

PRACTICE DIRECTION 30

TRANSFER

This Practice Direction supplements CPR Part 30

VALUE OF A CASE AND TRANSFER

- 1** In addition to the criteria set out in Rule 30.3(2) attention is drawn to the financial limits set out in the High Court and County Courts Jurisdiction Order 1991, as amended.
- 2** Attention is also drawn to paragraph 2 of the Practice Direction 29.

DATE OF TRANSFER

- 3** Where the court orders proceedings to be transferred, the order will take effect from the date it is made by the court.

PROCEDURE ON TRANSFER

- 4.1** Where an order for transfer has been made the transferring court will immediately send notice of the transfer to the receiving court. The notice will contain:
 - (1)** the name of the case, and
 - (2)** the number of the case.
- 4.2** At the same time as the transferring court notifies the receiving court it will also notify the parties of the transfer under rule 30.4(1).

PROCEDURE FOR AN APPEAL AGAINST ORDER OF TRANSFER

- 5.1** Where a district judge orders proceedings to be transferred and both the transferring and receiving courts are county courts, any appeal against that order should be made in the receiving court.
- 5.2** The receiving court may, if it is more convenient for the parties, remit the appeal to the transferring court to be dealt with there.

APPLICATIONS TO SET ASIDE

- 6.1** Where a party may apply to set aside an order for transfer (e.g. under rule 23.10) the application should be made to the court which made the order.
- 6.2** Such application should be made in accordance with Part 23 of the Rules and Practice Direction 23A.

TRANSFER ON THE CRITERION IN RULE 30.3(2)(G)

- 7** A transfer should only be made on the basis of the criterion in rule 30.3(2)(g) where there is a real prospect that a declaration of incompatibility will be made.

ENTERPRISE ACT 2002

- 8.1** In this paragraph –

- (1)** “the 1998 Act” means the Competition Act 1998;
- (2)** “the 2002 Act” means the Enterprise Act 2002; and
- (3)** “the CAT” means the Competition Appeal Tribunal.

- 8.2** Rules 30.1, 30.4 and 30.5 and paragraphs 3 and 6 apply.

TRANSFER FROM THE HIGH COURT OR A COUNTY COURT TO THE COMPETITION APPEAL TRIBUNAL UNDER SECTION 16(4) OF THE ENTERPRISE ACT 2002

- 8.3** The High Court or a county court may pursuant to section 16(4) of the 2002 Act, on its own initiative or on application by the claimant or defendant, order the transfer of any part of the proceedings before it, which relates to a claim to which section 47A of the 1998 Act applies, to the CAT.
- 8.4** When considering whether to make an order under paragraph 8.3 the court shall take into account whether –
- (1)** there is a similar claim under section 47A of the 1998 Act based on the same infringement currently before the CAT;
 - (2)** the CAT has previously made a decision on a similar claim under section 47A of the 1998 Act based on the same infringement; or
 - (3)** the CAT has developed considerable expertise by previously dealing with a significant number of cases arising from the same or similar infringements.
- 8.5** Where the court orders a transfer under paragraph 8.3 it will immediately –
- (1)** send to the CAT –
 - (a)** a notice of the transfer containing the name of the case; and
 - (b)** all papers relating to the case; and
 - (2)** notify the parties of the transfer.
- 8.6** An appeal against a transfer order made under paragraph 8.3 must be brought in the court which made the transfer order.

TRANSFER FROM THE COMPETITION APPEAL TRIBUNAL TO THE HIGH COURT UNDER SECTION 16(5) OF THE ENTERPRISE ACT 2002

- 8.7** Where the CAT pursuant to section 16(5) of the 2002 Act directs transfer of a claim made in proceedings under section 47A of the 1998 Act to the High Court, the claim should be transferred to the Chancery Division of the High Court at the Royal Courts of Justice.
- 8.8** As soon as a claim has been transferred under paragraph 8.7, the High Court must –
- (1) allocate a case number; and
 - (2) list the case for a case management hearing before a judge.
- 8.9** A party to a claim which has been transferred under paragraph 8.7 may apply to transfer it to the Commercial Court if it otherwise falls within the scope of rule 58.2(1), in accordance with the procedure set out in rules 58.4(2) and 30.5(3).

TRANSFER TO OR FROM A PATENTS COUNTY COURT (RULE 63.18)

- 9.1** When deciding whether to order a transfer of proceedings to or from a patents county court the court will consider whether –
- (1) a party can only afford to bring or defend the claim in a patents county court; and
 - (2) the claim is appropriate to be determined by a patents county court having regard in particular to –
 - (a) the value of the claim (including the value of an injunction);
 - (b) the complexity of the issues; and
 - (c) the estimated length of the trial.
- 9.2** Where the court orders proceedings to be transferred to or from a patents county court it may –
- (1) specify terms for such a transfer; and
 - (2) award reduced or no costs where it allows the claimant to withdraw the claim.

