
 STATUTORY INSTRUMENTS

1971 No. 875

**SUPREME COURT OF JUDICATURE,
NORTHERN IRELAND**
**The Northern Ireland (Remittal and Removal of Proceedings)
Order 1971**

Made - - - - - 25th May 1971

Coming into Operation 14th June 1971

At the Court at Buckingham Palace, the 25th day of May 1971

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 4 of the Northern Ireland Act 1962(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the Northern Ireland (Remittal and Removal of Proceedings) Order 1971 and shall come into operation on 14th June 1971.

Interpretation

2.—(1) In this Order—

“county court” means a county court held for a division under the County Courts Act (Northern Ireland) 1959(b);

“the High Court” means Her Majesty's High Court of Justice in Northern Ireland;

“proceedings” includes proceedings on a counterclaim;

“rules of court” means rules made under section 7 of the Northern Ireland Act 1962.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(3) For the purposes of this Order—

(a) the amount of a claim shall be taken as the amount remaining in dispute after allowance made for any payment, set-off or other amount admitted by tender or otherwise to be due and after any abandonment by the claimant of any amount by which the sum claimed exceeds the monetary limit of the jurisdiction of the county court;

(a) 1962 c. 30.

(b) 1959 c. 25 (N.I.).

(c) 1889 c. 63.

- (b) the full amount of an unliquidated claim shall be taken as the amount which would be recoverable if no deduction were made in respect of the claimant's own fault;
- (c) in determining whether an amount exceeds the monetary limit of the jurisdiction of the county court, no account shall be taken of any power exercisable by virtue of section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937(a), or of any order made in the exercise of such a power.

Remittal to county court

3.—(1) The High Court may in accordance with rules of court at any stage remit to a county court, the whole or any part of any civil proceedings to which this paragraph applies if and in so far as—

- (a) the parties consent to the remittal thereof; or
- (b) the Court is satisfied upon the application of any party to proceedings involving an unliquidated claim that the full amount of that claim is likely to be within the monetary limit of the jurisdiction of the county court; or
- (c) the Court is satisfied, whether upon the application of any party or otherwise, that the subject matter of the proceedings (not being an unliquidated claim) is likely to be within the limits of the jurisdiction of the county court; or
- (d) the claimant abandons the right to recover any amount in excess of the monetary limit of the jurisdiction of the county court,

and in any such case the Court is of the opinion that in all the circumstances the proceedings may properly be heard and determined in the county court.

(2) Paragraph (1) of this Article applies to civil proceedings commenced in the High Court of a kind which the county court would, apart from any limitation by reason of amount or value or annual value, have jurisdiction to hear and determine if commenced in that court.

Removal to High Court

4. The High Court may in accordance with rules of court at any stage remove to that Court from a county court, the whole or any part of any civil proceedings which could have been commenced in the High Court but have been commenced in that county court if and in so far as—

- (a) the parties consent to the removal thereof; or
- (b) on the application of any party the Court is satisfied that there is a triable issue,

and in either such case the Court is of opinion that, by reason of the nature of the proceedings, the amount of the claim or the value or annual value of the subject matter, the proceedings are not within the jurisdiction of the county court or that the proceedings could in all the circumstances be more appropriately heard and determined in the High Court.

Supplemental provisions

5.—(1) Proceedings remitted under this Order shall be remitted to such county court as the High Court may specify, being either a county court in which the proceedings could, apart from any limitation by reason of amount or

value or annual value, have been commenced or, with the concurrence of the parties, any other county court appearing to the High Court to be convenient.

(2) The High Court may require any party on whose application any proceedings are removed to that Court to give security of such nature and amount as that Court may by order direct.

Crown Proceedings

6.—(1) In its application to proceedings against the Crown this Order shall have effect subject to the provisions of section 20(2) of the Crown Proceedings Act 1947(a) as they extend to Northern Ireland and of this Article.

(2) Nothing in Article 5(2) shall have effect so as to require or to authorise the making of an order requiring security to be given by the Crown.

(3) This Order shall apply to proceedings by the Crown but no such proceedings shall be remitted to a county court without the consent of the Crown.

(4) Nothing in this Order shall apply to proceedings affecting Her Majesty in Her private capacity.

(5) In this Article "the Crown" includes the Crown in right of Her Majesty's Government in the United Kingdom and in right of Her Majesty's Government in Northern Ireland.

Savings

7. This Order shall not apply to the proceedings specified in Schedule 1.

Repeals

8. The enactments specified in Schedule 2 are hereby repealed to the extent specified in the third column of that Schedule.

N. E. Leigh.

SCHEDULE 1

Article 7

PROCEEDINGS TO WHICH THIS ORDER DOES NOT APPLY

Proceedings in any Admiralty cause or matter.

Proceedings in any matrimonial cause or matter.

Applications for adoption orders (including provisional adoption orders).

Applications under section 17 of the Married Women's Property Act 1882(b).

Proceedings under section 57 of the Trustee Act (Northern Ireland) 1958(c).

Applications under section 13(5) of the Agricultural Marketing Act (Northern Ireland) 1964(d).

(a) 1947 c. 44.

(c) 1958 c. 23 (N.I.).

(b) 1882 c. 75.

(d) 1964 c. 13 (N.I.).

Article 8

SCHEDULE 2

ENACTMENTS REPEALED

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
20 & 21 Vict. c. 79.	Probates and Letters of Administration Act (Ireland) 1857.	The proviso to section 63.
22 & 23 Vict. c. 31.	Court of Probate Act (Ireland) 1859.	Section 8.
33 & 34 Vict. c. 109.	Common Law Procedure Amendment Act (Ireland) 1870.	The whole Act so far as unrepealed.
37 & 38 Vict. c. 66.	Civil Bill Courts (Ireland) Act 1874.	The whole Act so far as unrepealed.
40 & 41 Vict. c. 56.	County Officers and Courts (Ireland) Act 1877.	Sections 35, 36, 51, 52, 57 and 58.
40 & 41 Vict. c. 57.	Supreme Court of Judicature Act (Ireland) 1877.	Section 60.
6 & 7 Geo. 6 c. 2.	Supreme Court (Northern Ireland) Act 1942.	Section 1(1) and (2).
10 & 11 Geo. 6 c. 44.	Crown Proceedings Act 1947.	Proviso (b) to section 20(2) as extended to Northern Ireland by the Northern Ireland (Crown Proceedings) Order 1949(a).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order empowers the High Court in Northern Ireland to remit proceedings commenced before it to the county court and to remove proceedings commenced in the county court into the High Court. Existing statutory powers relating to these matters are repealed.

(a) S.I. 1949/1836 (1949 I, p. 1261).