



# County Courts Act 1984

## 1984 CHAPTER 28

### PART IV **E+W**

#### APPEALS ETC.

##### *Appeals*

#### 77 Appeals: general provisions. **E+W**

(1) Subject to the provisions of this section and the following provisions of this Part of this Act [<sup>F1</sup>and to any order made by the Lord Chancellor under section 56(1) of the Access to Justice Act 1999], if any party to any proceedings in [<sup>F2</sup>the county court] is dissatisfied with the determination of [<sup>F3</sup>a judge] or jury, he may appeal from it to the Court of Appeal in such manner and subject to such conditions as may be provided by [<sup>F4</sup>Civil Procedure Rules].

[<sup>F5</sup>(1A) Without prejudice to the generality of the power to make [<sup>F6</sup>rules of court]<sup>F7</sup>..., such rules may make provision for any appeal from the exercise by a [<sup>F8</sup>judge of the county court] of any power given to him by virtue of any enactment to [<sup>F9</sup>be to another] judge of [<sup>F2</sup>the county court] .]

<sup>F10</sup>(2) .....

<sup>F10</sup>(3) .....

<sup>F10</sup>(4) .....

(5) Subject to the provisions of this section and the following provisions of this Part of this Act, where an appeal is brought under subsection (1) in any action, an appeal may be brought under that subsection in respect of any claim or counterclaim in the action notwithstanding that there could have been no such appeal if that claim had been the subject of a separate action.

(6) In proceedings in which either the plaintiff or the defendant is claiming possession of any premises this section shall not confer any right of appeal on any question of fact if by virtue of—

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- (a) section 13(4) of the <sup>M1</sup>Landlord and Tenant Act 1954; or
  - (b) Cases III to IX in Schedule 4 to the <sup>M2</sup>Rent (Agriculture) Act 1976; or
  - (c) section 98 of the <sup>M3</sup>Rent Act 1977, as it applies to Cases 1 to 6 and 8 and 9 in Schedule 15 to that Act, or that section as extended or applied by any other enactment; or
  - (d) section 99 of the Rent Act 1977, as it applies to Cases 1 to 6 and 9 in Schedule 15 to that Act; or
  - (e) [<sup>F11</sup>section 84(2)(a) of the Housing Act 1985]; or
  - [<sup>F12</sup>(ee) section 7 of the Housing Act 1988, as it applies to the grounds in Part II of Schedule 2 to that Act; or]
  - (f) any other enactment,
- the court can only grant possession on being satisfied that it is reasonable to do so.

(7) This section shall not—

- (a) confer any right of appeal from any judgment or order where a right of appeal is conferred by some other enactment; or
- (b) take away any right of appeal from any judgment or order where a right of appeal is so conferred,

and shall have effect subject to any enactment other than this Act.

(8) In this section—

“enactment” means an enactment whenever passed; <sup>F13</sup> . . .

<sup>F13</sup> . . .

#### Textual Amendments

- F1** Words in s. 77(1) inserted (2.5.2000) by S.I. 2000/1071, **art. 8** (which amending Order is revoked (3.10.2016) by S.I. 2016/917, **art. 7**); and those same words inserted (3.10.2016) by The Access to Justice Act 1999 (Destination of Appeals) Order 2016 (S.I. 2016/917), arts. 1, **10**
- F2** Words in ss. 36-147 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 10(1)(b)**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3** Words in s. 77(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 10(29)**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F4** Words in s. 77(1) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 2(7)**; S.I. 1999/1009, **art. 3(h)**
- F5** S. 77(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 15**
- F6** Words in s. 77(1A) substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3**.
- F7** Words in s. 77(1A) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 10(30)(a)**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F8** Words in s. 77(1A) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 10(30)(b)**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F9** Words in s. 77(1A) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 10(30)(c)**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F10** S. 77(2)-(4) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

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- F11** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 57(3)**
- F12** S. 77(6)(ee) inserted by [Housing Act 1988 \(c. 50, SIF 61:1\)](#), s. 140, **Sch. 17 para. 35(2)**
- F13** Definition in s. 77(8) and the preceding “and” repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with [Sch. 14 paras. 7\(2\), 36\(9\)](#))

#### Modifications etc. (not altering text)

- C1** S. 77 excluded (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), ss. **42(6)**, 154 (with [Sch. 5](#))
- C2** S. 77(1) excluded (30.12.2005) by [The Access to Justice Act 1999 \(Destination of Appeals\) \(Family Proceedings\) Order 2005 \(S.I. 2005/3276\)](#), **art. 1(3)(b)(i)**

#### Marginal Citations

- M1** 1954 c. 56.
- M2** 1976 c. 80.
- M3** 1977 c. 42.

## 78 Assistance of Trinity masters for Court of Appeal in Admiralty proceedings. **E** **+W**

Where, on an appeal by a party to any Admiralty proceedings which have been heard in [<sup>F2</sup>the county court] with the assistance of assessors, any party makes application to the Court of Appeal in that behalf, the court shall summon Trinity masters to assist on the hearing of the appeal if the court is of opinion that such assistance is necessary or desirable.

#### Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 10(1)(b)**; [S.I. 2014/954](#), **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

## 79 Agreement not to appeal. **E+W**

- (1) No appeal shall lie from any judgment, direction, decision or order of a judge of [<sup>F14</sup>the county court] if, before the judgment, direction, decision or order is given or made, the parties agree, in writing signed by themselves or their [<sup>F15</sup>legal representatives] or agents, that it shall be final.

- (2) ..... <sup>F16</sup>

#### Textual Amendments

- F14** Words in s. 79(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 10(31)**; [S.I. 2014/954](#), **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F15** Words in s. 79(1) substituted (1.4.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), **Sch. 18 para.49(3)**; [S.I. 1991/608](#), **art. 2**, **Sch.**
- F16** S. 79(2) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), **Sch. 1 Pt. I**

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## 80 Judge's note on appeal. **E+W**

- (1) At the hearing of any proceedings in [<sup>F2</sup>the county court] in which there is a right of appeal or from which an appeal may be brought with leave, the judge shall, at the request of any party, make a note—
  - (a) of any question of law raised at the hearing; and
  - (b) of the facts in evidence in relation to any such question; and
  - (c) of his decision on any such question and of his determination of the proceedings.
- (2) Where such a note has been taken, the judge shall (whether notice of appeal has been served or not), on the application of any party to the proceedings, and on payment by that party of such fee as may be prescribed by [<sup>F17</sup>an order under section 92 of the Courts Act 2003 (fees)], furnish him with a copy of the note, and shall sign the copy, and the copy so signed shall be used at the hearing of the appeal.

### Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(1\)\(b\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F17** Words in s. 80(2) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110(1), [Sch. 8 para. 271](#); [S.I. 2005/910](#), art. 3

## 81 Powers of Court of Appeal on appeal from county court. **E+W**

- (1) On the hearing of an appeal, the Court of Appeal may draw any inference of fact and either—
  - (a) order a new trial on such terms as the court thinks just; or
  - (b) order judgment to be entered for any party; or
  - (c) make a final or other order on such terms as the court thinks proper to ensure the determination on the merits of the real question in controversy between the parties.
- (2) Subject to [<sup>F18</sup>Civil Procedure Rules], on any appeal from [<sup>F2</sup>the county court] the Court of Appeal may reverse or vary, in favour of a party seeking to support the judgment or order of the county court in whole or in part, any determinations made in the county court on questions of fact, notwithstanding that the appeal is an appeal on a point of law only, or any such determinations on points of law, notwithstanding that the appeal is an appeal on a question of fact only.
- (3) Subsection (2) shall not enable the Court of Appeal to reverse or vary any determination, unless the party dissatisfied with the determination would have been entitled to appeal in respect of it if aggrieved by the judgment or order.

### Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(1\)\(b\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F18** Words in s. 81(2) substituted (26.4.1999) by [1997 c. 12](#), s. 10, [Sch. 2 para. 2\(8\)](#); [S.I. 1999/1009](#), art. 3(i)

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#### Modifications etc. (not altering text)

- C3** S. 81 applied by 1984 c. 42, s. 31K(7) (as inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 1](#); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11))

### 82 Decision of Court of Appeal on probate appeals to be final. **E+W**

No appeal shall lie from the decision of the Court of Appeal on any appeal from [<sup>F2</sup>the county court] in any [<sup>F19</sup>proceedings in respect of any contentious matter arising with any grant, or revocation, of probate or administration that under section 105 of the Senior Courts Act 1981 has been applied for through the principal registry of the Family Division or a district probate registry] .

#### Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(1\)\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F19** Words in s. 82 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(32\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

#### *Certiorari and prohibition*

### 83 Stay of proceedings in case of certiorari or prohibition. **E+W**

- (1) The grant by the High Court of leave to make an application for an order of certiorari or prohibition to [<sup>F2</sup>the county court] shall, if the High Court so directs, operate as a stay of the proceedings in question until the determination of the application, or until the High Court otherwise orders.
- (2) Where any proceedings are so stayed, <sup>F20</sup>... the county court shall from time to time adjourn the hearing of the proceedings to such day as [<sup>F21</sup>the court] thinks fit.

#### Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(1\)\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F20** Words in s. 83(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(33\)\(a\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F21** Words in s. 83(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(33\)\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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## 84 Prohibition. **E+W**

- (1) Where an application is made to the High Court for an order of prohibition addressed to [<sup>F22</sup>the county court], the matter shall be finally disposed of by order.
- (2) Upon any such application, [<sup>F23</sup>no judge of the county court is to be served with notice of it or,] except by the order of a judge of the High Court—
  - (a) be required to appear or be heard; or
  - (b) be liable to any order for the payment of the costs of the application;
 but the application shall be proceeded with and heard in the same manner in all respects as an appeal duly brought from a decision of [<sup>F24</sup>a judge of the county court], and notice of the application shall be given to or served upon the same parties as in the case of an order made or refused by a judge [<sup>F25</sup>of the county court] in a matter within his jurisdiction.

### Textual Amendments

- F22** Words in s. 84(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(34\)\(a\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F23** Words in s. 84(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(34\)\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F24** Words in s. 84(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(34\)\(c\)\(i\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F25** Words in s. 84(2) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(34\)\(c\)\(ii\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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