



Torts (Interference with Goods) Act 1977

1977 CHAPTER 32

Liability to two or more claimants

7 Double liability

- (1) In this section " double liability " means the double liability of the wrongdoer which can arise—
 - (a) where one of two or more rights of action for wrongful interference is founded on a possessory title, or
 - (b) where the measure of damages in an action for wrongful interference founded on a proprietary title is or includes the entire value of the goods, although the interest is one of two or more interests in the goods.
- (2) In proceedings to which any two or more claimants are parties, the relief shall be such as to avoid double liability of the wrongdoer as between those claimants.
- (3) On satisfaction, in whole or in part, of any claim for an amount exceeding that recoverable if subsection (2) applied, the claimant is liable to account over to the other person having a right to claim to such extent as will avoid double liability.
- (4) Where, as the result of enforcement of a double liability, any claimant is unjustly enriched to any extent, he shall be liable to reimburse the wrongdoer to that extent.

For example, if a converter of goods pays damages first to a finder of the goods, and then to the true owner, the finder is unjustly enriched unless he accounts over to the true owner under subsection (3); and then the true owner is unjustly enriched and becomes liable to reimburse the converter of the goods.

8 Competing rights to the goods

- (1) The defendant in an action for wrongful interference shall be entitled to show, in accordance with rules of court, that a third party has a better right than the plaintiff as respects all or any part of the interest claimed by the plaintiff, or in right of which he sues, and any rule of law (sometimes called *jus tertii*) to the contrary is abolished.
- (2) Rules of court relating to proceedings for wrongful interference may—

- (a) require the plaintiff to give particulars of his title,
 - (b) require the plaintiff to identify any person who, to his knowledge, has or claims any interest in the goods,
 - (c) authorise the defendant to apply for directions as to whether any person 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,
 - (d) where a party fails to appear on an application within paragraph (c), or to comply with any direction given by the court on such an application, authorise the court to deprive him of any right of action against the defendant for the wrong either unconditionally, or subject to such terms or conditions as may be specified.
- (3) Subsection (2) is without prejudice to any other power of making rules of court.

9 Concurrent actions

- (1) This section applies where goods are the subject of two or more claims for wrongful interference (whether or not the claims are founded on the same wrongful act, and whether or not any of the claims relates also to other goods).
- (2) Where goods are the subject of two or more claims under section 6 this section shall apply as if any claim under section 6(3) were a claim for wrongful interference.
- (3) If proceedings have been brought in a county court on one of those claims, county court rules may waive, or allow a court to waive, any limit (financial or territorial) on the jurisdiction of county courts in the County Courts Act 1959 or the County Courts Act (Northern Ireland) 1959 so as to allow another of those claims to be brought in the same county court.
- (4) If proceedings are brought on one of the claims in the High Court, and proceedings on any other are brought in a county court, whether prior to the High Court proceedings or not, the High Court may, on the application of the defendant, after notice has been given to the claimant in the county court proceedings—
 - (a) order that the county court proceedings be transferred to the High Court, and
 - (b) order security for costs or impose such other terms as the court thinks fit.