



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

### PART II

#### THE HIGH COURT

##### *Miscellaneous powers of High Court*

#### **31 Remittal and removal of proceedings.**

- (1) The High Court may in accordance with rules of court at any stage remit to a county court the whole or any part of any civil proceedings to which this subsection applies if—
- the parties consent to the remittal thereof;
  - the court is satisfied upon the application of any party to proceedings involving an unliquidated claim that the full amount of that claim is likely to be within the monetary limit of the jurisdiction of the county court;
  - the court is satisfied, whether upon the application of any party or otherwise, that the subject matter of the proceedings (not being an unliquidated claim) is or is likely to be within the limits of the jurisdiction of the county court; or
  - the claimant abandons the right to recover any amount in excess of the monetary limit of the jurisdiction of the county court,
- and in any such case the court is of the opinion that in all the circumstances the proceedings may properly be heard and determined in the county court.
- (2) Subsection (1) applies to civil proceedings commenced in the High Court of a kind which the county court would, apart from any limitation by reason of amount or value or annual value, have jurisdiction to hear and determine if commenced in that court.
- (3) Proceedings remitted under this section shall be remitted to such county court as the High Court may specify, being either a county court in which the proceedings could, apart from any limitation by reason of amount or value or annual value, have been commenced or, with the concurrence of the parties, any other county court appearing to the High Court to be convenient.

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- (4) Where proceedings are remitted to a county court under this section, the county court shall have jurisdiction to hear and determine those proceedings and—
- (a) the county court shall have the like jurisdiction as the High Court as to the giving of any relief claimed, including (but without prejudice to the generality of this provision) the amount of damages that may be awarded; and
  - (b) the parties to the proceedings shall have the like right of appeal as if the proceedings had been commenced in the county court.
- (5) The High Court may in accordance with rules of court at any stage remove to that court from a county court and hear and determine the whole or any part of any civil proceedings which could have been commenced in the High Court but have been commenced in that county court if—
- (a) the parties consent to the removal thereof; or
  - (b) on the application of any party the court is satisfied that there is a triable issue, and in either such case the court is of opinion that, by reason of the nature of the proceedings, the amount of the claim or the value or annual value of the subject matter, the proceedings are not within the jurisdiction of the county court or that the proceedings could in all the circumstances be more appropriately heard and determined in the High Court.
- (6) The High Court may require any party on whose application any proceedings are removed to that court to give security of such nature and amount as that court may by order direct.
- (7) This section shall not apply to the following proceedings, namely—
- (a) applications for adoption orders (including provisional adoption orders);
  - (b) applications under section 17 of the <sup>M1</sup>Married Women’s Property Act 1882 [<sup>F1</sup>or section 191 of the Civil Partnership Act 2004];
  - (c) proceedings under section 57 of the <sup>M2</sup>Trustee Act (Northern Ireland) 1958;
  - (d) .....<sup>F2</sup>
- (8) This section shall apply to proceedings by and against the Crown, but—
- (a) in its application to proceedings against the Crown this section shall have effect subject to the provisions of section 20(2) of the <sup>M3</sup>Crown Proceedings Act 1947 as they extend to Northern Ireland;
  - (b) nothing in subsection (6) shall have effect so as to require or to authorise the making of an order requiring security to be given by the Crown;
  - (c) no proceedings by the Crown shall be remitted to a county court without the consent of the Crown;
  - (d) nothing in this section shall apply to proceedings affecting Her Majesty in Her private capacity.
- (9) For the purposes of this section—
- (a) the amount of a claim shall be taken as the amount remaining in dispute after allowance has been made for any payment, set off or other amount admitted by tender or otherwise to be due and after any abandonment by the claimant of any amount by which the sum claimed exceeds the monetary limit of the jurisdiction of the county court;
  - (b) the full amount of an unliquidated claim shall be taken as the amount which would be recoverable if no deduction were made in respect of the claimant’s own fault;

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- (c) in determining whether an amount exceeds the monetary limit of the jurisdiction of the county court, no account shall be taken of any power exercisable by virtue of [F3Article 45A of the County Courts (Northern Ireland) Order 1980] or of any order made in the exercise of such a power;
- (d) “proceedings” includes proceedings on a counterclaim; and
- (e) “the Crown” includes the Crown in right of Her Majesty’s Government in the United Kingdom and in right of Her Majesty’s Government in Northern Ireland.

#### Textual Amendments

- F1** Words in s. 31(7)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(3), 263(10)(d), [Sch. 29 para. 24](#); S.I. 2005/3255, [art. 2\(2\)](#)
- F2** S. 31(7)(d) repealed by S.I. 1982/1080 (N.I. 12), art. 1(2), 46(3), [Sch. 9](#) but by S.Rs. 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively
- F3** Words substituted by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 69, [Sch. 7 Pt. III para. 2](#)

#### Marginal Citations

- M1** 1882 c. 75.
- M2** 1958 c. 23 (N.I.)
- M3** 1947 c. 44.

### 32 Restriction on institution of vexatious actions.

- (1) If, on an application made by the Attorney General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the High Court or in any inferior court or tribunal, and whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order—
  - (a) that no legal proceedings shall without the leave of the High Court be instituted by him in any court or tribunal;
  - (b) that any legal proceedings instituted by him in any court or tribunal before the making of the order shall not be continued by him without such leave;
 and such leave shall not be given unless the court is satisfied that the proceedings are not an abuse of the process of the court and that there is prima facie ground for the proceedings.
- (2) The court may in its discretion assign a solicitor or counsel to any person against whom an order is sought under this section and the expenses of any such solicitor or counsel shall be taxed and paid out of the legal aid fund.
- (3) A notice of the making of any order under this section shall be published in the Belfast Gazette.

### 33 Execution of instruments by order of court.

Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document or to endorse any negotiable

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instrument, the High Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed or that the negotiable instrument shall be endorsed by such person as the court may nominate for that purpose, and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available as if it had been executed or endorsed by the person originally directed to execute or endorse it.

**[<sup>F4</sup>33A Power of High Court to award interest on debts and damages.**

- (1) Subject to rules of court, in proceedings (whenever instituted) before the High Court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as rules of court may provide, on all or any part of the debt or damages in respect of which judgment is given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—
  - (i) in the case of any sum paid before judgment, the date of the payment; and
  - (ii) in the case of the sum for which judgment is given, the date of the judgment.
- (2) Subject to the rules or court, where—
  - (a) there are proceedings (whenever instituted) before the High Court for the recovery of a debt; and
  - (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),
 the defendant shall be liable to pay the plaintiff simple interest at such rate as the court thinks fit or as rules of court may provide on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.
- (3) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.
- (4) Without prejudice to the generality of section 55, rules of court may provide for a rate of interest by reference to a rate for which any other enactment provides.
- (5) Interest under this section may be calculated at different rates in respect of different periods.
- (6) In this section “plaintiff” means the person seeking the debt or damages and “defendant” means the person from whom the plaintiff seeks the debt or damages.
- (7) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.]

**Textual Amendments**

**F4** S. 33A inserted by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 69, **Sch. 7 Pt. I**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(1)(1A) substituted for s. 14(1) by [2002 c. 26 Sch. 12 para. 13](#) (This amendment not applied to legislation.gov.uk. Sch. 5 repealed (3.4.2006) without ever being in force by 2005 c. 4, Sch. 5 para. 125, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2, Sch. 1 paras. 12(f), 30(c))
- s. 106(3A) inserted by [2011 c. 24 \(N.I.\) s. 89\(1\)](#)