Courts Act 1971

1971 CHAPTER 23

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Matrimonial jurisdiction and patent appeals

45 Matrimonial jurisdiction

(1) This section has effect as respects any proceedings for the exercise of a power under—

(a) Part II or Part III of the Matrimonial Causes Act 1965 ;

(b) Part I of the Matrimonial Proceedings and Property Act 1970;

(c) section 17 of the Married Women's Property Act 1882.

(2) Rules of court may provide for the transfer or retransfer from a county court to the High Court, or from the High Court to a divorce county court, of any such proceedings.

(3) The power conferred by subsection (2) above and the power conferred by section 1(3)(b) of the Matrimonial Causes Act 1967 (transfer of matrimonial causes) shall be construed as including power to provide for the removal of proceedings at the direction of the High Court.

(4) A court shall have jurisdiction to entertain any proceedings transferred to the court by virtue of rules made in pursuance of subsection (2) above.

(5) Rules of court may, as respects any of the jurisdiction conferred by the enactments referred to in paragraphs (a), (b) and (c) of subsection (1) above—

(a) provide for its exercise in the principal probate registry,

(b) make any such provision as section 4 of the Matrimonial Causes Act 1967 (assimilation of proceedings in the principal probate registry to proceedings in divorce county courts) makes, or authorises rules of court to make, as respects any jurisdiction.

(6) Where, in pursuance of rules of court made under this section or the said Act of 1967, any proceedings are removed into the High Court section 76 of the County Courts Act 1959 (costs) shall apply as if the proceedings had been transferred.

(7) This section is without prejudice to any power of making rules of court conferred by the said Act of 1967, and in section 7(1)(b) of that Act (matrimonial causes rules) the reference to that Act shall include a reference to this section.

(8) Any reference in this section to section 17 of the Married Women's Property Act 1882 is a reference to that Act as originally enacted, or as extended by section 7 of the Matrimonial Causes (Property and Maintenance) Act 1958 or by section 2 of the Law Reform (Miscellaneous Provisions) Act 1970 or by section 39 of the Matrimonial Proceedings and Property Act 1970.

46 Patent appeals

(1) Section 87 of the Patents Act 1949 (appeal to Court of Appeal or, in Scotland, the Court of Session from Patents Appeal Tribunal and Scottish Patents Appeal Tribunal) shall be amended as follows.

(2) In subsection (1) before paragraph (a) insert

"(aa) from any decision of the Appeal Tribunal on the ground that it is wrong in law or is in excess of jurisdiction, but this paragraph applies only if leave to appeal is given by the Tribunal or the Court of Appeal".

(3) For subsection (3) substitute—

"(3) An appeal shall lie to the Court of Session—

(a) from any decision of the Scottish Appeal Tribunal on the ground that it is wrong in law or is in excess of jurisdiction, but this paragraph applies only if leave to appeal is given by the Tribunal or by the Court of Session;

(b) from any decision of the Scottish Appeal Tribunal under section 55 of this Act".