 6 c.22; section 58C was inserted by section 300 of the Copyright, Designs and Patents Act 1988 (c. 48).
 - (3) 14 Geo. 6 c.27; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 22 of Schedule 2.
 - (4) 2 & 3 Eliz. 2 c.56; relevant amendments were made by the Administration of Justice Act 1973 (c. 15), section 6 and Part I of Schedule 2.
 - (5) 1969 c. 10; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 35 of Schedule 2.
 - (6) 1970 c. 9; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 36 of Schedule 2.
 - (7) 1970 c. 31; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 38 of Schedule 2.
 - (8) 1974 c. 39; relevant amendments were made by the Administration of Justice Act 1982 (c. 53), section 37 and paragraph 3 of Schedule 3 and by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 47 of Schedule 2.
 - (9) 1977 c. 32; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 66 of Schedule 2.
 - (10) 1980 c. 43; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 73 of Schedule 2.
 - (11) 1982 c. 32.
 - (12) 1984 c. 28.
 - (13) 1988 c. 34.

(n) sections 99, 102(5), 114, 195, 204, 230, 231 and 235(5) of the Copyright, Designs and Patents Act 1988(14), and

(o) section 40 of the Housing Act 1988(15),

whatever the amount involved in the proceedings and whatever the value of any fund or asset connected with the proceedings.

(2) A county court shall have jurisdiction under—

(a) section 10 of the Local Land Charges Act 1975(16), and

(b) section 10(4) of the Rentcharges Act 1977(17),

where the sum concerned or amount claimed does not exceed £5,000.

(3) A county court shall have jurisdiction under the following provisions of the Law of Property Act 1925(18) where the capital value of the land or interest in land which is to be dealt with does not exceed £30,000:

(a) sections 3, 49, 66, 181, and 188;

(b) proviso (iii) to paragraph 3 of Part III of Schedule 1;

(c) proviso (v) to paragraph 1(3) of Part IV of Schedule 1;

(d) provisos (iii) and (iv) to paragraph 1(4) of Part IV of Schedule 1.

(4) A county court shall have jurisdiction under sections 89, 90, 91 and 92 of the Law of Property Act 1925(19) where the amount owing in respect of the mortgage or charge at the commencement of the proceedings does not exceed £30,000.

(5) A county court shall have jurisdiction under the proviso to section 136(1) of the Law of Property Act 1925(20) where the amount or value of the debt or thing in action does not exceed £30,000.

(6) A county court shall have jurisdiction under section 1(6) of the Land Charges Act 1972(21)—

(a) in the case of a land charge of Class C(i), C(ii) or D(i), if the amount does not exceed £30,000;

(b) in the case of a land charge of Class C(iii), if it is for a specified capital sum of money not exceeding £30,000 or, where it is not for a specified capital sum, if the capital value of the land affected does not exceed £30,000;

(c) in the case of a land charge of Class A, Class B, Class C(iv), Class D(ii), Class D(iii) or Class E, if the capital value of the land affected does not exceed £30,000;

(d) in the case of a land charge of Class F, if the land affected by it is the subject of an order made by the court under section 1 of the Matrimonial Homes Act 1983(22) or an application for an order under that section relating to that land has been made to the court;

(14) 1988 c. 48.

(15) 1988 c. 50.

(16) 1975 c. 76; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 57 of Schedule 2.

(17) 1977 c. 30; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 63 of Schedule 2.

(18) 15 & 16 Geo. 5 c.20; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and Part II of Schedule 2.

(19) 15 & 16 Geo. 5 c.20; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and Part II of Schedule 2.

(20) 15 & 16 Geo. 5 c.20; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and Part II of Schedule 2.

(21) 1972 c. 61; relevant amendments were made by the County Courts Act 1984 (c. 28), section 148(1) and Part IV of Schedule 2.

(22) 1983 c. 19.

(e) in a case where an application under section 23 of the Deeds of Arrangement Act 1914⁽²³⁾ could be entertained by the court.

(7) A county court shall have jurisdiction under sections 69, 70 and 71 of the Solicitors Act 1974⁽²⁴⁾ where a bill of costs relates wholly or partly to contentious business done in a county court and the amount of the bill does not exceed £5,000.

(8) The enactments and statutory instruments listed in the Schedule to this Order are amended as specified therein, being amendments which are consequential on the provisions of this article.

Injunctions

3. The High Court shall have jurisdiction to hear an application for an injunction made in the course of or in anticipation of proceedings in a county court where a county court may not, by virtue of regulations under section 38(3)(b) of the County Courts Act 1984⁽²⁵⁾ or otherwise, grant such an injunction.

Allocation—Commencement of proceedings

4. Subject to articles 5 and 6, proceedings in which both the county courts and the High Court have jurisdiction may be commenced either in a county court or in the High Court.

5.—(1) Proceedings in which county courts have jurisdiction and which include a claim for damages in respect of personal injuries shall be commenced in a county court, unless the value of the action is £50,000 or more.

(2) In this article “personal injuries” means personal injuries to the plaintiff or any other person, and includes disease, impairment of physical or mental condition, and death.

6. Applications under section 19 of the Local Government Finance Act 1982 and appeals under section 20 of that Act shall be commenced in the High Court.

Allocation—Trial

7.—(1) Subject to the following provisions of this article, proceedings in which both the High Court and the county courts have jurisdiction may be tried in the High Court or in a county court.

(2) The following provisions of this article apply to proceedings in which both the High Court and the county courts have jurisdiction, other than proceedings mentioned in section 23, 24 or 32 of the County Courts Act 1984, save that paragraphs (3) and (4) do not apply to proceedings which have no quantifiable value.

(3) An action of which the value is less than £25,000 shall be tried in a county court unless—

- (a) a county court, having regard to the criteria set out in sub-paragraphs (a) to (d) of paragraph (5), considers that it ought to transfer the action to the High Court for trial and the High Court considers that it ought to try the action; or
- (b) it is commenced in the High Court and the High Court, having regard to the said criteria, considers that it ought to try the action.

(4) An action of which the value is £50,000 or more shall be tried in the High Court unless—

- (a) it is commenced in a county court and the county court does not, having regard to the criteria set out in sub-paragraphs (a) to (d) of paragraph (5), consider that the action ought to be transferred to the High Court for trial; or

⁽²³⁾ 4 & 5 Geo. 5 c.47.

⁽²⁴⁾ 1974 c. 47; relevant amendments were made by the Administration of Justice Act 1982 (c. 53), section 37 and Part II of Schedule 3, and by the County Courts Act 1984 (c. 28), section 148(1) and paragraph 50 of Schedule 2.

⁽²⁵⁾ 1984 c. 28; section 38 was replaced by the Courts and Legal Services Act 1990 (c. 41), section 3.

- (b) the High Court, having regard to the said criteria, considers that it ought to transfer the case to a county court for trial.

(5) The High Court and the county courts, when considering whether to exercise their powers under section 40(2), 41(1) or 42(2) of the County Courts Act 1984 (Transfer)(**26**) shall have regard to the following criteria—

- (a) the financial substance of the action, including the value of any counterclaim,
- (b) whether the action is otherwise important and, in particular, whether it raises questions of importance to persons who are not parties or questions of general public interest,
- (c) the complexity of the facts, legal issues, remedies or procedures involved, and
- (d) whether transfer is likely to result in a more speedy trial of the action,

but no transfer shall be made on the grounds of sub-paragraph (d) alone.

Enforcement

8.—(1) A judgment or order of a county court for the payment of a sum of money which it is sought to enforce wholly or partially by execution against goods—

- (a) shall be enforced only in the High Court where the sum which it is sought to enforce is £5,000 or more and the proceedings in which the judgment or order was obtained did not arise out of an agreement regulated by the Consumer Credit Act 1974(**27**);
- (b) shall be enforced only in a county court where the sum which it is sought to enforce is less than £2,000;
- (c) in any other case may be enforced in either the High Court or a county court.

(2) Section 85(1) of the County Courts Act 1984 is amended by the insertion, at the beginning of the subsection, of the words “Subject to article 8 of the High Court and County Courts Jurisdiction Order 1991,”.

Definition of value of action

9.—(1) For the purposes of articles 5 and 7—

- (a) the value of an action for a sum of money, whether specified or not, is the amount which the plaintiff or applicant reasonably expects to recover;
- (b) an action for specified relief other than a sum of money—
 - (i) has a value equal to the amount of money which the plaintiff or applicant could reasonably state to be the financial worth of the claim to him, or
 - (ii) where there is no such amount, has no quantifiable value;
- (c) an action which includes more than one claim—
 - (i) if one or more of the claims is of a kind specified in paragraph (b)(ii), has no quantifiable value;
 - (ii) in any other case, has a value which is the aggregate of the values of the claims as determined in accordance with paragraphs (a) and (b)(i).

(2) In determining the value of an action under paragraph (1), claims for—

- (a) unspecified further or other relief,
- (b) interest, other than interest pursuant to a contract, and

(26) 1984 c. 28; sections 40 and 42 were replaced, and section 41 was amended, by the Courts and Legal Services Act 1990 (c. 41), section 2.

(27) 1974 c. 39.

(c) costs,
shall be disregarded.

(3) In determining the value, under paragraph (1), of an action which is brought by more than one plaintiff or applicant regard shall be had to the aggregate of the expectations or interests of all the plaintiffs or applicants.

(4) In determining the value of an action under paragraph (1)(a)—

- (a) the sum which the plaintiff or applicant reasonably expects to recover shall be reduced by the amount of any debt which he admits that he owes to a defendant in that action and which arises from the circumstances which give rise to the action;
- (b) no account shall be taken of a possible finding of contributory negligence, except to the extent, if any, that such negligence is admitted;
- (c) where the plaintiff seeks an award of provisional damages as described in section 32A(2)(a) of the Supreme Court Act 1981(28), no account shall be taken of the possibility of a future application for further damages;
- (d) the value shall be taken to include sums which, by virtue of section 22 of the Social Security Act 1989(29), are required to be paid to the Secretary of State.

10. The value of an action shall be determined—

- (a) for the purposes of article 5, as at the time when the action is commenced, and
- (b) for the purposes of article 7, as at the time when the value is declared in accordance with rules of court.

Crown proceedings—transitional provisions

11. For a period of two years from the date upon which this Order comes into force no order shall be made transferring proceedings in the High Court to which the Crown is a party to a county court, except—

- (a) when the proceedings are set down to be tried or heard; or
- (b) with the consent of the Crown.

Savings

12. This Order shall not apply to:

- (a) family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984(30);
- (b) proceedings to which section 27(1) of the County Courts Act 1984 (Admiralty jurisdiction) applies.

19th March 1991

Mackay of Clashfern, C.

(28) 1981 c. 54.
(29) 1989 c. 24.
(30) 1984 c. 42.