



Administration of Justice Act 1956

1956 CHAPTER 46

PART III

COUNTY COURTS

Other provisions as to county courts

26 Transfer to county court of money recovered in High Court by infants and others

Section one hundred and sixty-four of the principal Act (which provides for the transfer to a county court in certain cases of money recovered in the High Court by infants or persons of unsound mind or by widows of persons killed), except subsection (4) thereof, shall apply in relation to any cause or matter in the High Court as it applies in relation to a cause or matter in the Queen's Bench Division.

27 Penalty for non-attendance on judgment summons

- (1) Section eighty-one of the principal Act (which provides a pecuniary penalty for neglect of a witness summons) shall not apply to a debtor summoned to attend by a judgment summons.
- (2) If a debtor summoned to attend a county court by a judgment summons fails to attend on the day and at the time fixed for any hearing thereof, the judge may adjourn or further adjourn the summons to a specified time on a specified day and order the debtor to attend at that time on that day.
- (3) If—
 - (a) a debtor, having been ordered under subsection (2) of this section to attend at a specified time on a specified day, fails to do so ; or
 - (b) a debtor who attends for the hearing of a judgment summons refuses to be sworn or to give evidence,

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the judge may make an order committing him to prison for a period not exceeding fourteen days in respect of the failure or refusal:

Provided that a debtor shall not be committed to prison under this subsection for having failed to attend as required by an order under the said subsection (2) unless there was paid to him at the time of the service of the judgment summons, or paid or tendered to him at the time of the service of the order under the said subsection (2), such sum in respect of his expenses as may be prescribed for the purposes of this section.

- (4) The judge may at any time revoke an order committing a person to prison under this section and, if he is already in custody, order his discharge.
- (5) Where, under section one hundred and forty-three of the principal Act, an order for the committal of a person under this section has been sent to another court for execution, the judge of that other court shall have the same power of revoking the order and ordering the debtor's discharge as the judge of the court by which the order was made.
- (6) In this section " judgment summons " means a summons issued on the application of a person entitled to enforce a judgment or order under section five of the Debtors Act, 1869, requiring a person, or where two or more persons are liable under the judgment or order, requiring any one or more of them, to appear and be examined on oath as to his or their means.

28 Miscellaneous amendments as to executions

- (1) For subsection (2) of section one hundred and seventeen of the principal Act (which relates to execution where there has been an order for payment by instalments and a default in payment of an instalment) there shall be substituted the following subsections—

“(2) County court rules may prescribe the cases in which execution is to issue if there is any such default and limit the amounts for which and the times at which execution may issue.

- (3) Except so far as may be otherwise provided by county court rules made for the purposes aforesaid, execution or successive executions may issue if there is any such default for the whole of the said sum of money and costs then remaining unpaid or for such part thereof as the court may order either at the time of the original order or at any subsequent time:

Provided that, except so far as may be otherwise provided by such rules, no execution shall issue unless at the time when it issues the whole or some part of an instalment which has already become due remains unpaid.”

- (2) Section one hundred and eighteen of the principal Act (which provides for an execution to be superseded on payment of the sum of money and costs adjudged and fees for execution of the warrant as inserted in or endorsed on the warrant) shall be amended as follows:—
 - (a) the amount required by subsection (1) to be inserted in or endorsed on the warrant of execution shall be the total amount to be levied, inclusive of the fee for issuing the warrant but exclusive of the fees for its execution;
 - (b) the amount required to be paid or tendered for the execution to be superseded under subsection (2) shall be the amount so inserted or endorsed, or such part thereof as the person entitled thereto agrees to accept in full satisfaction, together with the amount stated by the officer of the court to whom the

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payment or tender is made to be the amount of the fees for the execution of the warrant.

- (3) Brokers and appraisers appointed under section one hundred and twenty-seven of the principal Act for the purpose of selling or valuing any goods, chattels or effects seized in execution under process of the court need not be sworn, and accordingly in section one hundred and twenty-eight of the principal Act (under which the judge may authorise a bailiff to act as a broker or appraiser) for the words " sworn brokers or appraisers " in subsection (2) there shall be substituted the words " brokers or appraisers appointed under the last foregoing section ".
- (4) The duration of any warrant of possession issued by a county court to enforce a judgment or order for the recovery of land or for the delivery of possession of land shall, notwithstanding anything in subsection (4) of section five of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, be such as may be fixed by or in accordance with county court rules.

29 Increase of penalties for assaulting officers, rescuing goods seized and contempt of court

- (1) The fine which may be imposed under any of the following provisions of the principal Act, that is to say—
 - (a) section thirty-one (which deals with assaults on officers of a county court);
 - (b) section one hundred and twenty-four (which deals with rescuing goods seized in execution under process of a county court);
 - (c) section one hundred and thirty-nine (which deals with insulting behaviour in a county court and similar contempts);shall be a fine not exceeding twenty pounds, instead of a fine not exceeding five pounds.
- (2) A county court judge instead of imposing a fine on an offender under any of the sections mentioned in subsection (1) of this section may make an order committing the offender for a specified period not exceeding one month to any prison to which he has power to commit:

Provided that the judge may at any time revoke an order committing a person to prison under this section and, if he is already in custody, order his discharge.
- (3) On summary conviction of an offence under section thirty-one or section one hundred and twenty-four of the principal Act, a person shall be liable either to the fine mentioned in subsection (1) of this section or to imprisonment for a term not exceeding one month.

30 Extension of powers of registrar as to stay or suspension of judgments and orders and stay of execution

The powers conferred by subsection (2) of section ninety-six and by section one hundred and nineteen of the principal Act to suspend or stay judgments and orders and to stay executions shall, to such extent as may be provided by county court rules, be exercisable by the registrar as well as by the judge, and accordingly for the references in the said subsection (2) and the said section one hundred and nineteen to the judge there shall be substituted references to the court.

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31 Miscellaneous procedural amendments

- (1) In section sixty-two of the principal Act (which provides for a county court order for the grant or revocation of probate or administration to be certified to a district probate registry, and given effect to there), there shall be substituted in paragraph (a) for the words "transmit to the registrar of such district probate registry as he thinks convenient" the words "transmit to the principal or a district probate registry as he thinks convenient", and the references in paragraph (b) to the district probate registry and the district probate registrar shall respectively include references to the principal probate registry and a registrar of the principal probate registry.
- (2) An application to a county court under subsection (2) of section seventeen of the Matrimonial Causes Act, 1950, shall be made in the manner prescribed by county court rules, and shall not be required by that section to be made by petition: and accordingly—
 - (a) in subsection (2) of that section, for the words "by petition to the court" there shall be substituted the words "to the court by petition or to a county court";
 - (b) in subsection (3) of that section—
 - (i) the words "A petition under the last foregoing subsection may be presented to a county court instead of the High Court" shall be omitted;
 - (ii) for the words "Provided that, where a petition is presented to a county court" there shall be substituted the words "Where an application under the last foregoing subsection is made to a county court";
 - (iii) for the word "therein" at the end of the subsection, there shall be substituted the words "by a petition presented to the High Court"; and
 - (c) in subsection (6) of that section after the word "petition", wherever occurring, there shall be inserted the words "or other application" and after the word "presented" there shall be inserted the words "or made".
- (3) Section one hundred and seventy-five of the principal Act (which enables service of any summons or other process by a bailiff to be proved by an endorsement signed by him, and penalises a false endorsement) shall apply to any officer of a county court as it applies to a bailiff.
- (4) In the proviso to subsection (3) of section eighty-nine of the principal Act (which confers power on the judge of a county court to set aside an award on a reference under that section or to revoke the reference or order another reference) for the words "on application made to him at the first court held after the expiration of one week after the entry of the award" there shall be substituted the words "on application made to him within such time as may be prescribed by county court rules".

32 Amendments as to the making of rules and orders

- (1) Notwithstanding anything in section two hundred and six of the Supreme Court of Judicature (Consolidation) Act, 1925, or in subsection (8) of section ninety-nine of the principal Act, county court rules shall not require the concurrence of the authority empowered to make rules under the first mentioned Act.
- (2) The rule committee under the principal Act shall contain two barristers, two registrars and two solicitors instead of one barrister, one registrar and one solicitor, and accordingly in subsection (5) of the said section ninety-nine for the words "three other

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persons so appointed, one of whom shall be a barrister, one a registrar and the other a solicitor " there shall be substituted the words " six other persons so appointed two of whom shall be barristers, two of whom shall be registrars and two of whom shall be solicitors ".

- (3) The concurrence of the President of the Board of Trade shall not be required to the exercise by the Lord Chancellor of the power under section one hundred and fifty-seven of the principal Act to make general rules for carrying into effect the objects of Part VII of that Act (which relates to administration orders).
- (4) The power to make fees orders under section one hundred and sixty-seven of the principal Act shall be exercisable in relation to proceedings for the recovery by the Tithe Redemption Commission of a debt due to Her Majesty under section sixteen of the Tithe Act, 1936, as if the provisions applied by subsection (3) of the said section sixteen did not include so much of subsection (8) of section two of the Tithe Act, 1891, as limited the fees payable on proceedings under the last mentioned section to those set forth in the Schedule to the said Act of 1891.

33 Interpretation and citation of Part III

- (1) In this Part of this Act, except in so far as the context otherwise requires, expressions used in the principal Act have the same meanings as in that Act.
- (2) In this Part of this Act the expression "the principal Act" means the County Courts Act, 1934.
- (3) This Part of this Act and the County Courts Acts, 1934 and 1955 may be cited together as the County Courts Acts, 1934 to 1956.