
STATUTORY INSTRUMENTS

1981 No. 1687

The County Court Rules 1981

ORDER 16

TRANSFER OF PROCEEDINGS

PART II

FROM THE HIGH COURT TO A COUNTY COURT

General provisions on transfer from High Court

6.—(1) Where by an order of the High Court—

- (a) any proceedings are to be transferred to a county court, or
- (b) an issue is directed to be tried in a county court,

the proper officer of the county court, on receipt of the documents mentioned in section 77(1) or 146(2) of the Act, as the case may be, shall enter the proceedings or issue in the records of the court and shall fix a day for the hearing of the proceedings or issue or, if he thinks fit, a day for a pre-trial review and give 21 days' notice thereof to every party.

(2) The party lodging or causing to be lodged with the proper officer the documents aforesaid shall at the same time file—

- (a) a statement of the names and addresses of the parties and of their solicitors;
- (b) if he is the plaintiff and has not indorsed a statement of claim on the writ or served a statement of claim in the High Court, particulars of his claim, together with a copy for each defendant;
- (c) if he is the defendant and only a counterclaim is transferred and the counterclaim has not been served in the High Court, particulars of the counterclaim, together with a copy for the plaintiff;
- (d) where money has been paid into the High Court, a copy of the notice of payment into court, and
- (e) a copy of any other pleading served but not filed in the High Court.

(3) Where—

- (a) a statement of claim has been indorsed on the writ or served in the High Court but no defence has been served there, or
- (b) particulars of claim have been filed in the county court pursuant to paragraph (2)(b),

the defendant shall, within 14 days after receipt of the notice given under paragraph (1), deliver at the court office a defence and, if he has a counterclaim, particulars of the counterclaim, together with a copy for the plaintiff.

(4) Where only a counterclaim is transferred, paragraph (3) shall apply, with the necessary modifications, to the counterclaim as it applies to a claim.

(5) On receipt of any document filed by the plaintiff pursuant to paragraph (2)(b) or by the defendant pursuant to paragraph (2)(c) or (3), the proper officer shall send a copy to each defendant or, as the case may be, to the plaintiff.

(6) For the purpose of enabling a party to obtain further particulars, Order 6, rule 7, Order 9, rule 11(2) to (4), and Order 13, rule 2(2), shall apply in relation to—

- (a) a statement of claim indorsed on the writ or served in the High Court,
- (b) particulars of claim or counterclaim filed pursuant to paragraph (2), or
- (c) a defence or counterclaim filed pursuant to paragraph (3),

as they apply in relation to particulars of claim, defence or counterclaim delivered in an action commenced in the county court.

Interpleader proceedings under execution

7.—(1) In relation to interpleader proceedings under an execution which are ordered to be transferred from the High Court under section 68 of the Act, rule 6 shall have effect subject to the provisions of this rule.

(2) Notice of the hearing or pre-trial review of the proceedings shall be given by the proper officer to the sheriff as well as to every other party to the proceedings.

(3) The claimant shall, within 8 days of the receipt by him of the notice referred to in paragraph (2), file in triplicate particulars of any goods alleged to be his property and the grounds of his claim and the proper officer shall send a copy to the execution creditor and to the sheriff, but the judge may hear the proceedings or, as the case may be, the registrar may proceed with the pre-trial review, if he thinks fit, notwithstanding that the particulars have not been filed.

(4) Subject to any directions in the order of the High Court, damages may be claimed against the execution creditor in the same manner as in interpleader proceedings commenced in a county court.

(5) On any day fixed for the preliminary consideration of the proceedings or for the hearing of any application by the sheriff or other party for directions the court may order the sheriff—

- (a) to postpone the sale of the goods seized, or
- (b) to remain in possession of such goods until the hearing of the proceedings, or
- (c) to hand over possession of such goods to the registrar,

and, where a direction is given under sub-paragraph (c), the registrar shall be allowed reasonable charges for keeping possession of the goods, not exceeding those which might be allowed to the sheriff, and, if the registrar is directed to sell the goods, such charges for the sale as would be allowed under an execution issued by the county court.

(6) No order made in the proceedings shall prejudice or affect the rights of the sheriff to any proper charges and the judge may make such order with respect to them as may be just.

(7) The charges referred to in paragraphs (5) and (6) shall ultimately be borne in such manner as the judge shall direct.

(8) The order made at the hearing of the proceedings shall direct how any money in the hands of the sheriff is to be disposed of.

Money for benefit of person under disability

8.—(1) Where money has been received by a county court under section 174 of the Act for the benefit of a person under disability, the registrar shall notify his next friend or guardian ad litem, as the case may be.

(2) Order 10, rule 11(2) and (3), shall apply in relation to the money and any interest thereon as if the money had been recovered in proceedings in the county court.

(3) The court may direct that any costs or expenses incurred in connection with any of the matters referred to in the previous paragraphs of this rule shall be paid out of the money and any interest thereon and that any investments may be sold for that purpose.

(4) Where an order has been made by the High Court for payment of any costs to a solicitor out of the money, the amount of such costs, if not paid before the money was received by the county court, shall, on the application of the solicitor, supported by the certificate of the taxing officer of the High Court, be paid out of the money received, and any investments may be sold for that purpose if the court thinks fit.

(5) The court may at any time require the next friend or guardian ad litem to obtain and produce the writ, pleadings and any other documents used in the proceedings in the High Court.