



# Administration of Justice Act 1977

## 1977 CHAPTER 38

### PART I

#### GENERAL

#### **1 Legal aid, advice and assistance**

- (1) The enactments relating to legal aid, advice and assistance in England and Wales shall be amended in accordance with Part I of Schedule 1 to this Act.
- (2) The enactments relating to legal aid, advice and assistance in Scotland shall be amended in accordance with Part II of that Schedule.

#### **2 Determination of expenses etc.**

- (1) The amendments specified in Part I of Schedule 2 to this Act shall have effect for the purpose of enabling the rates of the sums whose payment is provided for by the enactments mentioned in that Part of that Schedule (which extend to England and Wales only) to be determined administratively.
- (2) The amendments specified in Part II of that Schedule shall have effect for the purpose of enabling the rates of the sums whose payment is provided for by the enactments mentioned in that Part of that Schedule (which extend to Scotland only) to be determined administratively.
- (3) The amendment specified in Part III of that Schedule shall have effect in the enactment mentioned in that Part of that Schedule (which extends to the whole of the United Kingdom) for the purpose of enabling the rates of the sums whose payment is provided for by it to be determined administratively.

#### **3 Enforcement of maintenance orders**

Schedule 3 to this Act shall have effect in relation to the enforcement in one part of the United Kingdom of maintenance orders made in another part.

#### **4 Obligations, awards and judgments expressed in foreign currency**

- (1) The provisions specified in subsection (2) below shall cease to have effect.
- (2) The provisions mentioned in subsection (1) above are—
  - (a) in the Bills of Exchange Act 1882—
    - (i) section 57(2) (measure of damages for bills dishonoured abroad), and
    - (ii) section 72(4) (rate of exchange), and
  - (b) the following provisions (which require the conversion to United Kingdom currency as at the date of registration of the judgments and awards to which they relate)—
    - (i) section 2(3) of the Foreign Judgments (Reciprocal Enforcement) Act 1933;
    - (ii) section 1(3) of the Arbitration (International Investment Disputes) Act 1966, and
    - (iii) Article 3(2) of the European Communities (Enforcement of Community Judgments) Order 1972.
- (3) The provisions specified in subsection (2)(a) above shall continue to have effect in relation to Bills drawn before the coming into force of this section.
- (4) The provisions specified in subsection (2)(b) above shall continue to have effect in relation to judgments and awards registered before the coming into force of this section.

#### **5 Appeals etc. from courts-martial**

- (1) The following section shall be inserted after section 33 of the Courts-Martial (Appeals) Act 1968—

**“33A Appellant's expenses.**

Without prejudice to section 31 above, where an appellant who is not in custody appears before the Appeal Court either on the hearing of his appeal or in any preliminary or incidental proceedings, the Appeal Court may direct the Secretary of State to pay him the expenses of his appearance.”.

- (2) In section 34(2) of that Act (reference of cases by Service authorities), for the words " other than those of sections 31 and 32 " there shall be substituted the words " other than that of section 32 ".
- (3) Section 35 of that Act (order for costs of defence on reference) (which is superseded by this section) shall cease to have effect.
- (4) In section 47(3) of that Act (costs on appeals to the House of Lords), for the words from the beginning to " accused ", in the first place where it occurs, there shall be substituted the words " On determining an appeal from the Appeal Court. ".

#### **6 Temporary additional judges for Employment Appeal Tribunal**

- (1) The following paragraph shall be inserted after paragraph 7 of Schedule 6 to the Employment Protection Act 1975 (Employment Appeal Tribunal):—

“7A (1) At any time when it appears to the Lord Chancellor that it is expedient to do so in order to facilitate in England and Wales the disposal of business in the Appeal Tribunal, he may appoint a qualified person to be a temporary additional judge of the Tribunal during such period or on such occasions as the Lord Chancellor thinks fit.

(2) In this paragraph " qualified person" means a person qualified for appointment as a puisne judge of the High Court under section 9 of the Supreme Court of Judicature (Consolidation) Act 1925 or any person who has held office as a judge of the Court of Appeal or of the High Court.”.

(2) The following paragraph shall be inserted after paragraph 8 of that Schedule:—

“8A A person appointed to be a temporary additional judge of the Appeal Tribunal shall have all the functions of a judge nominated under section 87(2)(a) above.”.

(3) The following paragraph shall be inserted after paragraph 23 of that Schedule:—

“23A A person appointed to be a temporary additional judge of the Appeal Tribunal shall be paid such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.”.

## **7 Extent of powers of receivers and managers in respect of companies**

(1) A receiver appointed under the law of any part of the United Kingdom in respect of the whole or part of any property or undertaking of a company and in consequence of the company having created a charge which, as created, was a floating charge : may exercise his powers in any other part of the United Kingdom so far as their exercise is not inconsistent with the law applicable there.

(2) In subsection (1) above " receiver " includes a manager and a person who is appointed both receiver and manager.

## **8 Oaths and affirmations**

(1) The following section shall be substituted for section 1 of the Oaths Act 1888:—

### **“1 When affirmation may be made instead of oath.**

Any person who objects to being sworn shall be permitted to make his solemn affirmation instead of taking an oath in all places and for all purposes where an oath is or shall be required by law, which affirmation shall be of the same force and effect as if he had taken the oath.”.

(2) The Oaths Act 1961 shall extend to Northern Ireland.

(3) The provisions specified in Part III of Schedule 5 below shall cease to have effect.

## PART II

### ENGLAND AND WALES

#### *Supreme Court*

## 9 Appeals

In the Supreme Court of Judicature (Consolidation) Act 1925—

- (a) section 27(2) (decision of Court of Appeal in certain matrimonial and related proceedings to be final except in certain circumstances), and
- (b) in section 63(1), the words " and in all cases where there is a right of appeal to the High Court from any court or person the appeal shall be heard and determined by a divisional court ",

shall cease to have effect.

## 10 Appointment to office

- (1) The following section shall be substituted for section 116 of the Supreme Court of Judicature (Consolidation) Act 1925:—

**“116 Appointment of deputies and temporary appointments.**

- (1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the Supreme Court, he may appoint a person—

- (a) to act as a deputy for any officer of the Supreme Court, or
- (b) to act as a temporary additional officer in any office in the Supreme Court,

during such period or on such occasions as the Lord Chancellor thinks fit.

- (2) Subject to subsection (3) below, a person shall not be qualified for appointment under this section if the office in which he would act by virtue of the appointment is one to which he would not be qualified for permanent appointment.

- (3) A master of the Supreme Court shall be qualified to be appointed to act as a deputy for a registrar in bankruptcy of the High Court.

- (4) A person acting in an office by virtue of an appointment under this section shall have all the powers of a person permanently appointed to that office.

- (5) The Lord Chancellor may pay to any person appointed under this section such remuneration and allowances as he may, with the consent of the Minister for the Civil Service, determine.”.

- (2) The qualifications for appointment to offices in the Supreme Court shall be extended as mentioned in subsection (3) below.

- (3) There may be appointed—

- (a) to the office of Registrar of Criminal Appeals, any barrister or solicitor of not less than ten years' standing (whether practising or not);

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- (b) to the office of Assistant Registrar of Criminal Appeals, any barrister or solicitor of not less than seven years' standing (whether practising or not);
  - (c) to the office of Registrar in Bankruptcy of the High Court, any holder of one of the following offices, namely—
    - (i) district registrar, and
    - (ii) county court registrar;
  - (d) to the office of Master, Chancery Division, any holder of one of the following offices, namely—
    - (i) Master, Taxing Office,
    - (ii) Official Solicitor, and
    - (iii) county court registrar ;
  - (e) to the office of Master, Taxing Office, any holder of the office of Official Solicitor ;
  - (f) to the office of Official Solicitor, any solicitor of not less than ten years' standing (whether practising or not);
  - (g) to the office of registrar of the Principal Registry of the Family Division, any holder of the office of district registrar or county court registrar; and
  - (h) to the office of district probate registrar, any person who has served not less than five years as a clerk in the Principal Registry of the Family Division or a district probate registry.
- (4) Accordingly—
- (a) the following subsection shall be substituted for section 126(3) of the Supreme Court of Judicature (Consolidation) Act 1925 (which specifies the qualifications for appointment to certain offices):—
    - “(3) A person shall not be qualified—
      - (a) to be appointed a registrar of the Principal Registry of the Family Division, unless he is—
        - (i) a practising barrister or solicitor of not less than ten years' standing, or
        - (ii) a district registrar, or
        - (iii) a county court registrar, or
        - (iv) a district probate registrar of not less than five years' standing,or has served not less than ten years as a clerk in the Principal Registry of the Family Division; or
      - (b) to be appointed a district probate registrar unless he is—
        - (i) a practising barrister or solicitor of not less than five years' standing, or
        - (ii) a registrar of the Principal Registry of the Family Division,or has served not less than five years as a clerk in the Principal Registry of the Family Division or a district probate registry.”; and
    - (b) in Schedule 4 to that Act (which specifies the qualifications for appointment to certain other offices)—

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(i) the following shall be substituted for the entry in column 2 of paragraph 5 (persons qualified for appointment as Registrar in Bankruptcy):—

“5 (i) A practising barrister or practising solicitor of not less than ten years' standing; or  
(ii) a district registrar ; or  
(iii) a county court registrar.”; and

(ii) at the end of paragraph 6(iii) (persons qualified for appointment as Master, Chancery Division) there shall be added the words " or

(iv) A county court registrar."

## 11 Funds in court

(1) For section 3 of the Administration of Justice Act 1965 (Accountant General to maintain an account at Bank of England) there shall be substituted the following section:—

### “3 Accountant General to maintain bank account.

The Accountant General shall maintain an account at the Bank of England or at such other bank as may be designated by the Lord Chancellor with the concurrence of the Treasury and shall pay all sums received by him into that account and all sums payable by him out of it.”.

(2) In section 4 of that Act (mode of effecting payment of money and transfer of securities, &c., into Supreme Court)—

(a) in subsection (1), for the words " Bank of England to the credit of the Accountant General's account" there shall be substituted the words " Accountant General's account under section 3 above "; and

(b) in subsection (3), after the words " Bank of England " there shall be inserted the words " or such other bank as may have been designated under section 3 above ".

(3) The following section shall be inserted after section 6 of that Act:—

### “6A Transfer of funds in court to Official Custodian for Charities and Church Commissioners.

(1) Any funds for the time being vested in the Accountant General and held by him in trust for any charity or in trust for any ecclesiastical corporation in the Church of England may, if the Accountant General on an application made in that behalf to him by the Charity Commissioners or the Church Commissioners thinks fit so to direct, be transferred to the Official Custodian for Charities or the Church Commissioners, as the case may be.

(2) Any funds transferred by virtue of a direction given under subsection (1) above shall be vested in and held by the Official Custodian for Charities or the Church Commissioners respectively in trust for the charity or ecclesiastical corporation upon the trusts upon which the funds were held before the transfer.

(3) No fees shall be payable under the Supreme Court of Judicature (Consolidation) Act 1925 or any rule or order made under it in respect of a transfer of funds under this section.

(4) In this section "ecclesiastical corporation" means a capitular body within the meaning of the Cathedrals Measure 1963 or the incumbent of a benefice."

### *Circuit judges and county courts*

## **12 Alteration of qualifications for appointment as Circuit judge**

In section 16(3) of the Courts Act 1971 (service for five years as a Recorder to be a qualification for appointment as a Circuit judge) for the word " five " there shall be substituted the word " three ".

## **13 Sittings of county courts**

The following section shall be substituted for sections 34 to 38 of the County Courts Act 1959 (sittings of county courts):—

### **“34 Places and times of sittings.**

- (1) In any district the places at which the court sits, and the days and times when the court sits at any place, shall be determined in accordance with directions given by or on behalf of the Lord Chancellor.
- (2) A judge may from time to time adjourn any court held by him, and a registrar may from time to time adjourn—
  - (a) any court held by him, or
  - (b) in the absence of the judge, any court to be held by the judge.
- (3) With the consent of the parties to proceedings (whether heard by the judge or a registrar), the proceedings, or any question arising in the proceedings, may be heard and determined at any place either within or without the district.
- (4) References in this Act to sittings of the court shall include references to sittings by any registrar in pursuance of any provision contained in, or made under, this Act.”.

## **14 Injunctions and declarations in county courts**

The following section shall be inserted after section 51 of the County Courts Act 1959:

### **“51A Injunctions and declarations relating to land.**

- (1) Subject to the provisions of this section, a county court shall have the same jurisdiction as the High Court to grant an injunction or declaration in respect of, or relating to, any land, or the possession, occupation, use or enjoyment of any land.

- (2) This section only applies where the net annual value for rating of the relevant land does not exceed the current limit on jurisdiction in section 51 of this Act.
- (3) In this section "land" includes any hereditament, and in the case of an easement or licence the relevant land for the purposes of subsection (2) above is the land in respect of which the easement or licence is claimed or on, through, over or under which the easement or licence is claimed.
- (4) Any party to proceedings in the High Court which could have been brought in a county court under this section may apply to the High Court or a judge thereof for an order that the action be transferred to any county court—
  - (a) in which the proceedings could have been brought, or
  - (b) which the High Court or judge may deem to be the most convenient to the parties,
 and the High Court or judge may order that the proceedings be transferred accordingly.”.

## 15 Limits on Admiralty and probate jurisdiction of county courts

- (1) In section 56(2) of the County Courts Act 1959 (which limits a county court's jurisdiction in Admiralty matters)—
  - (a) for "one thousand pounds" there shall be substituted "£5,000", and
  - (b) for "three thousand five hundred pounds" there shall be substituted "£15,000".
- (2) In section 60 of that Act (costs of certain Admiralty proceedings)—
  - (a) subsection (2) shall cease to have effect;
  - (b) in subsection (3)—
    - (i) after the word "ship", in the first place where it occurs, there shall be inserted the words "or any claim for salvage services," , and
    - (ii) for "£100" there shall be substituted "£350";
  - (c) in subsection (4), for "one thousand pounds" there shall be substituted "£5,000"; and
  - (d) in subsection (5), for "(2) to" there shall be substituted "(3) and".
- (3) In section 62(1) of that Act (jurisdiction of county courts in probate matters), for "one thousand pounds" there shall be substituted "£15,000".
- (4) In section 192(2)(a) of that Act (financial limits which may be raised by Order in Council), for "60(3)" there shall be substituted "56(2), 60, 62(1),".

## 16 Right of audience in county courts

The following section shall be inserted after section 89 of the County Courts Act 1959:

### “89A Right of audience by direction of Lord Chancellor.

- (1) The Lord Chancellor may at any time direct that such categories of persons in relevant legal employment as may be specified in the direction may address the



court in any proceedings in a county court, or in proceedings in a county court of such description as may be so specified.

- (2) In subsection (1) above, " relevant legal employment " means employment which consists of or includes giving assistance in the conduct of litigation to a solicitor whether in private practice or not.
- (3) A direction under this section may be given subject to such conditions and restrictions as appear to the Lord Chancellor to be necessary or expedient, and may be expressed to have effect as respects every county court or as respects a specified county court or as respects one or more specified places where a county court sits.
- (4) It is hereby declared that the power to give directions conferred by the section includes a power to vary or rescind any direction given under this section."

## 17 County court jurisdiction in respect of arbitrations

- (1) The following shall be substituted, in section 92 of the County Courts Act 1959 (power of judge to refer to arbitration), for subsections (1) and (2) and the words from the beginning of subsection (3) to " reference " , in the first place where it occurs:—

### “92 Reference to arbitration.

- (1) County court rules—

- (a) may prescribe cases in which proceedings are (without any order of the court) to be referred to arbitration, and
- (b) may prescribe the manner in which and the terms on which cases are to be so referred, and
- (c) may, where cases are so referred, require other matters within the jurisdiction of the court in dispute between the parties also to be referred to arbitration.

- (2) County court rules—

- (a) may prescribe cases in which proceedings may be referred to arbitration by order of the court, and
- (b) may authorise the court also to order other matters in dispute between the parties and within the jurisdiction of the court to be so referred.

- (3) On a reference under subsection (1) or (2) above”.

- (2) Section 26 of the Arbitration Act 1950 (which provides for the enforcement of arbitration awards in the High Court) shall be re-numbered so as to become section 26(1) of that Act; and at the end of the resulting subsection (1) there shall be added as subsections (2) and (3):—

- “(2) If—

- (a) the amount sought to be recovered does not exceed the current limit on jurisdiction in section 40 of the County Courts Act 1959, and
- (b) a county court so orders,

it shall be recoverable (by execution issued from the county court or otherwise) as if payable under an order of that court and shall not be enforceable under subsection (1) above.

- (3) An application to the High Court under this section shall preclude an application to a county court and an application to a county court under this section shall preclude an application to the High Court.”.

## 18 Register of county court judgments

In section 101 of the County Courts Act 1959 (register of judgments and orders)—

- (a) in subsection (1)(a), for the words " ten pounds and upwards " there shall be substituted the words " not less than £10 or such other sum as may be prescribed ";
- (b) for subsection (3) there shall be substituted the following subsections:—

“(3) Circumstances may be prescribed in which judgments or orders are to be exempt from registration or in which the registration of any judgment or order is to be cancelled.

(3A) Regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

## 19 County court registrars

- (1) In section 102(3)(c)(iii) of the County Courts Act 1959 (by virtue of which county court rules may authorise the registrar to hear and determine certain proceedings by leave of the judge and in the absence of objection by any of the parties), for the words from " by leave of the judge " to " the parties " there shall be substituted the words " subject to any arrangements made by the judge for the proper distribution of business between himself and the registrar, ".
- (2) In section 168 of that Act (rules as to funds in county courts)—
- (a) in paragraph (c), for the words from "registrars" to " General" there shall be substituted the words " the transfer to the Accountant General of " , and
- (b) in paragraphs (i) and (j), for the word "registrars", wherever occurring, there shall be substituted the words " officers of the court ".
- (3) The following section shall be substituted for section 180 of that Act (registrar to take charge of fees, &c.):—

### “180 Payment and application of fees, fines, etc.

- (1) Subject to subsection (2) below, all fees, fines and forfeitures payable under this Act and any penalty payable to an officer of a county court under any other Act shall be paid to officers designated by the Lord Chancellor and dealt with by them in such manner as the Lord Chancellor, after consultation with the Treasury, may direct.
- (2) Subsection (1) above does not apply to fines imposed on summary conviction or to so much of a fine as is applicable under section 84(3) above towards indemnifying a party injured.”.
- (4) The following provisions of that Act, namely—
- (a) section 182(1) (which requires part-time registrars to give security in such sums as the Treasury may direct), and

(b) section 183 (which requires registrars to keep such special accounts as the Lord Chancellor may direct), shall cease to have effect.

(5) In section 6 of the Attachment of Earnings Act 1971—

(a) in paragraphs (a)(ii) and (b) of subsection (7) (collecting officers), for the word " registrar " there shall be substituted the words " appropriate officer " , and

(b) the following subsection shall be added after that subsection:—

“(8) In subsection (7) above " appropriate officer " means an officer designated by the Lord Chancellor.”.

## **20 Proof of service of process**

In section 186 of the County Courts Act 1959 (under which service of process issued from a county court may be proved by an endorsement showing the fact and mode of service)—

(a) in subsection (1), for the words " endorsement on a copy of the summons or process " there shall be substituted the words " a certificate in a prescribed form and

(b) in subsection (2), for the words " endorsing any false statement on a copy" there shall be substituted the words " giving a false certificate under subsection (1) above in respect of the service ".

### *Magistrates' courts*

## **21 Persons to preside at meetings of justices**

(1) The following subsection shall be substituted for section 13(3) of the Justices of the Peace Act 1949 (under which the chairman or a deputy chairman of the justices for a petty sessions area must preside at any meeting of the justices, if present):—

“(3) Subject to the next following subsection, if the chairman or a deputy chairman of the justices for a petty sessions area is present at a meeting of those justices, he shall preside unless he requests another justice to preside in accordance with rules made under this section.”.

(2) At the end of subsection (5) (power to make rules) of the said section 13 there shall be added the words “and

(c) as to the justices whom a chairman or deputy chairman of justices may request to preside at a meeting.”.

### *Other provisions about courts*

## **22 Membership of Rule Committees**

It shall cease to be a requirement that the practising barristers included among the persons empowered to make rules of court under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 and section 50 of the Matrimonial Causes Act 1973 be members of the General Council of the Bar.

**23 Jurisdiction of ancient courts**

- (1) The following courts, namely—
- (a) any Court of a description specified in Part I of Schedule 4 to this Act except—
    - (i) the Estray Court for the Lordship of Denbigh, and
    - (ii) the court leet for the Manor of Laxton, and
  - (b) the courts specified in Part II of that Schedule,
- being the courts which appear to the Lord Chancellor to have, but not to exercise, jurisdiction to hear and determine legal proceedings, shall cease to have any jurisdiction to hear and determine legal proceedings; but any such court may continue to sit and transact such other business, if any, as was customary for it immediately before the coming into force of this section, and in the case of the courts specified in Part III of Schedule 4 to this Act the business that is to be treated as having been customary shall (apart from business relating to the appointment of officers of the court) be the business specified in relation to that court in column 2 of that Part.
- (2) The descriptions of courts in Part I of Schedule 4 to this Act include courts held for manors of which the Queen or the Duke of Cornwall is the lord.
- (3) Any jurisdiction—
- (a) of the Court of the Chancellor or Vice-Chancellor of Oxford University, and
  - (b) of the Cambridge University Chancellor's Court,
- other than that which presently exists under the statutes of those universities, is hereby abolished.
- (4) The Lord Chancellor may by order make any incidental or transitional provision which he considers expedient in consequence of this section and may by such order provide—
- (a) for enabling any jurisdiction appearing to him to have been formerly exercised by a court specified in Part I or II of Schedule 4 to this Act to be exercised instead by the High Court, the Crown Court, a county court or a magistrates' court; and
  - (b) for such amendments or repeals of provisions of any local Act as appear to him to be required in consequence of this section.
- (5) The power to make orders under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such order may be varied or revoked by a subsequent order made under the power.

*Land Registration***24 Rectification of the register**

In section 82(3) of the Land Registration Act 1925—

- (a) after the word "interest" there shall be inserted the words " or an order of the court ";
- (b) the following paragraph shall be substituted for paragraph (a)—
  - “(a) unless the proprietor has caused or substantially contributed to the error or omission by fraud or lack of proper care ; or”;
  - and
- (c) paragraph (b) shall cease to have effect.

**25 Inspection and copying of registers and documents in custody of Land Registry in connection with criminal proceedings etc.**

- (1) The following section shall be inserted after section 112 of the Land Registration Act 1925:—

**“112A Inspection in connection with criminal proceedings etc.**

- (1) If—
- (a) the Director of Public Prosecutions, a chief officer of police or an official receiver applies to the registrar for permission to make an inspection under this section in relation to a person specified in the application or to property so specified, and
  - (b) gives the registrar an appropriate certificate,
- the registrar shall permit him to inspect and make copies of and extracts from any register or document kept in the custody of the registrar so far as it relates to the person or property so specified.
- (2) In subsection (1) above " appropriate certificate " means a certificate—
- (a) that—
    - (i) a criminal offence specified in the certificate has been or is reasonably suspected to have been committed, and
    - (ii) there is reason to believe that the register may contain information relevant to the investigation of the offence or to the institution of proceedings for it, or
  - (b) that—
    - (i) a person specified in the certificate has been convicted of a criminal offence so specified, and
    - (ii) there is reason to believe that the register may contain information relevant to the institution of proceedings for making available for distribution or otherwise for recovering the proceeds of the commission of that offence or any other offence taken into consideration by the court dealing with him for it.
- (3) The powers conferred on a chief officer of police by this section may be exercised on behalf of a chief officer of police by any police officer not below the rank of superintendent.
- (4) In this section " official receiver " means an official receiver appointed under section 70 of the Bankruptcy Act 1914 or section 233 of the Companies Act 1948.”.

- (2) Accordingly, in section 112 of that Act (general provision as to inspection of register and other documents at Land Registry) after the word " Subject" there shall be inserted the words " to section 112A below and ".

**26 Alteration of methods of protecting mortgages of registered land**

- (1) The following section shall be substituted for section 106 of the Land Registration Act 1925 (which among other things provides that a mortgage by deed of registered land may be protected by means of a caution in a specially prescribed form and in no other way):—

**“106 Creation and protection of mortgages of registered land.**

- (1) The proprietor of any registered land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part of it in any manner which would have been permissible if the land had not been registered and, subject to this section, with the like effect.
- (2) Unless and until the mortgage becomes a registered charge,—
  - (a) it shall take effect only in equity, and
  - (b) it shall be capable of being overridden as a minor interest unless it is protected as provided by subsection (3) below.
- (3) A mortgage which is not a registered charge may be protected on the register by—
  - (a) a notice under section 49 of this Act,
  - (b) any such other notice as may be prescribed, or
  - (c) a caution under section 54 of this Act.
- (4) A mortgage which is not a registered charge shall devolve and may be transferred, discharged, surrendered or otherwise dealt with by the same instruments and in the same manner as if the land had not been registered.”.
- (2) The Chief Land Registrar may arrange for the conversion into a registered charge, in such circumstances and subject to such conditions as he may direct, of any mortgage protected by a caution in a specially prescribed form entered on the register before the coming into force of this section.

*Estates of deceased persons***27 Proceedings against estates**

- (1) In section 2 of the Proceedings Against Estates Act 1970 (power to treat proceedings purporting to be commenced against a deceased person as having been commenced against his estate)—
  - (a) for paragraph (b) there shall be substituted the following paragraph:—
    - “(b) for enabling proceedings purporting to have been commenced against a person to be treated, if he was dead at their commencement, as having been commenced against his estate, whether or not a grant of probate or administration was made before their commencement;”;
  - (b) in paragraph (c), for the words " is made " there shall be substituted the words " is or has been made ".

**28 Distribution of estate of intestate leaving surviving spouse**

- (1) In section 46 of the Administration of Estates Act 1925—
  - (a) in paragraph (i) of subsection (1) (distribution of estate of intestate leaving surviving spouse)—
    - (i) as it has effect as respects persons dying before 1953, for the words "five pounds per cent, per annum ", and

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- (ii) as it has effect as respects persons dying after 1952, for the words "four pounds per cent, per annum ", wherever they occur, there shall be substituted the words " at such rate as the Lord Chancellor may specify by order " , and
- (b) the following subsection shall be inserted after subsection (1) and shall have effect both as respects persons dying before 1953 and after 1952:—
- “(1A) The power to make orders under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such order may be varied or revoked by a subsequent order made under the power.”.
- (2) Subsections (2) and (4) of section 47A of that Act (method of calculation of value of life interest of surviving spouse) shall cease to have effect.
- (3) The following subsections shall be inserted after subsection (3) of that section:—
- “(3A) The capital value shall be reckoned in such manner as the Lord Chancellor may by order direct, and an order under this subsection may include transitional provisions.
- (3B) The power to make orders under subsection (3A) above shall- be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such order may be varied or revoked by a subsequent order made under the power.”.

### **PART III**

#### **OTHER PROVISIONS**

##### *Scotland*

#### **29 Admission of written statements and reports**

- (1) In section 16 of the Administration of Justice (Scotland) Act 1933, there shall be substituted for paragraph (e)—
- “(e) to provide in any category of causes before the Court, for the admission in lieu of parole evidence of written statements (including affidavits) and reports, on such conditions as may be prescribed.”.
- (2) In section 32(1)(e) of the Sheriff Courts (Scotland) Act 1971, there shall be substituted for " affidavits " the words " written statements (including affidavits) and reports " .

##### *Northern Ireland*

#### **30 Increase in limits on jurisdiction under s. 68 of Lunacy Regulation (Ireland) Act 1871**

- (1) In section 68 of the Lunacy Regulation (Ireland) Act 1871 (under which, where the property of a lunatic does not exceed £10,000 in value or the income thereof £500 per annum, an order may be made protecting the property or income or applying it for his benefit without an inquiry under a commission of lunacy) for " ten thousand pounds

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*Status: This is the original version (as it was originally enacted).*

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" and " five hundred pounds" there shall be substituted " £20,000 " and " £2,000 " respectively.

(2) The said section 68 shall be renumbered so as to become subsection (1).

(3) The following subsections shall be inserted after it:—

“(2) If it appears to Her Majesty in Council that a sum for the time being specified in subsection (1) above should be increased, Her Majesty may by Order in Council substitute for that sum such larger sum as may be specified in the Order.

(3) The power to make an Order under subsection (2) above includes power to vary or revoke a previous Order.

(4) An Order in Council made under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

### *Supplementary*

#### **31 Financial provision**

All expenses incurred by any Minister of the Crown in consequence of the provisions of this Act shall be defrayed out of moneys provided by Parliament.

#### **32 Citation etc.**

(1) This Act may be cited as the Administration of Justice Act 1977.

(2) The Oaths Acts 1888 to 1961 and section 8 above may be cited together as the Oaths Acts 1888 to 1977.

(3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment, including this Act.

(4) The enactments specified in Schedule 5 to this Act (which include enactments which were obsolete or unnecessary before the passing of this Act) shall be repealed to the extent specified in the third column of that Schedule.

(5) The following provisions of this Act shall come into force at the expiration of a period of one month beginning with the date on which it is passed:—

sections 1 and 2;

sections 4 to 13 ;

section 16;

section 17(2);

section 19(4);

section 21 ;

section 22;

sections 24 to 26 ;

section 29;

section 30.



- (6) The provisions of this Act, except section 31 above, this section and the sections mentioned in subsection (5) above, shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (7) An order under subsection (6) above—
- (a) may appoint different days for different provisions and for different purposes ;  
and
  - (b) may make savings from the effect of any provision which it brings into force.
- (8) The following provisions of this Act extend to England and Wales only, namely—
- section 1(1) and Part I of Schedule 1 ;
  - section 2(1) and Part I of Schedule 2 ;
  - sections 9 to 22 ;
  - section 23 and Schedule 4 ;
  - sections 24 to 28 ;
  - subsections (4) and (5) above so far as they relate to any enactment which extends to England and Wales only ;
  - paragraphs 1, 3 and 10 of Schedule 3.
- (9) The following provisions of this Act extend to Scotland only, namely—
- section 1(2) and Part II of Schedule 1 ;
  - section 2(2), and in Schedule 2, Part II and paragraph 11 ;
  - section 29 ;
  - subsections (4) and (5) above so far as they relate to any enactment which extends to Scotland only.
- (10) The following provisions of this Act extend to Northern Ireland only, namely—
- section 30 ;
  - subsection (5) above, so far as it relates to any enactment which extends to Northern Ireland only ;
  - paragraph 12 of Schedule 2.
- (11) Section 6 above extends only to England and Wales and Scotland.
- (12) Subsection (4) above, so far as it relates to any of the court-martial enactments, extends to any territory to which that enactment extends.
- (13) In subsection (12) above " the court-martial enactments " means—
- section 102 of the Army Act 1955 ;
  - section 102 of the Air Force Act 1955 ; and
  - section 60 of the Naval Discipline Act 1957.