
STATUTORY INSTRUMENTS

1991 No. 1877 (L.27)

COUNTY COURTS

The County Court Appeals Order 1991

Made - - - - - *17th August 1991*

Laid before Parliament *2nd September 1991*

Coming into force - - - *1st October 1991*

The Lord Chancellor, in exercise of the power conferred on him by section 77(2) of the County Courts Act 1984(1), hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the County Court Appeals Order 1991 and shall come into force on 1st October 1991.

Leave to appeal

2.—(1) There shall be no right of appeal under section 77 of the County Courts Act 1984 without the leave either of a judge of the county court or of the Court of Appeal—

- (a) where the value of the appeal does not exceed—
 - (i) in the case of proceedings to which paragraph (3) applies, the sum of £5,000;
 - (ii) in the case of proceedings to which paragraph (4) applies, the sum of £15,000; or is not quantifiable;
- (b) where the determination sought to be appealed from was made by a judge acting in an appellate capacity.

(2) Subject to paragraph (6), in this article “the value of the appeal” means—

- (a) in proceedings to which paragraph (3) applies, the value of the claim (or counterclaim, if larger);
- (b) in proceedings to which paragraph (4) applies—
 - (i) the capital value of the estate, fund, assets or other property connected with the proceedings or in respect of which the relief is sought, or
 - (ii) where the proceedings are for the foreclosure or redemption of a mortgage, the amount owing.

(1) 1984 c. 28; section 77 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 17, paragraph 15.

(3) This paragraph applies to proceedings in which the county courts have jurisdiction by virtue of—

- (i) section 66 of the Taxes Management Act 1970(2),
- (ii) section 13 of the Torts (Interference with Goods) Act 1977(3), or
- (iii) section 15(4) or 16(5) of the County Courts Act 1984.

(4) This paragraph applies to proceedings in which the county courts have jurisdiction by virtue of—

- (i) section 30 of the Law of Property Act 1925(6),
- (ii) section 1 of the Charging Orders Act 1979(7), or
- (iii) section 23 or 32 of the County Courts Act 1984.

(5) Except where paragraph (6) applies, article 9 (Definition of value of action) of the High Court and County Courts Jurisdiction Order 1991(8) shall apply for determining the value of a claim (or counterclaim) for the purposes of paragraph (2)(a) as it applies for determining the value of an action for the purposes of articles 5 and 7 of that Order.

(6) In proceedings to which paragraph (3) applies, where the determination sought to be appealed from provides for the payment of a sum of money by way of debt or damages, the value of the appeal shall be taken not to exceed that sum.

(7) Except where paragraph (6) applies, the value of the appeal shall be determined as at the time when the value is declared for the purposes of the appeal in accordance with rules of court.

3. Article 2 shall not apply where the determination sought to be appealed from—

- (a) includes or preserves an injunction, or
- (b) concerns the upbringing of a child.

Revocation and transitional provision

4. The County Courts Appeals Order 1981(9) is hereby revoked but nothing in this Order shall affect any appeal set down, or any application lodged with the Court of Appeal, before 1st October 1991.

Dated 17th August 1991

Mackay of Clashfern, C.

(2) 1970 c. 9; section 66 was amended by the County Courts Act 1984 (c. 28), Schedule 2, paragraph 36, the Finance Act 1984 (c. 43), section 57(2) and the High Court and County Courts Jurisdiction Order (the "Jurisdiction Order"), S.I.1991/724, article 2, Schedule Part I.

(3) 1977 c. 32; section 13 was amended by the Jurisdiction Order, Schedule Part I.

(4) Section 15 was amended by the Jurisdiction Order, Schedule Part I.

(5) Section 16 was amended by the Jurisdiction Order, Schedule Part I.

(6) 1925 c. 20; section 30 was amended by the County Courts Act 1984 (c. 28), Schedule 2, paragraph 2 and the Jurisdiction Order, article 2, Schedule Part I.

(7) 1979 c. 53; section 1 was amended by the Administration of Justice Act 1982 (c. 53), section 34(3).

(8) S.I. 1991/724.

(9) S.I. 1981/1749; the Order was amended by the Jurisdiction Order, article 2, Schedule Part II.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes the County Court Appeals Order 1981 and makes new provision for prescribing those classes of county court proceedings in which an appeal to the Court of Appeal lies only with the leave of the judge of the county court or of the Court of Appeal.

The changes made by the new Order are—

- (a) to increase from £2,500 to £5,000 the value of county court claims in contract, tort and analogous cases for which leave is required to appeal to the Court of Appeal (article 2(1)(a)(i)) ;
- (b) to redefine (without change of substance) the value of equity, probate and analogous cases for which leave to appeal is required (article 2(2)(b)) ;
- (c) to make new provision (by reference to the High Court and County Courts Jurisdiction Order 1991) for valuing such claims (article 2(5)) ;
- (d) to extend the leave filter to appeals from county court proceedings under section 30 of the Law of Property Act 1925, section 66 of the Taxes Management Act 1970, section 13 of the Torts (Interference with Goods) Act 1977 and section 1 of the Charging Orders Act 1979 (article 2(1)(3) and (4)) .