Torts (Interference with Goods) Act 1977

1977 CHAPTER 32

Detention of goods

2 Abolition of detinue.

(1) Detinue is abolished.

(2) An action lies in conversion for loss or destruction of goods which a bailee has allowed to happen in breach of his duty to his bailor (that is to say it lies in a case which is not otherwise conversion, but would have been detinue before detinue was abolished).

3 Form of judgment where goods are detained.

(1) In proceedings for wrongful interference against a person who is in possession or in control of the goods relief may be given in accordance with this section, so far as appropriate.

(2) The relief is—

(a) an order for delivery of the goods, and for payment of any consequential damages, or

(b) an order for delivery of the goods, but giving the defendant the alternative of paying damages by reference to the value of the goods, together in either alternative with payment of any consequential damages, or

(c) damages.

(3) Subject to rules of court—

(a) relief shall be given under only one of paragraphs (a), (b) and (c) of subsection (2),

(b) relief under paragraph (a) of subsection (2) is at the discretion of the court, and the claimant may choose between the others.

(4) If it is shown to the satisfaction of the court that an order under subsection (2)(a) has not been complied with, the court may—

(a) revoke the order, or the relevant part of it, and

(b) make an order for payment of damages by reference to the value of the goods.

(5) Where an order is made under subsection (2)(b) the defendant may satisfy the order by returning the goods at any time before execution of judgment, but without prejudice to liability to pay any consequential damages.

(6) An order for delivery of the goods under subsection (2)(a) or (b) may impose such conditions as may be determined by the court, or pursuant to rules of court, and in particular, where damages by reference to the value of the goods would not be the whole of the value of the goods, may require an allowance to be made by the claimant to reflect the difference.

For example, a bailor's action against the bailee may be one in which the measure of damages is not the full value of the goods, and then the court may order delivery of the goods, but require the bailor to pay the bailee a sum reflecting the difference.

(7) Where under subsection (1) or subsection (2) of section 6 an allowance is to be made in respect of an improvement of the goods, and an order is made under subsection (2)(a) or (b), the court may assess the allowance to be made in respect of the improvement, and by the order require, as a condition for delivery of the goods, that allowance to be made by the claimant.

(8) This section is without prejudice—

(a) to the remedies afforded by section 133 of the [M1]Consumer Credit Act 1974, or

(b) to the remedies afforded by sections 35, 42 and 44 of the [M2]Hire-Purchase Act 1965, or to those sections of the [M3]Hire-Purchase Act (Northern Ireland) 1966 (so long as those sections respectively remain in force), or

(c) to any jurisdiction to afford ancillary or incidental relief.

Marginal Citations

M1 1974 c. 39.

M2 1965 c. 66.

M3 1966 c. 42 (N.I.)

4 Interlocutory relief where goods are detained.

(1) In this section "proceedings" means proceedings for wrongful interference.

(2) On the application of any person in accordance with rules of court, the High Court shall, in such circumstances as may be specified in the rules, have power to make an order providing for the delivery up of any goods which are or may become the subject matter of subsequent proceedings in the court, or as to which any question may arise in proceedings.

(3) Delivery shall be, as the order may provide, to the claimant or to a person appointed by the court for the purpose, and shall be on such terms and conditions as may be specified in the order.

(4) The power to make rules of court **[**[F1]for the High Court in England and Wales**]**[F2]... [F3]... or under section 7 of the [M4]Northern Ireland Act 1962 shall include power to make rules of court as to the manner in which an application for such an order can be made, and as to the circumstances in which such an order can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.

(5) The preceding provisions of this section shall have effect in relation to county courts**[**[F4]in Northern Ireland**]** as they have effect in relation to the High Court **[**[F5]in Northern Ireland **]**, and as if in those provisions references to rules of court and to [F6]... [F6]... [F6]... [F6]... [F6]... [F6]... section 7 of the Northern Ireland Act 1962 included references to county court rules and to [F6]...[[F7]Article 47 of the County Courts (Northern Ireland) Order 1980].

[[F8](6) Subsections (1) to (4) have effect in relation to the county court in England and Wales as they have effect in relation to the High Court in England and Wales.**]**

[[F9](6) Subsections (1) to (4) apply in relation to the family court in England and Wales as they apply in relation to the High Court in England and Wales, but as if references in those subsections to rules of court (including references to rules of court under any particular enactment) were references to Family Procedure Rules.**]**

Textual Amendments

F1 Words in s. 4(4) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(a)(i)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F2 Words in s. 4(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(a)(iii)**; 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. 4(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(a)(ii)**; 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. 4(5) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(b)(i)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F5 Words in s. 4(5) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(b)(ii)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F6 Words in s. 4(5) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(b)(iiii)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F7 Words substituted by S.I. 1980/397 (N.I. 3), art. 68(2), **Sch. 1 Pt. II**

F8 S. 4(6) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 133(c)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F9 S. 4(6) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 37**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Marginal Citations

M4 1962 c. 30.

Changes to legislation:
There are currently no known outstanding effects for the Torts (Interference with Goods) Act 1977, Cross Heading: Detention of goods.