



# Administration of Justice Act 1969

## 1969 CHAPTER 58

### PART IV

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### **20 Orders for interim payment**

- (1) The power to make rules of court under section 99 of the Judicature Act 1925, and the power to make county court rules under section 102 of the County Courts Act 1959, shall each include power by any such rules to make provision for enabling the court in which any proceedings are pending, in such circumstances as may be specified in the rules, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order, either by payment into court or (if the order so provides) by paying it to another party to the proceedings.
- (2) Where any such rules make provision in accordance with subsection (1) of this section, the rules may include provision for enabling a party to any proceedings who, in pursuance of such an order, has made an interim payment to recover the whole or part of the amount of the payment in such circumstances, and from such other party to the proceedings, as may be determined in accordance with the rules.
- (3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.
- (4) Nothing in this section shall be construed as affecting the exercise of any power relating to costs, including any power to make rules of court or county court rules relating to costs.
- (5) In its application to Northern Ireland, this section shall have effect as if for the reference to section 99 of the Judicature Act 1925 there were substituted a reference to section 7 of the Northern Ireland Act 1962, and as if any reference to county court rules were omitted.
- (6) In this section "interim payment", in relation to a party to any proceedings, means a payment on account of any damages, debt or other sum (excluding any costs) which

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that party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the court in the proceedings is given or made in favour of that other party ; and any reference to a party to any proceedings includes a reference to any person who for the purposes of the proceedings acts as next friend or guardian of a party to the proceedings.

## **21 Powers of court exercisable before commencement of action**

- (1) On the application of any person in accordance with rules of court, the High Court shall, in such circumstances as may be specified in the rules, have power to make an order providing for any one or more of the following matters, that is to say—
  - (a) the inspection, photographing, preservation, custody and detention of property which appears to the court to be property which may become the subject-matter of subsequent proceedings in the court, or as to which any question may arise in any such proceedings, and
  - (b) the taking of samples of any such property as is mentioned in the preceding paragraph and the carrying out of any experiment on or with any such property.
- (2) The power to make rules of court under section 99 of the Judicature Act 1925 shall include power to make rules of court as to the manner in which an application for such an order can be made, and as to the circumstances in which such an order can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.
- (3) The preceding provisions of this section shall have effect in relation to county courts in England and Wales as they have effect in relation to the High Court, as if in those provisions references to rules of court and to section 99 of the Judicature Act 1925 included references to county court rules and to section 102 of the County Courts Act 1959.
- (4) In the application of this section to Northern Ireland, " the High Court " means the High Court of Justice in Northern Ireland, the reference in subsection (2) to section 99 of the Judicature Act 1925 shall be construed as a reference to section 7 of the Northern Ireland Act 1962, and subsection (3) shall be omitted.
- (5) In this section " property " includes any land, chattel or other corporeal property of any description.

## **22 Interest on damages**

In section 3 of the Law Reform (Miscellaneous Provisions) Act 1934 (power of courts of record to award interest on debts and damages), after subsection (1) there shall be inserted the following subsections:—

- “(1A) Where in any such proceedings as are mentioned in subsection (1) of this section judgment is given for a sum which (apart from interest on damages) exceeds £200 and represents or includes damages in respect of personal injuries to the plaintiff or any other person, or in respect of a person's death, then (without prejudice to the exercise of the power conferred by that subsection in relation to any part of that sum which does not represent such damages) the court shall exercise that power so as to include in that sum interest on those damages or on such part of them as the court considers appropriate, unless the court is satisfied that there are special reasons why no interest should be given in respect of those damages.

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- (1B) Any order under this section may provide for interest to be calculated at different rates in respect of different parts of the period for which interest is given, whether that period is the whole or part of the period mentioned in subsection (1) of this section.
- (1C) For the avoidance of doubt it is hereby declared that in determining, for the purposes of any enactment contained in the County Courts Act 1959, whether an amount exceeds, or is less than, a sum specified in that enactment, no account shall be taken of any power exercisable by virtue of this section or of any order made in the exercise of such a power.
- (1D) In this section 'personal injuries' includes any disease and any impairment of a person's physical or mental condition, and any reference to the County Courts Act 1959 is a reference to that Act as (whether by virtue of the Administration of Justice Act 1969 or otherwise) that Act has effect for the time being”.

## **23 Power of Lord Chancellor to assign any particular jurisdiction of the High Court to two or more Divisions concurrently**

- (1) Section 57 of the Judicature Act 1925 (which enables the Lord Chancellor by order to direct that any jurisdiction of the High Court which by any enactment, rule or order is assigned to any Division shall be assigned to another Division) shall be amended as follows.
- (2) In subsection (1) for the words " shall, notwithstanding that enactment, rule or order, be assigned to such other Division as may be specified in the order and shall be exercised either by any special judge or judges or by all the judges of that other Division " there shall be substituted the words—
- “(a) shall, notwithstanding that enactment, rule or order, be assigned to such other Division or Divisions as may be specified in the order (whether in addition to the Division or Divisions to which the jurisdiction is at the time assigned or by way of transfer therefrom); and
- (b) shall be exercised either by any special judge or judges or by all the judges of any Division to which the jurisdiction in question is assigned by the order or by which it continues to be exercisable”.
- (3) In the proviso to subsection (1) (which precludes the making of an order under that subsection except with the concurrence of the president of the Division to which the jurisdiction is at the time assigned and of the president of the Division to which the jurisdiction is to be transferred)—
- (a) for the words " the Division ", in both places where they occur, there shall be substituted the words " any Division ";
- (b) after the words " to which the jurisdiction is to be transferred " there shall be inserted the words " or with which it is to be shared ".
- (4) In subsection (2) (which enables the Lord Chancellor, in cases where there is under any enactment a right of appeal from the county court to the High Court or to any Division, by order to direct to which Division the appeal shall lie) for the words " to which Division " there shall be substituted the words " to which Division or Divisions ".

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## **24 Appeal Tribunals under Patents Act 1949 and Registered Designs Act 1949**

(1) Section 85 of the Patents Act 1949 and section 28 of the Registered Designs Act 1949 (each of which provides for an Appeal Tribunal) shall be amended in accordance with the following provisions of this section.

(2) For subsection (2) of each of those sections (which provides that the Appeal Tribunal shall be a judge of the High Court nominated by the Lord Chancellor) there shall be substituted the following subsections:—

“(2) The Appeal Tribunal shall consist of one or more judges of the High Court nominated for the purpose by the Lord Chancellor.

(2A) At any time when it consists of two or more judges, the jurisdiction of the Appeal Tribunal—

(a) where in the case of any particular appeal the senior of those judges so directs, shall be exercised in relation to that appeal by both of the judges, or (if there are more than two) by two of them, sitting together, and

(b) in relation to any appeal in respect of which no such direction is given, may be exercised by any one of the judges;

and, in the exercise of that jurisdiction, different appeals may be heard at the same time by different judges”.

(3) After subsection (8) of each of those sections (which empowers the Appeal Tribunal to make rules) there shall be inserted the following subsection:—

“(8A) At any time when the Appeal Tribunal consists of two or more judges, the power to make rules under subsection (8) of this section shall be exercisable by the senior of those judges:

Provided that another of those judges may exercise that power if it appears to him that it is necessary for rules to be made and that the judge (or, if more than one, each of the judges) senior to him is for the time being prevented by illness, absence or otherwise from making them”.

(4) At the end of each of those sections there shall be inserted (as subsection (11) in the case of the said section 85 and as subsection (10) in the case of the said section 28) the following provision:—

“For the purposes of this section the seniority of judges shall be reckoned by reference to the dates on which they were appointed judges of the High Court respectively”.

## **25 Clerks to registrars of Chancery Division**

(1) The clerks to the registrars of the Chancery Division of the High Court shall cease to be called by that name and shall instead be called assistant registrars; and accordingly—

(a) in section 123 of the Judicature Act 1925, for the words " clerks to the registrars " and " clerks ", wherever they occur, there shall be substituted the words " assistant registrars " , and

(b) in section 126(2) of that Act, for the words " clerks to the registrars" and " clerk to the registrars" there shall be substituted respectively the words " assistant registrars " and " assistant registrar ".

- (2) A solicitor shall be qualified to be appointed as an assistant registrar of the Chancery Division of the High Court notwithstanding that he is of less than two years' standing; and accordingly in section 126(2) of the Judicature Act 1925 the words " of not less than two years' standing " shall cease to have effect.

## **26 Provisions as to other employments in Supreme Court**

- (1) In section 106 of the Judicature Act 1925 (appointment and removal of officers), in subsection (1) (under which the right to fill certain vacancies may be exercised by the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls in rotation) the words " or in any clerkship in the central office " shall cease to have effect, and after subsection (2) there shall be inserted the following subsection:—

“(2A) The right of filling any vacancy in any clerkship in the central office shall be vested in the Lord Chancellor”.

- (2) Section 117 of the Judicature Act 1925 (notice of vacancies in offices) shall cease to have effect.
- (3) In section 128(1)(b) of the Judicature Act 1925 (which relates to the Superannuation Act 1909) the words " section three of that Act (which provides for the application of the Act to existing male civil servants)" shall cease to have effect.

## **27 Records of grants of probate and grants of administration**

- (1) The following section shall be substituted for section 156 of the Judicature Act 1925:

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(1) Records shall be kept of all grants of probate and grants of administration which are made in the principal probate registry or in any of the district probate registries.

(2) Any such records shall be in such form, and shall contain such particulars, as the President of the Probate Division may direct.”

- (2) Section 8(3) of the Public Records Act 1958 (which relates to inspection by the public of calendars of grants) shall cease to have effect.

- (3) The following section shall be substituted for section 72 of the Probates and Letters of Administration Act (Ireland) 1857:—

(1) Records shall be kept of all grants of probate and grants of administration which are made in the principal registry or in any district registry of the Court.

(2) Any such records shall be in such form, and shall contain such particulars, as the Lord Chief Justice of Northern Ireland may direct.”

- (4) Section 73 of the said Act of 1857 (registrar to transmit printed copies to certain offices etc.) shall cease to have effect.

- (5) Where a calendar has been prepared under section 45 of the Sheriff Courts (Scotland) Act 1876 or under section 156 of the Judicature Act 1925 (as for the time being in force apart from this section), and a copy of that calendar is kept in the principal probate registry of the High Court of Justice in Northern Ireland, the Lord Chief Justice of Northern Ireland—

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- (a) may direct that the copy shall be removed to the Public Record Office of Northern Ireland, or
  - (b) in the case of a copy of a calendar prepared under the said section 45, may, with the agreement of the authority responsible for the management of the place in question, direct that it shall be removed to such place in Scotland as may be specified in the direction.
- (6) Any direction under subsection (5) of this section may be given either in respect of a particular copy to which that subsection is applicable or in respect of a class of such copies.
- (7) In relation to copies of calendars prepared as mentioned in subsection (5) of this section which—
- (a) are removed to the Public Record Office of Northern Ireland in pursuance of a direction given under that subsection, or
  - (b) have been removed to that Office before the commencement of this Act,
- the Public Records Act (Northern Ireland) 1923 shall have effect as it has effect in relation to documents which are Northern Ireland records within the meaning of that Act and which have been removed to that Office in accordance with that Act.

## **28 Second and subsequent grants of probate and administration**

Section 153 of the Judicature Act 1925 (which limits the district probate registries in which second and subsequent grants of probate and administration may be made) shall cease to have effect.

## **29 Reduction of period of apprenticeship for public notaries in London**

In relation to clerks and apprentices to persons who are members of the Incorporated Company of Scriveners and have been admitted to practise as public notaries within the jurisdiction of that Company, section 3 of the Public Notaries Act 1843 (which provides for admission as a public notary after five years' service as clerk or apprentice to a notary, instead of seven years' service as previously provided) shall, notwithstanding anything in section 6 of that Act (which limits the operation of that Act in relation to practice within the jurisdiction of the Company), have effect in respect of admission to practise as a public notary within the jurisdiction of that Company as it has effect in respect of admission to practise elsewhere.

## **30 Superannuation benefits in respect of certain judicial offices**

In the Superannuation Act 1965 the following section shall be inserted after section 39:

—

- (1) The Lord Chancellor may with the consent of the Minister for the Civil Service make rules with respect to the superannuation benefits payable to or in respect of persons who have been employed—
  - (a) in two or more offices falling within paragraphs (a) to (i) of subsection (3) of this section, or
  - (b) in one or more such offices and in one or more judicial offices remunerated out of central funds.

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- (2) The Secretary of State may with the consent of the Minister for the Civil Service make rules with respect to the superannuation benefits payable to or in respect of persons who have been employed—
- (a) in two or more offices falling within paragraphs (j) and (k) of subsection (3) of this section, or
  - (b) in one or more such offices and in one or more judicial offices remunerated out of central funds.
- (3) The offices referred to in subsections (1)(a) and (2)(a) of this section are the following, that is to say—
- (a) Recorder of London;
  - (b) Common Serjeant;
  - (c) additional judge of the Central Criminal Court;
  - (d) recorder of Liverpool;
  - (e) recorder of Manchester ;
  - (f) assistant judge of the Mayor's and City of London Court;
  - (g) presiding judge of the Court of Passage of the City of Liverpool;
  - (h) chairman or deputy chairman of a court of quarter sessions where under any enactment (whether passed before or after this Act) a person may qualify for a pension by virtue of service in that office ;
  - (i) stipendiary magistrate in England or Wales, other than metropolitan stipendiary magistrate ;
  - (j) stipendiary magistrate appointed under section 455 of the Burgh Police (Scotland) Act 1892 ;
  - (k) stipendiary magistrate appointed under section 24 of the Glasgow Corporation and Police Act 1895.
- (4) Subsections (2) to (5) of section 38 of this Act shall have effect in relation to rules made under this section as they have effect in relation to rules under that section, as if—
- (a) in subsection (2) of that section any reference to a public office were a reference to an office which is either an office specified in subsection (3) of this section or a judicial office remunerated out of central funds, and the reference to such supplemental and incidental provisions as are mentioned in that subsection were a reference to such supplemental and incidental provisions as appear to the Lord Chancellor or to the Secretary of State (as the case may be) to be expedient, and
  - (b) in subsections (3) and (4) of that section any reference to different public offices, or to ceasing to be employed in one public office and becoming employed in another, were a reference to different offices or (as the case may be) to ceasing to be employed in one office and becoming employed in another (' office' for this purpose being taken to mean any office which is either an office specified in subsection (3) of this section or a judicial office remunerated out of central funds).
- (5) Where any rules under this section make provision for any pension to be defrayed partly by one authority and partly by one or more other authorities, whether by way of contribution or otherwise, nothing in section 10(2) of the Criminal Justice Administration Act 1956 (which requires contributions to be paid by the city councils of Liverpool and Manchester in respect of the Crown

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Courts and recorders of those cities) shall be construed as preventing the rules from applying that provision to, or making any such provision specially in respect of, persons whose employment includes employment as recorder of Liverpool or recorder of Manchester.

- (6) In this section 'judicial office remunerated out of central funds' means any of the following, that is to say—
- (a) any office listed in Schedule 1 to the Administration of Justice (Pensions) Act 1950, with the exception of the offices of stipendiary magistrate referred to in the last two entries in that Schedule, and
  - (b) any office in relation to which sections 2 to 8 of that Act have effect as if it were listed in that Schedule, with the exception of the offices of recorder of Liverpool and recorder of Manchester,
- and 'pension' has the meaning assigned to it by section 38(6) of this Act.”

### **31 Further provisions as to pension rights and related matters**

- (1) In Schedule 1 to the Administration of Justice (Pensions) Act 1950, before the entry " Clerk of Assize " there shall be inserted the entries " Registrar of Criminal Appeals " and " Assistant Registrar of Criminal Appeals ".
- (2) In section 3 of the Superannuation (Miscellaneous Provisions) Act 1967 (effect of pension in respect of public office on remuneration in judicial or related office), in subsection (4) (which specifies the offices to which that section applies), after paragraph (a) there shall be inserted the following paragraph:—
  - “(aa) chairman or deputy chairman of a court of quarter sessions where under any enactment (whether passed before or after this Act) a person may qualify for a pension by virtue of service in that office”.
- (3) For paragraphs 1 to 3 of Part II of Schedule 1 to the County Courts Act 1934 (which prescribe the maximum superannuation allowances of registrars of county courts and, by virtue of section 25(2) of the Administration of Justice Act 1956, apply also to the superannuation allowances of assistant registrars of county courts) there shall be substituted the following paragraph:—
  - “1 After the completion of a period of service of not less than five years, an annual allowance may be granted as follows, that is to say—
    - (a) where the period of service is five years, fifteen-eightieths of the last annual salary;
    - (b) where that period exceeds five years but is less than ten, fifteen-eightieths of that salary plus one-eightieth for each completed year of service exceeding five;
    - (c) where that period is or exceeds ten years but is less than twenty, one-fourth of that salary plus one-fortieth for each completed year of service exceeding ten;
    - (d) where that period is twenty years or more, one-half of the last annual salary”.

### **32 Transfer of liability for stipend and fees of Chancellor of County Palatine of Durham**

If an agreement is made between the Lord Chancellor and the Church Commissioners whereby, in consideration of a capital sum to be paid by the Commissioners, any future



liability of the Commissioners to pay any stipend or fees to the Chancellor of the County Palatine of Durham is transferred to the Lord Chancellor, the Lord Chancellor may with the concurrence of the Treasury pay out of moneys provided by Parliament any sums required to be paid by him for giving effect to that agreement.

### **33 Extension of legislative power of Parliament of Northern Ireland with respect to grand juries and indictments**

The reservation by section 47 of the Government of Ireland Act 1920 of matters relating to the Supreme Court of Judicature of Northern Ireland shall not preclude the Parliament of Northern Ireland from making any law for the purpose of—

- (a) abolishing grand juries, or
- (b) amending the law relating to the presentment of indictments,

or of making any provision related to or consequential upon either or both of those matters.

### **34 Interpretation, application to Crown, and provisions as to orders**

- (1) In this Act "enactment", unless the context otherwise requires, includes an enactment of the Parliament of Northern Ireland, and "the Judicature Act 1925" means the Supreme Court of Judicature (Consolidation) Act 1925.
- (2) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.
- (3) Section 20 of this Act shall bind the Crown so far as (but no further than) any proceedings to which that section is applicable can be brought by or against the Crown in accordance with the Crown Proceedings Act 1947, and section 22 of this Act shall bind the Crown so far as (but no further than) by virtue of section 24(3) of that Act section 3 of the Law Reform (Miscellaneous Provisions) Act 1934 applies to proceedings by or against the Crown.
- (4) Any power conferred on the Lord Chancellor by this Act to make an order shall include power to revoke or vary the order by a subsequent order.
- (5) Any power of the Lord Chancellor to make an order under this Act shall be exercisable by statutory instrument.
- (6) In the application to Northern Ireland of so much of subsection (3) of this section as relates to section 20 of this Act, the reference to the Crown Proceedings Act 1947 is a reference to that Act as it applies in Northern Ireland in relation to the Crown in right of Her Majesty's Government in the United Kingdom and in right of Her Majesty's Government in Northern Ireland.

### **35 Minor and consequential amendments and repeals**

- (1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential upon the preceding provisions of this Act.
- (2) The enactments and instrument specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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### **36 Short title, extent and commencement**

- (1) This Act may be cited as the Administration of Justice Act 1969.
- (2) This Act (except section 24, subsections (1) and (2) of section 27, sections 30, 31, 34, 35 and this section and Schedules 1 and 2) shall not extend to Scotland.
- (3) This Act (except Part II and sections 20, 21, 24, 27, 30, 31, 33 to 35 and this section and Schedules 1 and 2) shall not extend to Northern Ireland.
- (4) Section 24 of this Act shall extend to the Isle of Man.
- (5) The provisions of this Act shall come into operation on such day as the Lord Chancellor may by order appoint, and different days may be so appointed for different provisions of this Act or for different purposes (including, in the case of any provision of section 35 of this Act, the amendment or repeal of different enactments to which that provision is applicable); and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the day so appointed for the coming into operation of that provision.
- (6) Any order made under this section may make such transitional provision as appears to the Lord Chancellor to be necessary or expedient in connection with the provisions of this Act which are thereby brought (wholly or in part) into force, including such adaptations of those provisions or of any provision of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before, on or after the day appointed by the order).