

# TRANSFER

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### 30.1 Scope of this Part

- (1) This Part deals with the transfer of proceedings between county courts, between the High Court and the county courts and within the High Court.
- (2) The practice direction may make provision about the transfer of proceedings between the court and a tribunal.

(Rule 26.2 provides for automatic transfer in certain cases)

### 30.2 Transfer between county courts and within the High Court

- (1) A county court may order proceedings before that court, or any part of them (such as a counterclaim or an application made in the proceedings), to be transferred to another county court if it is satisfied that –
  - (a) an order should be made having regard to the criteria in rule 30.3; or
  - (b) proceedings for –
    - (i) the detailed assessment of costs; or
    - (ii) the enforcement of a judgment or order,
 could be more conveniently or fairly taken in that other county court.
- (2) If proceedings have been started in the wrong county court, a judge of the county court may order that the proceedings –
  - (a) be transferred to the county court in which they ought to have been started;
  - (b) continue in the county court in which they have been started; or
  - (c) be struck out.
- (3) An application for an order under paragraph (1) or (2) must be made to the county court where the claim is proceeding.
- (4) The High Court may, having regard to the criteria in rule 30.3, order proceedings in the Royal Courts of Justice or a district registry, or any part of such proceedings (such as a counterclaim or an application made in the proceedings), to be transferred –

- (a) from the Royal Courts of Justice to a district registry; or
  - (b) from a district registry to the Royal Courts of Justice or to another district registry.
- (5) A district registry may order proceedings before it for the detailed assessment of costs to be transferred to another district registry if it is satisfied that the proceedings could be more conveniently or fairly taken in that other district registry.
- (6) An application for an order under paragraph (4) or (5) must, if the claim is proceeding in a district registry, be made to that registry.
- (7) Where some enactment, other than these Rules, requires proceedings to be started in a particular county court, neither paragraphs (1) nor (2) give the court power to order proceedings to be transferred to a county court which is not the court in which they should have been started or to order them to continue in the wrong court.
- (8) Probate proceedings may only be transferred under paragraph (4) to the Chancery Division at the Royal Courts of Justice or to one of the Chancery district registries.

### 30.3 Criteria for a transfer order

- (1) Paragraph (2) sets out the matters to which the court must have regard when considering whether to make an order under –
- (a) section 40(2), 41(1) or 42(2) of the County Courts Act 1984<sup>1</sup> (transfer between the High Court and a county court);
  - (b) rule 30.2(1) (transfer between county courts); or
  - (c) rule 30.2(4) (transfer between the Royal Courts of Justice and the district registries).
- (2) The matters to which the court must have regard include –
- (a) the financial value of the claim and the amount in dispute, if different;
  - (b) whether it would be more convenient or fair for hearings (including the trial) to be held in some other court;
  - (c) the availability of a judge specialising in the type of claim in question;
  - (d) whether the facts, legal issues, remedies or procedures involved are simple or complex;
  - (e) the importance of the outcome of the claim to the public in general;
  - (f) the facilities available at the court where the claim is being dealt with and whether they may be inadequate because of any disabilities of a party or potential witness;
  - (g) whether the making of a declaration of incompatibility under section 4 of the Human Rights Act 1998 has arisen or may arise;
  - (h) in the case of civil proceedings by or against the Crown, as defined in rule 66.1(2), the location of the relevant government department or officers of the Crown and, where appropriate, any relevant public interest that the matter should be tried in London.

### 30.4 Procedure

- (1) Where the court orders proceedings to be transferred, the court from which they are to be transferred must give notice of the transfer to all the parties.
- (2) An order made before the transfer of the proceedings shall not be affected by the order to transfer.

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<sup>1</sup> 1984 c.28. Section 40 was substituted by section 2(1) of the Courts and Legal Services Act 1990 (c.41). Section 41 was amended by the Matrimonial and Family Proceedings Act 1984 (c.42), Schedule 1, paragraph 31 and by section 2(2) of the Courts and Legal Services Act 1990. Section 42 was substituted by section 2(3) of the Courts and Legal Services Act 1990.

### **30.5 Transfer between Divisions and to and from a specialist list**

- (1) The High Court may order proceedings in any Division of the High Court to be transferred to another Division.
- (2) The court may order proceedings to be transferred to or from a specialist list.
- (3) An application for the transfer of proceedings to or from a specialist list must be made to a judge dealing with claims in that list.

### **30.6 Power to specify place where hearings are to be held**

The court may specify the place (for instance, a particular county court) where the trial or some other hearing in any proceedings is to be held and may do so without ordering the proceedings to be transferred.

### **30.7 Transfer of control of money in court**

The court may order that control of any money held by it under rule 21.11 (control of money recovered by or on behalf of a child or patient) be transferred to another court if that court would be more convenient.

### **30.8 Transfer of competition law claims**

- (1) This rule applies if, in any proceedings in the Queen's Bench Division, (other than proceedings in the Commercial or Admiralty Courts) a district registry of the High Court or a county court, a party's statement of case raises an issue relating to the application of –
  - (a) Article 81 or Article 82 of the Treaty establishing the European Community; or
  - (b) Chapter I or II of Part I of the Competition Act 1998<sup>1</sup>.
- (2) Rules 30.2 and 30.3 do not apply.
- (3) The court must transfer the proceedings to the Chancery Division of the High Court at the Royal Courts of Justice.
- (4) If any such proceedings which have been commenced in the Queen's Bench Division or a Mercantile Court fall within the scope of rule 58.1(2), any party to those proceedings may apply for the transfer of the proceedings to the Commercial Court, in accordance with rule 58.4(2) and rule 30.5(3). If the application is refused, the proceedings must be transferred to the Chancery Division of the High Court at the Royal Courts of Justice.

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<sup>1</sup> 1998 c.41.

