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Supreme Court Act 1981

1981 CHAPTER 54

An Act to consolidate with amendments the Supreme Court of Judicature (Consolidation) Act 1925 and other enactments relating to the Supreme Court in England and Wales and the administration of justice therein; to repeal certain obsolete or unnecessary enactments so relating; to amend Part VIII of the Mental Health Act 1959, the Courts-Martial (Appeals) Act 1968, the Arbitration Act 1979 and the law relating to county courts; and for connected purposes. [28th July 1981]

Extent Information

E1 For extent see s. 153(4)(5)

Modifications etc. (not altering text)

C1 By Criminal Justice Act 1991 (c. 53 SIF 39:1), s. 101(1), Sch. 12 para.23; S.I. 1991/2208, art. 2(1), **Sch.1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

PART I

CONSTITUTION OF SUPREME COURT

The Supreme Court

1 The Supreme Court.

(1) The Supreme Court of England and Wales shall consist of the Court of Appeal, the High Court of Justice and the Crown Court, each having such jurisdiction as is conferred on it by or under this or any other Act.

(2) The Lord Chancellor shall be president of the Supreme Court.

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The Court of Appeal

2 The Court of Appeal.

(1) The Court of Appeal shall consist of ex-officio judges and not more than eighteen ordinary judges.

(2) The following shall be ex-officio judges of the Court of Appeal—

(a) the Lord Chancellor;

(b) any person who has been Lord Chancellor;

(c) any Lord of Appeal in Ordinary who at the date of his appointment was, or was qualified for appointment as, an ordinary judge of the Court of Appeal or held an office within paragraphs (d) to (g);

(d) the Lord Chief Justice;

(e) the Master of the Rolls;

(f) the President of the Family Division; and

(g) the Vice-Chancellor;

but a person within paragraph (b) or (c) shall not be required to sit and act as a judge of the Court of Appeal unless at the Lord Chancellor's request he consents to do so.

[[F1](3) An ordinary judge of the Court of Appeal (including the vice-president, if any, of either division) shall be styled "Lord Justice of Appeal" or "Lady Justice of Appeal".**]**

(4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to increase or further increase the maximum number of ordinary judges of the Court of Appeal.

(5) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (4) unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

(6) The Court of Appeal shall be taken to be duly constituted notwithstanding any vacancy in the office of Lord Chancellor, Lord Chief Justice, Master of the Rolls, President of the Family Division or Vice-Chancellor.

Textual Amendments

F1 S. 2(3) substituted (26.1.2004) by Courts Act 2003 (c. 39), **ss. 63(1)**, 110; S.I. 2003/3345, **art. 2(a)(ii)**

Modifications etc. (not altering text)

C2 S. 2(1) amended by virtue of S.I. 1983/1705, **art. 2**, 1987/2059, art. 2 (maximum number of ordinary judges prescribed by s. 2(1) increased from 18 to 28)
S. 2(1) amended (11.3.1993) by S.I. 1993/605, **art.2** (maximum number of ordinary judges prescribed by s. 2(1) increased to 29)
S. 2(1) amended (15.12.1994) by S.I. 1994/3217, **art.3** (maximum number of ordinary judges prescribed by s. 2(1) increased to 32)
S. 2(1) amended (25.4.1996) by S.I. 1996/1142, **art.2** (maximum number of ordinary judges prescribed by s. 2(1) increased to 35)
S. 2(1) amended (21.11.2002) by The Maximum Number of Judges Order (S.I. 2002/2837), {art.2} (maximum number of ordinary judges prescribed by s. 2(1) increased to 37)

C3 Ss. 2(1), 4(1), 12(1)-(6) modified (9.11.1998) by 1998 c. 42, **s. 18(4)(a)** (with ss. 7(8), 22(5))
S. 2(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(c)**, 108(3)(b) (with Sch. 14 para. 7(2))

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3 Divisions of Court of Appeal.

(1) There shall be two divisions of the Court of Appeal, namely the criminal division and the civil division.

(2) The Lord Chief Justice shall be president of the criminal division of the Court of Appeal, and the Master of the Rolls shall be president of the civil division of that court.

(3) The Lord Chancellor may appoint one of the ordinary judges of the Court of Appeal as vice-president of both divisions of that court, or one of those judges as vice-president of the criminal division and another of them as vice-president of the civil division.

(4) When sitting in a court of either division of the Court of Appeal in which no ex-officio judge of the Court of Appeal is sitting, the vice-president (if any) of that division shall preside.

(5) Any number of courts of either division of the Court of Appeal may sit at the same time.

The High Court

4 The High Court.

(1) The High Court shall consist of—
- (a) the Lord Chancellor;
- (b) the Lord Chief Justice;
- (c) the President of the Family Division;
- (d) the Vice-Chancellor
- **[**[F2](dd) the Senior Presiding Judge**]**
- **[**[F3](ddd) the vice-president of the Queen's Bench Division;**]** and
- (e) not more than eighty puisne judges of that court.

(2) The puisne judges of the High Court shall be styled "Justices of the High Court".

(3) All the judges of the High Court shall, except where this Act expressly provides otherwise, have in all respects equal power, authority and jurisdiction.

(4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to increase or further increase the maximum number of puisne judges of the High Court.

(5) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (4) unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

(6) The High Court shall be taken to be duly constituted notwithstanding any vacancy in the office of Lord Chancellor, Lord Chief Justice, President of the Family Division **[**[F4]Vice-Chancellor or Senior Presiding Judge**][**[F5]and whether or not an appointment has been made to the office of vice-president of the Queen's Bench Division.**]**.

Textual Amendments

F2 S. 4(1)(dd) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 72(6)(a)**

F3 S. 4(1)(ddd) inserted (27.9.1999) by 1999 c. 22, **ss. 69(2)(a)**, 108(3)(b) (with Sch. 14 para. 7(2))

F4 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 72(6)(b)**

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F5 Words in s. 4(6) inserted (27.9.1999) by 1999 c. 22, **ss. 69(2)(b)**, 108(3)(b) (with Sch. 14 para. 7(2))

Modifications etc. (not altering text)

C4 Ss. 2(1), 4(1), 12(1)-(6) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(a)**, 22(2) (with ss. 7(8), 22(5))
S. 4(1) modified (27.9.1999) by 1999 c. 22, **s. 68(3)(c)**, 108(3)(b) (with Sch. 14 para. 7(2))

C5 S. 4(1)(*e*) amended by S.I. 1987/2059, **art. 3** (maximum number of puisne judges prescribed by s. 4(1)(*e*) increased from 80 to 85)
S. 4(1)(e) amended (11.5.1993) by S.I. 1993/1255, **art. 2**
S. 4(1)(e) amended (25.11.1999) by S.I. 1999/3138, **art. 2**

C6 S. 4(1)(e) amended (21.3.2003) by The Maximum Number of Judges Order 2003 (S.I. 2003/775), **art. 2**

5 Divisions of High Court.

(1) There shall be three divisions of the High Court namely—

(a) the Chancery Division, consisting of the Lord Chancellor, who shall be president thereof, the Vice-Chancellor, who shall be vice-president thereof, and such of the puisne judges as are for the time being attached thereto in accordance with this section;

(b) the Queen's Bench Division, consisting of the Lord Chief Justice, who shall be president thereof, **[**[F6]the vice-president of the Queen's Bench Division**]** and such of the puisne judges as are for the time being so attached thereto; and

(c) the Family Division, consisting of the President of the Family Division and such of the puisne judges as are for the time being so attached thereto.

(2) The puisne judges of the High Court shall be attached to the various Divisions by direction of the Lord Chancellor; and any such judge may with his consent be transferred from one Division to another by direction of the Lord Chancellor, but shall be so transferred only with the concurrence of the senior judge of the Division from which it is proposed to transfer him.

(3) Any judge attached to any Division may act as an additional judge of any other Division at the request of the **[**[F7]Lord Chief Justice made with the concurrence of the President of the Family Division or the Vice-Chancellor, or both, as appropriate**]**.

(4) Nothing in this section shall be taken to prevent a judge of any Division (whether nominated under section 6(2) or not) from sitting, whenever required, in a divisional court of another Division or for any judge of another Division.

(5) Without prejudice to the provisions of this Act relating to the distribution of business in the High Court, all jurisdiction vested in the High Court under this Act shall belong to all the Divisions alike.

Textual Amendments

F6 Words in s. 5(1)(b) inserted (27.9.1999) by 1999 c. 22, **ss. 69(3)**, 108(3)(b) (with Sch. 14 para. 7(2))

F7 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 12**

6 The Patents, Admiralty and Commercial Courts.

(1) There shall be—

(a) as part of the Chancery Division, a Patents Court; and

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(b) as parts of the Queen's Bench Division, an Admiralty Court and a Commercial Court.

(2) The judges of the Patents Court, of the Admiralty Court and of the Commercial Court shall be such of the puisne judges of the High Court as the Lord Chancellor may from time to time nominate to be judges of the Patents Court, Admiralty Judges and Commercial Judges respectively.

7 Power to alter Divisions or transfer certain courts to different Divisions.

(1) Her Majesty may from time to time, on a recommendation of the judges mentioned in subsection (2), by Order in Council direct that—

(a) any increase or reduction in the number of Divisions of the High Court; or

(b) the transfer of any of the courts mentioned in section 6(1) to a different Division,

be carried into effect in pursuance of the recommendation.

(2) Those judges are the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor.

(3) An Order in Council under this section may include such incidental, supplementary or consequential provisions as appear to Her Majesty necessary or expedient, including amendments of provisions referring to particular Divisions contained in this Act or any other statutory provision.

(4) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The Crown Court

8 The Crown Court.

(1) The jurisdiction of the Crown Court shall be exercisable by—

(a) any judge of the High Court; or

(b) any Circuit judge or Recorder; or

(c) subject to and in accordance with the provisions of sections 74 and 75(2), a judge of the High Court, Circuit judge or Recorder sitting with not more than four justices of the peace,

and any such persons when exercising the jurisdiction of the Crown Court shall be judges of the Crown Court.

(2) A justice of the peace shall not be disqualified from acting as a judge of the Crown Court for the reason that the proceedings are not at a place within the area for which he was appointed as a justice, or because the proceedings are not related to that area in any other way.

(3) When the Crown Court sits in the City of London it shall be known as the Central Criminal Court; and the Lord Mayor of the City and any Alderman of the City shall be entitled to sit as judges of the Central Criminal Court with any judge of the High Court or any Circuit judge or Recorder.

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Other provisions

9 Assistance for transaction of judicial business of Supreme Court.

(1) A person within any entry in column 1 of the following Table may **[**[F8]subject to the provision at the end of that Table**]** at any time, at the request of the appropriate authority, act—

(a) as a judge of a relevant court specified in the request; or

(b) if the request relates to a particular division of a relevant court so specified, as a judge of that court in that division.

TABLE

1	**2**
Judge or ex-judge	**Where competent to act on request**
1. A judge of the Court of Appeal.	The High Court and the Crown Court.
2. A person who has been a judge of the Court of Appeal.	The Court of Appeal, the High Court and the Crown Court.
3. A puisne judge of the High Court.	The Court of Appeal.
4. A person who has been a puisne judge of the High Court.	The Court of Appeal, the High Court and the Crown Court.
5. A Circuit judge.	The High Court **[**[F9]and the Court of Appeal**]**.
[[F10]6. A Recorder**]**	**[**[F10]The High Court**]**

[[F11]The entry in column 2 specifying the Court of Appeal in relation to a Circuit judge only authorises such a judge to act as a judge of a court in the criminal division of the Court of Appeal.**]**

[[F12](1A) A person shall not act as a judge by virtue of subsection (1) after the day on which he attains the age of 75.**]**

(2) In subsection (1)—

"the appropriate authority"—

(a) in the case of a request to a judge of the High Court **[**[F13]or a Circuit judge**]**to act in the criminal division of the Court of Appeal as a judge of that court, means the Lord Chief Justice or, at any time when the Lord Chief Justice is unable to make such a request himself or there is a vacancy in the office of Lord Chief Justice, the Master of the Rolls;

(b) in any other case means the Lord Chancellor;

"relevant court", in the case of a person within any entry in column 1 of the Table, means a court specified in relation to that entry in column 2 of the Table.

[[F14]But no request shall be made to a Circuit judge to act as a judge of a court in the criminal division of the Court of Appeal unless he is approved for the time being by the Lord Chancellor for the purpose of acting as a judge of that division.**]**

(3) In the case of—

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(a) a request under subsection (1) to a Lord Justice of Appeal to act in the High Court; or

(b) any request under that subsection to a puisne judge of the High Court or a Circuit judge,

it shall be the duty of the person to whom the request is made to comply with it.

(4) Without prejudice to section 24 of the [M1]Courts Act 1971 (temporary appointment of deputy Circuit judges and assistant Recorders), if it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the High Court or the Crown Court, he may appoint a person qualified for appointment as a puisne judge of the High Court to be a deputy judge of the High Court during such period or on such occasions as the Lord Chancellor thinks fit; and during the period or on the occasions for which a person is appointed as a deputy judge under this subsection, he may act as a puisne judge of the High Court.

[[F15](4A) No appointment of a person as a deputy judge of the High Court shall be such as to extend beyond the day on which he attains the age of 70, but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office up to the age of 75).**]**

(5) Every person while acting under this section shall, subject to **[**[F16]subsections (6) and (6A)**]**, be treated for all purposes as, and accordingly may perform any of the functions of, a judge of the court in which he is acting.

(6) A person shall not by virtue of subsection (5)—

(a) be treated as a judge of the court in which he is acting for the purposes of section 98(2) or of any statutory provision relating to—

(i) the appointment, retirement, removal or disqualification of judges of that court;

(ii) the tenure of office and oaths to be taken by such judges; or

(iii) the remuneration, allowances or pensions of such judges; or

(b) **[**[F17]subject to section 27 of the Judicial Pensions and Retirement Act 1993**]**, be treated as having been a judge of a court in which he has acted only under this section.

[[F18](6A) A Circuit judge or Recorder shall not by virtue of subsection (5) exercise any of the powers conferred on a single judge by sections 31 and 44 of the [M2]Criminal Appeal Act 1968 (powers of single judge in connection with appeals to the Court of Appeal and appeals from the Court of Appeal to the House of Lords).**]**

[F19](7) . . . . . .

(8) Such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine may be paid out of money provided by Parliament—

(a) to any person who has been—

(i) a Lord of Appeal in Ordinary; or

(ii) a judge of the Court of Appeal; or

(iii) a judge of the High Court,

and is by virtue of subsection (1) acting as mentioned in that subsection;

(b) to any deputy judge of the High Court appointed under subsection (4).

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Textual Amendments

F8 Words in s. 9(1) inserted (11.1.1995) by 1994 c. 33, **s. 52(2)(a)**; S.I. 1994/3258, **art.2**.

F9 Words in the Table in s. 9(1) inserted (11.1.1995) by 1994 c. 33, **s. 52(2)(b)**; S.I. 1994/3258, **art.2**.

F10 Entry added by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 58**

F11 Words in s. 9(1) inserted (11.1.1995) by 1994 c. 33, **s. 52(2)(c)**; S.I. 1994/3258, **art.2**.

F12 S. 9(1A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 5(1)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F13 Words in definition of "the appropriate authority" in s. 9(2) inserted (11.1.1995) by 1994 c. 33, **s. 52(3)(a)**; S.I. 1994/3258, **art.2**.

F14 Words in s. 9(2) inserted (11.1.1995) by 1994 c. 33, **s. 52(3)(b)**; S.I. 1994/3258, **art.2**.

F15 S. 9(4A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 5(2)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F16 Words in s. 9(5) substituted (11.1.1995) by 1994 c. 33, **s. 52(4)**; S.I. 1994/3258, **art.2**.

F17 S. 9(6)(b) substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 5(3)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F18 S. 9(6A) inserted (11.1.1995) by 1994 c. 33, **s. 52(5)**; S.I. 1994/3258, **art.2**.

F19 S. 9(7) repealed (31.3.1995) by 1993 c. 8, s. 31(4), **Sch.9**; S.I. 1995/631, **art.2**.

Modifications etc. (not altering text)

C7 S. 9 restricted (31.3.1995) by 1993 c. 8, **s. 26(7)(c)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

Marginal Citations

M1 1971 c. 23.

M2 1968 c. 19.

10 Appointment of judges of Supreme Court.

(1) Whenever the office of Lord Chief Justice, Master of the Rolls, President of the Family Division or Vice-Chancellor is vacant, Her Majesty may by letters patent appoint a qualified person to that office.

(2) Subject to the limits on numbers for the time being imposed by sections 2(1) and 4(1), Her Majesty may from time to time by letters patent appoint qualified persons as Lords Justices of Appeal or as puisne judges of the High Court.

(3) No person shall be qualified for appointment—

(a) as Lord Chief Justice, Master of the Rolls, President of the Family Division or Vice-Chancellor, unless he is qualified for appointment as a Lord Justice of Appeal or is a judge of the Court of Appeal;

(b) as a Lord Justice of Appeal, **[**[F20]unless—

(i) he has a 10 year High Court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) he is a judge of the High Court;**]**; or

(c) as a puisne judge of the High Court, **[**[F21]unless—

(i) he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act [M3]1990; or

(ii) he is a Circuit judge who has held that office for at least 2 years.**]**

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(4) Every person appointed to an office mentioned in subsection (1) or as a Lord Justice of Appeal or puisne judge of the High Court shall, as soon as may be after his acceptance of office, take the oath of allegiance and the judicial oath, as set out in the [M4]Promissory Oaths Act 1868, in the presence of the Lord Chancellor.

Textual Amendments

F20 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 71(1)(a)**

F21 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 71(1)(b)**

Marginal Citations

M3 1990 c.41**(37).**

M4 1868 c. 72.

11 Tenure of office of judges of Supreme Court.

(1) This section applies to the office of any judge of the Supreme Court except the Lord Chancellor.

(2) A person appointed to an office to which this section applies shall vacate it on the day on which he attains the age of **[**[F22]seventy**]** years unless by virtue of this section he has ceased to hold it before then.

(3) A person appointed to an office to which this section applies shall hold that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.

(4) A person holding an office within section 2(2)(d) to (g) shall vacate that office on becoming Lord Chancellor or a Lord of Appeal in Ordinary.

(5) A Lord Justice of Appeal shall vacate that office on becoming an ex-officio judge of the Court of Appeal.

(6) A puisne judge of the High Court shall vacate that office on becoming a judge of the Court of Appeal.

(7) A person who holds an office to which this section applies may at any time resign it by giving the Lord Chancellor notice in writing to that effect.

(8) The Lord Chancellor, if satisfied by means of a medical certificate that a person holding an office to which this section applies—

(a) is disabled by permanent infirmity from the performance of the duties of his office; and

(b) is for the time being incapacitated from resigning his office,

may, subject to subsection (9), by instrument under his hand declare that person's office to have been vacated; and the instrument shall have the like effect for all purposes as if that person had on the date of the instrument resigned his office.

(9) A declaration under subsection (8) with respect to a person shall be of no effect unless it is made—

(a) in the case of any of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor, with the concurrence of two others of them;

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(b) in the case of a Lord Justice of Appeal, with the concurrence of the Master of the Rolls;

(c) in the case of a puisne judge of any Division of the High Court, with the concurrence of the senior judge of that Division.

(10) . . . . . [F23]

Textual Amendments

F22 Words in s. 11(2) substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.4** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F23 S. 11(10) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

12 Salaries etc. of judges of Supreme Court.

(1) Subject to subsections (2) and (3), there shall be paid to judges of the Supreme Court, other than the Lord Chancellor, such salaries as may be determined by the Lord Chancellor with the concurrence of the Minister for the Civil Service.

(2) Until otherwise determined under this section, there shall be paid to the judges mentioned in subsection (1) the same salaries as at the commencement of this Act.

(3) Any salary payable under this section may be increased, but not reduced, by a determination or further determination under this section.

(4) . . . . . [F24]

(5) Salaries payable under this section shall be charged on and paid out of the Consolidated Fund.

(6) There shall be paid out of money provided by Parliament to any judge of the Court of Appeal or of the High Court, in addition to his salary, such allowances as may be determined by the Lord Chancellor with the concurrence of the Minister for the Civil Service.

(7) Pensions shall be payable to or in respect of the judges mentioned in subsection (1) in accordance with section 2 of the Judicial Pensions Act 1981 **[**[F25]or, in the case of a judge who is a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, in accordance with that Act**]**.

Textual Amendments

F24 S. 12(4) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), ss. 84(f), 125(7), **Sch. 20** (subject to a saving in s. 125(6), Sch. 19 para. 10(5))

F25 Words in s. 12(7) inserted (31.3.1995) by 1993 c. 8, s. 31(3), **Sch. 8 para. 15(1)**; S.I. 1995/631, **art.2**.

Modifications etc. (not altering text)

C8 Ss. 2(1), 4(1), 12(1)-(6) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(a)**, 22(2) (with ss. 7(8), 22(5))
S. 12(1)-(6) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(a)**, 108(3)(b) (with Sch. 14 para. 7(2)).

13 Precedence of judges of Supreme Court.

(1) When sitting in the Court of Appeal—

Status: *Point in time view as at 01/09/2004. This version of this Act contains provisions that are not valid for this point in time.*
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(a) the Lord Chief Justice and the Master of the Rolls shall rank in that order; and

(b) Lords of Appeal in Ordinary and persons who have been Lord Chancellor shall rank next after the Master of the Rolls and, among themselves, according to the priority of the dates on which they respectively became Lords of Appeal in Ordinary or Lord Chancellor, as the case may be.

(2) Subject to subsection (1)(b), the President of the Family Division shall rank next after the Master of the Rolls.

(3) The Vice-Chancellor shall rank next after the President of the Family Division.

(4) The vice-president or vice-presidents of the divisions of the Court of Appeal shall rank next after the Vice-Chancellor; and if there are two vice-presidents of those divisions, they shall rank, among themselves, according to the priority of the dates on which they respectively became vice-presidents.

(5) The Lords Justices of Appeal (other than the vice-president or vice-presidents of the divisions of the Court of Appeal) shall rank after the ex-officio judges of the Court of Appeal and, among themselves, according to the priority of the dates on which they respectively became judges of that court.

(6) The puisne judges of the High Court shall rank next after the judges of the Court of Appeal and, among themselves, according to the priority of the dates on which they respectively became judges of the High Court.

14 Power of judge of Supreme or Crown Court to act in cases relating to rates and taxes.

(1) A judge of the Supreme Court or of the Crown Court shall not be incapable of acting as such in any proceedings by reason of being, as one of a class of ratepayers, taxpayers or persons of any other description, liable in common with others to pay, or contribute to, or benefit from, any rate or tax which may be increased, reduced or in any way affected by those proceedings.

(2) In this section "rate or tax" means any rate, tax, duty or liability, whether public, general or local, and includes—

(a) any fund formed from the proceeds of any such rate, tax, duty or liability; and

(b) any fund applicable for purposes the same as, or similar to, those for which the proceeds of any such rate, tax, duty or liability are or might be applied.

PART II

JURISDICTION

THE COURT OF APPEAL

15 General jurisdiction of Court of Appeal.

(1) The Court of Appeal shall be a superior court of record.

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(2) Subject to the provisions of this Act, there shall be exercisable by the Court of Appeal—

(a) all such jurisdiction (whether civil or criminal) as is conferred on it by this or any other Act; and

(b) all such other jurisdiction (whether civil or criminal) as was exercisable by it immediately before the commencement of this Act.

(3) For all purposes of or incidental to—

(a) the hearing and determination of any appeal to the civil division of the Court of Appeal; and

(b) the amendment, execution and enforcement of any judgment or order made on such an appeal,

the Court of Appeal shall have all the authority and jurisdiction of the court or tribunal from which the appeal was brought.

(4) It is hereby declared that any provision in this or any other Act which authorises or requires the taking of any steps for the execution or enforcement of a judgment or order of the High Court applies in relation to a judgment or order of the civil division of the Court of Appeal as it applies in relation to a judgment or order of the High Court.

16 Appeals from High Court.

(1) Subject as otherwise provided by this or any other Act (and in particular to the provision in section 13(2)(a) of the [M5]Administration of Justice Act 1969 excluding appeals to the Court of Appeal in cases where leave to appeal from the High Court directly to the House of Lords is granted under Part II of that Act), **[**[F26]or as provided by any order made by the Lord Chancellor under section 56(1) of the Access to Justice Act 1999,**]** the Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of the High Court.

(2) An appeal from a judgment or order of the High Court when acting as a prize court shall not be to the Court of Appeal, but shall be to Her Majesty in Council in accordance with the Prize Acts 1864 to 1944.

Textual Amendments

F26 Words in s. 16(1) inserted (2.5.2000) by S.I. 2000/1071, **art. 7**

Modifications etc. (not altering text)

C9 S. 16 extended (prosp.) by Building Act 1984 (c. 55, SIF 15), **ss. 42(3)(b)**, 134(1)

C10 S. 16 extended by Building Societies Act 1986 (c. 53, SIF 16), **ss. 54(3)(a)(5)**, 84(6), 119(5)

C11 S. 16 extended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), **s. 65(3)**

C12 S. 16 extended (prosp.) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 43(3), 59(1), Sch. 7 paras. 14, **16**

C13 S. 16 extended (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), ss. 118(2), 137(2), 140, 223(2), Sch. 8 paras. 1, **3(2)**

C14 S. 16 excluded (2.10.2006) by 1999 c. 22, Sch. 3 para. 3B(6) (as inserted by Criminal Defence Service Act 2006 (c. 9), **ss. 2**, 5(2); S.I. 2006/2491, **art. 2**)

C15 S. 16(1) excluded (22.11.2005) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2005 (S.I. 2005/3276), **art. 1(3)(b)(i)**

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Marginal Citations

M5 1969 c. 58.

17 Applications for new trial.

(1) Where any cause or matter, or any issue in any cause or matter, has been tried in the High Court, any application for a new trial thereof, or to set aside a verdict, finding or judgment therein, shall be heard and determined by the Court of Appeal except where rules of court made in pursuance of subsection (2) provide otherwise.

(2) As regards cases where the trial was by a judge alone and no error of the court at the trial is alleged, or any prescribed class of such cases, rules of court may provide that any such application as is mentioned in subsection (1) shall be heard and determined by the High Court.

(3) Nothing in this section shall alter the practice in bankruptcy.

18 Restrictions on appeals to Court of Appeal.

(1) No appeal shall lie to the Court of Appeal—

(a) except as provided by the [M6]Administration of Justice Act 1960, from any judgment of the High Court in any criminal cause or matter;

(b) from any order of the High Court or any other court or tribunal allowing an extension of time for appealing from a judgment or order;

(c) from any order, judgment or decision of the High Court or any other court or tribunal which, by virtue of any provision (however expressed) of this or any other Act, is final;

(d) from a decree absolute of divorce or nullity of marriage, by a party who, having had time and opportunity to appeal from the decree nisi on which that decree was founded, has not appealed from the decree nisi;

[F27](e) . . . . . .

[F27](f) . . . . . .

[[F28](g) except as provided by Part I of the Arbitration Act 1996, from any decision of the High Court under that Part;**]**

[F27](h) . . . . . .

[F29](1A) . . . . . .

[F29](1B) . . . . . .

[F30](2) . . . . . .

Textual Amendments

F27 S. 18(1)(*e*)(*f*)(*h*) repealed (1.10.1993) by Courts and Legal Services Act 1990 (c. 41), ss. 7(2), 125(7), **Sch. 20**; S.I. 1993/2132, art. 3, **Sch.**

F28 S. 18(1)(g) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 37(2)** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with Sch. 2 para. 1)

F29 S. 18(1A)(1B) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 para. 7(2))

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F30 S. 18(2) repealed (1.10.1993) by Courts and Legal Services Act 1990 (c. 41), s. 125(7), **Sch. 20**; S.I. 1993/2132, art. 3, **Sch.**

Modifications etc. (not altering text)

C16 S. 18(1)(a) excluded (18.12.2003) by Criminal Justice Act 2003 (c. 44), **ss. 274(4)**, 336

C17 S. 18(1)(a) excluded (18.12.2003) by Criminal Justice Act 2003 (c. 44), ss. 276, 336, **Sch. 22 para. 14(2)**

Marginal Citations

M6 1960 c. 65.

THE HIGH COURT

General jurisdiction

19 General jurisdiction of High Court.

(1) The High Court shall be a superior court of record.

(2) Subject to the provisions of this Act, there shall be exercisable by the High Court—

(a) all such jurisdiction (whether civil or criminal) as is conferred on it by this or any other Act; and

(b) all such other jurisdiction (whether civil or criminal) as was exercisable by it immediately before the commencement of this Act (including jurisdiction conferred on a judge of the High Court by any statutory provision).

(3) Any jurisdiction of the High Court shall be exercised only by a single judge of that court, except in so far as it is—

(a) by or by virtue of rules of court or any other statutory provision required to be exercised by a divisional court; or

(b) by rules of court made exercisable by a master, registrar or other officer of the court, or by any other person.

(4) The specific mention elsewhere in this Act of any jurisdiction covered by subsection (2) shall not derogate from the generality of that subsection.

Admiralty jurisdiction

20 Admiralty jurisdiction of High Court.

(1) The Admiralty jurisdiction of the High Court shall be as follows, that is to say—

(a) jurisdiction to hear and determine any of the questions and claims mentioned in subsection (2);

(b) jurisdiction in relation to any of the proceedings mentioned in subsection (3);

(c) any other Admiralty jurisdiction which it had immediately before the commencement of this Act; and

(d) any jurisdiction connected with ships or aircraft which is vested in the High Court apart from this section and is for the time being by rules of court made or

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coming into force after the commencement of this Act assigned to the Queen's Bench Division and directed by the rules to be exercised by the Admiralty Court.

(2) The questions and claims referred to in subsection (1)(a) are—

(a) any claim to the possession or ownership of a ship or to the ownership of any share therein;

(b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship;

(c) any claim in respect of a mortgage of or charge on a ship or any share therein;

(d) any claim for damage received by a ship;

(e) any claim for damage done by a ship;

(f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act, neglect or default of—

(i) the owners, charterers or persons in possession or control of a ship; or

(ii) the master or crew of a ship, or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible,

being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;

(g) any claim for loss of or damage to goods carried in a ship;

(h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;

[[F31](j) any claim—

(i) under the Salvage Convention 1989;

(ii) under any contract for or in relation to salvage services; or

(iii) in the nature of salvage not falling within (i) or (ii) above;

or any corresponding claim in connection with an aircraft;**]**

(k) any claim in the nature of towage in respect of a ship or an aircraft;

(l) any claim in the nature of pilotage in respect of a ship or an aircraft;

(m) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;

(n) any claim in respect of the construction, repair or equipment of a ship or in respect of dock charges or dues;

(o) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);

(p) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;

(q) any claim arising out of an act which is or is claimed to be a general average act;

(r) any claim arising out of bottomry;

(s) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty.

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(3) The proceedings referred to in subsection (1)(b) are—

(a) any application to the High Court under the [M7]Merchant Shipping Acts 1894 to 1979 other than an application under **[**[F32]the Merchant Shipping Act 1995**]**;

(b) any action to enforce a claim for damage, loss of life or personal injury arising out of—

(i) a collision between ships; or

(ii) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or

(iii) non-compliance, on the part of one or more of two or more ships, with the collision regulations;

(c) any action by shipowners or other persons under the **[**[F33]Merchant Shipping Act 1995**]** for the limitation of the amount of their liability in connection with a ship or other property.

(4) The jurisdiction of the High Court under subsection (2)(b) includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks fit.

(5) Subsection (2)(e) extends to—

(a) any claim in respect of a liability incurred under the **[**[F34]Chapter III of Part VI of the Merchant Shipping Act 1995**]**; and

(b) any claim in respect of a liability falling on the **[**[F35]International Oil Pollution Compensation Fund, or on the International Oil Compensation Fund 1984, under Chapter IV of Part VI of the Merchant Shipping Act 1995.**]**.

[[F36](6) In subsection (2)(j)—

(a) the "Salvage Convention 1989" means the International Convention on Salvage, 1989 as it has effect under **[**[F37]section 224 of the Merchant Shipping Act 1995**]**;

(b) the reference to salvage services includes services rendered in saving life from a ship and the reference to any claim under any contract for or in relation to salvage services includes any claim arising out of such a contract whether or not arising during the provision of the services;

(c) the reference to a corresponding claim in connection with an aircraft is a reference to any claim corresponding to any claim mentioned in sub-paragraph (i) or (ii) of paragraph (j) which is available under section 87 of the Civil Aviation Act 1982.**]**

(7) The preceding provisions of this section apply—

(a) in relation to all ships or aircraft, whether British or not and whether registered or not and wherever the residence or domicile of their owners may be;

(b) in relation to all claims, wherever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and

(c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law:

Provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the **[**[F38]Merchant Shipping Act 1995**]**.

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Textual Amendments

F31 S. 20(2)(j) substituted (1.1.1995) by virtue of 1994 c. 28, s. 1(6), **Sch. 2 para. 6(2)**; S.I. 1994/2971, art. 2, **Sch.**

F32 Words in s. 20(3)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(2)(a)(i)** (with s. 312(1))

F33 Words in s. 20(3)(c) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(2)(a)(ii)** (with s. 312(1))

F34 Words in s. 20(5)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(2)(b)(i)** (with s. 312(1))

F35 Words in s. 20(5)(b) substituted (1.1.1996) by virtue of 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(2)(b)(ii)** (with s. 312(1))

F36 S. 20(6) substituted (1.1.1995) by virtue of 1994 c. 28, s. 1(6), **Sch. 2 para. 6(3)**; S.I. 1994/2971, art. 2, **Sch.**

F37 Words in s. 20(6)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(2)(c)** (with s. 312(1))

F38 Words in s. 20(7) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(2)(d)** (with s. 312(1))

Modifications etc. (not altering text)

C18 S. 20 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, art. 3, **Sch.**

Marginal Citations

M7 1894 c. 60.

21 Mode of exercise of Admiralty jurisdiction.

(1) Subject to section 22, an action in personam may be brought in the High Court in all cases within the Admiralty jurisdiction of that court.

(2) In the case of any such claim as is mentioned in section 20(2)(a), (c) or (s) or any such question as is mentioned in section 20(2)(b), an action in rem may be brought in the High Court against the ship or property in connection with which the claim or question arises.

(3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, an action in rem may be brought in the High Court against that ship, aircraft or property.

(4) In the case of any such claim as is mentioned in section 20(2)(e) to (r), where—

(a) the claim arises in connection with a ship; and

(b) the person who would be liable on the claim in an action in personam ("the relevant person") was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship,

an action in rem may (whether or not the claim gives rise to a maritime lien on that ship) be brought in the High Court against—

(i) that ship, if at the time when the action is brought the relevant person is either the beneficial owner of that ship as respects all the shares in it or the charterer of it under a charter by demise; or

(ii) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner as respects all the shares in it.

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(5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, an action in rem may be brought in the High Court against that aircraft if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action in personam.

(6) Where, in the exercise of its Admiralty jurisdiction, the High Court orders any ship, aircraft or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.

(7) In determining for the purposes of subsections (4) and (5) whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England or Wales.

(8) Where, as regards any such claim as is mentioned in section 20(2)(e) to (r), a ship has been served with a writ or arrested in an action in rem brought to enforce that claim, no other ship may be served with a writ or arrested in that or any other action in rem brought to enforce that claim; but this subsection does not prevent the issue, in respect of any one such claim, of a writ naming more than one ship or of two or more writs each naming a different ship.

Modifications etc. (not altering text)

C19 S. 21 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, **art. 3**,Sch.

22 Restrictions on entertainment of actions in personam in collision and other similar cases.

(1) This section applies to any claim for damage, loss of life or personal injury arising out of—

(a) a collision between ships; or

(b) the carrying out of, or omission to carry out, a manoeuvre in the case of one or more of two or more ships; or

(c) non-compliance, on the part of one or more of two or more ships, with the collision regulations.

(2) The High Court shall not entertain any action in personam to enforce a claim to which this section applies unless—

(a) the defendant has his habitual residence or a place of business within England or Wales; or

(b) the cause of action arose within inland waters of England or Wales or within the limits of a port of England or Wales; or

(c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.

In this subsection—

"inland waters" includes any part of the sea adjacent to the coast of the United Kingdom certified by the Secretary of State to be waters falling by international law to be treated as within the territorial sovereignty of Her Majesty apart from the operation of that law in relation to territorial waters;

"port" means any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of persons is empowered by or under an Act to make charges in respect of ships entering it or using the facilities therein,

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and "limits of a port" means the limits thereof as fixed by or under the Act in question or, as the case may be, by the relevant charter or custom;

"charges" means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

(3) The High Court shall not entertain any action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside England and Wales against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.

(4) Subsections (2) and (3) shall apply to counterclaims (except counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions, the references to the plaintiff and the defendant being for this purpose read as references to the plaintiff on the counterclaim and the defendant to the counterclaim respectively.

(5) Subsections (2) and (3) shall not apply to any action or counterclaim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.

(6) Subject to the provisions of subsection (3), the High Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in subsection (2)(a) to (c) is satisfied, and the rules of court relating to the service of process outside the jurisdiction shall make such provision as may appear to the rule-making authority to be appropriate having regard to the provisions of this subsection.

(7) Nothing in this section shall prevent an action which is brought in accordance with the provisions of this section in the High Court being transferred, in accordance with the enactments in that behalf, to some other court.

(8) For the avoidance of doubt it is hereby declared that this section applies in relation to the jurisdiction of the High Court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction.

Modifications etc. (not altering text)

C20 S. 22 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, **art. 3**,Sch.

23 High Court not to have jurisdiction in cases within Rhine Convention.

The High Court shall not have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions of that Convention; and any proceedings to enforce such a claim which are commenced in the High Court shall be set aside.

Modifications etc. (not altering text)

C21 S. 23 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, **art. 3**,Sch.

Status: *Point in time view as at 01/09/2004. This version of this Act contains provisions that are not valid for this point in time.*
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24 Supplementary provisions as to Admiralty jurisdiction.

(1) In sections 20 to 23 and this section, unless the context otherwise requires—

"collision regulations" means **[**[F39]safety regulations under section 85 of the Merchant Shipping Act 1995**]**;

"goods" includes baggage;

"master" has the same meaning as in the **[**[F40]Merchant Shipping Act 1995**]**, and accordingly includes every person (except a pilot) having command or charge of a ship;

"the Rhine Navigation Convention" means the Convention of the 7th October 1868 as revised by any subsequent Convention;

"ship" includes any description of vessel used in navigation and (except in the definition of "port" in section 22(2) and in subsection (2)(c) of this section) includes, subject to section 2(3) of the [M8]Hovercraft Act 1968, a hovercraft;

"towage" and "pilotage", in relation to an aircraft, mean towage and pilotage while the aircraft is water-borne.

(2) Nothing in sections 20 to 23 shall—

(a) be construed as limiting the jurisdiction of the High Court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship;

(b) affect the provisions of section **[**[F41]226 of the Merchant Shipping Act 1995**]** (power of a receiver of wreck to detain a ship in respect of a salvage claim); or

(c) authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty's ships or Her Majesty's aircraft, or, subject to section 2(3) of the Hovercraft Act 1968, Her Majesty's hovercraft, or of any cargo or other property belonging to the Crown.

(3) In this section—

"Her Majesty's ships" and "Her Majesty's aircraft" have the meanings given by section 38(2) of the [M9]Crown Proceedings Act 1947;

"Her Majesty's hovercraft" means hovercraft belonging to the Crown in right of Her Majesty's Government in the United Kingdom or Her Majesty's Government in Northern Ireland.

Textual Amendments

F39 Words in definition of "collision regulations" in s. 24(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(3)(a)(i)** (with s. 312(1))

F40 Words in s. 24(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(3)(a)(ii)** (with s. 312(1))

F41 Words in s. 24(2)(b) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(3)(b)** (with s. 312(1))

Modifications etc. (not altering text)

C22 S. 24 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, art. 3, **Sch.**

Marginal Citations

M8 1968 c. 59.

M9 1947 c. 44.

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Other particular fields of jurisdiction

25 Probate jurisdiction of High Court.

(1) Subject to the provisions of Part V, the High Court shall, in accordance with section 19(2), have the following probate jurisdiction, that is to say all such jurisdiction in relation to probates and letters of administration as it had immediately before the commencement of this Act, and in particular all such contentious and non-contentious jurisdiction as it then had in relation to—

(a) testamentary causes or matters;

(b) the grant, amendment or revocation of probates and letters of administration; and

(c) the real and personal estate of deceased persons.

(2) Subject to the provisions of Part V, the High Court shall, in the exercise of its probate jurisdiction, perform all such duties with respect to the estates of deceased persons as fell to be performed by it immediately before the commencement of this Act.

26 Matrimonial jurisdiction of High Court.

The High Court shall, in accordance with section 19(2), have all such jurisdiction in relation to matrimonial causes and matters as was immediately before the commencement of the [M10]Matrimonial Causes Act 1857 vested in or exercisable by any ecclesiastical court or person in England or Wales in respect of—

(a) divorce a mensa et thoro (renamed judicial separation by that Act);

(b) nullity of marriage . . . [F42]; and

(c) any matrimonial cause or matter except marriage licences.

Textual Amendments

F42 Words repealed by Family Law Act 1986 (c. 55, SIF 49:3), s. 68(1)(2), Sch. 1 para. 25, **Sch. 2**

Marginal Citations

M10 1857 c. 85.

27 Prize jurisdiction of High Court.

The High Court shall, in accordance with section 19(2), have as a prize court—

(a) all such jurisdiction as is conferred on it by the Prize Acts 1864 to 1944 (in which references to the High Court of Admiralty are by virtue of paragraph 1 of Schedule 4 to this Act to be construed as references to the High Court); and

(b) all such other jurisdiction on the high seas and elsewhere as it had as a prize court immediately before the commencement of this Act.

28 Appeals from Crown Court and inferior courts.

(1) Subject to subsection (2), any order, judgment or other decision of the Crown Court may be questioned by any party to the proceedings, on the ground that it is wrong in law or is in excess of jurisdiction, by applying to the Crown Court to have a case stated by that court for the opinion of the High Court.

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(2) Subsection (1) shall not apply to—

(a) a judgment or other decision of the Crown Court relating to trial on indictment; or

(b) any decision of that court under the [M11]Betting, Gaming and Lotteries Act 1963, the [M12]Licensing Act 1964 **[**[F43], the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982**]** which, by any provision of any of those Acts, is to be final.

(3) Subject to the provisions of this Act and to rules of court, the High Court shall, in accordance with section 19(2), have jurisdiction to hear and determine—

(a) any application, or any appeal (whether by way of case stated or otherwise), which it has power to hear and determine under or by virtue of this or any other Act; and

(b) all such other appeals as it had jurisdiction to hear and determine immediately before the commencement of this Act.

[[F44](4) In subsection (2)(a) the reference to a decision of the Crown Court relating to trial on indictment does not include a decision relating to an order under section 17 of the Access to Justice Act 1999.**]**

Textual Amendments

F43 Words substituted by Local Government (Miscellaneous Provisions) Act 1982 (c. 30, SIF 81:1), s. 2, **Sch. 3 para. 27(6)**

F44 S. 28(4) inserted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 22** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with Sch. 2 para. 2)

Marginal Citations

M11 1963 c. 2.

M12 1964 c. 26.

[[F45]**28A Proceedings on case stated by magistrates' court or Crown Court.**

(1) This section applies where a case is stated for the opinion of the High Court—

(a) by a magistrates' court under section 111 of the [M13]Magistrates' Courts Act 1980; or

(b) by the Crown Court under section 28(1) of this Act.

(2) The High Court may, if it thinks fit, cause the case to be sent back for amendment and, where it does so, the case shall be amended accordingly.

(3) The High Court shall hear and determine the question arising on the case (or the case as amended) and shall—

(a) reverse, affirm or amend the determination in respect of which the case has been stated; or

(b) remit the matter to the magistrates' court, or the Crown Court, with the opinion of the High Court,

and may make such other order in relation to the matter (including as to costs) as it thinks fit.

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(4) Except as provided by the [M14]Administration of Justice Act 1960 (right of appeal to House of Lords in criminal cases), a decision of the High Court under this section is final.**]**

Textual Amendments

F45 S. 28A substituted (27.9.1999) by 1999 c. 22, **ss. 61**, 108(3)(b) (with Sch. 14 para. 7(2))

Marginal Citations

M13 1980 c.43.

M14 1960 c.65.

29 [[F46]Mandatory, prohibiting and quashing orders]

[[F47](1) The orders of mandamus, prohibition and certiorari shall be known instead as mandatory, prohibiting and quashing orders respectively.

(1A) The High Court shall have jurisdiction to make mandatory, prohibiting and quashing orders in those classes of case in which, immediately before 1st May 2004, it had jurisdiction to make orders of mandamus, prohibition and certiorari respectively.**]**

(2) Every such order shall be final, subject to any right of appeal therefrom.

(3) In relation to the jurisdiction of the Crown Court, other than its jurisdiction in matters relating to trial on indictment, the High Court shall have all such jurisdiction to make **[**[F48]mandatory, prohibiting or quashing orders**]** as the High Court possesses in relation to the jurisdiction of an inferior court.

[[F49](3A) The High Court shall have no jurisdiction to make **[**[F48]mandatory, prohibiting or quashing orders**]** in relation to the jurisdiction of a court-martial in matters relating to—

(a) trial by court-martial for an offence, or

(b) appeals from a Standing Civilian Court;

and in this subsection "court-martial" means a court-martial under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.**]**

(4) The power of the High Court under any enactment to require justices of the peace or a judge or officer of a county court to do any act relating to the duties of their respective offices, or to require a magistrates' court to state a case for the opinion of the High Court, in any case where the High Court formerly had by virtue of any enactment jurisdiction to make a rule absolute, or an order, for any of those purposes, shall be exercisable by **[**[F50]mandatory order**]**.

[[F51](5) In any statutory provision—

(a) references to mandamus or to a writ or order of mandamus shall be read as references to a mandatory order;

(b) references to prohibition or to a writ or order of prohibition shall be read as references to a prohibiting order;

(c) references to certiorari or to a writ or order of certiorari shall be read as references to a quashing order; and

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(d) references to the issue or award of a writ of mandamus, prohibition or certiorari shall be read as references to the making of the corresponding mandatory, prohibiting or quashing order.**]**

[[F52](6) In subsection (3) the reference to the Crown Court's jurisdiction in matters relating to trial on indictment does not include its jurisdiction relating to orders under section 17 of the Access to Justice Act 1999.**]**

Textual Amendments

F46 S. 29 sidenote substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 3(e)**

F47 S. 29(1)(1A) substituted (1.5.2004) for s. 29(1) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 3(a)**

F48 Words in s. 29(3)(3A) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 3(b)**

F49 S. 29(3A) inserted (28.2.2002) by 2001 c. 19, s. 23(3); S.I. 2002/439, **art. 2** (subject to art. 3)

F50 Words in s. 29(4) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 3(c)**

F51 S. 29(5) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 3(d)**

F52 S. 29(6) inserted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 23** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)**

30 Injunctions to restrain persons from acting in offices in which they are not entitled to act.

(1) Where a person not entitled to do so acts in an office to which this section applies, the High Court may—

(a) grant an injunction restraining him from so acting; and

(b) if the case so requires, declare the office to be vacant.

(2) This section applies to any substantive office of a public nature and permanent character which is held under the Crown or which has been created by any statutory provision or royal charter.

31 Application for judicial review.

(1) An application to the High Court for one or more of the following forms of relief, namely—

[[F53](a) a mandatory, prohibiting or quashing order;**]**

(b) a declaration or injunction under subsection (2); or

(c) an injunction under section 30 restraining a person not entitled to do so from acting in an office to which that section applies,

shall be made in accordance with rules of court by a procedure to be known as an application for judicial review.

(2) A declaration may be made or an injunction granted under this subsection in any case where an application for judicial review, seeking that relief, has been made and the High Court considers that, having regard to—

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(a) the nature of the matters in respect of which relief may be granted by **[**[F54]mandatory, prohibiting or quashing orders**]**;

(b) the nature of the persons and bodies against whom relief may be granted by such orders; and

(c) all the circumstances of the case,

it would be just and convenient for the declaration to be made or the injunction to be granted, as the case may be.

(3) No application for judicial review shall be made unless the leave of the High Court has been obtained in accordance with rules of court; and the court shall not grant leave to make such an application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

[[F55](4) On an application for judicial review the High Court may award to the applicant damages, restitution or the recovery of a sum due if—

(a) the application includes a claim for such an award arising from any matter to which the application relates; and

(b) the court is satisfied that such an award would have been made if the claim had been made in an action begun by the applicant at the time of making the application.**]**

(5) If, on an application for judicial review seeking **[**[F56]a quashing order**]**, the High Court quashes the decision to which the application relates, the High Court may remit the matter to the court, tribunal or authority concerned, with a direction to reconsider it and reach a decision in accordance with the findings of the High Court.

(6) Where the High Court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant—

(a) leave for the making of the application; or

(b) any relief sought on the application,

if it considers that the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.

(7) Subsection (6) is without prejudice to any enactment or rule of court which has the effect of limiting the time within which an application for judicial review may be made.

Textual Amendments

F53 S. 31(1)(a) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 4(a)**

F54 Words in s. 31(2)(a) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 4(b)**

F55 S. 31(4) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 4(c)**

F56 Words in s. 31(5) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 4(d)**

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VALID FROM 03/11/2008

[F57 31A Transfer of judicial review applications to Upper Tribunal

(1) This section applies where an application is made to the High Court—
  (a) for judicial review, or
  (b) for permission to apply for judicial review.

(2) If Conditions 1, 2, 3 and 4 are met, the High Court must by order transfer the application to the Upper Tribunal.

(3) If Conditions 1, 2 and 4 are met, but Condition 3 is not, the High Court may by order transfer the application to the Upper Tribunal if it appears to the High Court to be just and convenient to do so.

(4) Condition 1 is that the application does not seek anything other than—
  (a) relief under section 31(1)(a) and (b);
  (b) permission to apply for relief under section 31(1)(a) and (b);
  (c) an award under section 31(4);
  (d) interest;
  (e) costs.

(5) Condition 2 is that the application does not call into question anything done by the Crown Court.

(6) Condition 3 is that the application falls within a class specified under section 18(6) of the Tribunals, Courts and Enforcement Act 2007.

(7) Condition 4 is that the application does not call into question any decision made under—
  (a) the Immigration Acts,
  (b) the British Nationality Act 1981 (c. 61),
  (c) any instrument having effect under an enactment within paragraph (a) or (b), or
  (d) any other provision of law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.**]**

Textual Amendments

F57 S. 31A inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 19**, 148; S.I. 2008/2696, **art. 5(a)** (with arts. 3, 4)

Powers

32 Orders for interim payment.

(1) As regards proceedings pending in the High Court, provision may be made by rules of court for enabling the court, in such circumstances as may be prescribed, to make an order requiring a party to the proceedings to make an interim payment of such amount

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as may be specified in the order, with provision for the payment to be made to such other party to the proceedings as may be so specified or, if the order so provides, by paying it into court.

(2) Any rules of court which make provision in accordance with subsection (1) 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 rule-making authority 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 relating to costs.

(5) 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 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.

[[F58]32A Orders for provisional damages for personal injuries.

(1) This section applies to an action for damages for personal injuries in which there is proved or admitted to be a chance that at some definite or indefinite time in the future the injured person will, as a result of the act or omission which gave rise to the cause of action, develop some serious disease or suffer some serious deterioration in his physical or mental condition.

(2) Subject to subsection (4) below, as regards any action for damages to which this section applies in which a judgment is given in the High Court, provision may be made by rules of court for enabling the court, in such circumstances as may be prescribed, to award the injured person—

(a) damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition; and

(b) further damages at a future date if he develops the disease or suffers the deterioration.

(3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the rule-making authority may consider necessary or expedient.

(4) Nothing in this section shall be construed—

(a) as affecting the exercise of any power relating to costs, including any power to make rules of court relating to costs; or

(b) as prejudicing any duty of the court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from any such duty.**]**

Textual Amendments

F58 S. 32A inserted by Administration of Justice Act 1982 (c. 53, SIF 37), **ss. 6(1)**, 73(2)

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Modifications etc. (not altering text)

C23 S. 32A amended by Administration of Justice Act 1982 (c. 53, SIF 37), **ss. 6(3)**, 73(2)

[F59 33 Powers of High 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 High 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 paragraph (a), and the carrying out of any experiment on or with any such property.

F60 (2) On the application, in accordance with rules of court, of a person who appears to the High Court to be likely to be a party to subsequent proceedings in that court F61. . . the High Court shall, in such circumstances as may be specified in the rules, have power to order a person who appears to the court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim—

(a) to disclose whether those documents are in his possession, custody or power; and

(b) to produce such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order—

(i) to the applicant's legal advisers; or

(ii) to the applicant's legal advisers and any medical or other professional adviser of the applicant; or

(iii) if the applicant has no legal adviser, to any medical or other professional adviser of the applicant.]

Textual Amendments

F59 S. 33 repealed so far as it relates to county courts by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

F60 Power to amend conferred on s. 33(2) (27.4.1997) by 1997 c. 12, **s. 8(1)**; S.I.1997/841, **art. 3(a)**

F61 Words in s. 33(2) omitted (26.4.1999) by virtue of S.I. 1998/2940, **arts. 1**, 5(a); S.I. 1998/3132

Modifications etc. (not altering text)

C24 S.33 extended by SI 1988/593, art. 4(2)

C25 S.33 extended (temp. for a period of 12 months beginning with 22.3.90: SI 1990/675; and for a further period of 12 months beginning with 22.3.1991: SI 1991/549, 779) by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 13(8), **Sch. 4 para. 9(6)**

S. 33 extended (*prosp.*) by 2000 c. 11, ss. 23, 128, **Sch. 4 para. 13(6)(b)**

S. 33 extended (17.4.2001) by S.I. 2001/953, **art. 4(2)**

S. 33 extended (13.12.2001) by S.I. 2001/3927, **art. 12**

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[F62 34 Power of High Court to order disclosure of documents, inspection of property etc. in proceedings for personal injuries or death.

F63 (1) . . . . . .

(2) On the application, in accordance with rules of court, of a party to any proceedings [F64 to which this section applies], the High Court shall, in such circumstances as may be specified in the rules, have power to order a person who is not a party to the proceedings and who appears to the court to be likely to have in his possession, custody or power any documents which are relevant to an issue arising out of the said claim—

(a) to disclose whether those documents are in his possession, custody or power; and

(b) to produce such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order—

(i) to the applicant's legal advisers; or

(ii) to the applicant's legal advisers and any medical or other professional adviser of the applicant; or

(iii) if the applicant has no legal adviser, to any medical or other professional adviser of the applicant.

(3) On the application, in accordance with rules of court, of a party to any proceedings [to which this section applies], 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 is not the property of, or in the possession of, any party to the proceedings but which is the subject-matter of the proceedings or as to which any question arises in the proceedings;

(b) the taking of samples of any such property as is mentioned in paragraph (a) and the carrying out of any experiment on or with any such property.

(4) The preceding provisions of this section are without prejudice to the exercise by the High Court of any power to make orders which is exercisable apart from those provisions.]

Textual Amendments

F62 S. 34 repealed so far as it relates to county courts by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

F63 S. 34(1) omitted (26.4.1999) by virtue of S.I. 1998/2940, **arts. 1**, 5(b)(i); S.I. 1998/3132

F64 By S.I. 1998/2940, **art. 5(b)(ii)** it is provided that in s. 34 in each subsection (2) and (3) the words "to which this subsection applies" are to be omitted

[F65 35 Provisions supplementary to ss. 33 and 34.

(1) The High Court shall not make an order under section 33 or 34 if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.

(2) Rules of court may make provision as to the circumstances in which an order under section 33 or 34 can be made; and any rules making such provision may include such

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incidental, supplementary and consequential provisions as the rule-making authority may consider necessary or expedient.

(3) Without prejudice to the generality of subsection (2), rules of court shall be made for the purpose of ensuring that the costs of and incidental to proceedings for an order under section 33(2) or 34 incurred by the person against whom the order is sought shall be awarded to that person unless the court otherwise directs.

(4) Sections 33(2) and 34 and this section bind the Crown; and section 33(1) binds the Crown so far as it relates to property as to which it appears to the court that it may become the subject-matter of subsequent proceedings involving a claim in respect of personal injuries to a person or in respect of a person's death.

In this subsection references to the Crown do not include references to Her Majesty in Her private capacity or to Her Majesty in right of Her Duchy of Lancaster or to the Duke of Cornwall.

(5) In sections **[**[F66]32A,**]** 33 and 34 and this section—

"property" includes any land, chattel or other corporeal property of any description;

"personal injuries" includes any disease and any impairment of a person's physical or mental condition.**]**

Textual Amendments

F65 S. 35 repealed so far as it relates to county courts by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

F66 "32A," inserted by Administration of Justice Act 1982 (c. 53, SIF 37), **ss. 6(2)**, 73(2)

[[F67]**35A Power of High Court to award interest on debts and damages.**

(1) Subject to rules of court, in proceedings (whenever instituted) before the High Court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as rules of court may provide, on all or any part of the debt or damages in respect of which judgment is given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—

(a) in the case of any sum paid before judgment, the date of the payment; and

(b) in the case of the sum for which judgment is given, the date of the judgment.

(2) In relation to a judgment given for damages for personal injuries or death which exceed £200 subsection (1) shall have effect—

(a) with the substitution of "shall be included" for "may be included"; and

(b) with the addition of "unless the court is satisfied that there are special reasons to the contrary" after "given", where first occurring.

(3) Subject to rules of court, where—

(a) there are proceedings (whenever instituted) before the High Court for the recovery of a debt; and

(b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),

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the defendant shall be liable to pay the plaintiff simple interest at such rate as the court thinks fit or as rules of court may provide on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.

(4) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.

(5) Without prejudice to the generality of section 84, rules of court may provide for a rate of interest by reference to the rate specified in section 17 of the Judgments Act 1838 as that section has effect from time to time or by reference to a rate for which any other enactment provides.

(6) Interest under this section may be calculated at different rates in respect of different periods.

(7) In this section "plaintiff" means the person seeking the debt or damages and "defendant" means the person from whom the plaintiff seeks the debt or damages and "personal injuries" includes any disease and any impairment of a person's physical or mental condition.

(8) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.**]**

Textual Amendments

F67 S. 35A inserted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 15(1), **Sch. 1 Pt. I**

36 Subpoena issued by High Court to run throughout United Kingdom.

(1) If in any cause or matter in the High Court it appears to the court that it is proper to compel the personal attendance at any trial of a witness who may not be within the jurisdiction of the court, it shall be lawful for the court, if in the discretion of the court it seems fit so to do, to order that a writ of subpoena ad testificandum or writ of subpoena duces tecum shall issue in special form commanding the witness to attend the trial wherever he shall be within the United Kingdom; and the service of any such writ in any part of the United Kingdom shall be as valid and effectual for all purposes as if it had been served within the jurisdiction of the High Court.

(2) Every such writ shall have at its foot a statement to the effect that it is issued by the special order of the High Court, and no such writ shall issue without such a special order.

(3) If any person served with a writ issued under this section does not appear as required by the writ, the High Court, on proof to the satisfaction of the court of the service of the writ and of the default, may transmit a certificate of the default under the seal of the court or under the hand of a judge of the court—

(a) if the service was in Scotland, to the Court of Session at Edinburgh; or

(b) if the service was in Northern Ireland, to the High Court of Justice in Northern Ireland at Belfast;

and the court to which the certificate is sent shall thereupon proceed against and punish the person in default in like manner as if that person had neglected or refused to appear in obedience to process issued out of that court.

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(4) No court shall in any case proceed against or punish any person for having made such default as aforesaid unless it is shown to the court that a reasonable and sufficient sum of money to defray

[[F68](a) the expenses of coming and attending to give evidence and of returning from giving evidence; and

(b) any other reasonable expenses which he has asked to be defrayed in connection with his evidence,

was tendered to him at the time when the writ was served upon him.**]**

(5) Nothing in this section shall affect—

(a) the power of the High Court to issue a commission for the examination of witnesses out of the jurisdiction of the court in any case in which, notwithstanding this section, the court thinks fit to issue such a commission; or

(b) the admissibility at any trial of any evidence which, if this section had not been enacted, would have been admissible on the ground of a witness being outside the jurisdiction of the court.

(6) In this section references to attendance at a trial include references to attendance before an examiner or commissioner appointed by the High Court in any cause or matter in that court, including an examiner or commissioner appointed to take evidence outside the jurisdiction of the court.

Textual Amendments

F68 Words in s. 36(4) substituted (*1. 4. 1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 13**; S.I.1991/608, art. 2, **Sch.**

Modifications etc. (not altering text)

C26 S. 36 extended by Medical Act 1983 (c. 54, SIF 83:1), s. 43, **Sch. 4 para. 2(2)**

C27 S. 36 extended by Dentists Act 1984 (c. 24, SIF 83:1), ss. 33, 50(2), **Sch. 3 para. 3**

C28 S. 36 extended by Administration of Justice Act 1985 (c. 61, SIF 98:1), s. 30, **Sch. 4 para. 2(2)**

C29 S. 36 applied by Opticians Act 1989 (c. 44, SIF 83:1), **s. 21(2)**
S. 36 applied (19.6.1997) by 1997 c. 24, ss. 10(8), 24(2), **Sch. 2 para. 1(c)**
S. 36 applied by Medical Act 1983 (c. 54), Sch. 4 para. 2(2) (as inserted by The Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3155), **art. 14** (with transitional provisions in art. 16(2), Sch. 2) (the amendment coming into force in accordance with art. 1(2)(3) of the amending S.I.))

C30 S. 36 applied (prosp.) by Health and Social Care Act 2008 (c. 14), **ss. 106**, 170

C31 S. 36(1)–(4) modified by Mental Health Act 1983 (c. 20, SIF 85), s. 104(4), **Sch. 5 para. 43(2)**

37 Powers of High Court with respect to injunctions and receivers.

(1) The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.

(2) Any such order may be made either unconditionally or on such terms and conditions as the court thinks just.

(3) The power of the High Court under subsection (1) to grant an interlocutory injunction restraining a party to any proceedings from removing from the jurisdiction of the High Court, or otherwise dealing with, assets located within that jurisdiction shall be

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exercisable in cases where that party is, as well as in cases where he is not, domiciled, resident or present within that jurisdiction.

(4) The power of the High Court to appoint a receiver by way of equitable execution shall operate in relation to all legal estates and interests in land; and that power—

(a) may be exercised in relation to an estate or interest in land whether or not a charge has been imposed on that land under section 1 of the [M15]Charging Orders Act 1979 for the purpose of enforcing the judgment, order or award in question; and

(b) shall be in addition to, and not in derogation of, any power of any court to appoint a receiver in proceedings for enforcing such a charge.

(5) Where an order under the said section 1 imposing a charge for the purpose of enforcing a judgment, order or award has been, or has effect as if, registered under section 6 of the [M16]Land Charges Act 1972, subsection (4) of the said section 6 (effect of non-registration of writs and orders registrable under that section) shall not apply to an order appointing a receiver made either—

(a) in proceedings for enforcing the charge; or

(b) by way of equitable execution of the judgment, order or award or, as the case may be, of so much of it as requires payment of moneys secured by the charge.

Marginal Citations

M15 1979 c, 53.

M16 1972 c. 61.

38 Relief against forfeiture for non-payment of rent.

(1) In any action in the High Court for the forfeiture of a lease for non-payment of rent, the court shall have power to grant relief against forfeiture in a summary manner, and may do so subject to the same terms and conditions as to the payment of rent, costs or otherwise as could have been imposed by it in such an action immediately before the commencement of this Act.

(2) Where the lessee or a person deriving title under him is granted relief under this section, he shall hold the demised premises in accordance with the terms of the lease without the necessity for a new lease.

39 Execution of instrument by person nominated by High Court.

(1) Where the High Court has given or made a judgment or order directing a person to execute any conveyance, contract or other document, or to indorse any negotiable instrument, then, if that person—

(a) neglects or refuses to comply with the judgment or order; or

(b) cannot after reasonable inquiry be found,

the High Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed, or that the negotiable instrument shall be indorsed, by such person as the court may nominate for that purpose.

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(2) A conveyance, contract, document or instrument executed or indorsed in pursuance of an order under this section shall operate, and be for all purposes available, as if it had been executed or indorsed by the person originally directed to execute or indorse it.

40 Attachment of debts.

(1) Subject to any order for the time being in force under subsection (4), this section applies to **[**[F69]any deposit account, and any withdrawable share account, with a deposit-taker**]**

(2) In determining whether, for the purposes of the jurisdiction of the High Court to attach debts for the purpose of satisfying judgments or orders for the payment of money, a sum standing to the credit of a person in an account to which this section applies is a sum due or accruing to that person and, as such, attachable in accordance with rules of court, any condition mentioned in subsection (3) which applies to the account shall be disregarded.

(3) Those conditions are—

(a) any condition that notice is required before any money or share is withdrawn;

(b) any condition that a personal application must be made before any money or share is withdrawn;

(c) any condition that a deposit book or share-account book must be produced before any money or share is withdrawn; or

(d) any other prescribed condition.

(4) The Lord Chancellor may by order make such provision as he thinks fit, by way of amendment of this section or otherwise, for all or any of the following purposes, namely—

(a) including in, or excluding from, the accounts to which this section applies accounts of any description specified in the order;

(b) excluding from the accounts to which this section applies all accounts with any particular **[**[F70]deposit-taker**]** so specified or with any **[**[F70]deposit-taker**]** of a description so specified.

(5) Any order under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

[[F71](6) "Deposit-taker" means a person who may, in the course of his business, lawfully accept deposits in the United Kingdom.**]**

[[F72](7) Subsection (6) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.**]**

Textual Amendments

F69 Words substituted for words and paras. (a)(b) in s. 40(1) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 290(2)

F70 Words in s. 40(4)(b) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 290(3)

F71 S. 40(6) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 290(4)

F72 S. 40(7) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 290(5)

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[F73 40A Administrative and clerical expenses of garnishees.

[Where an [F75 interim third party debt order] made in the exercise of the jurisdiction F74 (1) mentioned in subsection (2) of the preceding section is served on [F76 a deposit-taker, it] may, subject to the provisions of this section, deduct from the relevant debt or debts an amount not exceeding the prescribed sum towards [F77 its administrative and clerical expenses] in complying with the order; and the right F78 . . . to make a deduction under this subsection shall be exercisable as from the time the [F75 interim third party debt order] is served on it.

(1A) In subsection (1) "the relevant debt or debts", in relation to an [F75 interim third party debt order] served on [F79 a deposit-taker], means the amount, as at the time the order is served on [F80 it], of the debt or debts of which the whole or a part is expressed to be attached by the order.

(1B) A deduction may be made under subsection (1) in a case where the amount referred to in subsection (1A) is insufficient to cover both the amount of the deduction and the amount of the judgment debt and costs in respect of which the attachment was made, notwithstanding that the benefit of the attachment to the creditor is reduced as a result of the deduction.]

(2) [F81 An amount may not in pursuance of subsection (1)] be deducted or, as the case may be, retained in a case where, by virtue of [F82 section 346 of the Insolvency Act M17 1986] or [F83 section] [F84 183 of the Insolvency Act 1986] or otherwise, the creditor is not entitled to retain the benefit of the attachment.

(3) In this section—

[F85 "deposit-taker" has the given by section 40(6);] and

"prescribed" means prescribed by an order made by the Lord Chancellor.

(4) An order under this section—

(a) may make different provision for different cases; . . . F86

(b) without prejudice to the generality of paragraph (*a*) of this subsection, may prescribe sums differing according to the amount due under the judgment or order to be satisfied.

[F87 (c) may provide for this section not to apply to [F88 deposit-takers] of any prescribed description.]

(5) Any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F73 S. 40A inserted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 55(1), **Sch. 4 Pt. I**

F74 S. 40A(1)(1A)(1B) substituted for s. 40A(1) by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(2), 69(5), **Sch. 9 para. 11(2)**

F75 Words in s. 40A(1)(1A) substituted (25.3.2002) by The Civil Procedure (Modification of Enactments) Order 2002 (S.I. 2002/439), **art. 6**

F76 Words in s. 40A(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(2)(a)

F77 Words in s. 40A(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(2)(b)

F78 Words in s. 40A(1) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(2)(c)

F79 Words in s. 40A(1A) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(3)(a)

F80 Words in s. 40A(1A) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(3)(b)

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F81 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 37), **ss. 52(3)** 69(5), Sch. 9 para. 11(2)

F82 Words substituted by virtue of Insolvency Act 1985 (c. 65, SIF 66), **s. 235(1) Sch. 8 para. 35** and Insolvency Act 1986 (c.45, SIF 66), s. 439(2), Sch. 11 para. 9, **Sch. 14**

F83 Word substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), ss. 21, 23, 30, 31(8), **Sch. 2**

F84 Words substituted by virtue of Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), ss. 21, 23, 30, 31(8), **Sch. 2** and Insolvency Act 1986 (c. 45, SIF 66), s. 439(2), **Sch. 14**

F85 Definition of
"deposit-taker"
in s. 40A(3) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(4)

F86 Word repealed by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(4), 67(2), 69(5), Sch. 8 Pt. II, **Sch. 9 para. 11(2)**

F87 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(4), 69(5), **Sch. 9 para. 11(2)**

F88 Words in s. 40A(4)(c) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 291(5)

Marginal Citations

M17 1986 c.45**(66)**

41 Wards of court.

(1) Subject to the provisions of this section, no minor shall be made a ward of court except by virtue of an order to that effect made by the High Court.

(2) Where an application is made for such an order in respect of a minor, the minor shall become a ward of court on the making of the application, but shall cease to be a ward of court at the end of such period as may be prescribed unless within that period an order has been made in accordance with the application.

[[F89](2A) Subsection (2) does not apply with respect to a child who is the subject of a care order (as defined by section 105 of the Children Act 1989).**]**

(3) The High Court may, either upon an application in that behalf or without such an application, order that any minor who is for the time being a ward of court shall cease to be a ward of court.

Textual Amendments

F89 S. 41(2A) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 45(2), **Sch. 14 para. 1(1)**; S.I. 1991/828, **art. 3(2)**

42 Restriction of vexatious legal proceedings.

(1) If, on an application made by the Attorney General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground—

(a) instituted vexatious **[**[F90]civil**]** proceedings, whether in the High Court or any inferior court, and whether against the same person or against different persons; or

(b) made vexatious applications in any **[**[F90]civil**]** proceedings, whether in the High Court or any inferior court, and whether instituted by him or another, **[**[F91]or

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(c) instituted vexatious prosecutions (whether against the same person or different persons),**]**

the court may, after hearing that person or giving him an opportunity of being heard, **[**[F92]make a civil proceedings order, a criminal proceedings order or an all proceedings order.**]**

[[F93](1A) In this section—

"civil proceedings order" means an order that—

(a) no civil proceedings shall without the leave of the High Court be instituted in any court by the person against whom the order is made;

(b) any civil proceedings instituted by him in any court before the making of the order shall not be continued by him without the leave of the High Court; and

(c) no application (other than one for leave under this section) shall be made by him, in any civil proceedings instituted in any court by any person, without the leave of the High Court;

"criminal proceedings order" means an order that—

(a) no information shall be laid before a justice of the peace by the person against whom the order is made without the leave of the High Court; and

(b) no application for leave to prefer a bill of indictment shall be made by him without the leave of the High Court; and

"all proceedings order" means an order which has the combined effect of the two other orders.**]**

(2) An order under subsection (1) may provide that it is to cease to have effect at the end of a specified period, but shall otherwise remain in force indefinitely.

(3) Leave for the institution or continuance of, or for the making of an application in, any **[**[F94]civil**]** proceedings by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the High Court is satisfied that the proceedings or application are not an abuse of the process of the court in question and that there are reasonable grounds for the proceedings or application.

[[F95](3A) Leave for the laying of an information or for an application for leave to prefer a bill of indictment by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the High Court is satisfied that the institution of the prosecution is not an abuse of the criminal process and that there are reasonable grounds for the institution of the prosecution by the applicant.**]**

(4) No appeal shall lie from a decision of the High Court refusing leave **[**[F96]required by virtue of this section**]**.

(5) A copy of any order made under subsection (1) shall be published in the London Gazette.

Textual Amendments

F90 Word substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 24(2)**(*a*)

F91 S. 42(1)*(c)* and word "or" preceding it inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s.24(2)**(*b*)

F92 Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 24(2)**(*c*)

F93 S. 42(1A) inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 24(3)**

F94 Word substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 24(4)**

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F95 S. 42(3A) inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39), **s. 24(5)**
F96 Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 24(6)**

Modifications etc. (not altering text)
C32 S. 42 amended by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s.24(7)**

43 Power of High Court to vary sentence on [F97application for quashing order].

(1) Where a person who has been sentenced for an offence—
(a) by a magistrates' court; or
(b) by the Crown Court after being convicted of the offence by a magistrates' court and committed to the Crown Court for sentence; or
(c) by the Crown Court on appeal against conviction or sentence,

applies to the High Court in accordance with section 31 for an **[**F98a quashing order**]** to remove the proceedings of the magistrates' court or the Crown Court into the High Court, then, if the High Court determines that the magistrates' court or the Crown Court had no power to pass the sentence, the High Court may, instead of quashing the conviction, amend it by substituting for the sentence passed any sentence which the magistrates' court or, in a case within paragraph (b), the Crown Court had power to impose.

(2) Any sentence passed by the High Court by virtue of this section in substitution for the sentence passed in the proceedings of the magistrates' court or the Crown Court shall, unless the High Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings; but in computing the term of the sentence, any time during which the offender was released on bail in pursuance of section 37(1)(d) of the M18Criminal Justice Act 1948 shall be disregarded.

(3) Subsections (1) and (2) shall, with the necessary modifications, apply in relation to any order of a magistrates' court or the Crown Court which is made on, but does not form part of, the conviction of an offender as they apply in relation to a conviction and sentence.

Textual Amendments
F97 Words in s. 43 sidenote substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 5(b)**
F98 Words in s. 43(1) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 5(a)**

Marginal Citations
M18 1948 c. 58.

[F99**43ZA**Power of High Court to vary committal in default.

(1) Where the High Court quashes the committal of a person to prison or detention by a magistrates' court or the Crown Court for—
(a) a default in paying a sum adjudged to be paid by a conviction; or
(b) want of sufficient distress to satisfy such a sum,

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the High Court may deal with the person for the default or want of sufficient distress in any way in which the magistrates' court or Crown Court would have power to deal with him if it were dealing with him at the time when the committal is quashed.

(2) If the High Court commits him to prison or detention, the period of imprisonment or detention shall, unless the High Court otherwise directs, be treated as having begun when the person was committed by the magistrates' court or the Crown Court (except that any time during which he was released on bail shall not be counted as part of the period).**]**

Textual Amendments

F99 S. 43ZA inserted (27.9.1999) by 1999 c. 22, **ss. 62**, 108(3)(b) (with Sch. 14 para. 7(2))

[F100 43A Specific powers of arbitrator exercisable by High Court.

In any cause or matter proceeding in the High Court in connection with any contract incorporating an arbitration agreement which confers specific powers upon the arbitrator, the High Court may, if all parties to the agreement agree, exercise any such powers.**]**

Textual Amendments

F100 S. 43A inserted (*1. 4. 1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 5), **s. 100**; S.I. 1991/608, art. 2, **Sch.**

Other provisions

44 Extraordinary functions of judges of High Court.

(1) Subject to the provisions of this Act, every judge of the High Court shall be—

(a) liable to perform any duty not incident to the administration of justice in any court of law which a judge of the High Court was, as the successor of any judge formerly subject to that duty, liable to perform immediately before the commencement of this Act by virtue of any statute, law or custom; and

(b) empowered to exercise any authority or power not so incident which a judge of the High Court was, as the successor of any judge formerly possessing that authority or power, empowered to exercise immediately before that commencement by virtue of any statute, law or custom.

(2) Any such duty, authority or power which immediately before commencement of this Act was imposed or conferred by any statute, the law or custom on the Lord Chancellor, the Lord Chief Justice or the Master of the Rolls shall continue to be performed and exercised by them respectively.

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THE CROWN COURT

45 General jurisdiction of Crown Court.

(1) The Crown Court shall be a superior court of record.

(2) Subject to the provisions of this Act, there shall be exercisable by the Crown Court—
  (a) all such appellate and other jurisdiction as is conferred on it by or under this or any other Act; and
  (b) all such other jurisdiction as was exercisable by it immediately before the commencement of this Act.

(3) Without prejudice to subsection (2), the jurisdiction of the Crown Court shall include all such powers and duties as were exercisable or fell to be performed by it immediately before the commencement of this Act.

(4) Subject to section 8 of the [M19]Criminal Procedure (Attendance of Witnesses) Act 1965 (substitution in criminal cases of procedure in that Act for procedure by way of subpoena) and to any provision contained in or having effect under this Act, the Crown Court shall, in relation to the attendance and examination of witnesses, any contempt of court, the enforcement of its orders and all other matters incidental to its jurisdiction, have the like powers, rights, privileges and authority as the High Court.

(5) The specific mention elsewhere in this Act of any jurisdiction covered by subsections (2) and (3) shall not derogate from the generality of those subsections.

Marginal Citations
M19 1965 c. 69.

46 Exclusive jurisdiction of Crown Court in trial on indictment.

(1) All proceedings on indictment shall be brought before the Crown Court.

(2) The jurisdiction of the Crown Court with respect to proceedings on indictment shall include jurisdiction in proceedings on indictment for offences wherever committed, and in particular proceedings on indictment for offences within the jurisdiction of the Admiralty of England.

[[F101]46A Offences committed on ships and abroad.

(1) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.]

Textual Amendments
F101 S. 46A inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(4)** (with s. 312(1))

Status: *Point in time view as at 01/09/2004. This version of this Act contains provisions that are not valid for this point in time.*
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[F102]47 . . . . . .

Textual Amendments

F102 S. 47 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

48 Appeals to Crown Court.

(1) The Crown Court may, in the course of hearing any appeal, correct any error or mistake in the order or judgment incorporating the decision which is the subject of the appeal.

(2) On the termination of the hearing of an appeal the Crown Court—

(a) may confirm, reverse or vary **[**[F103]any part of the decision appealed against, including a determination not to impose a separate penalty in respect of an offence**]**; or

(b) may remit the matter with its opinion thereon to the authority whose decision is appealed against; or

(c) may make such other order in the matter as the court thinks just, and by such order exercise any power which the said authority might have exercised.

(3) Subsection (2) has effect subject to any enactment relating to any such appeal which expressly limits or restricts the powers of the court on the appeal.

(4) **[**[F104]Subject to section 11(6) of the Criminal Appeal Act 1995, if**]**the appeal is against a conviction or a sentence, the preceding provisions of this section shall be construed as including power to award any punishment, whether more or less severe than that awarded by the magistrates' court whose decision is appealed against, if that is a punishment which that magistrates' court might have awarded.

(5) This section applies whether or not the appeal is against the whole of the decision.

(6) In this section "sentence" includes any order made by a court when dealing with an offender, including—

(a) a hospital order under **[**[F105]Part III of the Mental Health Act 1983**]**, with or without **[**[F106]a restriction order, and an interim hospital order under **[**[F105]that Act**]]**; and

(b) a recommendation for deportation made when dealing with an offender.

[[F107](7) The fact that an appeal is pending against an interim hospital order under **[**[F108]the said Act of 1983**]** shall not affect the power of the magistrates' court that made it to renew or terminate the order or to deal with the appellant on its termination; and where the Crown Court quashes such an order but does not pass any sentence or make any other order in its place the Court may direct the appellant to be kept in custody or released on bail pending his being dealt with by that magistrates' court.

(8) Where the Crown Court makes an interim hospital order by virtue of subsection (2)—

(a) the power of renewing or terminating the order and of dealing with the appellant on its termination shall be exercisable by the magistrates' court whose decision is appealed against and not by the Crown Court; and

(b) that magistrates' court shall be treated for the purposes of **[**[F109]section 38(7) of the said Act of 1983**]** (absconding offenders) as the court that made the order.**]**

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Textual Amendments

F103 Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 156, **Sch. 8 para. 16**

F104 Words in s. 48(4) substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para.14**; S.I. 1997/402. art.3(d)

F105 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 43, **Sch. 4 para. 58**(*a*)

F106 Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(1), **Sch. 3 para. 61**(*a*)

F107 S. 48(7)(8) inserted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **Sch. 3 para. 61**(*b*)

F108 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 43, **Sch. 4 para. 58**(*b*)

F109 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 43, **Sch. 4 para. 58**(*c*)

General Provisions

Law and equity

49 Concurrent administration of law and equity.

(1) Subject to the provisions of this or any other Act, every court exercising jurisdiction in England or Wales in any civil cause or matter shall continue to administer law and equity on the basis that, wherever there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.

(2) Every such court shall give the same effect as hitherto—

(a) to all equitable estates, titles, rights, reliefs, defences and counterclaims, and to all equitable duties and liabilities; and

(b) subject thereto, to all legal claims and demands and all estates, titles, rights, duties, obligations and liabilities existing by the common law or by any custom or created by any statute,

and, subject to the provisions of this or any other Act, shall so exercise its jurisdiction in every cause or matter before it as to secure that, as far as possible, all matters in dispute between the parties are completely and finally determined, and all multiplicity of legal proceedings with respect to any of those matters is avoided.

(3) Nothing in this Act shall affect the power of the Court of Appeal or the High Court to stay any proceedings before it, where it thinks fit to do so, either of its own motion or on the application of any person, whether or not a party to the proceedings.

50 Power to award damages as well as, or in substitution for, injunction or specific performance.

Where the Court of Appeal or the High Court has jurisdiction to entertain an application for an injunction or specific performance, it may award damages in addition to, or in substitution for, an injunction or specific performance.

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Costs

[F110 51 Costs in civil division of Court of Appeal, High Court and county courts.

(1) Subject to the provisions of this or any other enactment and to rules of court, the costs of and incidental to all proceedings in—
   (a) the civil division of the Court of Appeal;
   (b) the High Court; and
   (c) any county court,

   shall be in the discretion of the court.

(2) Without prejudice to any general power to make rules of court, such rules may make provision for regulating matters relating to the costs of those proceedings including, in particular, prescribing scales of costs to be paid to legal or other representatives **[**F111 or for securing that the amount awarded to a party in respect of the costs to be paid by him to such representatives is not limited to what would have been payable by him to them if he had not been awarded costs.**]**.

(3) The court shall have full power to determine by whom and to what extent the costs are to be paid.

(4) In subsections (1) and (2) "proceedings" includes the administration of estates and trusts.

(5) Nothing in subsection (1) shall alter the practice in any criminal cause, or in bankruptcy.

(6) In any proceedings mentioned in susbsection (1), the court may disallow, or (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with rules of court.

(7) In subsection (6), "wasted costs" means any costs incurred by a party—
   (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
   (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

(8) Where—
   (a) a person has commenced proceedings in the High Court; but
   (b) those proceedings should, in the opinion of the court, have been commenced in a county court in accordance with any provision made under section 1 of the Courts and Legal Services Act 1990 or by or under any other enactment,

   the person responsible for determining the amount which is to be awarded to that person by way of costs shall have regard to those circumstances.

(9) Where, in complying with subsection (8), the responsible person reduces the amount which would otherwise be awarded to the person in question—
   (a) the amount of that reduction shall not exceed 25 per cent; and
   (b) on any taxation of the costs payable by that person to his legal representative, regard shall be had to the amount of the reduction.

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(10) The Lord Chancellor may by order amend subsection (9)(a) by substituting, for the percentage for the time being mentioned there, a different percentage.

(11) Any such order shall be made by statutory instrument and may make such transitional or incidental provision as the Lord Chancellor considers expedient.

(12) No such statutory instrument shall be made unless a draft of the instrument has been approved by both Houses of Parliament.

(13) In this section "legal or other representative", in relation to a party to proceedings, means any person exercising a right of audience or right to conduct litigation on his behalf.**]**

Textual Amendments

F110 S. 51 commencing "Subject to the provisions of this or any other enactment" substituted (1.10.1991) for s. 51 commencing "Subject to the provisions of this or any other Act" by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 4(1)**; S.I. 1991/1883, **art. 2**

F111 Words in s. 51(2) inserted (2.6.2003) by 1999 c. 22, s. 31 (with Sch. 14 para. 7(2)); S.I. 2003/1241, **art. 2**

52 Costs in Crown Court.

(1) **[**[F112]Rules of court**]** may authorise the Crown Court to award costs and may regulate any matters relating to costs of proceedings in that court, and in particular may make provision as to—

(a) any discretion to award costs;

(b) the taxation of costs, or the fixing of a sum instead of directing a taxation, and as to the officer of the court or other person by whom costs are to be taxed;

(c) a right of appeal from any decision on the taxation of costs, whether to a Taxing Master of the Supreme Court or to any other officer or authority;

(d) a right of appeal to the High Court, subject to any conditions specified in the rules, from any decision on an appeal brought by virtue of paragraph (c);

(e) the enforcement of an order for costs; and

(f) the charges or expenses or other disbursements which are to be treated as costs for the purposes of the rules.

(2) The costs to be dealt with by rules made in pursuance of this section may, where an appeal is brought to the Crown Court from the decision of a magistrates' court, or from the decision of any other court or tribunal, include costs in the proceedings in that court or tribunal.

[[F113](2A) Subsection (6) of section 51 applies in relation to any civil proceedings in the Crown Court as it applies in relation to any proceedings mentioned in subsection (1) of that section**]**

(3) Nothing in this section authorises the making of rules about the payment of costs out of central funds, whether under the **[**[F114]Part II of the Prosecution of Offences Act 1985**]** or otherwise, but rules made in pursuance of this section may make any such provision as **[**[F115]in relation to costs of proceedings in the Crown Court, is contained in section 18 of that Act or in regulations made under section 19 of that Act (awards of party and party costs in criminal proceedings)**]**.

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(4) Rules made in pursuance of this section may amend or repeal all or any of the provisions of any enactment about costs between party and party in criminal or other proceedings in the Crown Court, being an enactment passed before, or contained in, the **[**[F116]Part II of the Prosecution of Offences Act 1985**]**.

(5) Rules made in pursuance of this section shall have effect subject to the provisions of section 41 of, and Schedule 9 to, the [M20]Administration of Justice Act 1970 (method of enforcing orders for costs).

Textual Amendments

F112 Words in s. 52(1) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 12(a)** (with art. 2(2))

F113 S. 52(2A) inserted (1.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 4(2)**; S.I. 1991/1883, **art. 2**

F114 Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 para. 9**

F115 Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 para. 9**

F116 Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), **Sch. 1 para. 10**

Marginal Citations

M20 1970 c. 31.

PART III

PRACTICE AND PROCEDURE

THE COURT OF APPEAL

Distribution of business

53 Distribution of business between civil and criminal divisions.

(1) Rules of court may provide for the distribution of business in the Court of Appeal between the civil and criminal divisions, but subject to any such rules business shall be distributed in accordance with the following provisions of this section.

(2) The criminal division of the Court of Appeal shall exercise—

(a) all jurisdiction of the Court of Appeal under Parts I and II of the [M21]Criminal Appeal Act 1968;

(b) the jurisdiction of the Court of Appeal under section 13 of the [M22]Administration of Justice Act 1960 (appeals in cases of contempt of court) in relation to appeals from orders and decisions of the Crown Court;

(c) all other jurisdiction expressly conferred on that division by this or any other Act; and

(d) the jurisdiction to order the issue of writs of venire de novo.

(3) The civil division of the Court of Appeal shall exercise the whole of the jurisdiction of that court not exercisable by the criminal division.

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(4) Where any class of proceedings in the Court of Appeal is by any statutory provision assigned to the criminal division of that court, rules of court may provide for any enactment relating to—

(a) appeals to the Court of Appeal under Part I of the Criminal Appeal Act 1968; or

(b) any matter connected with or arising out of such appeals,

to apply in relation to proceedings of that class or, as the case may be, to any corresponding matter connected with or arising out of such proceedings, as it applies in relation to such appeals or, as the case may be, to the relevant matter within paragraph (b), with or without prescribed modifications in either case.

Marginal Citations

M21 1968 c. 19.

M22 1960 c. 65.

Composition of court

54 Court of civil division.

(1) This section relates to the civil division of the Court of Appeal; and in this section "court", except where the context otherwise requires, means a court of that division.

[[F117](2) Subject as follows, a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of one or more judges.

(3) The Master of the Rolls may, with the concurrence of the Lord Chancellor, give (or vary or revoke) directions about the minimum number of judges of which a court must consist if it is to be duly constituted for the purpose of any description of proceedings.

(4) The Master of the Rolls, or any Lord Justice of Appeal designated by him, may (subject to any directions under subsection (3)) determine the number of judges of which a court is to consist for the purpose of any particular proceedings.

(4A) The Master of the Rolls may give directions as to what is to happen in any particular case where one or more members of a court which has partly heard proceedings are unable to continue.**]**

(5) Where—

(a) an appeal has been heard by a court consisting of an even number of judges; and

(b) the members of the court are equally divided,

the case shall, on the application of any part to the appeal, be re-argued before and determined by an uneven number of judges not less than three, before any appeal to the House of Lords.

[F118](6) . . . . . .

[F118](7) . . . . . .

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(8) Subsections (1) and (2) of section 70 (assessors in the High Court shall apply in relation to causes and matters before the civil division of the Court of Appeal as they apply in relation to causes and matters before the High Court.

(9) Subsections (3) and (4) of section 70 (scientific advisers to assist the Patents Court in proceedings under the [M23]Patents Act 1949 and the [M24]Patents Act 1977) shall apply in relation to the civil division of the Court of Appeal and proceedings on appeal from any decision of the Patents Court in proceedings under those Acts as they apply in relation to the Patents Court and proceedings under those Acts.

[F118](10) . . . . . .

Textual Amendments

F117 S. 54(2)-(4A) substituted for s. 54(2)-(4) (27.9.1999) by 1999 c. 22, **ss. 59**, 108(3)(b) (with Sch. 14 para. 7(2))

F118 S. 54(6)(7)(10) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

Marginal Citations

M23 1949 c. 87.

M24 1977 c. 37.

55 Court of criminal division.

(1) This section relates to the criminal division of the Court of Appeal; and in this section "court" means a court of that division.

(2) **[**[F119]Subject to subsection (6),**]**a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.

(3) Where—

(a) part of any proceedings before a court has been heard by an uneven number of judges greater than three; and

(b) one or more members of the court are unable to continue,

the court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.

(4) **[**[F119]Subject to subsection (6),**]**a court shall, if it consists of two judges, be duly constituted for every purpose except—

(a) determining an appeal against—

(i) conviction; or

(ii) a verdict of not guilty by reason of insanity; or

(iii) a finding of a jury under section 4 of the [M25]Criminal Procedure (Insanity) Act 1964 (unfitness to plead) that a person is under a disability;

[[F120](aa) reviewing sentencing under Part IV of the Criminal Justice Act 1988;**]**

(b) determining an application for leave to appeal to the House of Lords; and

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(c) refusing an application for leave to appeal to the criminal division against conviction or any such verdict or finding as is mentioned in paragraph (a)(ii) or (iii), other than an application which has been refused by a single judge.

(5) Where an appeal has been heard by a court consisting of an even number of judges and the members of the court are equally divided, the case shall be re-argued before and determined by an uneven number of judges not less than three.

[[F121](6) A court shall not be duly constituted if it includes more than one Circuit judge acting as a judge of the court under section 9.**]**

Textual Amendments

F119 Words in s. 55(2)(4) inserted (11.1.1995) by 1994 c. 33, **s. 52(7)(a)**; S.I. 1994/3258, **art.2**

F120 S. 55(4)(aa) added by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), Sch. 8 para. 16, **Sch. 15 para. 80**

F121 S. 55(6) inserted (11.1.1995) by 1994 c. 33, **s. 52(7)(b)**; S.I. 1994/3258, **art.2**

Marginal Citations

M25 1964 c. 84.

56 Judges not to sit on appeal from their own judgments, etc.

(1) No judge shall sit as a member of the civil division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal from a judgment or order made in any case by himself or by any court of which he was a member.

(2) No judge shall sit as a member of the criminal division of the Court of Appeal on the hearing of, or shall determine any application in proceedings incidental or preliminary to, an appeal against—

(a) a conviction before himself or a court of which he was a member; or

(b) a sentence passed by himself or such a court.

56A Circuit judges not to sit on certain appeals.

F122 . . . . . .

Textual Amendments

F122 S. 56A repealed (26.1.2004) by Courts Act 2003 (c. 39), ss. 67, 109(3), **Sch. 10**; S.I. 2003/3345, **art. 2(a)(v)(c)(iii)**

[[F123]56B Allocation of cases in criminal division.

(1) The appeals or classes of appeals suitable for allocation to a court of the criminal division of the Court of Appeal in which a Circuit judge is acting under section 9 shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor.

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(2) In subsection (1) "appeal" includes the hearing of, or any application in proceedings incidental or preliminary to, an appeal.**]**

Textual Amendments

F123 S. 56B inserted (11.1.1995) by 1994 c. 33, **s. 52(9)**; S.I. 1994/3258, **art. 2**

Sittings and vacations

57 Sittings and vacations.

(1) Sittings of the Court of Appeal may be held, and any other business of the Court of Appeal may be conducted, at any place in England or Wales.

(2) Subject to rules of court—

(a) the places at which the Court of Appeal sits outside the Royal Courts of Justice; and

(b) the days and times at which the Court of Appeal sits at any place outside the Royal Courts of Justice,

shall be determined in accordance with directions given by the Lord Chancellor.

(3) Rules of court may make provision for regulating the vacations to be observed by the Court of Appeal and in the offices of that court.

(4) Rules of court—

(a) may provide for securing such sittings of the civil division of the Court of Appeal during vacation as the Master of the Rolls may with the concurrence of the Lord Chancellor determine;

(b) without prejudice to paragraph (a), shall provide for the transaction during vacation by judges of the Court of Appeal of all such business in the civil division of that court as may require to be immediately or promptly transacted; and

(c) shall provide for securing sittings of the criminal division of that court during vacation if necessary.

Other provisions

[F124 58 Calling into question of incidental decisions in civil division.

(1) Rules of court may provide that decisions of the Court of Appeal which—

(a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and

(b) do not involve the determination of an appeal or of an application for permission to appeal,

may be called into question in such manner as may be prescribed.

(2) No appeal shall lie to the House of Lords from a decision which may be called into question pursuant to rules under subsection (1).**]**

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Textual Amendments

F124 S. 58 substituted (27.9.1999) by 1999 c. 22, **ss. 60**, 108(3)(b) (with Sch. 14 para. 7(2))

59 Form of judgment of court of criminal division.

Any judgment of a court of the criminal division of the Court of Appeal on any question shall, except where the judge presiding over the court states that in his opinion the question is one of law on which it is convenient that separate judgments should be pronounced by members of the court, be pronounced by the judge presiding over the court or by such other member of the court as he directs and, except as aforesaid, no judgment shall be separately pronounced on any question by any member of the court.

60 Rules of court, and decisions of Court of Appeal, as to whether judgment or order is final or interlocutory.

(1) Rules of court may provide for orders or judgments of any prescribed description to be treated for any prescribed purpose connected with appeals to the Court of Appeal as final or as interlocutory.

(2) No appeal shall lie from a decision of the Court of Appeal as to whether a judgment or order is, for any purpose connected with an appeal to that court, final or interlocutory.

THE HIGH COURT

Distribution of business

61 Distribution of business among Divisions.

(1) Subject to any provision made by or under this or any other Act (and in particular to any rules of court made in pursuance of subsection (2) and any order under subsection (3)), business in the High Court of any description mentioned in Schedule 1, as for the time being in force, shall be distributed among the Divisions in accordance with that Schedule.

(2) Rules of court may provide for the distribution of business in the High Court among the Divisions; but any rules made in pursuance of this subsection shall have effect subject to any orders for the time being in force under subsection (3).

(3) Subject to subsection (5), the Lord Chancellor may by order—

(a) direct that any business in the High Court which is not for the time being assigned by or under this or any other Act to any Division be assigned to such Division as may be specified in the order;

(b) if at any time it appears to him desirable to do so with a view to the more convenient administration of justice, direct that any business for the time being assigned by or under this or any other Act to any Division be assigned to such other Division as may be specified in the order; and

(c) amend Schedule 1 so far as may be necessary in consequence of provision made by order under paragraph (a) or (b).

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(4) The powers conferred by subsection (2) and subsection (3) include power to assign business of any description to two or more Divisions concurrently.

(5) No order under subsection (3)(b) relating to any business shall be made without the concurrence of the senior judge of—
  (a) the Division or each of the Divisions to which the business is for the time being assigned; and
  (b) the Division or each of the Divisions to which the business is to be assigned by the order.

(6) Subject to rules of court, the fact that a cause or matter commenced in the High Court falls within a class of business assigned by or under this Act to a particular Division does not make it obligatory for it to be allocated or transferred to that Division.

(7) Without prejudice to subsections (1) to (5) and section 63, rules of court may provide for the distribution of the business (other than business required to be heard by a divisional court) in any Division of the High Court among the judges of that Division.

(8) Any order under subsection (3) shall be made by statutory instrument, which shall be laid before Parliament after being made.

62 Business of Patents, Admiralty and Commercial Courts.

(1) The Patents Court shall take such proceedings relating to patents as are within the jurisdiction conferred on it by the [M26]Patents Act 1977, and such other proceedings relating to patents or other matters as may be prescribed.

(2) The Admiralty Court shall take Admiralty business, that is to say causes and matters assigned to the Queen's Bench Division and involving the exercise of the High Court's Admiralty jurisdiction or its jurisdiction as a prize court.

(3) The Commercial Court shall take such causes and matters as may in accordance with rules of court be entered in the commercial list.

Marginal Citations
M26 1977 c. 37.

63 Business assigned to specially nominated judges.

(1) Any business assigned, in accordance with this or any other Act or rules of court, to one or more specially nominated judges of the High Court may—
  (a) during vacation; or
  (b) during the illness or absence of that judge or any of those judges; or
  (c) for any other reasonable cause,

be dealt with by any judge of the High Court named for that purpose by the Lord Chancellor.

(2) If at any time it appears to the Lord Chancellor desirable to do so with a view to the more convenient administration of justice, he may by order direct that business of any description which is for the time being assigned, in accordance with this or any other Act or rules of court, to one or more specially nominated judges of the High Court

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shall cease to be so assigned and may be dealt with by any one or more judges of the High Court.

(3) An order under subsection (2) shall not be made in respect of any business without the concurrence of the senior judge of the Division to which the business is for the time being assigned.

64 Choice of Division by plaintiff.

(1) Without prejudice to the power of transfer under section 65, the person by whom any cause or matter is commenced in the High Court shall in the prescribed manner allocate it to whichever Division he thinks fit.

(2) Where a cause or matter is commenced in the High Court, all subsequent interlocutory or other steps or proceedings in the High Court in that cause or matter shall be taken in the Division to which the cause or matter is for the time being allocated (whether under subsection (1) or in consequence of its transfer under section 65).

65 Power of transfer.

(1) Any cause or matter may at any time and at any stage thereof, and either with or without application from any of the parties, be transferred, by such authority and in such manner as rules of court may direct, from one Division or judge of the High Court to another Division or judge thereof.

(2) The transfer of a cause or matter under subsection (1) to a different Division or judge of the High Court shall not affect the validity of any steps or proceedings taken or order made in that cause or matter before the transfer.

Divisional courts

66 Divisional courts of High Court.

(1) Divisional courts may be held for the transaction of any business in the High Court which is, by or by virtue of rules of court or any other statutory provision, required to be heard by a divisional court.

(2) Any number of divisional courts may sit at the same time.

(3) A divisional court shall be constituted of not less than two judges.

(4) Every judge of the High Court shall be qualified to sit in any divisional court.

(5) The judge who is, according to the order of precedence under this Act, the senior of the judges constituting a divisional court shall be the president of the court.

Mode of conducting business

67 Proceedings in court and in chambers.

Business in the High Court shall be heard and disposed of in court except in so far as it may, under this or any other Act, under rules of court or in accordance with the practice of the court, be dealt with in chambers.

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68 Exercise of High Court jurisdiction otherwise than by judges of that court.

(1) Provision may be made by rules of court as to the cases in which jurisdiction of the High Court may be exercised by—

(a) such **[**[F125]Circuit judges, deputy Circuit judges or Recorders**]** as the Lord Chancellor may from time to time nominate to deal with official referees' business; or

(b) special referees; **[**[F126]or

(c) masters, registrars, district registrars or other officers of the court.**]**

(2) Without prejudice to the generality of subsection (1), rules of court may in particular—

[[F127](a) authorise the whole of any cause or matter, or any question or issue therein, to be tried before any such person as is mentioned in that subsection; or**]**

(b) authorise any question arising in any cause or matter to be referred to **[**[F128]a special referee**]** for inquiry and report.

(3) Rules of court shall not authorise the exercise of powers of attachment and committal by **[**[F129]a special referee or any officer or other staff of the court**]**.

(4) Subject to subsection (5), the decision of

[[F130](a)**]** any such person as is mentioned in subsection (1) **[**[F131]or

(b) any officer or other staff of the court**]**

may be called in question in such manner as may be prescribed by rules of court, whether by appeal to the Court of Appeal, or by an appeal or application to a divisional court or a judge in court or a judge in chambers, or by an adjournment to a judge in court or a judge in chambers.

(5) Rules of court may provide either generally or to a limited extent for decisions of **[**[F132]persons**]** nominated under subsection (1)(a) being called in question only by appeal on a question of law.

(6) The cases in which jurisdiction of the High Court may be exercised by **[**[F132]persons**]** nominated under subsection (1)(a) shall be known as "official referees' business"; and, subject to rules of court, the distribution of official referees' business among **[**[F133]persons**]** so nominated shall be determined in accordance with directions given by the Lord Chancellor.

(7) Any reference to an official referee in any enactment, whenever passed, or in rules of court or any other instrument or document, whenever made, shall, unless the context otherwise requires, be construed as, or (where the context requires) as including a reference to a **[**[F134]person**]** nominated under subsection (1)(a).

Textual Amendments

F125 Words substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(1)**

F126 S. 68(1)(a) and the preceding word "or" omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(a)**; S.I. 1999/1009, **art. 3(a)**

F127 S. 68(2)(a) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(b)(i)**; S.I. 1999/1009, **art. 3(a)**

F128 Words in s. 68(2)(b) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(b)(ii)**; S.I. 1999/1009, **art. 3(a)**

F129 Words in s. 68(3) substituted (26.4.1999) by 1997 c. 12, **s. 10**,Sch. 2 para. 1(3)(c); S.I. 1999/1009, **art. 3(a)**

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F130 S. 68(4): "(a)" inserted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(d)(i)**; S.I. 1999/1009, **art. 3(a)**

F131 S. 68(4)(b) and the preceding word "or" inserted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(d)(ii)**; S.I. 1999/1009, **art. 3(a)**

F132 Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(2)**(*a*)(i)

F133 Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(2)**(*a*)(ii)

F134 Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(2)**(*b*)

69 Trial by jury.

(1) Where, on the application of any party to an action to be tried in the Queen's Bench Division, the court is satisfied that there is in issue—

(a) a charge of fraud against that party; or

(b) a claim in respect of libel, slander, malicious prosecution or false imprisonment; or

(c) any question or issue of a kind prescribed for the purposes of this paragraph,

the action shall be tried with a jury, unless the court is of opinion that the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury.

(2) An application under subsection (1) must be made not later than such time before the trial as may be prescribed.

(3) An action to be tried in the Queen's Bench Division which does not by virtue of subsection (1) fall to be tried with a jury shall be tried without a jury unless the court in its discretion orders it to be tried with a jury.

(4) Nothing in subsections (1) to (3) shall affect the power of the court to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial; and where any such order is made, subsection (1) shall have effect only as respects questions relating to any such charge, claim, question or issue as is mentioned in that subsection.

(5) Where for the purpose of disposing of any action or other matter which is being tried in the High Court by a judge with a jury it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge alone.

70 Assessors and scientific advisers.

(1) In any cause or matter before the High Court the court may, if it thinks it expedient to do so, call in the aid of one or more assessors specially qualified, and hear and dispose of the cause or matter wholly or partially with their assistance.

(2) The remuneration, if any, to be paid to an assessor for his services under subsection (1) in connection with any proceedings shall be determined by the court, and shall form part of the costs of the proceedings.

(3) Rules of court shall make provision for the appointment of scientific advisers to assist the Patents Court in proceedings under the [M27]Patents Act 1949 and the [M28]Patents Act 1977 and for regulating the functions of such advisers.

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(4) The remuneration of any such adviser shall be determined by the Lord Chancellor with the concurrence of the Minister for the Civil Service and shall be defrayed out of money provided by Parliament.

Marginal Citations

M27 1949 c. 87.

M28 1977 c. 37.

Sittings and vacations

71 Sittings and vacations.

(1) Sittings of the High Court may be held, and any other business of the High Court may be conducted, at any place in England or Wales.

(2) Subject to rules of court—

(a) the places at which the High Court sits outside the Royal Courts of Justice; and

(b) the days and times when the High Court sits at any place outside the Royal Courts of Justice,

shall be determined in accordance with directions given by the Lord Chancellor.

(3) Rules of court may make provision for regulating the vacations to be observed by the High Court and in the offices of that court.

(4) Rules of court—

(a) may provide for securing such sittings of any Division of the High Court during vacation as the senior judge of that Division may with the concurrence of the Lord Chancellor determine; and

(b) without prejudice to paragraph (a), shall provide for the transaction during vacation by judges of the High Court of all such business in the High Court as may require to be immediately or promptly transacted.

(5) Different provision may be made in pursuance of subsection (3) for different parts of the country.

Other provisions

72 Withdrawal of privilege against incrimination of self or spouse in certain proceedings.

(1) In any proceedings to which this subsection applies a person shall not be excused, by reason that to do so would tend to expose that person, or his or her spouse, to proceedings for a related offence or for the recovery of a related penalty—

(a) from answering any questions put to that person in the first-mentioned proceedings; or

(b) from complying with any order made in those proceedings.

(2) Subsection (1) applies to the following civil proceedings in the High Court, namely—

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(a) proceedings for infringement of rights pertaining to any intellectual property or for passing off;

(b) proceedings brought to obtain disclosure of information relating to any infringement of such rights or to any passing off; and

(c) proceedings brought to prevent any apprehended infringement of such rights or any apprehended passing off.

(3) Subject to subsection (4), no statement or admission made by a person—

(a) in answering a question put to him in any proceedings to which subsection (1) applies; or

(b) in complying with any order made in any such proceedings,

shall, in proceedings for any related offence or for the recovery of any related penalty, be admissible in evidence against that person or (unless they married after the making of the statement or admission) against the spouse of that person.

(4) Nothing in subsection (3) shall render any statement or admission made by a person as there mentioned inadmissible in evidence against that person in proceedings for perjury or contempt of court.

(5) In this section—

"intellectual property" means any patent, trade mark, copyright **[**[F135], design right**]**, registered design, technical or commercial information or other intellectual property;

"related offence", in relation to any proceedings to which subsection (1) applies, means—

(a) in the case of proceedings within subsection (2)(a) or (b)—

(i) any offence committed by or in the course of the infringement or passing off to which those proceedings relate; or

(ii) any offence not within sub-paragraph (i) committed in connection with that infringement or passing off, being an offence involving fraud or dishonesty;

(b) in the case of proceedings within subsection (2)(c), any offence revealed by the facts on which the plaintiff relies in those proceedings;

"related penalty", in relation to any proceedings to which subsection (1) applies means—

(a) in the case of proceedings within subsection (2)(a) or (b), any penalty incurred in respect of anything done or omitted in connection with the infringement or passing off to which those proceedings relate;

(b) in the case of proceedings within subsection (2)(c), any penalty incurred in respect of any act or omission revealed by the facts on which the plaintiff relies in those proceedings.

(6) Any reference in this section to civil proceedings in the High Court of any description includes a reference to proceedings on appeal arising out of civil proceedings in the High Court of that description.

Textual Amendments

F135 Words inserted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(1), **Sch. 7 para. 28(1)(2)**

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Modifications etc. (not altering text)

C33 S. 72 extended by Cable and Broadcasting Act 1984 (c. 46, SIF 96), **s. 54(6)** (Cable and Broadcasting Act 1984 (c. 46) is repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 134, 203(3)(4), Sch. 12 Pt. II para. 1, Sch. 21, **Sch. 22 para. 4**, the repeal being in force 1.1.1991 subject to the provisions of art. 3 of S.I. 1990/2347)
S. 72(5) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art.2**

C34 S. 72 extended by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), **ss. 296(6)(b)**, 298(4)

C35 S. 72 applied (28.5.2000) by 1988 c. 48, **s. 298(4)** (as substituted (28.5.2000) by S.I. 2000/1175, **reg. 2(3)**)

C36 S. 72 applied (31.10.2003) by 1988 c. 48, ss. 296(7), 296ZA(5), 296ZD(6) (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 24(1)** (with regs. 31-40))

C37 S. 72 applied (31.10.2003) by 1988 (c. 48), s. 296ZG (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 25** (with regs. 31-40))

C38 Definition of "intellectual property" extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2(3), **Sch. 2 Pt I para. 1(2)**(*h*)

THE CROWN COURT

Composition of court

73 General provisions.

(1) Subject to the provisions of section 8(1)(c), 74 and 75(2) as respects courts comprising justices of the peace, all proceedings in the Crown Court shall be heard and disposed of before a single judge of that court.

(2) **[**[F136]Rules of court**]** may authorise or require a judge of the High Court, Circuit judge or Recorder, in such circumstances as are specified by the rules, at any stage to continue with any proceedings with a court from which any one or more of the justices initially constituting the court has withdrawn, or is absent for any reason.

(3) Where a judge of the High Court, Circuit judge or Recorder sits with justices of the peace he shall preside, and—
- (a) the decision of the Crown Court may be a majority decision; and
- (b) if the members of the court are equally divided, the judge of the High Court, Circuit judge or Recorder shall have a second and casting vote.

Textual Amendments

F136 Words in s. 73(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/3175), art. 3, **Sch. para. 12(b)** (with art. 2(2))

74 Appeals and committals for sentence.

(1) On any hearing by the Crown Court—
- (a) of any appeal; [F137]. . .
- [F137](b) . . . . . .

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the Crown Court shall consist of a judge of the High Court or a Circuit judge or a Recorder who, subject to the following provisions of this section, shall sit with not less than two nor more than four justices of the peace.

(2) **[**[F138]Rules of court**]** may, with respect to hearings falling within subsection (1)—

(a) prescribe the number of justices of the peace constituting the court (within the limits mentioned in that subsection); and

(b) prescribe the qualifications to be possessed by any such justices of the peace;

and the rules may make different provision for different descriptions of cases, different places of sitting or other different circumstances.

(3) **[**[F138]Rules of court**]** may authorise or require a judge of the High Court, Circuit judge or Recorder, in such circumstances as are specified by the rules, to enter on, or at any stage to continue with, any proceedings with a court not comprising the justices required by subsections (1) and (2).

(4) The Lord Chancellor may from time to time, having regard to the number of justices, or the number of justices with any prescribed qualifications, available for service in the Crown Court, give directions providing that, in such descriptions of proceedings as may be specified by the Lord Chancellor, the provisions of subsections (1) and (2) shall not apply.

(5) Directions under subsection (4) may frame descriptions of proceedings by reference to the place of trial, or by reference to the time of trial, or in any other way.

(6) No decision of the Crown Court shall be questioned on the ground that the court was not constituted as required by or under subsections (1) and (2) unless objection was taken by or on behalf of a party to the proceedings not later than the time when the proceedings were entered on, or when the alleged irregularity began.

(7) **[**[F138]Rules of court**]** may make provision as to the circumstances in which—

(a) a person concerned with a decision appealed against is to be disqualified from hearing the appeal;

[F139](b) . . . . . .

(c) proceedings on the hearing of an appeal [F140]. . . are to be valid notwithstanding that any person taking part in them is disqualified.

Textual Amendments

F137 S. 74(1)(b) and the preceding "or" repealed (12.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(4)** (with Sch. 14 paras. 7(2), 27, 36(9)); S.I. 1999/2657, **art. 4**

F138 Words in s. 74(2)(3)(7) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 12(c)** (with art. 2(2))

F139 S. 74(7)(b) repealed (12.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(4)** (with Sch. 14 paras. 7(2), 27, 36(9)); S.I. 1999/2657, **art. 4**

F140 Words in s. 74(7)(c) repealed (12.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(4)** (with Sch. 14 paras. 7(2), 27, 36(9)); S.I. 1999/2657, **art. 4**

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Distribution of business

75 Allocation of cases according to composition of court, etc.

(1) The cases or classes of cases in the Crown Court suitable for allocation respectively to a judge of the High Court and to a Circuit judge or Recorder, and all other matters relating to the distribution of Crown Court business, shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor.

(2) Subject to section 74(1), the cases or classes of cases in the Crown Court suitable for allocation to a court comprising justices of the peace (including those by way of trial on indictment which are suitable for allocation to such a court) shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor.

76 Committal for trial: alteration of place of trial.

(1) Without prejudice to the provisions of this Act about the distribution of Crown Court business, the Crown Court may give directions, or further directions, altering the place of any trial on indictment, whether by varying the decision of a magistrates' court under section 7 of the [M29]Magistrates' Courts Act 1980 or **[**[F141]by substituting some other place for the place specified in a notice under **[**[F142]a relevant transfer provision**]** (notices of transfer from magistrates' court to Crown Court) or by varying**]** a previous decision of the Crown Court.

(2) Directions under subsection (1) may be given on behalf of the Crown Court by an officer of the court.

[[F143](2A) Where a preparatory hearing has been ordered under section 7 of the Criminal Justice Act 1987, directions altering the place of trial may be given under subsection (1) at any time before the jury are sworn.**]**

(3) The defendant or the prosecutor, if dissatisfied with the place of trial as fixed by the magistrates' court, **[**[F144]as specified in a notice under **[**[F145]a relevant transfer provision**]** or as fixed**]** by the Crown Court, may apply to the Crown Court for a direction, or further direction, varying the place of trial; and the court shall take the matter into consideration and may comply with or refuse the application, or give a direction not in compliance with the application, as the court thinks fit.

(4) [F146]. . . . . .

[[F147](5) In this section "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.**]**

Textual Amendments

F141 Words inserted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 10(a)**

F142 Words in s. 76(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 17(a)** (by words at the end of para. 17 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 51 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F143 S. 76(2A) inserted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 10(b)**

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F144 Words substituted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 10(c)**

F145 Words in s. 76(3) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 17(b)** (by words at the end of para. 17 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F146 S. 76(4) repealed (1.5.2004) by Courts Act 2003 (c. 39), ss. 86, 109(3), 110, **Sch. 10**; S.I. 2004/1104, **art. 3(a)(h)(ii)(i)**

F147 S. 76(5) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 17(c)** (by words at the end of para. 17 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

Marginal Citations

M29 1980 c. 43.

77 Committal for trial: date of trial.

(1) **[**[F148]Criminal Procedure Rules**]** shall prescribe the minimum and the maximum period which may elapse between a person's committal for trial **[**[F149]or the giving of a notice of transfer under **[**[F150]a relevant transfer provision**]]** and the beginning of the trial; and such rules may make different provision for different places of trial and for other different circumstances.

(2) The trial of a person committed by a magistates' court **[**[F151]or in respect of whom a notice of transfer under a relevant transfer provision has been given**]**—

(a) shall not begin until the prescribed minimum period has expired except with his consent and the consent of the prosecutor;and

(b) shall not begin later than the expiry of the prescribed maximum period unless a judge of the Crown Court otherwise orders.

(3) For the purposes of this section the prescribed minimum and maximum periods shall begin with the date of committal for trial **[**[F152]or of a notice of transfer**]**and the trial shall be taken to begin when the defendant is arraigned.

[[F153](4) In this section "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.**]**

Textual Amendments

F148 Words in s. 77(1) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 13** (with art. 2(2))

F149 Words inserted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 11**

F150 Words in s. 77(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 18(a)** (by words at the end of para. 18 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F151 Words in s. 77(2) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 18(b)** (by words at the end of para. 18 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

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F152 Words in s. 77(3) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 18(c)** (by words at the end of para. 18 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F153 S. 77(4) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 18(d)** (by words at the end of para. 18 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

Sittings

78 Sittings.

(1) Any Crown Court business may be conducted at any place in England or Wales, and the sittings of the Crown Court at any place may be continuous or intermittent or occasional.

(2) Judges of the Crown Court may sit simultaneously to take any number of different cases in the same or different places, and may adjourn cases from place to place at any time.

(3) The places at which the Crown Court sits, and the days and times at which the Crown Court sits at any place, shall be determined in accordance with directions given by the Lord Chancellor.

Other provisions

79 Practice and procedure in connection with indictable offences and appeals.

(1) All enactments and rules of law relating to procedure in connection with indictable offences shall continue to have effect in relation to proceedings in the Crown Court.

(2) Without prejudice to the generality of subsection (1), that subsection applies in particular to—

(a) the practice by which, on any one indictment, the taking of pleas, the trial by jury and the pronouncement of judgment may respectively be by or before different judges;

(b) the release, after respite of judgment, of a convicted person on recognizance to come up for judgment if called on, but meanwhile to be of good behaviour;

(c) the manner of trying any question relating to the breach of a recognizance;

(d) the manner of execution of any sentence on conviction, or the manner in which any other judgment or order given in connection with trial on indictment may be enforced.

(3) The customary practice and procedure with respect to appeals to the Crown Court, and in particular any practice as to the extent to which an appeal is by way of rehearing of the case, shall continue to be observed.

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80 Process to compel appearance.

(1) Any direction to appear and any condition of a recognizance to appear before the Crown Court, and any summons or order to appear before that court, may be so framed as to require appearance at such time and place as may be directed by the Crown Court, and if a time or place is specified in the direction, condition, summons or order, it may be varied by any subsequent direction of the Crown Court.

(2) Where an indictment has been signed although the person charged has not been committed for trial, the Crown Court may issue a summons requiring that person to appear before the Crown Court, or may issue a warrant for his arrest.

(3) Section 4 of the [M30]Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland) shall apply to process issued under this section as it applies to process issued under the [M31]Magistrates' Courts Act 1980 by a magistrates' court.

Marginal Citations

M30 1881 c. 24.

M31 1980 c. 43.

81 Bail.

(1) The Crown Court may **[**[F154],subject to section 25 of the Criminal Justice and Public Order Act 1994,**]** grant bail to any person—

(a) who has been committed in custody for appearance before the Crown Court **[**[F155]or in relation to whose case a notice of transfer has been given under **[**[F156]a relevant transfer provision**][**[F157]or who has been sent in custody to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998**]]**; or

(b) who is in custody pursuant to a sentence imposed by a magistrates' court, and who has appealed to the Crown Court against his conviction or sentence; or

(c) who is in the custody of the Crown Court pending the disposal of his case by that court; or

(d) who, after the decision of his case by the Crown Court, has applied to that court for the statement of a case for the High Court on that decision; or

(e) who has applied to the High Court for **[**[F158]a quashing order**]** to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application; **[**[F159]or

(f) to whom the Crown Court has granted a certificate under section 1(2) or 11(1A) of the Criminal Appeal Act 1968 or under subsection (1B) below;**][**[F160]or

(g) who has been remanded in custody by a magistrates' court on adjourning a case under **[**[F161]section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or**]**—

(i) section 5 (adjournment of inquiry into offence);

(ii) section 10 (adjournment of trial); **[**[F162]or**]**

(iii) section 18 (initial procedure on information against adult for offence triable either way); [F163]. . .

[F163](iv) . . . . . .**]**

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and the time during which a person is released on bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.

[[F164](1A) The power conferred by subsection (1)(*f*) does not extend to a case to which section 12 or 15 of the Criminal Appeal Act 1968 (appeal against verdict of not guilty by reason of insanity or against **[**[F165]findings that the accused is under a disability and that he did the act or made the omission charged against him**]**) applies.

(1B) A certificate under this subsection is a certificate that a case is fit for appeal on a ground which involves a question of law alone.

(1C) The power conferred by subsection (1)(*f*) is to be exercised—

(a) where the appeal is under section 1 or 9 of the Criminal Appeal Act 1968, by the judge who tried the case; and

(b) where it is under section 10 of that Act, by the judge who passed the sentence.

(1D) The power may only be exercised within twenty-eight days from the date of the conviction appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.

(1E) The power may not be exercised if the appellant has made an application to the Court of Appeal for bail in respect of the offence or offences to which the appeal relates.

(1F) It shall be a condition of bail granted in the exercise of the power that, unless a notice of appeal has previously been lodged in accordance with subsection (1) of section 18 of the Criminal Appeal Act 1968—

(a) such a notice shall be so lodged within the period specified in subsection (2) of that section; and

(b) not later than 14 days from the end of that period, the appellant shall lodge with the Crown Court a certificate from the registrar of criminal appeals that a notice of appeal was given within that period.

(1G) If the Crown Court grants bail to a person in the exercise of the power, it may direct him to appear—

(a) if a notice of appeal is lodged within the period specified in section 18(2) of the Criminal Appeal Act 1968 at such time and place as the Court of Appeal may require; and

(b) if no such notice is lodged within that period, at such time and place as the Crown Court may require.**]**

[[F166](1H) Where the Crown Court grants a person bail under subsection (1)(*g*) it may direct him to appear at a time and place which the magistrates' court could have directed and the recognizance of any surety shall be conditioned accordingly.

(1J) The Crown Court may only grant bail to a person under subsection (1)(*g*) if the magistrates' court which remanded him in custody has certified under section 5(6A) of the Bail Act 1976 that it heard full argument on his application for bail before it refused the application.**]**

(2) Provision may be made by **[**[F167]rules of court**]** as respects the powers of the Crown Court relating to bail, including any provision—

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(a) except in the case of bail in criminal proceedings (within the meaning of the [M32]Bail Act 1976), allowing the court instead of requiring a person to enter into a recognizance, to consent to his giving other security;

(b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates' court or a justice of the peace, or, if the rules so provide, a person of such other description as is specified in the rules;

(c) prescribing the manner in which a recognizance is to be entered into or other security given, and the persons by whom and the manner in which the recognizance or security may be enforced;

(d) authorising the recommittal, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody in pursuance of the powers;

(e) making provision corresponding to sections 118 and 119 of the [M33]Magistrates' Courts Act 1980 (varying or dispensing with requirements as to sureties, and postponement of taking recognizances).

(3) Any reference in any enactment to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of subsection (2)(a) or otherwise.

(4) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—

(a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station; and

(b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement:

Provided that in the case of bail in criminal proceedings (within the meaning of the [M34]Bail Act 1976) the person arrested shall not be required to enter into a recognizance.

(5) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before that court shall be brought forthwith before either the Crown Court or a magistrates' court.

(6) A magistrates' court shall have jurisdiction, and a justice of the peace may act, under or in pursuance of rules under subsection (2) whether or not the offence was committed, or the arrest was made, within the court's area, or the area for which he was appointed.

[[F168](7) In subsection (1) above "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.**]**

Textual Amendments

F154 Words in s. 81(1) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 48**; S.I. 1995/721, art. 2, **Sch.** Appendix A

F155 Words inserted by Criminal Justice Act 1987 (c. 38 SIF 39:1), s. 15, Sch. 2 para. 12

F156 Words in s. 81(1)(a) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 19(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F157 Words in s. 81(1)(a) inserted (4.1.1999 for certain purposes and otherwise 15.1.2001) (after the words "Criminal Justice Act 1987" which words had been previously replaced by the substition made by

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1994 c. 33, **Sch. 9 para. 19(a)**) by 1998 c. 37, s. 119, **Sch. 8 para. 48**; S.I. 1998/2327, **art.4(2)(c)**; S.I. 2000/3283, **art. 2(c)**

F158 Words in s. 81(1)(e) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 6**

F159 S. 81(1)(*f*) and the preceding word "or" added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 29(1)**(*a*)

F160 S. 81(1)(*g*) and the preceding word "or" added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(1)**(*a*)

F161 Words in s. 81(1)(g) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 87(a)**

F162 Word in s. 81(1)(g)(ii) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 87(b)**

F163 S. 81(1)(g)(iv) and the word "or" immediately preceding it repealed (25.8.2000) by 2000 c. 6, ss. 165(1)(4), 168(1), Sch. 9 para. 87(c), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F164 S. 81(1A)–(1G) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 29(1)**(*b*)

F165 Words in s. 81(1A) substituted (01.01.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1) ss. 7, 8, Sch. 3 para. 6; S.I. 1991/2488, **art. 2**.

F166 S. 81(1H)(1J) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(1)**(*b*)

F167 Words in s. 81(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 14** (with art. 2(2))

F168 S. 81(7) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 19(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

Modifications etc. (not altering text)

C39 S. 81(5) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 89(6)**, 336; S.I. 2005/950, **art. 2**, Sch. 1 (subject to Sch. 2)

Marginal Citations

M32 1976 c. 63.

M33 1980 c. 43.

M34 1976 c. 63.

82 Duties of officers of Crown Court.

(1) The officers of the Crown Court shall be responsible for the keeping of the records of the proceedings of the court, the signing of indictments, the notification to the parties or their legal advisers of the place and time appointed for any proceedings, and such other formal or administrative matters as may be specified by directions given by the Lord Chancellor.

(2) Officers of the Crown Court shall in particular give effect to any orders or directions of the court for taking into custody, and detaining, any person committing contempt of court, and shall execute any order or warrant duly issued by the court for the committal of any person to prison for contempt of court.

F169 83 . . . . . .

Textual Amendments

F169 S. 83 repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

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RULES OF COURT

84 Power to make rules of court.

(1) Rules of court may be made for the purpose of regulating and prescribing **[**[F170], except in relation to any criminal cause or matter,**]** the practice and procedure to be followed in the **[**[F171]Crown Court [F172]. . . **]**.

(2) Without prejudice to the generality of subsection (1), the matters about which rules of court may be made under this section include all matters of practice and procedure in the Supreme Court which were regulated or prescribed by rules of court immediately before the commencement of this Act.

(3) No provision of this or any other Act, or contained in any instrument made under any Act, which—

(a) authorises or requires the making of rules of court about any particular matter or for any particular purpose; or

(b) provides (in whatever words) that the power to make rules of court under this section is to include power to make rules about any particular matter or for any particular purpose,

shall be taken as derogating from the generality of subsection (1).

[[F173](4) Rules made under this section shall have effect subject to any special rules for the time being in force in relation to proceedings in the Supreme Court of any particular kind.**]**

[[F174](5) Special rules may apply—

(a) any rules made under this section,[F175]. . .

(b) Civil Procedure Rules,

to proceedings to which the special rules apply.

[F176]**[**(c) Criminal Procedure Rules, or

(d) Family Procedure Rules,**]**

(5A) Rules made under this section may apply—

(a) any special rules,[F175]. . .

(b) Civil Procedure Rules,

to proceedings to which rules made under this section apply.

[F176]**[**(c) Criminal Procedure Rules, or

(d) Family Procedure Rules,**]**

(6) Where rules may be applied under subsection (5) or (5A), they may be applied—

(a) to any extent,

(b) with or without modification, and

(c) as amended from time to time.**]**

(7) No rule which may involve an increase of expenditure out of public funds may be made under this section except with the concurrence of the Treasury, but the validity of any rule made under this section shall not be called in question in any proceedings in any court either by the court or by any party to the proceedings on the ground only that

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it was a rule as to the making of which the concurrence of the Treasury was necessary and that the Treasury did not concur or are not expressed to have concurred.

(8) Rules of court under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and the [M35]Statutory Instruments Act 1946 shall apply to a statutory instrument containing such rules in like manner as if the rules had been made by a Minister of the Crown.

(9) In this section "special rules" means rules applying to proceedings of any particular kind in the Supreme Court, being rules made by an authority other than the **[**[F177]Civil Procedure Rule Committee**][**[F178], the Family Procedure Rule Committee, the Criminal Procedure Rule Committee,**]** or the Crown Court Rule Committee under any provision of this or any other Act which (in whatever words) confers on that authority power to make rules in relation to proceedings of that kind in the Supreme Court.

Textual Amendments

F170 Words in s. 84(1) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(2)(a)** (with art. 2(2))

F171 Words in s. 84(1) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(a)**; S.I. 1999/1009, **art. 3(b)**

F172 Words in s. 84(1) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(2)(b)** (with art. 2(2))

F173 S. 84(4) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(b)**; S.I. 1999/1009, **art. 3(b)**

F174 S. 84(5)(5A)(6) substituted (27.4.1997) for s. 84(5)(6) by 1997 c. 12, ss. 10, 11(2), **Sch. 2 para. 1(4)(c)**; S.I. 1997/841, **arts. 3(b)**, 4(b)

F175 Word in s. 84(5)(5A) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(3)(a)** (with art. 2(2))

F176 S. 84(5)(c)(d)(5A)(c)(d) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(3)(b)** (with art. 2(2))

F177 Words in s. 84 substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(d)**; S.I. 1999/1009, **art. 3(b)**

F178 Words in s. 84(9) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(4)** (with art. 2(2))

Modifications etc. (not altering text)

C40 S. 84 extended by Multilateral Investment Guarantee Agency Act 1988 (c. 8, SIF 88), **s. 5**

C41 S. 84 extended (1. 10. 1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(5)(a), 101(1), **Sch. 12**, para. 6; S.I. 1992/333, art. 2(2), **Sch. 2**.
S. 84 extended (4.7.1996 but with effect as mentioned in s. 1 (3)(5)) by 1996 c. 25, **s. 19(1)** (with s. 78(1)); S.I. 1997/682.

Marginal Citations

M35 1946 c. 36.

[F179]85 The Supreme Court Rule Committee.

(1) The power to make rules of court under section 84 in relation to the High Court and the civil division of the Court of Appeal shall be exercisable by the Lord Chancellor together with any four or more of the following persons, namely—

(a) the Lord Chief Justice,

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(b) the Master of the Rolls,
(c) the President of the Family Division,
(d) the Vice-Chancellor,
(e) three other judges of the Supreme Court,
[[F180](f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and
(g) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.**]**

(2) The persons mentioned in subsection (1), acting in pursuance of that subsection, shall be known as "the Supreme Court Rule Committee".

(3) The persons to act in pursuance of subsection (1) with the Lord Chancellor, other than those eligible to act by virtue of their office, shall be appointed by the Lord Chancellor for such time as he may think fit.

[[F181](4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph.]**]**

Textual Amendments

F179 S. 85 omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(5)**; S.I. 1999/1009, **art. 3(c)**

F180 S. 85(1)(*f*)(*g*) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(a)**

F181 S. 85(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(b)**

86 The Crown Court Rule Committee.

(1) The power to make rules of court under section 84 [F182]. . . shall be exercisable by the Lord Chancellor together with any four or more of the following persons, namely—
(a) the Lord Chief Justice,
(b) two other judges of the Supreme Court,
(c) two Circuit judges,
(d) [F183]. . . . . .
(e) a justice of the peace,
[[F184](f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and
(g) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.**]**

(2) The persons mentioned in subsection (1), acting in pursuance of that subsection, shall be known as "the Crown Court Rule Committee".

(3) The persons to act in pursuance of subsection (1) with the Lord Chancellor, other than those eligible to act by virtue of their office, shall be appointed by the Lord Chancellor for such time as he may think fit.

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[[F185](4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph.**]**

Textual Amendments

F182 Words in s. 86(1) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 16(a)** (with art. 2(2))

F183 S. 86(1)(d) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 16(b)** (with art. 2(2))

F184 S. 86(1)(*f*)(*g*) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(2)(a)**

F185 S. 86(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(2)(b)**

VALID FROM 03/04/2006

[[F186]**86A Process for making rules of court under section 84**

(1) Crown Court rules must be—
  (a) signed by a majority of the members of the Crown Court Rule Committee, and
  (b) submitted to the Lord Chancellor.

(2) The Lord Chancellor may allow or disallow rules so made.

(3) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.

(4) Rules so made and allowed by the Lord Chancellor—
  (a) come into force on such day as the Lord Chancellor directs, and
  (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.

(5) A statutory instrument containing Crown Court rules is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section and section 86B "Crown Court rules" means rules of court made under section 84.

Textual Amendments

F186 Ss. 86A, 86B inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 138**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)

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VALID FROM 03/04/2006

86B Rules to be made if required by Lord Chancellor

(1) This section applies if the Lord Chancellor gives the Crown Court Rule Committee written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.

(2) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;

(b) made in accordance with section 86A.**]**

Textual Amendments

F186 Ss. 86A, 86B inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 138**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)

87 Particular matters for which rules of court may provide.

[[F187](1) Rules of court may make provision for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings in the High Court or in the civil division of the Court of Appeal or on any application in connection with or at any stage of any such proceedings.

(2) Rules of court may make provision—

(a) for enabling proceedings to be commenced in the High Court against the estate of a deceased person (whether by the appointment of a person to represent the estate or otherwise) where no grant of probate or administration has been made;

(b) for enabling proceedings purporting to have been commenced in that court 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; and

(c) for enabling any proceedings commenced or treated as commenced in that court against the estate of a deceased person to be maintained (whether by substitution of parties, amendment or otherwise) against a person appointed to represent the estate or, if a grant of probate or administration is or has been made, against the personal representatives.**]**

(3) Rules of court **[**[F188]made under section 84**]** may amend or repeal any statutory provision relating to the practice and procedure of the **[**[F189]Crown Court **[**[F190](except so far as relating to criminal causes or matters)**]]** so far as may be necessary in consequence of provision made by the rules.

(4) **[**[F191]Criminal Procedure Rules**]** may require courts from which an appeal lies to the criminal division of the Court of Appeal to furnish that division with any assistance or information which it may request for the purpose of exercising its jurisdiction.

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(5) **[**[F192]Rules of court made under section 84**]** may amend or repeal any statutory provision about appeals to the Crown Court so far as it relates to the practice and procedure with respect to such appeals **[**[F193](except so far as relating to criminal causes or matters)**]**.

Textual Amendments

F187 S. 87(1)(2) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(6)(a)**; S.I. 1999/1009, **art. 3(d)**

F188 Words in s. 87(3) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(2)(a)** (with art. 2(2))

F189 Words in s. 87(3) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(6)(b)**; S.I. 1999/1009, **art. 3(d)**

F190 Words in s. 87(3) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(2)(b)** (with art. 2(2))

F191 Words in s. 87(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(3)** (with art. 2(2))

F192 Words in s. 87(5) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(4)(a)** (with art. 2(2))

F193 Words in s. 87(5) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(4)(b)** (with art. 2(2))

PART IV

OFFICERS AND OFFICES

Appointment of certain officers of Supreme Court

88 Qualification for office.

A person shall not be qualified for appointment to any office in the Supreme Court listed in column 1 of any Part of Schedule 2 unless he is a person of any description specified in relation to that office in column 2 of that Part.

89 Masters and registrars.

(1) The power to make appointments to the offices in the Supreme Court listed in column 1 of Parts II and III of Schedule 2 shall be exercisable by the Lord Chancellor, with the concurrence of the Minister for the Civil Service as to numbers and salaries.

(2) The person appointed to the office of Queen's coroner and attorney and master of the Crown Office **[**[F194]and Registrar of criminal appeals**]** shall, by virtue of his appointment, be a master of the Queen's Bench Division.

(3) The Lord Chancellor shall appoint—

(a) one of the masters of the Queen's Bench Division as Senior Master of that Division;

(b) one of the masters of the Chancery Division as Chief Chancery Master;

(c) one of the taxing masters of the Supreme Court as Chief Taxing Master;

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(d) one of the registrars in bankruptcy of the High Court as Chief Bankruptcy Registrar;

[[F195](e) one of the district judges of the Principal Registry of the Family Division as Senior District Judge of that Division; and**]**

(f) . . . . . [F196]

with, in each case, such additional salary in respect of that appointment as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.

(4) The person appointed Senior Master under subsection (3)(a) shall hold and perform the duties of the offices of the Queen's Remembrancer and registrar of judgments.

(5) . . . . . [F197]

(8) Salaries payable under or by virtue of this section shall be paid out of money provided by Parliament.

Textual Amendments

F194 Words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 37**

F195 S. 89(3)(*e*) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 38**

F196 S. 89(3)(*f*) repealed by S.I. 1982/1188, **art. 3**(*a*)

F197 S. 89(5)(6)(7) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

90 Official Solicitor.

(1) There shall continue to be an Official Solicitor to the Supreme Court, who shall be appointed by the Lord Chancellor.

(2) There shall be paid to the Official Solicitor out of money provided by Parliament such salary as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.

(3) The Official Solicitor shall have such powers and perform such duties as may for the time being be conferred or imposed on the holder of that office—

(a) by or under this or any other Act; or

(b) by or in accordance with any direction given (before or after the commencement of this Act) by the Lord Chancellor.

[[F198](3A) The holder for the time being of the office of Official Solicitor shall have the right to conduct litigation in relation to any proceedings.

(3B) When acting as Official Solicitor a person who would otherwise have the right to conduct litigation by virtue of section 28(2)(a) of the Courts and Legal Services Act 1990 shall be treated as having acquired that right solely by virtue of subsection (3A).**]**

(4) If—

(a) the Official Solicitor is not available because of his absence or for some other reason; or

(b) his office is vacant,

then, during such unavailability or vacancy, any powers or duties of the Official Solicitor shall be exercisable or fall to be performed by any person for the time being appointed by the Lord Chancellor as deputy to the Official Solicitor (and any property

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vested in the Official Solicitor may accordingly be dealt with by any such person in all respects as if it were vested in him instead).

Textual Amendments

F198 S. 90(3A)(3B) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 39**

91 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 person holding an office listed in column 1 of Part II or III of Schedule 2; or

(b) to act as a temporary additional officer in any such office,

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

(2) Subject to subsection (3), 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 is not qualified for permanent appointment.

(3) A person may be appointed under this section if he would, but for his age, be qualified for permanent appointment to the office in question and he has previously held a permanent appointment to that office or—

(a) where the office in question is listed in column 1 of Part II of Schedule 2, to any other office so listed; or

(b) where the office in question is listed in column 1 of Part III of that Schedule, to any other office listed in column 1 of either Part II or Part III; or

(c) (whatever the office in question) to the office of county court registrar.

[[F199]but no appointment by virtue of this subsection shall be such as to extend beyond the day on which the person in question attains the age of seventy-five years.**]**

(4) Every person, while acting under this section, shall have all the jurisdiction of a person permanently appointed to the office in which he is acting.

[F200](5) . . . . . .

(6) The Lord Chancellor may, out of money provided by Parliament, pay to any person appointed under this section such remuneration and allowances as he may, with the concurrence of the Minister for the Civil Service, determine.

Textual Amendments

F199 Words in s. 91(3) added (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.15** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F200 S. 91(5) repealed (31.3.1995) by 1993 c. 8, s. 31, **Sch. 9**; S.I. 1995/631, **art. 2**

Modifications etc. (not altering text)

C42 S. 91(1)(3) restricted (31.3.1995) by 1993 c. 8, **s. 26(7)(f)**, (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

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Other provisions relating to officers of Supreme Court

92 Tenure of office.

(1) Subject to the following provisions of this section **[**[F201]and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office up to the age of 75)**]**, a person who holds an office to which this subsection applies shall vacate it **[**[F202]on the day on which he attains the age of seventy years.**]**

[[F203](2) Subsection (1) applies to the offices listed in column 1 of Part II of Schedule 2 except the office of Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals.

(2A) Subject to the following provisions of this section, a person who holds an office to which this subsection applies shall vacate it at the end of the completed year of service in the course of which he attains the age of sixy-two years.

(2B) Subsection (2A) applies to the offices listed in column 1 of Part I of Schedule 2 [F204]. . ..

[F205](2C) . . . . . .**]**

[[F206](2D) Subject to the following provisions of this section, a person who holds an office to which this subsection applies shall vacate it on the day on which he attains the age of sixty-two years.

(2E) Subsection (2D) applies to the office of Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals.**]**

[F205](3) . . . . . .

[[F207](3A) Where the Lord Chancellor considers it desirable in the public interest to retain in office a person who holds an office to which subsection (2A) applies after the time when he would otherwise retire in accordance with that subsection, the Lord Chancellor may from time to time authorise the continuance in office of that person until such date, not being later than the date on which he attains the age of sixty-five years, as he thinks fit.**]**

(4) A person appointed to an office to which subsection (1) **[**[F208], (2A) or (2D)**]** applies shall hold that office during good behaviour.

(5) The power to remove such a person from his office on account of misbehaviour shall be exercisable by the Lord Chancellor.

(6) The Lord Chancellor may also remove such a person from his office on account of inability to perform the duties of his office.

(7) A person appointed to an office listed in column 1 of Part III of Schedule 2 shall hold that office during Her Majesty's pleasure.

Textual Amendments

F201 Words in s. 92(1) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 14(2)(a)** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F202 Words in s. 92(1) substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 14(2)(b)** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

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F203 S. 92(2)–(2C) substituted for S. 92(2) by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 77(1)** (subject to a saving in Sch. 19 para. 7)
F204 Words in s. 92(2B) repealed (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para. 14(3), **Sch.9** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.
F205 S. 92(2C)(3) repealed (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para. 14(4)(6), **Sch.9** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.
F206 S. 92(2D)(2E) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 14(5)** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.
F207 S. 92(3A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 77(2)**
F208 Words in s. 92(4) substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 14(7)** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

Modifications etc. (not altering text)
C43 S. 92(2A) excluded by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(6), **Sch. 19 para. 7**

93 Status of officers for purposes of salary and pension.

(1) Subject to subsection (2), any person who holds an office listed in column 1 of any Part of Schedule 2 **[**[F209]or the office of Accountant General of the Supreme Court**]** and is not employed in the civil service of the State shall be deemed to be so employed for the purposes of salary and pension.

(2) Subsection (1), so far as it relates to pension, shall not apply to a person holding **[**[F210]qualifying judicial office, within the meaning of the [M36]Judicial Pensions and Retirement Act 1993.**]**

Textual Amendments
F209 Words inserted by Public Trustee and Administration of Funds Act 1986 (c. 57, SIF 57), s. 1(3), **Sch. para. 2**
F210 Words in S. 93(2) substituted (31.3.1995) by 1993 c. 8, s. 31, **Sch. 8 para. 15(2)**; S.I. 1995/631, **art.2**.

Marginal Citations
M36 1993 C. 8.

[F211]94 . . . . . .

Textual Amendments
F211 S. 94 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

95 Property held by officers.

Any property held in his official capacity by a person holding an office listed in column 1 of Part II of Schedule 2 or by the Official Solicitor shall, on his dying or ceasing to hold office, vest in the person appointed to succeed him without any conveyance, assignment or transfer.

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Central Office and Accountant General

96 Central Office.

(1) The Central Office of the Supreme Court shall perform such business as the Lord Chancellor may direct.

(2) Subject to any direction of the Lord Chancellor under this section, the Central Office shall perform such business as it performed immediately before the commencement of this Act.

97 Accountant General.

(1) There shall continue to be an Accountant General of, and an accounting department for, the Supreme Court.

[[F212](2) The Lord Chancellor shall appoint such person as he thinks fit to the office in the Supreme Court of Accountant General of the Supreme Court and the person so appointed shall hold and vacate office in accordance with the terms of his appointment.

(3) The Accountant General shall be paid such salary or fees as the Lord Chancellor determines with the consent of the Treasury.

(4) If one person holds office both as the Accountant General and as the Public Trustee then, if he ceases to be the Public Trustee, he shall also cease to be the Accountant General unless the Lord Chancellor otherwise directs.

(5) If a vacancy occurs in the office of Accountant General or the person appointed to hold the office is for any reason unable to act for any period such person as the Lord Chancellor appoints as deputy in that office shall, during the vacancy or that period, perform the functions of that office (and any property vested in the Accountant General may accordingly be dealt with by the deputy in all respects as if it were vested in him instead).**]**

Textual Amendments

F212 S. 97(2)–(5) substituted for s. 97(2)(3) by Public Trustee and Administration of Funds Act 1986 (c. 57, SIF 57), s. 1(3), **Sch. para. 3**

Judges' clerks and secretaries

98 Judges' clerks and secretaries.

(1) A clerk and a secretary shall be attached to each of the following judges of the Supreme Court, namely the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor.

(2) A clerk shall be attached to each of the following judges of the Supreme Court, namely the Lords Justices of Appeal and the puisne judges of the High Court.

(3) Any clerk or secretary attached as mentioned in subsection (1) or (2)—

(a) shall be appointed by the Lord Chancellor; and

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(b) if not already employed in the civil service of the State shall be deemed for all purposes to be so employed.

(4) If at any time it appears to any of the judges mentioned in subsection (1) desirable that there should be attached to him a legal secretary (that is to say a secretary with legal qualifications) in addition to the secretary provided for by that subsection, he may, with the concurrence of the Lord Chancellor, appoint a **[**[F213]person who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)**]** as his legal secretary.

(5) An appointment under subsection (4) may be on either a full-time or a part-time basis; and a person appointed by a judge as his legal secretary shall, except as regards remuneration, hold and vacate that office in accordance with such terms as the judge may, with the concurrence of the Lord Chancellor, determine when making the appointment.

(6) A person appointed under subsection (4)—

(a) shall not be treated as employed in the civil service of the State by reason only of that appointment; and

(b) if the Lord Chancellor so determines in his case, shall be paid out of money provided by Parliament such remuneration as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.

Textual Amendments

F213 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 47**

District registries and district registrars

99 District registries.

(1) The Lord Chancellor may by order direct that there shall be district registries of the High Court at such places and for such districts as are specified in the order.

(2) Any order under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

100 District registrars.

(1) Subject to subsection (2), for each district registry the Lord Chancellor shall appoint a person who is a **[**[F214]district judge for a county court district, appointed under section 6 of the County Courts Act 1984, as a district judge of the High Court.**]**

(2) The Lord Chancellor may, if he thinks fit, appoint two or more persons who are **[**district judges for a county court district**]** to execute jointly the office of **[**[F215]district judge**]** in any district registry.

(3) Where joint **[**district judges**]** are appointed under subsection (2), the Lord Chancellor may—

(a) give directions with respect to the division between them of the duties of the office of **[**[F215]district judge**]**; and

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(b) as he thinks fit, on the death, resignation or removal of one of them, either appoint in place of that person another person to be joint **[**[F215]district judge**]**, or give directions that the continuing **[**[F215]district judge**]** shall act as sole **[**[F215]district judge**]** or (as the case may be) that the continuing **[**district judges**]** shall execute jointly the office of **[**[F215]district judge**]**.

(4) Subsections (4) to (6) of section 92 shall apply in relation to a person appointed as a **[**[F215]district judge**]** as they apply in relation to a person appointed to an office to which subsection (1) of that section applies, except that he shall vacate his office as **[**[F215]district judge**]** at such time as, for any cause whatever, he vacates his office as **[**[F216]district judge for a county court district**]**.

(5) . . . . . [F217]

Textual Amendments

F214 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 40(1)**

F215 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 40(2)(b)**

F216 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 40(2)(a)**

F217 S. 100(5) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

[F218]101 Power of one district registrar to act for another.

(1) A **[**[F219]district judge**]** of any registry shall be capable of acting in any other district registry for a **[**[F219]district judge**]** of that registry; and, where a **[**[F219]district judge**]** is so acting, the **[**[F219]district judge**]** of the other registry may divide the duties of his office as he thinks fit between himself and the **[**[F219]district judge**]** acting for him.

[F220](2) . . . . . .

Textual Amendments

F218 S. 100 substituted (3.4.2006) for ss. 100, 101 by Constitutional Reform Act 2005 (c. 4), ss. 14, 148, **Sch. 3 para. 2(1)(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 9

F219 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 40(2)(b)**

F220 S. 101(2) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

102 Deputy district registrars.

(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 High Court, he may appoint a person to be a **[**[F221]deputy district judge**]** in any district registry during such period or on such occasions as the Lord Chancellor thinks fit.

(2) Subject to subsection (3), a person shall not be qualified for appointment as a **[**[F221]deputy district judge**]** unless he is, or is qualified for appointment as, a **[**[F222]district judge for a county court district**]**.

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(3) A person may be appointed as a **[**[F221]deputy district judge**]** if he would, but for his age, be qualified for appointment as a **[**[F222]district judge for a county court district**]** and he has previously held the office of **[**[F222]district judge for a county court district**]**[F223]; but no appointment by virtue of this subsection shall be such as to extend beyond the day on which the person in question attains the age of seventy-five years.**]**

(4) A **[**[F221]deputy district judge**]**, while acting under this section, shall have the same jurisdiction as the **[**[F224]district judge**]**.

[[F225](5) Subsection (6) of section 91 applies in relation to a deputy district judge appointed under this section as it applies in relation to a person appointed under that section.**]**

(6) . . . . . [F226]

Textual Amendments

F221 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 40(2)(d)**

F222 Words substituted by Courts and Legal Services act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 40(2)(a)

F223 Words at the end of s. 102(3) added (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.16** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

F224 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 40(2)(b)**

F225 S. 102(5) substituted (31.3.1995) by 1993 c. 8, s. 31, **Sch. 8 para. 15(3)**; S.I. 1995/631, **art.2**.

F226 S. 102(6) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

Modifications etc. (not altering text)

C44 S. 102(1)(3) restricted (31.3.1995) by 1993 c. 8, **s. 26(7)(g)** (with Sch. 7. paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

[F227]103 . . . . . .

Textual Amendments

F227 S. 103 repealed (31.3.1995) by 1993 c. 8, s. 31(4), **Sch.9**; S.I. 1995/631, **art.2**.

District probate registries

104 District probate registries.

(1) The Lord Chancellor may by order direct that there shall be district probate registries of the High Court at such places and for such districts as are specified in the order.

(2) Any order under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

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PART V

PROBATE CAUSES AND MATTERS

Procedure in probate registries in relation to grants of representation

105 Applications.

Applications for grants of probate or administration and for the revocation of grants may be made to—

(a) the Principal Registry of the Family Division (in this Part referred to as "the Principal Registry"); or

(b) a district probate registry.

106 Grants by district probate registrars.

(1) Any grant made by a district probate registrar shall be made in the name of the High Court under the seal used in the registry.

[F228](2) . . . . . .

Textual Amendments

F228 S. 106(2)–(4) repealed by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 51(2), 67(2), **Sch. 8 Pt. III**

107 No grant where conflicting applications.

Subject to probate rules, no grant in respect of the estate, or part of the estate, of a deceased person shall be made out of the Principal Registry or any district probate registry on any application if, at any time before the making of a grant, it appears to the registrar concerned that some other application has been made in respect of that estate or, as the case may be, that part of it and has not been either refused or withdrawn.

108 Caveats.

(1) A caveat against a grant of probate or administration may be entered in the Principal Registry or in any district probate registry.

(2) On a caveat being entered in a district probate registry, the district probate registrar shall immediately send a copy of it to the Principal Registry to be entered among the caveats in that Registry.

109 Refusal of grant where capital transfer tax unpaid.

(1) Subject to subsections (2) and (3), no grant shall be made, and no grant made outside the United Kingdom shall be resealed, except on the production of an account prepared in pursuance of **[**[F229]the Capital Transfer Tax Act 1984**]** showing by means of such receipt or certification as may be prescribed by the Commissioners of Inland Revenue (in this and the following section referred to as "the Commissioners") either—

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(a) that the capital transfer tax payable on the delivery of the account has been paid; or

(b) that no such tax is so payable.

(2) Arrangements may be made between the President of the Family Division and the Commissioners providing for the purposes of this section in such cases as may be specified in the arrangements that the receipt of certification of an account may be dispensed with or that some other document may be substituted for the account required by **[**[F229]the Capital Transfer Tax Act 1984**]**.

(3) Nothing in subsection (1) applies in relation to a case where the delivery of the account required by that Part of that Act has for the time being been dispensed with by any regulations under **[**[F230]section 256(1) of the Capital Transfer Act 1984**]**.

Textual Amendments

F229 Words substituted by Capital Transfer Tax Act 1984 (c. 51, SIF 65), s. 276, **Sch. 8 para. 20**(*a*)

F230 Words substituted by Capital Transfer Tax Act 1984 (c. 51, SIF 65), s. 276, **Sch. 8 para. 20**(*b*)

110 Documents to be delivered to Commissioners of Inland Revenue.

Subject to any arrangements which may from time to time be made between the President of the Family Division and the Commissioners, the Principal Registry and every district probate registry shall, within such period after a grant as the President may direct, deliver to the Commissioners or their proper officer the following documents—

(a) in the case of a grant of probate or of administration with the will annexed, a copy of the will;

(b) in every case, such certificate or note of the grant as the Commissioners may require.

111 Records of grants.

(1) There shall continue to be kept records of all grants which are made in the Principal Registry or in any district probate registry.

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

Powers of court in relation to personal representatives

112 Summons to executor to prove or renounce.

The High Court may summon any person named as executor in a will to prove, or renounce probate of, the will, and to do such other things concerning the will as the court had power to order such a person to do immediately before the commencement of this Act.

Status: *Point in time view as at 01/09/2004. This version of this Act contains provisions that are not valid for this point in time.*
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113 Power of court to sever grant.

(1) Subject to subsection (2), the High Court may grant probate or administration in respect of any part of the estate of a deceased person, limited in any way the court thinks fit.

(2) Where the estate of a deceased person is known to be insolvent, the grant of representation to it shall not be severed under subsection (1) except as regards a trust estate in which he had no beneficial interest.

114 Number of personal representatives.

(1) Probate or administration shall not be granted by the High Court to more than four persons in respect of the same part of the estate of a deceased person.

(2) Where under a will or intestacy any beneficiary is a minor or a life interest arises, any grant of administration by the High Court shall be made either to a trust corporation (with or without an individual) or to not less than two individuals, unless it appears to the court to be expedient in all the circumstances to appoint an individual as sole administrator.

(3) For the purpose of determining whether a minority or life interest arises in any particular case, the court may act on such evidence as may be prescribed.

(4) If at any time during the minority of a beneficiary or the subsistence of a life interest under a will or intestacy there is only one personal representative (not being a trust corporation), the High Court may, on the application of any person interested or the guardian or receiver of any such person, and in accordance with probate rules, appoint one or more additional personal representatives to act while the minority or life interest subsists and until the estate is fully administered.

(5) An appointment of an additional personal representative under subsection (4) to act with an executor shall not have the effect of including him in any chain of representation.

115 Grants to trust corporations.

(1) The High Court may—

(a) where a trust corporation is named in a will as executor, grant probate to the corporation either solely or jointly with any other person named in the will as executor, as the case may require; or

(b) grant administration to a trust corporation, either solely or jointly with another person;

and the corporation may act accordingly as executor or administrator, as the case may be.

(2) Probate or administration shall not be granted to any person as nominee of a trust corporation.

(3) Any officer authorised for the purpose by a trust corporation or its directors or governing body may, on behalf of the corporation, swear affidavits, give security and do any other act which the court may require with a view to the grant to the corporation of probate or administration; and the acts of an officer so authorised shall be binding on the corporation.

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[[F231](4) Subsections (1) to (3) shall also apply in relation to any body which is exempt from the provisions of section 23(1) of the Solicitors Act 1974 (unqualified persons not to prepare papers for probate etc.) by virtue of any of paragraphs (e) to (h) of subsection (2) of that section.**]**

Textual Amendments

F231 S. 115(4) added (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 54(2)**, 59(1)

116 Power of court to pass over prior claims to grant.

(1) If by reason of any special circumstances it appears to the High Court to be necessary or expedient to appoint as administrator some person other than the person who, but for this section, would in accordance with probate rules have been entitled to the grant, the court may in its discretion appoint as administrator such person as it thinks expedient.

(2) Any grant of administration under this section may be limited in any way the court thinks fit.

117 Administration pending suit.

(1) Where any legal proceedings concerning the validity of the will of a deceased person, or for obtaining, recalling or revoking any grant, are pending, the High Court may grant administration of the estate of the deceased person in question to an administrator pending suit, who shall, subject to subsection (2), have all the rights, duties and powers of a general administrator.

(2) An administrator pending suit shall be subject to the immediate control of the court and act under its direction; and, except in such circumstances as may be prescribed, no distribution of the estate, or any part of the estate, of the deceased person in question shall be made by such an administrator without the leave of the court.

(3) The court may, out of the estate of the deceased, assign an administrator pending suit such reasonable remuneration as it thinks fit.

118 Effect of appointment of minor as executor.

Where a testator by his will appoints a minor to be an executor, the appointment shall not operate to vest in the minor the estate, or any part of the estate, of the testator, or to constitute him a personal representative for any purpose, unless and until probate is granted to him in accordance with probate rules.

119 Administration with will annexed.

(1) Administration with the will annexed shall be granted, subject to and in accordance with probate rules, in every class of case in which the High Court had power to make such a grant immediately before the commencement of this Act.

(2) Where administration with the will annexed is granted, the will of the deceased shall be performed and observed in the same manner as if probate of it had been granted to an executor.

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120 Power to require administrators to produce sureties.

(1) As a condition of granting administration to any person the High Court may, subject to the following provisions of this section and subject to and in accordance with probate rules, require one or more sureties to guarantee that they will make good, within any limit imposed by the court on the total liability of the surety or sureties, any loss which any person interested in the administration of the estate of the deceased may suffer in consequence of a breach by the administrator of his duties as such.

(2) A guarantee given in pursuance of any such requirement shall enure for the benefit of every person interested in the administration of the estate of the deceased as if contained in a contract under seal made by the surety or sureties with every such person and, where there are two or more sureties, as if they had bound themselves jointly and severally.

(3) No action shall be brought on any such guarantee without the leave of the High Court.

(4) Stamp duty shall not be chargeable on any such guarantee.

(5) This section does not apply where administration is granted to the Treasury Solicitor, the Official Solicitor, the Public Trustee, the Solicitor for the affairs of the Duchy of Lancaster or the Duchy of Cornwall or the Crown Solicitor for Northern Ireland, or to the consular officer of a foreign state to which section 1 of the [M37]Consular Conventions Act 1949 applies, or in such other cases as may be prescribed.

Marginal Citations
M37 1949 c. 29.

Revocation of grants and cancellation of resealing at instance of court

121 Revocation of grants and cancellation of resealing at instance of court.

(1) Where it appears to the High Court that a grant either ought not to have been made or contains an error, the court may call in the grant and, if satisfied that it would be revoked at the instance of a party interested, may revoke it.

(2) A grant may be revoked under subsection (1) without being called in, if it cannot be called in.

(3) Where it appears to the High Court that a grant resealed under the Colonial Probates Acts 1892 and 1927 ought not to have been resealed, the court may call in the relevant document and, if satisfied that the resealing would be cancelled at the instance of a party interested, may cancel the resealing.

In this and the following subsection "the relevant document" means the original grant or, where some other document was sealed by the court under those Acts, that document.

(4) A resealing may be cancelled under subsection (3) without the relevant document being called in, if it cannot be called in.

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Ancillary powers of court

122 Examination of person with knowledge of testamentary document.

(1) Where it appears that there are reasonable grounds for believing that any person has knowledge of any document which is or purports to be a testamentary document, the High Court may, whether or not any legal proceedings are pending, order him to attend for the purpose of being examined in open court.

(2) The court may—
- (a) require any person who is before it in compliance with an order under subsection (1) to answer any question relating to the document concerned; and
- (b) if appropriate, order him to bring in the document in such manner as the court may direct.

(3) Any person who, having been required by the court to do so under this section, fails to attend for examination, answer any question or bring in any document shall be guilty of contempt of court.

123 Subpoena to bring in testamentary document.

Where it appears that any person has in his possession, custody or power any document which is or purports to be a testamentary document, the High Court may, whether or not any legal proceedings are pending, issue a subpoena requiring him to bring in the document in such manner as the court may in the subpoena direct.

Provisions as to documents

124 Place for deposit of original wills and other documents.

All original wills and other documents which are under the control of the High Court in the Principal Registry or in any district probate registry shall be deposited and preserved in such places as the Lord Chancellor may direct; and any wills or other documents so deposited shall, subject to the control of the High Court and to probate rules, be open to inspection.

125 Copies of wills and grants.

An office copy, or a sealed and certified copy, of any will or part of a will open to inspection under section 124 or of any grant may, on payment of the prescribed fee, be obtained—
- (a) from the registry in which in accordance with section 124 the will or documents relating to the grant are preserved; or
- (b) where in accordance with that section the will or such documents are preserved in some place other than a registry, from the Principal Registry; or
- (c) subject to the approval of the Senior Registrar of the Family Division, from the Principal Registry in any case where the will was proved in or the grant was issued from a district probate registry.

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[F232 126 Depositories for wills of living persons.

(1) There shall be provided, under the control and direction of the High Court, safe and convenient depositories for the custody of the wills of living persons; and any person may deposit his will in such a depository on payment of the prescribed fee and subject to such conditions as may be prescribed by regulations made by the President of the Family Division with the concurrence of the Lord Chancellor.

(2) Any regulations made under this section shall be made by statutory instrument which shall be laid before Parliament after being made; and the M38 Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations under this section in like manner as if they had been made by a Minister of the Crown.]

Textual Amendments

F232 S. 126 repealed (*prosp.*) by Administration of Justice Act 1982 (c. 53, SIF 37), ss. 75(1), 76, **Sch. Pt. I**

Marginal Citations

M38 1946 c. 36.

Probate rules

127 Probate rules.

(1) The President of the Family Division may, with the concurrence of the Lord Chancellor, make rules of court (in this Part referred to as "probate rules") for regulating and prescribing the practice and procedure of the High Court with respect to non-contentious or common form probate business.

(2) Without prejudice to the generality of subsection (1), probate rules may make provision for regulating the classes of persons entitled to grants of probate or administration in particular circumstances and the relative priorities of their claims thereto.

(3) Probate rules shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and the M39 Statutory Instruments Act 1946 shall apply to a statutory instrument containing probate rules in like manner as if they had been made by a Minister of the Crown.

Marginal Citations

M39 1946 c. 36.

Interpretation of Part V and other probate provisions

128 Interpretation of Part V and other probate provisions.

In this part, and in the other provisions of this Act relating to probate causes and matters, unless the context otherwise requires—

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"administration" includes all letters of administration of the effects of deceased persons, whether with or without a will annexed, and whether granted for general, special or limited purposes;

"estate" means real and personal estate, and "real estate" includes—

(a) chattels real and land in possession, remainder or reversion and every interest in or over land to which the deceased person was entitled at the time of his death, and

(b) real estate held on trust or by way of mortgage or security, but not [F233]. . . money secured or charged on land;

"grant" means a grant of probate or administration;

"non-contentious or common form probate business" means the business of obtaining probate and administration where there is no contention as to the right thereto, including—

(a) the passing of probates and administrations through the High Court in contentious cases where the contest has been terminated,

(b) all business of a non-contentious nature in matters of testacy and intestacy not being proceedings in any action, and

(c) the business of lodging caveats against the grant of probate or administration;

"Principal Registry" means the Principal Registry of the Family Division;

"probate rules" means rules of court made under section 127;

"trust corporation" means the Public Trustee or a corporation either appointed by the court in any particular case to be a trustee or authorised by rules made under section 4(3) of the [M40]Public Trustee Act 1906 to act as a custodian trustee;

"will" includes a nuncupative will and any testamentary document of which probate may be granted.

Textual Amendments

F233 S. 128: words in para. (b) in the definition of "real estate" repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

Modifications etc. (not altering text)

C45 S. 128: definition of "non-contentious or common form probate business" applied (1.7.1991) by Courts and Legal Services Act 1991 (c. 41, SIF 76:1), **s. 56(5)**; S.I. 1991/1364, art. 2, **Sch**

C46 S. 128: definition of "trust corporation" amended (retrospectively) by Charities Act 1960 (c. 58), **s. 21A(e)** (as inserted and modified (1.9.1992) by Charities Act 1992 (c. 41), **s. 14(1)(2)**; S.I. 1992/1900, art. 2(1), **Sch. 1**)

S. 128: definition of "trust corporation" extended (retrospectively) by 1993 c. 10, **ss. 35(1)(e)(2)**

C47 S. 128 extended (retrospectively) by Charities Act 2011 (c. 25), **Sch. 7 para. 3(1)(2)(e)(3)** (with s. 20(2), Sch. 7 para. 3(4), Sch. 8)

Marginal Citations

M40 1906 c. 55.

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PART VI

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous provisions

129 Lords Commissioners to represent Lord Chancellor when Great Seal in commission.

When the Great Seal is in commission, the Lords Commissioners shall represent the Lord Chancellor for the purposes of this Act; but the powers vested in him by this Act in relation to—

(a) the appointment of officers, and

(b) any act for which the concurrence or presence of the Lord Chancellor is required by this Act,

may be exercised by the senior Lord Commissioner for the time being.

130 Fees to be taken in Supreme Court.

(1) The Lord Chancellor may by order under this section prescribe the fees to be taken in the Supreme Court, other than fees which he or some other authority has power to prescribe apart from this section.

(2) The concurrence of the Treasury shall be required for the making of any order under this section; and in addition—

(a) the concurrence of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor, or of any three of them, shall be required for the making of any such order not relating exclusively to fees to be taken in connection with proceedings in the Crown Court; and

(b) the concurrence of the Lord Chief Justice shall be required for the making of any such order relating exclusively to fees to be taken in connection with proceedings in the Crown Court.

(3) Nothing in subsection (1) shall be taken to prevent any authority having power apart from this section to prescribe fees to be taken in the Supreme Court from applying to any extent any provisions contained in any order made under this section; and where any instrument made in the exercise of any such power applies any provisions so contained, then, unless the contrary intention appears, it shall be taken to apply those provisions as amended from time to time.

(4) Any order under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

131 Conveyancing counsel of Supreme Court.

(1) The conveyancing counsel of the Supreme Court shall be **[**[F234]persons who have a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990.**]**

(2) The conveyancing counsel of the court shall be not more than six, not less than three, in number, and shall be appointed by the Lord Chancellor.

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Textual Amendments

F234 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 48**

132 Proof of documents bearing seal or stamp of Supreme Court or any office thereof.

Every document purporting to be sealed or stamped with the seal or stamp of the Supreme Court or of any office of the Supreme Court shall be received in evidence in all parts of the United Kingdom without further proof.

133 Enrolment and engrossment of instruments.

(1) The Master of the Rolls may make regulations for authorising and regulating the enrolment or filing of instruments in the Supreme Court, and for prescribing the form in which certificates of enrolment or filing are to be issued.

(2) Regulations under subsection (1) shall not affect the operation of any enactment requiring or authorising the enrolment of any instrument in the Supreme Court or prescribing the manner in which any instrument is to be enrolled there.

(3) Any instrument which is required or authorised by or under this or any other Act to be enrolled or engrossed in the Supreme Court shall be deemed to have been duly enrolled or engrossed if it is written on material authorised or required by regulations under subsection (1) and has been filed or otherwise preserved in accordance with regulations under that subsection.

(4) The Lord Chancellor may, with the concurrence of the Master of the Rolls and of the Treasury, make regulations prescribing the fees to be paid on the enrolment or filing of any instrument in the Supreme Court, including any additional fees payable on the enrolment or filing of any instrument out of time.

(5) Any regulations under this section shall be made by statutory instrument, which shall be laid before Parliament after being made; and the [M41]Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations under subsection (1) in like manner as if the regulations had been made by a Minister of the Crown.

Marginal Citations

M41 1946 c. 36.

134 Powers of attorney deposited before October 1971.

(1) This section applies to any instrument creating, or verifying the execution of, a power of attorney which was deposited in the Central Office of the Supreme Court before 1st October 1971.

(2) A separate file of such instruments shall continue to be kept and, subject to payment of any prescribed fee—

(a) any person may search that file, and may inspect any such instrument; and

(b) an office copy of any such instrument shall be issued to any person on request.

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(3) A document purporting to be an office copy of any such instrument shall, in any part of the United Kingdom, without further proof be sufficient evidence of the contents of the instrument and of its having been deposited as mentioned in subsection (1).

135 Bonds given under order of court.

(1) A bond to be given by any person under or for the purposes of any order of the High Court or the civil division of the Court of Appeal shall be given in such form and to such officer of the court as may be prescribed and, if the court so requires, with one or more sureties.

(2) An officer of the court to whom a bond is given in accordance with subsection (1) shall as such have power to enforce it or to assign it, pursuant to an order of the court under subsection (4), to some other person.

(3) Where by rules of court made for the purposes of this section another officer is at any time substituted for the officer previously prescribed as the officer to whom bonds of any class are to be given, the rules may provide that bonds of that class given before the rules come into operation shall have effect as if references in the bonds to the officer previously prescribed were references to the substituted officer.

(4) Where it appears to the court that the condition of a bond given in accordance with subsection (1) has been broken, the court may, on an application in that behalf, order the bond to be assigned to such person as may be specified in the order.

(5) A person to whom a bond is ordered to be assigned under subsection (4) shall be entitled by virtue of the order to sue on the bond in his own name as if it had been originally given to him, and to recover on it as trustee for all persons interested the full amount recoverable in respect of the breach of condition.

136 Production of documents filed in, or in custody of, Supreme Court.

(1) The Lord Chancellor may, with the concurrence of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor, or of any three of them, make rules for providing that, in any case where a document filed in, or in the custody of, any office of the Supreme Court is required to be produced to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than at the Royal Courts of Justice—

(a) it shall not be necessary for any officer, whether served with a subpoena in that behalf or not, to attend for the purpose of producing the document; but

(b) the document may be produced to the court or tribunal by sending it to the court or tribunal, in the manner prescribed in the rules, together with a certificate, in the form so prescribed, to the effect that the document has been filed in, or is in the custody of, the office;

and any such certificate shall be prima facie evidence of the facts stated in it.

(2) Rules under this section may contain—

(a) provisions for securing the safe custody and return to the proper office of the Supreme Court of any document sent to a court or tribunal in pursuance of the rules; and

(b) such incidental and supplementary provisions as appear to the Lord Chancellor to be necessary or expedient.

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(3) Rules under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

Modifications etc. (not altering text)

C48 S. 136 modified (temp.) (1.10.2005) by the Constitutional Reform Act 2005 (Transitional and Consequential Provisions) Order 2005 (S.I. 2005/2506), **art. 2(1)**

137 Money paid into court under enactment subsequently repealed.

Where in pursuance of any enactment, whenever passed, any money has (before or after the commencement of this Act) been paid—

(a) into the Bank of England in the name of the Accountant General of the Supreme Court; or

(b) into the Supreme Court,

then, if that enactment has been or is subsequently repealed—

(i) the Accountant General may continue to deal with the money; and

(ii) any powers of the High Court with respect to the money shall continue to be exercisable,

in all respects as if that enactment had not been repealed.

138 Effect of writs of execution against goods.

F235 . . . . . .

Textual Amendments

F235 S. 138 repealed (15.3.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 264, **Sch. 10**; S.I. 2004/401, **art. 2(b)** (with art. 3)

138A Sales under executions.

F236 . . . . . .

Textual Amendments

F236 S. 138A repealed (15.3.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 264, **Sch. 10**; S.I. 2004/401, **art. 2(b)** (with art. 3)

138B Protection of officer selling goods under execution.

F237 . . . . . .

Textual Amendments

F237 S. 138B repealed (15.3.2004) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 264, **Sch. 10**; S.I. 2004/401, **art. 2(b)** (with art. 3)

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139 Attachment of National Savings Bank deposits.

[X1](1) In section 27 of the [M42]Crown Proceedings Act 1947 (attachment of moneys payable by the Crown)—

(a) in subsection (1), paragraph (c) of the proviso (which precludes the making of orders under that subsection by the High Court or a county court in respect of money payable on account of a deposit in the National Savings Bank) shall cease to have effect; and

(b) after subsection (2) there shall be added—

"(3) In their application to England and Wales the preceding provisions of this section shall have effect subject to any order for the time being in force under section 139(2) of the Supreme Court Act 1981.".

(2) The Lord Chancellor may by order direct that section 27(1) and (2) of the [M43]Crown Proceedings Act 1947 (attachment of moneys payable by the Crown) shall not apply in relation to any money payable by the Crown to any person on account of—

(a) any deposit in the National Savings Bank; or

(b) a deposit in that Bank of any description specified in the order.

(3) Any order under subsection (2) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Without prejudice to section 153(4), this section extends to England and Wales only.

Editorial Information

X1 The text of ss. 139(1), 145–148 is in the form in which it was originally enacted: it was not reproduced in Statutesin Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Marginal Citations

M42 1947 c. 44.

M43 1947 c. 44.

140 Enforcement of fines and forfeited recognizances.

(1) Payment of a fine imposed, or sum due under a recognizance forfeited, by the High Court or the civil division of the Court of Appeal may be enforced upon the order of the court—

(a) in like manner as a judgment of the High Court for the payment of money; or

(b) in like manner as a fine imposed by the Crown Court.

(2) Where payment of a fine or other sum falls to be enforced as mentioned in paragraph (a) of subsection (1) upon an order of the High Court or the civil division of the Court of Appeal under that subsection—

(a) the court shall, if the fine or the other sum is not paid in full forthwith or within such time as the court may allow, certify to Her Majesty's Remembrancer the sum payable; and

(b) Her Majesty's Remembrancer shall thereupon proceed to enforce payment of that sum as if it were due to him as a judgment debt.

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(3) Where payment of a fine or other sum falls to be enforced as mentioned in paragaph (b) of subsection (1) upon an order of the High Court or the civil division of the Court of Appeal under that subsection, the provisions of **[**[F238]sections 139 and 140 of the Powers of Criminal Courts (Sentencing) Act 2000**]** shall apply to that fine or other sum as they apply to a fine imposed by the Crown Court.

(4) Where payment of a fine or other sum has become enforceable by Her Majesty's Remembrancer by virtue of this section or section 16 of the [M44]Contempt of Court Act 1981, any payment received by him in respect of that fine or other sum shall be dealt with by him in such manner as the Lord Chancellor may direct.

(5) In this section, and in **[**[F238]sections 139 and 140 of the Powers of Criminal Courts (Sentencing) Act 2000**]** as extended by this section, "fine" includes a penalty imposed in civil proceedings.

Textual Amendments

F238 Words in s. 140(3)(5) substituted (28.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 88**

Marginal Citations

M44 1981 c. 49.

141 Abolition of certain writs.

[F239] . . . . . .

Textual Amendments

F239 S. 141 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

142 Selection of judges for trial of election petitions.

(1) The judges to be placed on the rota for the trial of parliamentary election petitions in England and Wales under Part III of the **[**[F240]Representation of the People Act 1983**]** in each year shall be selected, in such manner as may be provided by rules of court, from the judges of the Queen's Bench Division of the High Court exclusive of any who are members of the House of Lords.

(2) Notwithstanding the expiry of the year for which a judge has been placed on the rota he may act as if that year had not expired for the purpose of continuing to deal with, giving judgment in, or dealing with ancillary matter relating to, any case with which he may have been concerned during that year.

(3) Any judge placed on the rota shall be eligible to be placed on the rota again in the succeeding or any subsequent year.

Textual Amendments

F240 Words substituted by Representation of the People Act 1983 (c. 2, SIF 42), **s. 206**(*b*)(i), Sch. 8 para. 26

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[F241]143 . . . . . .

Textual Amendments

F241 S. 143 repealed by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 75(1) Sch. 9 Pt. I**

[F242]144 . . . . . .

Textual Amendments

F242 S. 144 repealed by Mental Health Act 1983 (c. 20, SIF 85), s. 148(3), **Sch. 6**

[X2]145 Amendment of Courts-Martial (Appeals) Act 1968.

(1) The [M45]Courts-Martial (Appeals) Act 1968 shall be amended as follows.

(2) In section 2(1)(a) (under which the judges of the Courts-Martial Appeal Court include such judges of the Queen's Bench Division of the High Court as may be nominated for that purpose by the Lord Chief Justice after consultation with the Master of the Rolls), the words "of the Queen's Bench Division" and "after consultation with the Master of the Rolls" shall be omitted.

(3) In section 3(a) (under which the powers of the Courts-Martial Appeal Court may be exercised by any judge of the Queen's Bench Division of the High Court), the words "of the Queen's Bench Division" shall be omitted.

(4) For section 5 (constitution of Appeal Court for particular sittings) there shall be substituted—

(1) Subject to subsection (4) below, the Appeal Court shall be duly constituted if it consists of an uneven number of judges not less than three.

(2) Where—

(a) part of any proceedings before the Appeal Court has been heard by an uneven number of judges greater than three; and

(b) one or more members of the Court as constituted for the purpose of those proceedings are unable to continue,

then, subject to subsection (4) below, the Court shall remain duly constituted for the purpose of those proceedings so long as the number of members (whether even or uneven) is not reduced to less than three.

(3) Subject to subsection (4) below, the Appeal Court shall, if it consists of two judges, be duly constituted for every purpose except—

(a) determining an appeal against—

(i) conviction; or

(ii) a finding of not guilty by reason of insanity; or

(iii) a finding of unfitness to stand trial;

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(b) determining an application for leave to appeal to the House of Lords; and

(c) refusing an application for leave to appeal to the Appeal Court against conviction or any such finding as is mentioned in paragraph (a)(ii) or (iii), other than an application which has been refused by a single judge.

(4) At least one of the judges of which the Appeal Court consists at any sitting must be a judge of the Court by virtue of section 2(1) of this Act, except that where the Court is directed to sit at a place outside the United Kingdom the Lord Chancellor may, if he thinks it expedient to do so, direct that this provision shall not apply to the Court while sitting at that place.

(5) Where an appeal has been heard by the Appeal Court and the Court as constituted for that purpose consists of an even number of judges, then, if those judges are equally divided, the case shall be re-argued before and determined by an uneven number of judges not less than three.”.

(5) In section 36(2) (rights of appellant on refusal of single judge to exercise certain powers in his favour) for “for the hearing and determination of appeals” there shall be substituted “for the purpose in accordance with section 5 of this Act”.

Editorial Information

X2 The text of ss. 139(1), 145–148 is in the form in which it was originally enacted: it was not reproduced in Statutesin Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Marginal Citations

M45 1968 c. 20.

[X3]146 Amendment of Courts Act 1971.

For section 24 of the [M46]Courts Act 1971 (deputy High Court and Circuit judges) there shall be substituted—

“**24 Deputy Circuit judges and assistant Recorders.**

(1) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this section in order to facilitate the disposal of business in the Crown Court or a county court or official referees’ business in the High Court, he may—

(a) appoint to be a deputy Circuit judge, during such period or on such occasions as he thinks fit, any person who has held office as a judge of the Court of Appeal or of the High Court or as a Circuit judge; or

(b) appoint to be an assistant Recorder, during such period or on such occasions as he thinks fit, any barrister or solicitor of at least ten years’ standing.

(2) Except as provided by subsection (3) below, during the period or on the occasions for which a deputy Circuit judge or assistant Recorder is appointed under this section he shall be treated for all purposes as, and accordingly may

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perform any of the functions of, a Circuit judge or a Recorder, as the case may be.

(3) A deputy Circuit judge appointed under this section shall not be treated as a Circuit judge for the purpose of any provision made by or under any enactment and relating to the appointment, retirement, removal or disqualification of Circuit judges, the tenure of office and oaths to be taken by such judges, or the remuneration, allowances or pensions of such judges; and section 21 of this Act shall not apply to an assistant Recorder appointed under this section.

(4) Notwithstanding the expiry of any period for which a person is appointed under this section a deputy Circuit judge or an assistant Recorder, he may attend at the Crown Court or a county court or, as regards any official referees' business, at the High Court for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case which may have been begun before him when sitting as a deputy Circuit judge or an assistant Recorder, and for that purpose and for the purpose of any proceedings subsequent thereon he shall be treated as a Circuit judge or a Recorder, as the case may be.

(5) There shall be paid out of money provided by Parliament to deputy Circuit judges and assistant Recorders appointed under this section such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.".

Editorial Information

X3 The text of ss. 139(1), 145–148 is in the form in which it was originally enacted: it was not reproduced in Statutesin Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Marginal Citations

M46 1971 c. 23.

147 Amendment of Solicitors Act 1974. [X4]

In section 50 of the [M47]Solicitors Act 1974 (jurisdiction of Supreme Court over solicitors), after subsection (2) there shall be inserted—

"(3) An appeal shall lie to the Court of Appeal from any order made against a solicitor by the High Court or the Crown Court in the exercise of its jurisdiction in respect of solicitors under subsection (2).".

Editorial Information

X4 The text of ss. 139(1), 145–148 is in the form in which it was originally enacted: it was not reproduced in Statutesin Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Marginal Citations

M47 1974 c. 47.

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[F243]148 . . . . . .

Textual Amendments

F243 S. 148 repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2); S.I. 1996/3146, art. 3 (with **Sch. 2 para. 1**)

[F244]149 . . . . . .

Textual Amendments

F244 S. 149 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

Supplementary

150 Admiralty jurisdiction: provisions as to Channel Islands, Isle of Man, colonies etc.

(1) Her Majesty may by Order in Council—

(a) direct that any of the provisions of sections 20 to 24 specified in the Order shall extend, with such exceptions, adaptations and modifications as may be so specified, to any of the Channel Islands or the Isle of Man; or

(b) make, for any of the Channel Islands or the Isle of Man, provision for any purposes corresponding to the purposes of any of the provisions of those sections.

(2) Her Majesty may by order in Council direct, either generally or in relation to particular courts or territories, that the [M48]Colonial Courts of Admiralty Act 1890 shall have effect as if for the reference in section 2(2) of that Act to the Admiralty jurisdiction of the High Court in England there were substituted a reference to the Admiralty jurisdiction of that court as defined by section 20 of this Act, subject, however to such adaptations and modifications of section 20 as may be specified in the Order.

(3) Her Majesty may by Order in Council direct that any of the provisions of sections 21 to 24 shall extend, with such exceptions, adaptations and modifications as may be specified in the Order, to any colony or to any country outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom.

(4) Subsections (1) and (3) shall each have effect as if the provisions there mentioned included section 2(2) of the [M49]Hovercraft Act 1968 (application of the law relating to maritime liens in relation to hovercraft and property connected with them).

Marginal Citations

M48 1890 c. 27.

M49 1968 c. 59.

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151 Interpretation of this Act, and rules of construction for other Acts and documents.

(1) In this Act, unless the context otherwise requires—

"action" means any civil proceedings commenced by writ or in any other manner prescribed by rules of court;

"appeal", in the context of appeals to the civil division of the Court of Appeal, includes—

(a) an application for a new trial, and

(b) an application to set aside a verdict, finding or judgment in any cause or matter in the High Court which has been tried, or in which any issue has been tried, by a jury;

[[F245]"arbitration agreement" has the same meaning as it has in the **[**[F246]Part I of the Arbitration Act 1996;**]]**

"cause" means any action or any criminal proceedings;

"Division", where it appears with a capital letter, means a division of the High Court;

"judgment" includes a decree;

"jurisdiction" includes powers;

"matter" means any proceedings in court not in a cause;

"party", in relation to any proceedings, includes any person who pursuant to or by virtue of rules of court or any other statutory provision has been served with notice of, or has intervened in, those proceedings;

"prescribed" means—

(a) except in relation to fees, prescribed by rules of court; and

(b) in relation to fees, prescribed by an order under section 130;

"senior judge", where the reference is to the senior judge of a Division, means—

(a) in the case of the Chancery Division, the Vice-Chancellor;

(b) in any other case, the president of the Division in question;

"solicitor" means a solicitor of the Supreme Court;

"statutory provision" means any enactment, whenever passed, or any provision contained in subordinate legislation (as defined 0 in section 21(1) of the [M50]Interpretation Act 1978), whenever made;

"this or any other Act" includes an Act passed after this Act.

(2) Section 128 contains definitions of expressions used in Part V and in the other provisions of this Act relating to probate causes and matters.

(3) Any reference in this Act to rules of court under section 84 includes a reference to rules of court under any provision of this or any other Act which confers on the **[**[F247]Civil Procedure Rule Committee**]** or the Crown Court Rule Committee power to make rules of court **[**[F248]in relation to the Supreme Court**]**.

(4) Except where the context otherwise requires, in this or any other Act—

[F249] . . . . . .

[F250] . . . . . .

"divisional court" (with or without capital letters) means a divisional court constituted under section 66;

"judge of the Supreme Court" means—

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(a) a judge of the Court of Appeal other than an ex-officio judge within paragraph (b) or (c) of section 2(2), or

(b) a judge of the High Court,

and accordingly does not include, as such, a judge of the Crown Court;

"official referees' business" has the meaning given by section 68(6);

[[F251] "Rules of the Supreme Court" means rules of court made by the Supreme Court Rules Committee.**]**

(5) The provisions of Schedule 4 (construction of references to superseded courts and officers) shall have effect.

Extent Information

E2 S. 151: for extent of s. 151(1), see s. 135(5); s. 151(2) -(5) extends to E.W. only

Textual Amendments

F245 Definition of "arbitration agreement" inserted (*1.4.1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 41**.; S.I. 1991/608, art. 2, **Sch.**

F246 Words in definition of "arbitration agreement" in s. 151 substituted (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 3 para. 37(3)** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with Sch. 2 para. 1)

F247 Words in s. 151(3) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(7)(a)**; S.I. 1999/1009, **art. 3(e)**

F248 Words in s. 151(3) inserted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(7)(a)**; S.I. 1999/1009, **art. 3(e)**

F249 S. 151(4): definition of "Criminal Appeal Rules" repealed (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 18** (with art. 2(2))

F250 S. 151(4): definition of "Crown Court Rules" repealed (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 18** (with art. 2(2))

F251 Definition of "Rules of the Supreme Court" in s. 151(4) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(7)(b)**; S.I. 1999/1009, **art. 3(e)**

Marginal Citations

M50 1978 c. 30.

152 Amendments of other Acts, transitional provisions, savings and repeals.

[X5](1) The enactments specified in Schedule 5 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.

(2) [F252] . . . . . .

(3) This Act shall have effect subject to the transitional provisions and savings contained in Schedule 6.

[X5](4) The enactments mentioned in Schedule 7 (which include certain obsolete or unnecessary provisions) are hereby repealed to the extent specified in the third column of that Schedule.

(5) [F253] . . . . . .

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Editorial Information

X5 The text of s. 152(1)(4)(5), Sch. 5 and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F252 S. 152(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

F253 S. 152(5) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

153 Citation, commencement and extent.

(1) This Act may be cited as the Supreme Court Act 1981.

(2) This Act, except the provisions mentioned in subsection (3), shall come into force on 1st January 1982; and references to the commencement of this Act shall be construed as references to the beginning of that day.

(3) Sections 72, 143 and 152(2) and this section shall come into force on the passing of this Act.

(4) In this Act—

(a) the following provisions extend to Scotland, namely—

section 80(3);

section 152(4) and Schedule 7, so far as they relate to the [M51]Admiralty Court Act 1861;

(b) the following provisions extend to Northern Ireland so far as they relate to the [M52]Northern Ireland Assembly Disqualification Act 1975, namely—

section 152(1) and Schedule 5;

section 152(3) and paragraph 3(1) of Schedule 6;

(c) the following provisions extend to Scotland and Northern Ireland, namely—

section 36;

sections 132 and 134(3);

section 152(1) and Schedule 5, so far as they amend—

(i) references to section 49 of the [M53]Supreme Court of Judicature (Consolidation) Act 1925,

(ii) the [M54]House of Commons Disqualification Act 1975, and

(iii) section 4 of the [M55]Evidence (Proceedings in Other Jurisdictions) Act 1975;

section 152(3) and paragraph 3(1) of Schedule 6, so far as they relate to the House of Commons Disqualification Act 1975;

section 152(4) and Schedule 7, so far as they relate to—

(i) provisions of the [M56]Supreme Court of Judicature (Consolidation) Act 1925 which extend throughout the United Kingdom,

(ii) the [M57]Evidence and Powers of Attorney Act 1940, and

(iii) section 57(3)(a) of the [M58]Courts Act 1971;

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(d) section 145 extends to any place to which the [M59]Courts-Martial (Appeals) Act 1968 extends, and section 152(1) and (4) and Schedules 5 and 7, so far as they relate to any of the following enactments, namely—

[M60]Army Act 1955,

[M61]Air Force Act 1955,

section 9(2) of, and Part II of Schedule 1 to, the [M62]Criminal Appeal Act 1966,

Courts-Martial (Appeals) Act 1968,

[M63]Hovercraft Act 1968,

[F254] . . .

extend to any place to which that enactment extends;

but, save as aforesaid, the provisions of this Act, other than those mentioned in subsection (5), extend to England and Wales only.

(5) The provisions of this Act whose extent is not restricted by subsection (4) are—

section 27;

section 150;

section 151(1);

section 152(4) and Schedule 7 as far as they relate to the [M64]Naval Prize Act 1864, the [M65]Prize Courts Act 1915 and section 56 of the [M66]Administration of Justice Act 1956;

this section;

paragraph 1 of Schedule 4.

Textual Amendments

F254 Words in s. 153(4)(d) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch.12** (with ss. 312(1), Sch. 14 para. 1)

Marginal Citations

M51 1861 c. 10.
M52 1975 c. 25.
M53 1925 c. 49.
M54 1975 c. 24.
M55 1975 c. 34.
M56 1925 c. 49.
M57 1940 c. 28.
M58 1971 c. 23.
M59 1968 c. 20.
M60 1955 c. 18.
M61 1955 c. 19.
M62 1966 c. 31.
M63 1968 c. 59.
M64 1864 c. 25.
M65 1915 c. 57.
M66 1956 c. 46.

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SCHEDULES

SCHEDULE 1

DISTRIBUTION OF BUSINESS IN HIGH COURT

Chancery Division

1 To the Chancery Division are assigned all causes and matters relating to—

(a) the sale, exchange or partition of land, or the raising of charges on land;
(b) the redemption or foreclosure of mortgages;
(c) the execution of trusts;
(d) the administration of the estates of deceased persons;
(e) bankruptcy;
(f) the dissolution of partnerships or the taking of partnership or other accounts;
(g) the rectification, setting aside or cancellation of deeds or other instruments in writing;
(h) probate business, other than non-contentious or common form business;
(i) patents, trade marks, registered designs **[**[F255], copyright or design right**]**;
(j) the appointment of a guardian of a minor's estate,

and all causes and matters involving the exercise of the High Court's jurisdiction under the enactments relating to companies.

Textual Amendments

F255 Words substituted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 30(1), **Sch. 7 para. 28(1)(3)**

Modifications etc. (not altering text)

C49 Sch. 1 para. 1 extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2(3), **Sch. 2 Pt. I para. 1(2)**(*i*)

C50 Sch. 1 para. 1(i) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art.2**

Queen's Bench Division

2 To the Queen's Bench Division are assigned—

(a) applications for writs of habeus corpus, except applications made by a parent or guardian of a minor for such a writ concerning the custody of the minor;
(b) applications for judicial review;
(c) all causes and matters involving the exercise of the High Court's Admiralty jurisdiction or its jurisdiction as a prize court; and

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(d) all causes and matters entered in the commercial list.

Family Division

3 To the Family Division are assigned—

(a) all matrimonial causes and matters (whether at first instance or on appeal);

(b) all causes and matters (whether at first instance or on appeal) relating to—

(i) legitimacy;

[F256(ii) the exercise of the inherent jurisdiction of the High Court with respect to minors, the maintenance of minors and any proceedings under the Children Act 1989, except proceedings solely for the appointment of a guardian of a minor's estate;]

(iii) F257adoption;

(iv) non-contentious or common form probate business;

(c) applications for consent to the marriage of a minor [F258or for a declaration under section 27B(5) of the Marriage Act M67 1949];

(d) proceedings on appeal under section 13 of the M68Administration of Justice Act 1960 from an order or decision made under section 63(3) of the M69Magistrates' Courts Act 1980 to enforce an order of a magistrates' court made in matrimonial proceedings [F259or proceedings under Part IV of the Family Law Act 1996]or with respect to the guardianship of a minor.

[F260(e) applications under Part III of the Family Law Act 1986.]

[F260(e) proceedings under the Children Act 1989]

[F261(f) all proceedings under:—

(i) the [F262Part IV of the Family Law Act 1996];

(ii) the Child Abduction and Custody Act 1985

(iii) the Family Law Act 1986;

(iv) section 30 of the Human Fertilisation and Embryology Act 1990; and

[F263(fa) all proceedings relating to a debit or credit under section 29(1) or 49(1) of the Welfare Reform and Pensions Act 1999;]

(g) all proceedings for the purpose of enforcing an order made in any proceedings of a type described in this paragraph.]

[F264(h) all proceedings under the Child Support Act 1991.]

Textual Amendments

F256 Sch. 1 para. 3(*b*)(ii) substituted (14. 10. 1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 45(3) (with **Sch. 14 para. 1(1)**); S.I. 1991/828, **art. 3(2)**

F257 Words repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(2)(4), Sch. 3 paras. 1, 6, **Sch. 4**

F258 Words inserted by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), **s. 5**

F259 Words in Sch. 1 para. 3(d) inserted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 51(a)**; S.I. 1997/1892, **art. 3(1)(b)**

F260 Sch. 1 para. 3(*e*) commencing "applications under" added by Family Law Act 1986 (c. 55, SIF 49:3), s. 68(1), **Sch. 1 para. 26** and Sch. 1 para. 3(e) commencing "proceedings under" added (14. 10. 1991)

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by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), Sch. 11 Pt. II para. 9 (with **Sch. 14 para. 1(1)**); S.I. 1991/828, **art. 3(2)**

F261 Sch. 1 para. 3(f)(g) added (14.10.1991) by S.I. 1991/1210, art. 3, **Sch**

F262 Words in Sch. 1 para. 3(f)(i) substituted (1.10.1997) by 1996 c. 27, s. 66(1), **Sch. 8 Pt. III para. 51(b)**; S.I. 1997/1892, **art. 3(1)(b)**

F263 Sch. 1 para. 3(fa) inserted (1.12.2000) by 1999 c. 30, s. 84, **Sch. 12 para. 1**; S.I. 2000/1116, **art. 2(b)(f)**

F264 Sch. 1 para. 3(h) inserted (5.4.1993) by S.I. 1993/622, **art. 3**

Marginal Citations

M67 1949 c.76**(49:1).**

M68 1960 c. 65.

M69 1980 c. 43.

[F265F266SCHEDULE 2

LIST OF OFFICES IN SUPREME COURT FOR PURPOSES OF PART IV

Textual Amendments

F265 Sch. 2 substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 49**

F266 Sch. 2 substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 13(3)-(5)**; S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

References in this Schedule to a person having a general qualification shall be construed in accordance with section 71 of the Courts and Legal Services Act 1990.**]**

PART I

1. Office	2. Persons qualified
F267	F267
. . .	. . .
	F267
	. . .
2. Official Solicitor.	2. A person who has a 10 year general qualification.

Textual Amendments

F267 Entry in Sch. 2 Pt. I relating to the Permanent Secretary to the Lord Chancellor and the Clerk of the Crown in Chancery repealed (17.12.1997) by 1997 c. 69, **s. 1(1)** (with s. 1(2))

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PART II

1. Office	2. Persons qualified
3. Master, Queen's Bench Division.	3. A person who has a 7 year general qualification.
4. Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals.	4. A person who has a 10 year general qualification.
5. Admiralty Registrar.	5. A person who has a 7 year general qualification.
6. Master, Chancery Division.	6. A person who has a 7 year general qualification.
7. Registrar in Bankruptcy of the High Court.	7. A person who has a 7 year general qualification.
8. Taxing Master of the Supreme Court.	8. A person who has a 7 year general qualification.
9. District judge of the principal registry of the Family Division.	9.—(1) A person who has a 7 year general qualification. (2) A district probate registrar who either— (a) is of at least 5 years' standing; or (b) has, during so much of the 10 years immediately preceding his appointment as he has not been a district probate registrar, served as a civil servant in the principal registry or a district probate registry. (3) A civil servant who has served at least 10 years in the principal registry or a district probate registry.
10.. . ..	10. **F268** . . .
11. Master of the Court of Protection.	11. A person who has a 7 year general qualification.

Textual Amendments

F268 Sch. 2 Pt. II entry 10 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

PART III

1. Office	2. Persons qualified

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12. District probate registrar.	12.—(1) A person who has a 5 year general qualification. (2) A civil servant who has served at least 5 years in the principal registry of the Family Division or a district probate registry.

[F269]SCHEDULE 3

Textual Amendments
F269 Sch. 3 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

. . . . . .

SCHEDULE 4

CONSTRUCTION OF REFERENCES TO SUPERSEDED COURTS AND OFFICERS

General

1 (1) So much of any enactment as refers or relates to any former court or judge whose jurisdiction is vested in the Court of Appeal or the High Court shall be construed and have effect as if any reference to that court or judge were a reference to the Court of Appeal or the High Court, as the case may be.

(2) All Acts, charters and other instruments which refer to Westminster as the locality of any former court, being a court whose jurisdiction is vested in the Court of Appeal or the High Court, shall be construed as referring instead to the Royal Courts of Justice and other places at which the Court of Appeal or the High Court sits.

The Accountants-General of the Courts of Chancery and Exchequer

2 Any enactment or document referring to the Accountant-General of the Court of Chancery or Court of Exchequer shall be read as referring instead to the Accountant General of the Supreme Court.

The Court of Criminal Appeal and its registrar

3 In any enactment or document passed or made before 1st October 1966—

(a) any reference to the Court of Criminal Appeal (except where it occurs in a reference to the registrar of that court) shall, subject to rules of court made in pursuance of section 53(1), be read as a reference to the criminal division of the Court of Appeal;

(b) any reference to the registrar of the Court of Criminal Appeal shall be read as a reference to the registrar of criminal appeals; and

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(c) any reference to the Court of Appeal shall, subject to rules of court made in pursuance of section 53(1), be read as a reference to the civil division of the Court of Appeal.

Principal registrar of Family Division

4 In any enactment or document passed or made before the commencement of this Act any reference to the principal registrar of the Family Division shall be read as a reference to the Senior Registrar of that Division.

[X6]SCHEDULE 5

Section 152(1).

CONSEQUENTIAL AMENDMENTS

Editorial Information

X6 The text of s. 152(1)(4)(5), Sch. 5 and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

COLONIAL PROBATES ACT 1892 (c. 6)

In section 2(1), for "156A of the [M70]Supreme Court of Judicature (Consolidation) Act 1925" substitute " 109 of the Supreme Court Act 1981 ".

Marginal Citations

M70 1925 c. 49.

Marginal Citations

M70 1925 c. 49.

F270

. . . . . .

Textual Amendments

F270 Entry repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3(1), 5(2), **Sch. Pt I**. Sch. 4

Textual Amendments

F270 Entry repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3(1), 5(2), **Sch. Pt I**. Sch. 4

F271

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Textual Amendments

F271 Entry repealed by Administration of Justice Act 1982 (c. 53, SIF 37), s. 75(1), **Sch. 9 Pt. I** and also expressed to be repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235(2)(3), **Sch. 10 Pt. III**

Textual Amendments

F271 Entry repealed by Administration of Justice Act 1982 (c. 53, SIF 37), s. 75(1), **Sch. 9 Pt. I** and also expressed to be repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235(2)(3), **Sch. 10 Pt. III**

ADMINISTRATION OF ESTATES ACT 1925 (c. 23)

In section 47A(7) (notices to principal registrar of Family Division)—

(a) for "principal registrar" substitute " Senior Registrar "; and

(b) for the words from "made under" onwards substitute " of court made under section 127 of the Supreme Court Act 1981 ".

LAW OF PROPERTY (AMENDMENT) ACT 1926 (c. 11)

In section 3(1), "for [M71]Supreme Court of Judicature (Consolidation) Act 1925" substitute " Supreme Court Act 1981 ".

Marginal Citations

M71 1925 c. 49.

Marginal Citations

M71 1925 c. 49.

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1933 (c. 13)

1 In section 3(1), for "ninety-nine of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 84 of the Supreme Court Act 1981 ".

[F272]2 . . . . . .

Textual Amendments

F272 Sch. 5: para. 2 of the entry relating to the amendment of Foreign Judgments (Reciprocal Enforcement) Act 1933 repealed by Civil Jurisdiction and Judgments Act 1982 (c.27, SIF 45:3), s. 54, **Sch. 14**

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) ACT 1933 (c. 36)

Section 2(2)(b) shall continue to have effect with the amendments made by the [M72]Criminal Appeal Act 1964 and the [M73]Criminal Appeal Act 1966, that is with the insertion after "preferred" of "by the direction of the criminal division of the Court of Appeal".

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Marginal Citations

M72 1964 c. 43.
M73 1966 c. 31.

Marginal Citations

M72 1964 c. 43.
M73 1966 c. 31.

F273

. . . . . .

Textual Amendments

F273 Entry repealed by Finance Act 1987 (c. 16, SIF 99:6), s. 72(7), **Sch. 16 Pt. XI**

Textual Amendments

F273 Entry repealed by Finance Act 1987 (c. 16, SIF 99:6), s. 72(7), **Sch. 16 Pt. XI**

F274

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Textual Amendments

F274 Entry repealed by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 75(1) Sch. 9 Pt. I** and also expressed to be repealed by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 29, **Sch. 1**

Textual Amendments

F274 Entry repealed by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 75(1) Sch. 9 Pt. I** and also expressed to be repealed by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 29, **Sch. 1**

CRIMINAL JUSTICE ACT 1948 (c. 58)

In section 37(4), for "ninety-nine of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 84 of the Supreme Court Act 1981 ".

CONSULAR CONVENTIONS ACT 1949 (c. 29)

In section 1(4)—

(a) for "(1) of section one hundred and sixty of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " (2) of section 114 of the Supreme Court Act 1981 ";
(b) after "must" insert " in general "; and
(c) for "(2) of the said section one hundred and sixty" substitute " (4) of that section ".

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ARBITRATION ACT 1950 (c. 27)

In section 38(3), for "ninety-nine of the [M74]Supreme Court of Judicature (Consolidation) Act 1925" substitute " 84 of the Supreme Court Act 1981 ".

Marginal Citations

M74 1925 c. 49.

Marginal Citations

M74 1925 c. 49.

ARMY ACT 1955 (c. 18)

[[F275]Section 110(1) shall continue to have effect with the amendments made by Part II of Schedule I to the [M75]Criminal Appeal Act 1966, that is—

(a) with the substitution of "is under all the circumstances of the case unsafe or unsatisfactory" for the words from " is unreasonable " to " evidence ";

(b) with the substitution of "there was a material irregularity in the course of the trial" for " on any ground there was a miscarriage of justice "; and

(c) with the addition at the end of the following proviso—

"Provided that the confirming officer may, notwithstanding that he is of opinion that he would apart from this proviso withhold confirmation of the finding, confirm the finding if he considers that no miscarriage of justice has actually occurred.".**]**

Textual Amendments

F275 Entry in Sch. 5 relating to the Army Act 1955 repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch.3**; S.I. 1995/3061, **art. 3(i)(vi)** (with savings in art. 4(b))

Marginal Citations

M75 1966 c. 31.

Textual Amendments

F275 Entry in Sch. 5 relating to the Army Act 1955 repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch.3**; S.I. 1995/3061, **art. 3(i)(vi)** (with savings in art. 4(b))

Marginal Citations

M75 1966 c. 31.

AIR FORCE ACT 1955 (c. 19)

[[F276]Section 110(1) shall continue to have effect with the amendments made by Part II of Schedule 1 to the Criminal Appeal Act 1966, that is with the same amendments as are specified in the entry in this Schedule relating to the [M76]Army Act 1955.]

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Textual Amendments

F276 Entry in Sch. 5 relating to the Air Force Act 1955 repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch.3 S.I**. 1995/3061, art.3(i)(vi)

Marginal Citations

M76 1955 c. 18.

Textual Amendments

F276 Entry in Sch. 5 relating to the Air Force Act 1955 repealed (1.1.1996) by 1995 c. 35, s. 29(2), **Sch.3 S.I**. 1995/3061, art.3(i)(vi)

Marginal Citations

M76 1955 c. 18.

F277

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Textual Amendments

F277 Entry repealed by Medical Act 1983 (c. 54, SIF 83:1), s. 36(2)(3), **Sch. 7 Pt. I**

Textual Amendments

F277 Entry repealed by Medical Act 1983 (c. 54, SIF 83:1), s. 36(2)(3), **Sch. 7 Pt. I**

F278

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Textual Amendments

F278 Entry repealed by Dentists Act 1983 (c. 38, SIF 83:1), s. 33(2), **Sch. 3**

Textual Amendments

F278 Entry repealed by Dentists Act 1983 (c. 38, SIF 83:1), s. 33(2), **Sch. 3**

F279

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Textual Amendments

F279 Entry repealed by Opticians Act 1989 (c. 44, SIF 83:1), s. 37, **Sch. 2**

Textual Amendments

F279 Entry repealed by Opticians Act 1989 (c. 44, SIF 83:1), s. 37, **Sch. 2**

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F280 . . . . . .

Textual Amendments
F280 Entry repealed by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(2), **Sch. 4 Pt. I**

Textual Amendments
F280 Entry repealed by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(2), **Sch. 4 Pt. I**

PROFESSIONS SUPPLEMENTARY TO MEDICINE ACT 1960 (c. 66)

In paragraph 2(2) of Schedule 2, for "forty-nine of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 36 of the Supreme Court Act 1981 ".

NURSES (AMENDMENT) ACT 1961 (c. 14)

F281 . . . . . .

Textual Amendments
F281 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

RIVERS (PREVENTION OF POLLUTION) ACT 1961 (c. 50)

F282 . . . . . .

Textual Amendments
F282 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

PUBLIC HEALTH ACT 1961 (c. 64)

F283 . . . . . .

Textual Amendments
F283 Schedule 5: Entry relating to Public Health Act 1961 repealed (1. 12. 1991) by Water Consolidation (Consequential Provisions) Act 1991 c. 60, ss. 3(1), 4(2), **Sch. 3 Pt.I**

Textual Amendments
F283 Schedule 5: Entry relating to Public Health Act 1961 repealed (1. 12. 1991) by Water Consolidation (Consequential Provisions) Act 1991 c. 60, ss. 3(1), 4(2), **Sch. 3 Pt.I**

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ADMINISTRATION OF JUSTICE ACT 1964 (c. 42)

F284 . . . . . .

Textual Amendments

F284 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

ADMINISTRATION OF JUSTICE ACT 1965 (c. 2)

1 F285 . . . . . .

Textual Amendments

F285 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

2 F286 . . . . . .

Textual Amendments

F286 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

3 F287 . . . . . .

Textual Amendments

F287 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

VETERINARY SURGEONS ACT 1966 (c. 36)

In paragraph 4(2) of Schedule 2, for “49 of the Supreme Court of Judicature (Consolidation) Act 1925” substitute “ 36 of the Supreme Court Act 1981 ”.

ARBITRATION (INTERNATIONAL INVESTMENT DISPUTES) ACT 1966 (c. 41)

In sections 1(6) and 2(2), for “99 of the Supreme Court of Judicature (Consolidation) Act 1925” substitute “ 84 of the Supreme Court Act 1981 ”.

MATRIMONIAL CAUSES ACT 1967 (c. 56)

F288 . . . . . .

Textual Amendments

F288 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

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CRIMINAL APPEAL ACT 1968 (c. 19)

1 In section 33 (right of appeal to House of Lords from decision of criminal division of Court of Appeal), after subsection (2) insert—

"(3) Except as provided by this Part of this Act and section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), no appeal shall lie from any decision of the criminal division of the Court of Appeal.".

2 For subsection (1) of, and the side-note to, section 45 (jurisdiction of Court of Appeal, and construction of certain references in Parts I and II) substitute—

"**45 Construction of references in Parts I and II to Court of Appeal and a single judge.**

(1) References in Parts I and 11 of this Act to the Court of Appeal shall be construed as references to the criminal division of the Court."

3 In Schedule 2 (provisions applicable on order for retrial), paragraph 2(4) shall have effect, and be deemed always to have had effect, as if for "Section 17(2) of the [M77]Criminal Justice Administration Act 1962" there were substituted " Section 67 of the [M78]Criminal Justice Act 1967 ".

Marginal Citations
M77 1962 c. 15.
M78 1967 c. 80.

HEARING AID COUNCIL ACT 1968 (c. 50)

In section 10(2), for "49 of the [M79]Supreme Court of Judicature (Consolidation) Act 1925" substitute " 36 of the Supreme Court Act 1981 ".

Marginal Citations
M79 1925 c. 49.

Marginal Citations
M79 1925 c. 49.

HOVERCRAFT ACT 1968 (c. 59)

1 In section 1(1)(h)(i) (power to apply to hovercraft etc. enactments about ships etc.), for "Act)" substitute " Act, or an enactment contained in sections 20 to 24 of the Supreme Court Act 1981) ".

2 (1) Section 2 (Admiralty jurisdiction etc.) shall be amended as follows.

(2) In subsection (1)—

(a) for "Parts I and V" substitute " Part V "; and

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(b) for the words from "the reference in section 4(1)" to "the said Schedule 1)" substitute " the reference in paragraph 4(1) of the said Part I and the second reference in paragraph 8(1) of that Part) ".

(3) After subsection (3) insert—

"(3A) Subsection (3) of this section shall have effect as if the reference to the enactments mentioned in subsection (1) as extended by that subsection included a reference to sections 20 to 24 of the Supreme Court Act 1981.".

F289
. . . . . .

Textual Amendments
F289 Entry repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

Textual Amendments
F289 Entry repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

F290
. . . . . .

Textual Amendments
F290 Entry repealed by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(2), **Sch. 4 Pt. I**

Textual Amendments
F290 Entry repealed by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), s. 65(2), **Sch. 4 Pt. I**

ADMINISTRATION OF ESTATES ACT 1971 (c. 25)

1 (1) Section 11 (sealing of Commonwealth and Colonial grants) shall be amended as follows.

(2) In subsection (3)—

(a) for "167 of the [M80]Supreme Court of Judicature (Consolidation) Act 1925" substitute " 120 of the Supreme Court Act 1981 "; and

(b) omit "and orders".

(3) In subsection (8), for the definition of "probate rules and orders" substitute—

""probate rules" means rules of court made under section 127 of the Supreme Court Act 1981.".

Marginal Citations
M80 1925 c. 49.

2 In section 14(3), for "8" substitute " 9 ".

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MISUSE OF DRUGS ACT 1971 (c. 38)

In paragraph 5(2) of Schedule 3, for "49 of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 36 of the Supreme Court Act 1981 ".

MERCHANT SHIPPING (OIL POLLUTION) ACT 1971 (c. 59)

F291 . . . . . .

Textual Amendments

F291 Entry in Sch. 5 relating to Merchant Shipping (Oil Pollution) Act 1971 repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch.12** (with s. 312(1), Sch. 14 para. 1)

Textual Amendments

F291 Entry in Sch. 5 relating to Merchant Shipping (Oil Pollution) Act 1971 repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch.12** (with s. 312(1), Sch. 14 para. 1)

TRIBUNALS AND INQUIRIES ACT 1971 (c. 62)

F292 . . . . . .

Textual Amendments

F292 Entry in Sch. 5 repealed (1. 10. 1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), **Sch. 4 Pt.I**.

Textual Amendments

F292 Entry in Sch. 5 repealed (1. 10. 1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), **Sch. 4 Pt.I**.

F293 . . . . . .

Textual Amendments

F293 Entry repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, **Sch. 3**

Textual Amendments

F293 Entry repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, **Sch. 3**

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LAND CHARGES ACT 1972 (c. 61)

In section 6(4) (effect of non-registration of writs and orders registrable under section 6), for "section 36(3) of the Administration of Justice Act 1956" substitute " section 37(5) of the Supreme Court Act 1981 ".

HEALTH AND SAFETY AT WORK ETC. ACT 1974 (c. 37)

F294 . . . . . .

Textual Amendments

F294 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

F295 . . . . . .

Textual Amendments

F295 Entry repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

Textual Amendments

F295 Entry repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

MERCHANT SHIPPING ACT 1974 (c. 43)

F296 . . . . . .

Textual Amendments

F296 Entry in Sch. 5 relating to Merchant Shipping Act 1974 (c. 43) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch.12** (with s. 312(1), Sch. 14 para. 1)

Textual Amendments

F296 Entry in Sch. 5 relating to Merchant Shipping Act 1974 (c. 43) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch.12** (with s. 312(1), Sch. 14 para. 1)

SOLICITORS ACT 1974 (c. 47)

1 In section 19(2), for "120 of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 94 of the Supreme Court Act 1981 ".

2 After section 81 insert—

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"**81A Fees for administering oaths and taking affidavits.**

(1) The Lord Chancellor may, with the concurrence of the Lord Chief Justice and the Master of the Rolls, by order prescribe the fees to be charged by—
  (a) commissioners for oaths; and
  (b) solicitors exercising the powers of commissioners for oaths by virtue of section 81,

in respect of the administration of an oath or the taking of an affidavit.

(2) Any order under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

(3) In this section "affidavit" has the same meaning as in the Commissioners for Oaths Act 1889.".

HOUSE OF COMMONS DISQUALIFICATION ACT 1975 (c. 24)

In Part III of Schedule 1, in the entry beginning "Officer of the Supreme Court", for the words from "within" onwards substitute " being the holder of any office listed in any Part of Schedule 2 to the Supreme Court Act 1981 or a district registrar, or assistant district registrar, of the High Court ".

NORTHERN IRELAND ASSEMBLY DISQUALIFICATION ACT 1975 (c. 25)

Part 111 of Schedule 1 shall have effect with the same amendment as is specified in the entry in this Schedule relating to the [M81]House of Commons Disqualification Act 1975.

Marginal Citations
M81 1975 c. 24.

Marginal Citations
M81 1975 c. 24.

EVIDENCE (PROCEEDINGS IN OTHER JURISDICTIONS) ACT 1975 (c. 34)

1 In section 4 (extension of powers of High Court etc. in relation to obtaining evidence for proceedings in that court) for the words from the beginning to "shall" substitute " The [M82]Attendance of Witnesses Act 1854 (which enables the Court of Session to order the issue of a warrant of citation in special form, enforceable throughout the United Kingdom, for the attendance of a witness at a trial) shall ".

Marginal Citations
M82 1854 c. 34.

2 In section 7, for "99 of the [M83]Supreme Court of Judicature (Consolidation) Act 1925" substitute " 84 of the Supreme Court Act 1981 ".

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Marginal Citations

M83 1925 c. 49.

FARRIERS (REGISTRATION) ACT 1975 (c. 35)

In paragraph 4(2) of Schedule 3, for "49 of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 36 of the Supreme Court Act 1981 ".

TORTS (INTERFERENCE WITH GOODS) ACT 1977 (c. 32)

In section 4—

(a) in subsection (4), for "99 of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 84 of the Supreme Court Act 1981 "; and

(b) in subsection (5), for "99" and "1925" substitute respectively " 84 " and " 1981 ".

INSURANCE BROKERS (REGISTRATION) ACT 1977 (c. 46)

In section 19(2), for "49 of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 36 of the Supreme Court Act 1981 ".

. . . . . **F297**

Textual Amendments

F297 Entry repealed by Medical Act 1983 (c. 54, SIF 83:1), s. 36(2)(3), **Sch. 7 Pt. I**

Textual Amendments

F297 Entry repealed by Medical Act 1983 (c. 54, SIF 83:1), s. 36(2)(3), **Sch. 7 Pt. I**

EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978 (c. 44)

F298 . . . . . .

Textual Amendments

F298 Entry in Sch. 5 relating to the Employment Protection (Consolidation) Act 1978 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt.I** (with s. 38)

Textual Amendments

F298 Entry in Sch. 5 relating to the Employment Protection (Consolidation) Act 1978 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt.I** (with s. 38)

ARBITRATION ACT 1979 (c. 42)

F299 . . . . . .

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Textual Amendments

F299 Sch. 5: entry repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group 4}

CHARGING ORDERS ACT 1979 (c. 53)

In section 5(2), for "99 of the Supreme Court of Judicature (Consolidation) Act 1925" substitute " 84 of the Supreme Court Act 1981 ".

MAGISTRATES' COURTS ACT 1980 (c. 43)

1 After section 43 insert—

"**43A Functions of magistrates' court where a person in custody is brought before it with a view to his appearance before the Crown Court.**

(1) Where a person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court is brought before a magistrates' court in pursuance of section 81(5) of the Supreme Court Act 1981—

(a) the magistrates' court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court;

(b) if the warrant is endorsed for bail, but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions, if satisfied that it is proper to do so.

(2) A magistrates' court shall have jurisdiction under subsection (1) whether or not the offence was committed, or the arrest was made, within the court's area.".

2 In section 87(2) for "penalty" substitute " sum ".

F300 . . . . . .

Textual Amendments

F300 Entry repealed by Capital Transfer Tax Act 1984 (c. 51, SIF 65), ss. 274, 277, Schs. 7, **9**

Textual Amendments

F300 Entry repealed by Capital Transfer Tax Act 1984 (c. 51, SIF 65), ss. 274, 277, Schs. 7, **9**

JUDICIAL PENSIONS ACT 1981 (c. 20)

1 For subsection (2) of section 34 (county court registrars and assistant registrars) substitute—

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"(2) Nothing in this Act shall apply to a part-time registrar or part-time assistant registrar within the meaning of subsection (3) of section 22 of the County Courts Act 1959 (restrictions on practice).".

2 Schedule 1 (pensions, etc. of certain judicial officers) shall be amended as follows—

(a) in paragraph 1, for the list of Supreme Court officers (namely that beginning with "Master and Assistant Master of the Supreme Court, Queen's Bench Division" and ending with "Registrar, and Assistant Registrar, of Criminal Appeals") substitute—

"Master, Queen's Bench Division.

Queen's coroner and attorney and Master of the Crown Office.

Admiralty Registrar.

Master, Chancery Division.

Registrar in Bankruptcy of the High Court.

Taxing Master of the Supreme Court.

Registrar, Principal Registry of the Family Division.

Registrar of criminal appeals.

Registrar of civil appeals.

Master of the Court of Protection."; and

(b) in paragraph 4—

(i) in sub-paragraph (1)(a), for "the prescribed number of years of" substitute " 15 years ", and

(ii) omit sub-paragraph (2).

SCHEDULE 6

Section 152(3).

TRANSITIONAL PROVISIONS AND SAVINGS

F301 1 . . . . . .

Textual Amendments

F301 Sch. 6 paras. 1, 2(2), 3, 6 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

Continuity of appointments of officers

2 (1) Any person holding an office immediately before the commencement of this Act in the case of which provision for appointment is made by Part IV shall continue to hold that office as if he had been appointed under that Part (whether or not he is qualified to be so appointed).

F302 (2) . . . . . .

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Textual Amendments

F302 Sch. 6 paras. 1, 2(2), 3, 6 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

Tenure, etc. of certain officers

[F303]3 . . . . . .

Textual Amendments

F303 Sch. 6 paras. 1, 2(2), 3, 6 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

[F304]4 . . . . . .

Textual Amendments

F304 Sch. 6 para. 4 repealed by Mental Health Act 1983 (c. 43), s. 148(3), **Sch. 6**

5 This Act, so far as it amends or repeals any provision of Schedule 1 to the [M84]Judicial Pensions Act 1981, shall not have effect in relation to any person who was within paragraph 1 of that Schedule immediately before the commencement of this Act and either was then holding office or had previously retired or died.

Marginal Citations

M84 1981 c. 20.

[F305]6 . . . . . .

Textual Amendments

F305 Sch. 6 paras. 1, 2(2), 3, 6 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I**

Inland Revenue affidavits

7 In relation to deaths occurring before 13th March 1975 (the date on which the [M85]Finance Act 1975 was passed)—

(a) section 109 shall not apply; and

(b) section 110 shall have effect as if at the end of paragraph (b) there were added the words “and the Inland Revenue affidavit within the meaning of Part I of the [M86]Finance Act 1894”.

Marginal Citations

M85 1975 c. 7.

M86 1894 c. 30.

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Grants of representation made under provisions of 1925 Act not reproduced in this Act

8 Nothing in the repeals made by this Act shall affect—

(a) any grant made before the commencement of this Act under any of the following provisions of the 1925 Act, namely section 162(1) and proviso (a) thereto and sections 164 and 165; or

(b) the continued operation of subsections (2) and (3) of section 164 of that Act in relation to any grant so made under that section.

Minor executors

9 Any appointment of a minor as executor which, immediately before the commencement of this Act, was by virtue of section 165(2) of the 1925 Act rendered ineffective for the purposes mentioned in that subsection shall continue to be ineffective for those purposes unless and until probate is granted to the person in question in accordance with probate rules.

Administration bonds given before 1st January 1972

10 Nothing in this Act shall affect the continued operation of section 167 of the 1925 Act, as in force before 1st January 1972 (the date on which the [M87]Administration of Estates Act 1971 came into force), in relation to the enforcement or assignment of any administration bond given under that section before that date.

Marginal Citations

M87 1971 c. 25.

Grants and resealings liable to revocation or cancellation at instance of court

11 Section 121 applies whether the grant in question was made or (as the case may be) resealed before or after the commencement of this Act.

Appeals from certain orders and decisions under section 54(3) of Magistrates' Courts Act 1952

12 In paragraph 3(d) of Schedule 1, the reference to an order or decision made under section 63(3) of the [M88]Magistrates' Courts Act 1980 includes a reference to an order or decision made under section 54(3) of the [M89]Magistrates' Courts Act 1952.

Marginal Citations

M88 1980 c. 43.

M89 1952 c. 55.

Interpretation

13 (1) In this Schedule "the [M90]1925 Act" means the Supreme Court of Judicature (Consolidation) Act 1925.

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(2) Nothing in this Schedule shall be taken as prejudicing the operation of the provisions of the [M91]Interpretation Act 1978 as respects the effect of repeals.

Marginal Citations

M90 1925 c. 49.

M91 1978 c. 30.

[X7]SCHEDULE 7

Section 152(4)

Editorial Information

X7 The text of s. 152(1)(4)(5), Sch. 5 and Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Chapter	Short Title	Extent of Repeal
33 Hen. 8. c. 39.	Crown Debts Act 1541.	The whole Act.
39 & 40 Geo. 3. c. 36.	Transfer of Stock Act 1800.	The whole Act.
10 Geo. 4. c. 13.	Court Funds Act 1829.	The whole Act.
3 & 4 Will. 4. c. 99.	Fines Act 1833.	Sections 26 to 28 and 30 to 32, except as regards process issued before the commencement of this Act. Section 33, except as regards matters to which sections 23 to 25 of the Act relate.
7 & 8 Vict. c. 96.	Execution Act 1844.	The whole Act, except section 67 so far as it relates to the process of the High Court.
14 & 15 Vict. c. 99.	Evidence Act 1851.	Section 6.
15 & 16 Vict. c. 76.	Common Law Procedure Act 1852.	Section 126.
20 & 21 Vict. c. 77.	Court of Probate Act 1857.	The whole Act.
21 & 22 Vict. c. 27.	Chancery Amendment Act 1858.	The whole Act, so far as unrepealed.
21 & 22 Vict. c. 95	Court of Probate Act 1858.	The whole Act.
22 & 23 Vict. c. 21.	Queen's Remembrancer Act 1859.	Section 23.
24 & 25 Vict. c. 10.	Admiralty Court Act 1861.	The whole Act.

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27 & 28 Vict. c. 25.	Naval Prize Act 1864.	In section 2, the definition of "the High Court of Admiralty". Sections 10 to 12, 14, 15 and 45.
31 & 32 Vict. c. 72.	Promissory Oaths Act 1868.	In Part II of the Schedule, the entries relating to the Lord Chief Justice and the Master of the Rolls.
31 & 32 Vict. c. 125.	Parliamentary Elections Act 1868.	Section 11.
33 & 34 Vict. c. 28.	Attorneys' and Solicitors' Act 1870.	The whole Act.
42 & 43 Vict. c. 75.	Parliamentary Elections and Corrupt Practices Act 1879.	The whole Act, so far as unrepealed.
46 & 47 Vict. c. 51.	Corrupt and Illegal Practices Act 1883.	Section 42.
54 & 55 Vict. c. 53.	Supreme Court of Judicature Act 1891.	In section 5, the words from "and" onwards.
56 & 57 Vict. c. 71.	Sale of Goods Act 1893.	Section 26.
4 & 5 Geo. 5. c. 59.	Bankruptcy Act 1914.	In section 97, subsection (1) and, in subsection (2), the proviso.
5 & 6 Geo. 5. c. 57.	Prize Courts Act 1915.	Section 4.
14 & 15 Geo. 5. c. 17.	County Courts Act 1924.	The whole Act.
15 & 16 Geo. 5. c. 23.	Administration of Estates Act 1925.	In section 55(1), in paragraph (xiii), the words from "or" onwards, and paragraphs (xvi) and (xxii).
15 & 16 Geo. 5. c. 49.	Supreme Court of Judicature (Consolidation) Act 1925.	The whole Act.
18 & 19 Geo. 5. c. 26.	Administration of Justice Act 1928.	The whole Act.
22 & 23 Geo. 5. c. 55.	Administration of Justice Act 1932.	The whole Act.
23 & 24 Geo. 5. c. 36.	Administration of Justice (Miscellaneous Provisions) Act 1933.	Section 6.
25 & 26 Geo. 5. c. 2.	Supreme Court of Judicature (Amendment) Act 1935.	The whole Act.
1 & 2 Geo. 6. c. 28.	Evidence Act 1938.	Section 5.

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1 & 2 Geo. 6. c. 63.	Administration of Justice (Miscellaneous Provisions) Act 1938.	The whole Act.
1 & 2 Geo. 6. c. 67.	Supreme Court of Judicature (Amendment) Act 1938.	The whole Act.
3 & 4 Geo. 6. c. 28.	Evidence and Powers of Attorney Act 1940.	Section 4(1)(a).
7 & 8 Geo. 6. c. 9.	Supreme Court of Judicature (Amendment) Act 1944.	The whole Act.
10 & 11 Geo. 6. c. 44.	Crown Proceedings Act 1947.	In section 20(2), the proviso.
		In section 27(1), paragraph (c) of the proviso and the word “or” preceding it.
11 & 12 Geo. 6. c. 38.	Companies Act 1948.	In section 219, in subsection (1), the words from “at any time” to “or may”, and subsection (2).
11 & 12 Geo. 6. c. 58.	Criminal Justice Act 1948.	In section 37(4), the words from “and the powers” onwards.
12, 13, & Geo. 6. c. 100.	Law Reform (Miscellaneous Provisions) Act 1949.	Section 9.
2 & 3 Eliz. 2. c. 38.	Supreme Court Officers (Pensions) Act 1954.	The whole Act.
4 & 5 Eliz. 2. c. 46.	Administration of Justice Act 1956.	Parts I and II.
		Sections 34 and 36.
		Section 38.
		Sections 42 to 44.
		Section 54.
		Section 56.
6 & 7 Eliz. 2. c. 51.	Public Records Act 1958.	Section 8(2).
F306	**F306**	**F306**
. . .	. . .	. . .
7 & 8 Eliz. 2. c. 39.	Supreme Court of Judicature (Amendment) Act 1959.	The whole Act.
7 & 8 Eliz. 2. c. 72.	Mental Health Act 1959.	In section 111(2), the words from “and onwards”.
		Section 115(2).

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		In Schedule 7, in Part I, the entry relating to the Supreme Court of Judicature (Consolidation) Act 1925.
8 & 9 Eliz. 2. c. 9.	Judicial Pensions Act 1959.	In Schedule 1, in column 1, the words from "Lord Chief Justice, Master of the Rolls" to "Puisne Judge of the High Court of Justice".
8 & 9 Eliz. 2. c. 65.	Administration of Justice Act 1960.	In section 13(6), the words from "and for" onwards.
9 & 10 Eliz. 2. c. 3.	Administration of Justice (Judges and Pensions) Act 1960.	The whole Act.
9 & 10 Eliz. 2. c. 39.	Criminal Justice Act 1961.	In Schedule 4, the entry relating to the Mental Health Act 1959.
10 & 11 Eliz. 2. c. 27.	Recorded Delivery Service Act 1962.	In the Schedule, paragraph 4.
1964 c. 43.	Criminal Appeal Act 1964.	The whole Act.
1965 c. 2.	Administration of Justice Act 1965.	Section 15(3).
		Section 22.
		Section 24.
		Section 26.
		In Schedule 1, the entry relating to the Court Funds Act 1829.
1966 c. 31.	Criminal Appeal Act 1966.	The whole Act.
1967 c. 28.	Superannuation (Miscellaneous Provisions) Act 1967.	In section 3(4), the words "Lord Chancellor's Medical Visitor".
1967 c. 56.	Matrimonial Causes Act 1967.	Section 6.
1968 c. 5.	Administration of Justice Act 1968.	Section 1(1)(b).
1968 c. 19.	Criminal Appeal Act 1968.	In section 11(4)(b), the words "of Court of Appeal".
		Section 46.
		Section 51(3).
		In Schedule 5, in Part I, the amendments of the Supreme Court of Judicature

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		(Consolidation) Act 1925, of the Mental Health Act 1959 and of the Criminal Appeal Act 1966 and, in the amendment of the Administration of Justice Act 1960, the words "and for the purposes of the said Part I".
1968 c. 20.	Courts-Martial (Appeals) Act 1968.	In section 2(1)(a), the words "of the Queen's Bench Division" and the words from "after" to "Rolls". In section 3(a), the words "of the Queen's Bench Division".
1968 c. 59.	Hovercraft Act 1968.	Section 2(5).
1968 c. 64.	Civil Evidence Act 1968.	In section 8(6), the words "section 99 of the Supreme Court of Judicature (Consolidation) Act 1925" and "section 101 of the Supreme Court of Judicature (Consolidation) Act 1925".
1969 c. 46.	Family Law Reform Act 1969.	In Schedule 1, in Part I, the entry relating to the Supreme Court of Judicature (Consolidation) Act 1925.
1969 c. 48.	Post Office Act 1969.	In Schedule 6, the entries relating to section 27 of the Crown Proceedings Act 1947, section 38 of the Administration of Justice Act 1956 and section 143 of the County Courts Act 1959.
1969 c. 58.	Administration of Justice Act 1969.	In section 12(2)(a), the words from "(including" to "1925)". In section 20(1), the words from the beginning to "1925, and" and the word "each". Section 21(1) to (3) and (5). Section 23. Sections 25, 26 and 27(1). In section 34(3), the words from the beginning to "1947, and" in their application to section 20 as regards rules of court under section 99 of the

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		Supreme Court of Judicature (Consolidation) Act 1925.
1970 c. 17.	Proceedings Against Estates Act 1970.	Section 2.
1970 c. 31.	Administration of Justice Act 1970.	In section 1—
		(a) subsections (1) to (5), (7) and (8), and
		(b) in subsection (6)(a), the words from “that is” to “other”.
		Section 2(1) to (4).
		Section 3.
		Sections 5 and 6.
		Section 9.
		Sections 31 to 33 so far as they relate to the High Court and county courts in England and Wales.
		Section 34(1).
		Section 35 so far as it relates to the High Court and county courts in England and Wales.
		Section 37(3).
		Section 45(3).
		Schedule 1.
		In Schedule 2, paragraphs 6 to 15, 18, 20 and 22, and in paragraph 23, the words “and section 63 thereof (transfer of probate proceedings from High Court to county court),” and “, in each place where they occur,”.
1971 c. 3.	Guardianship of Minors Act 1971.	In Schedule 1, in the entry relating to the Administration of Justice Act 1970, the amendments of Schedule 1 to that Act.
1971 c. 23.	Courts Act 1971.	Parts I and II.
		Section 23.
		Sections 25 and 26.
		Section 50.

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		In section 57, in subsection (1), the definition of "the Judicature Act 1925", and subsection (3)(a).
		Schedule 1.
		In Schedule 8, paragraphs 18, 35(1), 40(3), 44, 46, and 57(2).
1971 c. 25.	Administration of Estates Act 1971.	Section 8.
		In section 11(3), the words "and orders".
		In section 12, subsection (4)(a) and, in subsection (5), the words from "under section" to "or".
1971 c. 27.	Powers of Attorney Act 1971.	Section 2.
		In section 11(3), the words from "and" onwards.
1972 c. 11.	Superannuation Act 1972.	In Schedule 6, paragraphs 6, 8 and 34.
1972 c. 30.	Civil Evidence Act 1972.	In section 2(8), the words "section 99 of the Supreme Court of Judicature (Consolidation) ACt 1925" and "section 101 of the said Act of 1925".
1973 c. 14.	Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 7.
1973 c. 15.	Administration of Justice Act 1973.	Section 9(1)(b).
		In section 12, in subsection (1), the words "as judge of the Supreme Court in England and Wales", and subsection (3).
		Section 15.
		In section 16—
		(a) subsection (1),
		(b) in subsections (3) to (6), the words "deputy district registrar or", wherever occurring, and
		(c)subsection (7).

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		Section 19(2).
		In Schedule 2, paragraphs (a) and (b) of Part II.
1973 c. 18.	Matrimonial Causes Act 1973.	In Schedule 2, paragraphs 1, 6(3) and 10(1).
1973 c. 29.	Guardianship Act 1973.	Section 9(2)(c).
1974 c. 37.	Health and Safety at Work etc. Act 1974.	In section 69(6), the words from the beginning to “but”.
1974 c. 47.	Solicitors Act 1974.	In section 50(1), the words from “but” onwards.
		In Schedule 3, paragraph 2.
1975 c. 7.	Finance Act 1975.	In Schedule 4, in paragraph 38, sub-paragraph (1) and, so far as it relates to section 156A of the Supreme Court of Judicature (Consolidation) Act 1925, sub-paragraph (4).
1975 c. 14.	Social Security Act 1975.	Section 94(6).
1975 c. 72.	Children Act 1975.	In Schedule 3, paragraph 73(1).
1976 c. 36.	Adoption Act 1976.	In Schedule 3, paragraph 14.
1976 c. 63.	Bail Act 1976.	In Schedule 2, paragraphs 32 and 48.
1977 c. 37.	Patents Act 1977.	Section 96.
		In section 97(2), the words from “and” onwards.
		In Schedule 2, in paragraph 1(2), the reference to section 96.
1977 c. 38.	Administration of Justice Act 1977.	Sections 9 and 10.
		In section 22, the words from “section 99” to “1925 and”.
		Section 27.
1978 c. 22.	Domestic Proceedings and Magistrates’ Courts Act 1978.	In Schedule 2, paragraph 25.
1979 c. 53.	Charging Orders Act 1979.	Section 7(2), so far as it repeals section 35 or amends section 36 of the Administration of Justice Act 1956.

Status: *Point in time view as at 01/09/2004. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Senior Courts Act 1981 is up to date with all changes known to be in force on or before 28 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1980 c. 51.	Housing Act 1980.	In Schedule 25, paragraph 10.
1980 c. 58.	Limitation Act 1980.	Section 35(9).
1981 c. 20.	Judicial Pensions Act 1981.	In Schedule 1, paragraph 4(2).
		In Schedule 3, paragraph 1.
1981 c. 49.	Contempt of Court Act 1981.	In section 16(2), paragraph (c) and the word "and" preceding it.

Textual Amendments

F306 Entry repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

Status:
Point in time view as at 01/09/2004. This version of this Act contains provisions that are not valid for this point in time.

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