
Status: Point in time view as at 18/04/2011.

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STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART VI

DEBT AND EJECTMENT PROCEEDINGS

Debt proceedings

Debt proceedings

62.—(1) A court of summary jurisdiction may exercise jurisdiction in proceedings for the recovery of any liquidated sum due on foot of any debt, account, contract or covenant where—

- (a) the amount or balance claimed does not exceed £100; and
- (b) if the claim is for the balance due on foot of an account, the whole account does not exceed £250.

(2) Where any sum is declared under any enactment whether passed before or after the commencement of this Part to be a debt or civil debt recoverable summarily, that sum, whether it exceeds £100 or not, may be recovered in proceedings under this Article.

(3) A minor may proceed in his own name in a court of summary jurisdiction as if he were of full age for any sum, not exceeding £100, due to him for wages or for work or services.

(4) A cause of action shall not be divided into two or more causes of action for the purpose of bringing proceedings before a court of summary jurisdiction.

(5) Proceedings under this Article shall be commenced by the issue of a process.

Time within which debt proceedings may be commenced

63.—(1) Subject to [^{F1}this Article and Article 63A], debt proceedings shall not be commenced after the expiration of six years from the time when the cause of action arose.

(2) Nothing in paragraph (1) shall affect a period of limitation prescribed by any enactment for proceedings to recover a sum which is declared by that or any other enactment to be a debt or civil debt recoverable summarily.

F1 Words in art. 63(1) substituted (18.4.2011) by Cross-Border Mediation Regulations (Northern Ireland) 2011 (S.R. 2011/157), reg. 9(2) (with reg. 1(2))

[^{F2}Extension of time limit: mediation

63A.—(1) Paragraph (2) applies where—

- (a) there is mediation in relation to a relevant cross border dispute giving rise to debt proceedings; and

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- (b) the period of 6 years referred to in Article 63(1) (“the limitation period”) would, apart from this Article, expire—
- (i) in the period of 8 weeks after the date on which the mediation ends;
 - (ii) on the date on which the mediation ends; or
 - (iii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.
- (2) Where this paragraph applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.
- (3) For the purposes of paragraph (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—
- (a) all of the parties reach an agreement in resolution of the dispute;
 - (b) all of the parties agree to end the mediation;
 - (c) a party notifies all of the other parties of that party's withdrawal,
 - (d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period, or
 - (e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.
- (4) In this Article—
- “the Directive” means Directive [2008/52/EC](#) of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;
- “mediation” and “mediator” have the meanings given by Article 3 of the Directive; and
- “relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive.]

F2 [Art. 63A](#) inserted (18.4.2011) by [Cross-Border Mediation Regulations \(Northern Ireland\) 2011 \(S.R. 2011/157\)](#), [reg. 9\(3\)](#) (with [reg. 1\(2\)](#))

Abandonment of so much of claim as is in excess of jurisdiction

64.—(1) A plaintiff whose cause of action is for a liquidated sum the amount of which is beyond the jurisdiction of a court of summary jurisdiction may abandon the excess and proceed for the balance of the claim and in such case the plaintiff shall forfeit the excess and shall not be entitled to recover it by any other proceedings whatsoever,

(2) A defendant shall have the like right in respect of his set-off or counterclaim.

Counterclaims

65.—(1) Where a counterclaim is beyond the jurisdiction of a court of summary jurisdiction, the court may try the claim and may, if it thinks fit and upon such terms as to security or otherwise as it thinks fit, stay execution until the counterclaim has been disposed of.

(2) Where a counterclaim or any part of it is admitted, the court of summary jurisdiction may direct the amount admitted to be set off pro tanto without prejudice to any proceedings to recover the balance.

Decree for recovery of sum claimed to be full discharge

66.—(1) Where a claim is for the payment of the balance of an account, or for part of a sum alleged to be due and the remainder of it has been abandoned in order to bring the claim within the jurisdiction of a court of summary jurisdiction, a decree for recovery of the sum claimed or part of it or of dismissal shall, subject to the right of any party to appeal under Part XII, be a full discharge of all demands in respect of the account for the balance of which proceedings were bought or for the whole of the claim as the case may be.

(2) In this Article “claim” includes a set-off or counterclaim.

Ejectment proceedings

Ejectment proceedings

67.—(1) This Article and Articles 68 to 72 shall apply to—

- (a) any lands or premises which are let by any landlord from quarter to quarter or for any lesser period of time, at a rent not exceeding the rate of £110 a year;
- (b) any lands or premises into which any person has been put by permission of the owner as servant, herdsman or caretaker;
- (c) any lands or premises the possession of which under the provisions of any enactment in force on 30th November 1965 was recoverable summarily under or in accordance with Part IV of the Summary Jurisdiction Act (Northern Ireland) 1935 or under and in accordance with sections 84, 85 and 89 of the Landlord and Tenant Law Amendment Act, Ireland, 1860^{F3};

and any such lands or premises are in this Article and those Articles referred to as “premises”.

(2) For the purposes of this Article and any other enactment conferring jurisdiction in ejectment on a court of summary jurisdiction, any attempted letting to which section 1 (1) of the Rent Restriction (Defective Tenancies) Act (Northern Ireland) 1944^{F4} or section 9 (1) of the Rents Tribunals (Extension of Jurisdiction) Act (Northern Ireland) 1954^{F5} applied shall be deemed to be a valid letting.

(3) Where—

- (a) the term or interest of the tenant in any premises is ended or has been determined by a notice to quit, and the tenant, or (if the tenant does not himself occupy the premises or occupies only part of them) the person by whom the premises or any part of them are occupied, neglects or refuses to deliver up possession of the same; or
- (b) any person is put into possession of any premises by permission of the owner as servant, herdsman or caretaker and that person (or any other person claiming through or under him) refuses or omits to quit and deliver up possession of the premises on demand made by the owner of them or his known agent or receiver; or
- (c) the landlord or owner of the premises is entitled to recover or take possession of the premises under or in accordance with any of the provisions referred to in paragraph (1) (c);

the landlord or owner of the premises may proceed for their recovery before a court of summary jurisdiction by issuing a process requiring the tenant or occupier to appear before the court to show cause why the landlord or owner should not be put into possession of the premises.

(4) If the tenant or occupier does not appear before the court of summary jurisdiction or appears, but does not show to the satisfaction of the court cause why possession should not be given, the court may order the issue of a decree directing that the landlord or owner be put into possession of the premises.

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- F3** 1860 c. 154
- F4** 1944 c. 6 (NI)
- F5** 1954 c. 16 (NI)

Time within which ejectment proceedings may be commenced

68. Ejectment proceedings before a court of summary jurisdiction shall not be brought after the expiration of six years from the time when the cause of action arose.

Liability of overholding tenant or occupier

69.—(1) Where the tenant or occupier of any premises overholds the premises after the tenancy or occupation has been lawfully determined and the possession has been lawfully demanded of him by the landlord or owner, such tenant or occupier shall be liable to pay the landlord or owner in respect of the period during which he has so overheld an amount equal to the rent or other sum, if any, which would have otherwise accrued due for that period if the tenancy or occupation had not been determined.

(2) The provisions of section 76 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 shall not apply to ejectment proceedings before a court of summary jurisdiction.

Recognizance upon appeal against order for possession of premises

70.—(1) Where an appeal is made under Part XII by the tenant or occupier against an order made in ejectment proceedings, he shall upon entering the recognizance referred to in Article 149 further undertake according to the condition in the recognizance not to do, or suffer others to do, any waste, injury or dilapidation to the premises pending the appeal and to satisfy all rent, mesne profits or any sum accruing due to the landlord or owner under Article 69 (1) while the tenant or occupier continues in possession.

(2) Where the tenant or occupier fails to observe such undertaking or any other condition of the recognizance, the court of summary jurisdiction which made the order against which the appeal was to be made, may, without prejudice to Article 151, in ordering the estreat of the recognizance order that the landlord or owner may receive out of the sum due under the recognizance, an amount sufficient to cover any loss which the landlord or owner appears to the court to have sustained by the failure of the tenant or occupier to observe any condition of the recognizance.

References to landlord or owner

71. References in Article 67 to 70 to the landlord or owner of premises shall include the executors or administrators or assigns of such landlord or owner and his or their agent duly authorised in writing, or the receiver of the rents of his estate and, in relation to premises subject to the enactments referred to in Article 67 (1) (c), shall include any person entitled under those enactments to recover possession of the premises.

Procedure in debt and ejectment proceedings

Issue of process

72.—(1) A process issued in debt proceeding shall require the defendant to appear before a court of summary jurisdiction acting for the petty sessions district in which the defendant resides or in which any business premises used or occupied by him are situated.

(2) A process issued in ejectment proceedings shall require the defendant to appear before a court of summary jurisdiction acting for the petty sessions district in which the premises, the subject of the proceedings, or any part of those premises are situated.

(3) A claim for the recovery of arrears of rent or sums due under Article 69 not exceeding £100 due in respect of lands or premises may be joined together with a claim in ejectment proceedings and commenced by the issue of the same process.

Hearing, etc., of proceedings commenced by process

73.—(1) Subject to this Article, in debt or ejectment proceedings, the court shall hear the parties, and evidence in support of the claim or defence or counterclaim, if any.

(2) Where the plaintiff appears but the defendant does not appear, the court may, after proof of service of the process upon the defendant, proceed in his absence or adjourn the proceedings.

(3) Where neither the plaintiff nor defendant appears, or where the plaintiff does not appear and the defendant though appearing does not apply for a dismissal of the claim, the court may strike out the proceedings.

(4) Where the plaintiff informs the court that he does not wish to apply for an order and the defendant does not appear, or if appearing, does not object, the court may allow the proceedings to be withdrawn.

(5) The court may, without hearing the parties or any evidence, upon such conditions as may be prescribed, make an order against a defendant upon his consent to the making of such order.

(6) The court may dismiss a claim in debt or ejectment proceedings either upon the merits or without prejudice to a further claim in respect of the same matter.

Powers exercisable by court in debt or ejectment proceedings

Order that decree shall issue either absolutely or conditionally

74.—(1) Where an order is made in debt or ejectment proceedings, the court may order that a decree shall issue to give effect to its order (including any order as to costs made in such proceedings).

(2) A court of summary jurisdiction in debt or ejectment proceedings may order that a decree shall issue either absolutely or conditionally in as full and ample a manner as might be done in like cases by a county court having jurisdiction but a court of summary jurisdiction shall not grant an injunction.

Transfer of proceedings to county court

75.—(1) Where it appears at any stage of debt or ejectment proceedings that a court of summary jurisdiction has not jurisdiction in the proceedings because the matters involved are beyond the jurisdiction of the court or that for any other reason the matter is more fit to be tried by the county court, the proceedings need not on that account be dismissed but the court of summary jurisdiction may order the proceedings to be transferred to the county court upon such terms as appear to it to be proper and after the proceedings are transferred they shall continue in the county court as if they had been commenced in that court and as if the defendant had entered a defence.

(2) Where proceedings are transferred under this Article to the county court, the county court judge may give such directions as to procedure and as to costs in the court of summary jurisdiction as he may deem proper and the parties shall comply with the directions.

(3) In this Article “the county court” means the county court for the county court division in which the proceedings would have been tried if originally commenced in the county court.

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