

1978 No. 682 (L. 12)

COUNTY COURTS

PROCEDURE

The County Court (Amendment) Rules 1978.

Made - - - - - 4th May 1978

Coming into Operation 2nd June 1978

1.—(1) These Rules may be cited as the County Court (Amendment) Rules 1978.

(2) In these Rules, unless the context otherwise requires, an Order and Rule referred to by number mean the Order and Rule so numbered in the County Court Rules 1936(a), as amended(b).

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

2. The following Rule shall be inserted in Order 2 after Rule 10:—

Wrongful interference with goods “11.—(1) Where proceedings are brought in a county court on one of two or more claims for wrongful interference with goods, and are still pending, any proceedings on another of those claims may, if they could be brought in the High Court, be brought in the same county court, notwithstanding that they would otherwise be outside the jurisdiction (financial or territorial) of that court under the Act or these Rules.

1977 c. 32 (2) Where goods are the subject of two or more claims under section 6 of the Torts (Interference with Goods) Act 1977, this Rule shall apply as if any claim under section 6(3) were a claim for wrongful interference.”

3. In Order 8, Rule 43, for the words “sheriffs’ courts or small debts courts” there shall be substituted the words “sheriff courts”.

4. The following Rule shall be inserted in Order 13 after Rule 11:—

Delivery up of goods under s. 4 of Torts (Interference with Goods) Act 1977. “11A.—(1) Without prejudice to Rule 11 of this Order, the court may, on the application of any party to an action or matter, make an order under section 4 of the Torts (Interference with Goods) Act 1977 for the delivery up of any goods which are the subject-matter of the action or matter or as to which any question may arise therein.

(2) Paragraphs (2) and (3) of Rule 8 shall have effect in relation to an application for such an order as they have effect in relation to an application for the grant of an injunction.”

(a) S. R. & O. 1936/626.

(b) The relevant amending instruments are 1956/1851, 1957/1136, 1976/314, 2137, 1977/615.

(c) 1889 c. 63.

5. The following Rule shall be inserted in Order 15 after Rule 10:—

“10A.—(1) Where the plaintiff in an action for wrongful interference with goods is one of two or more persons having or claiming any interest in the goods, then, unless he has the written authority of every other such person to sue on the latter’s behalf, the particulars of claim shall contain particulars of the plaintiff’s title and identify every other person who, to his knowledge, has or claims any interest in the goods.”

Actions for
wrongful
interference
with goods.

This paragraph shall not apply to an action arising out of an accident on land due to a collision or apprehended collision involving a vehicle.

(2) A defendant to an action for wrongful interference with goods who desires to show that a third party has a better right than the plaintiff as respects all or any part of the interest claimed by the plaintiff may, at any time after service of the summons on the defendant and before any judgment or order is given or made on the plaintiff’s claim, apply to the court on notice for directions as to whether any person named in the application (not being a person whose written authority the plaintiff has to sue on his behalf) should be joined with a view to establishing whether he has a better right than the plaintiff, or has a claim as a result of which the defendant might be doubly liable within the meaning of section 7 of the Torts (Interference with Goods) Act 1977.

Notice of any application under this paragraph shall, as well as being served on the plaintiff, be served on every person named in the application in accordance with the rules applicable to the service of an ordinary summons.

(4) Where a person named in an application under paragraph (2) fails to appear on the hearing of the application or to comply with any direction given by the court on the application, the court may by order deprive him of any right of action against the defendant for the wrong, either unconditionally or subject to such terms and conditions as the court thinks fit.”

6. The following rule shall be inserted in Order 24 after Rule 2:—

“3.—(1) Where a claim relating to the detention of goods is made by a partial owner whose right of action is not founded on a possessory title, any judgment or order given or made in respect of the claim shall, notwithstanding anything in section 3(3) of the Torts (Interference with Goods) Act 1977, be for the payment of damages only.”

Judgment in
favour of
reversioner
for deten-
tion of
goods.

In this paragraph “partial owner” means one of two or more persons having interests in the goods, unless he has the written authority of every other such person to sue on the latter’s behalf.

(2) This rule is without prejudice to the remedies and jurisdiction mentioned in section 3(8) of the said Act of 1977.”

7. In Order 25, Rule 10(2), for the figure “£20” there shall be substituted “£50”.

8. In Order 46, Rule 28, after paragraph (2) there shall be inserted the following paragraphs:—

“(2A) Order 8, Rule 8(4), shall have effect in relation to the originating application as if for the period of 21 clear days mentioned in that Rule there were substituted the period of 4 clear days.

(2B) The originating application may be heard and determined in chambers.”

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Act 1959(a), having by virtue of the powers vested in us, in this behalf made the foregoing rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

Conolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Granville Wingate.
T. Richard Nevin.
E. A. Everett.
A. A. Hibbert.
Arnold Russell Vick.
E. Somerset Jones.
D. A. Marshall.
Emyr O. Parry.

I allow these Rules, which shall come into operation on 2nd June, 1978.

Dated 4th May, 1978.

Elwyn-Jones, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules make amendments to the County Court Rules to take into account the provisions of the Torts (Interference with Goods) Act 1977 (rules 2, 4, 5 and 6). They also enable an application for an injunction under section 1 of the Domestic Violence and Matrimonial Proceedings Act 1976 (c. 50) to be served at least 4 (instead of 21) days before the return day and to be heard in chambers (rule 8). In addition, the amount of an unexecuted warrant in respect of which fortnightly returns must be made is raised from £20 to £50 (rule 7) and a minor drafting amendment is made in the rules relating to service of process out of England and Wales where there is a concurrent remedy in Scotland (rule 3).

(a) 1959 c. 22.

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