Supreme Court Act 1981

1981 CHAPTER 54

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.

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.

(3) The ordinary judges of the Court of Appeal (including the vice-president, if any, of either division) shall be styled "Lords Justices 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.

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; 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 or Vice-Chancellor.

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, 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 Lord Chancellor made with the concurrence of the senior judge of each of those Divisions.

(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.

6 The Patents, Admiralty and Commercial Courts

(1) There shall be—

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

(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.

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 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.

(2) In subsection (1)—

" the appropriate authority "—

(a) in the case of a request to a judge of the High Court 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.

(3) In the case of—

(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 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.

(5) Every person while acting under this section shall, subject to subsection (6), 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) subject to subsection (7), be treated as having been a judge of a court in which he has acted only under this section.

(7) Notwithstanding the expiry of any period for which a person is authorised by virtue of subsection (1) or (4) to act as a judge of a particular court—

(a) he may attend at that court for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case begun before him while acting as a judge of that court; and

(b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, he shall be treated as being or, as the case may be, having been a judge of that court.

(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).

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, unless he is a barrister of at least fifteen years' standing or a judge of the High Court; or

(c) as a puisne judge of the High Court, unless he is a barrister of at least ten years' standing.

(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 Promissory Oaths Act 1868, in the presence of the Lord Chancellor.

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 seventy-five 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;

(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) Subsection (2) shall not apply to a person who held an office to which this section applies on 17th December 1959 and did not elect under section 3 of the Judicial Pensions Act 1959 that the corresponding provision in that Act should apply to him.

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) The salary payable to any holder of judicial office under this section shall in each case be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected; but any abatement under this subsection shall be disregarded for the purposes of computing the pension payable to him in respect of that judicial office and any derivative benefit within the meaning of Part II of the Judicial Pensions Act 1981 which depends upon eligibility for such a pension.

(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.

13 Precedence of judges of Supreme Court

(1) When sitting in the Court of Appeal—

(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.

(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 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), 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.

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 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;

(e) without the leave of the divisional court in question or of the Court of Appeal, from the determination by a divisional court of any appeal to the High Court;

(f) without the leave of the court or tribunal in question, from any order of the High Court or any other court or tribunal made with the consent of the parties or relating only to costs which are by law left to the discretion of the court or tribunal;

(g) except as provided by the Arbitration Act 1979, from any decision of the High Court—

(i) on an appeal under section 1 of that Act on a question of law arising out of an arbitration award; or

(ii) under section 2 of that Act on a question of law arising in the course of a reference;

(h) without the leave of the court or tribunal in question or of the Court of Appeal, from any interlocutory order or interlocutory judgment made or given by the High Court or any other court or tribunal, except in the following cases, namely—

(i) where the liberty of the subject or the custody, education or welfare of a minor is concerned;

(ii) where an applicant for access to a minor is refused all access to the minor ;

(iii) where an injunction or the appointment of a receiver is granted or refused ;

(iv) in the case of a decision determining the claim of any creditor, or the liability of any contributory or of any director or other officer, under the law relating to companies;

(v) in the case of a decree nisi in a matrimonial cause, or a judgment or order in an admiralty action determining liability;

(vi) in such other cases as may be prescribed.

(2) For the purposes of subsection (1)(h)—

(a) an order refusing unconditional leave to defend an action shall not be treated as an interlocutory order; and

(b) " education " includes training and religious instruction.

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 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;

(j) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section 51 of the Civil Aviation Act 1949, of the law relating to salvage to aircraft and their apparel and cargo);

(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.

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

(a) any application to the High Court under the Merchant Shipping Acts 1894 to 1979 other than an application under section 55 of the Merchant Shipping Act 1894 for the appointment of a person to act as a substitute for a person incapable of acting;

(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 Merchant Shipping Acts 1894 to 1979 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 Merchant Shipping (Oil Pollution) Act 1971 ; and

(b) any claim in respect of a liability falling on the Inter national Oil Pollution Compensation Fund under Part I of the Merchant Shipping Act 1974.

(6) The reference in subsection (2)(j) to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections 544 to 546 of the Merchant Shipping Act 1894, or any Order in Council made under section 51 of the Civil Aviation Act 1949, are authorised to be made in connection with a ship or an aircraft.

(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 Merchant Shipping Acts 1894 to 1979.

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.

(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.

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, 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.

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.

24 Supplementary provisions as to Admiralty jurisdiction

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

" collision regulations " means regulations under section 418 of the Merchant Shipping Act 1894, or any such rules as are mentioned in section 421(1) of that Act, or any rules made under section 421(2) of that Act;

" goods " includes baggage;

" master " has the same meaning as in the Merchant Shipping Act 1894, 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 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 552 of the Merchant Shipping Act 1894 (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 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.

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 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 or jactitation of marriage; and

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

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 else where 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.

(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 Betting, Gaming and Lotteries Act 1963, the Licensing Act 1964 or the Gaming Act 1968 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.

29 Orders of mandamus, prohibition and certiorari

(1) The High Court shall have jurisdiction to make orders of mandamus, prohibition and certiorari in those classes of cases in which it had power to do so immediately before the commencement of this Act.

(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 orders of mandamus, prohibition or certiorari as the High Court possesses in relation to the jurisdiction of an inferior court.

(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 order of mandamus.

(5) In any enactment—

(a) references to a writ of mandamus, of prohibition or of certiorari shall be read as references to the corresponding order; and

(b) references to the issue or award of any such writ shall be read as references to the making of the corresponding order.

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—

(a) an order of mandamus, prohibition or certiorari;

(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—

(a) the nature of the matters in respect of which relief may be granted by orders of mandamus, prohibition or certiorari;

(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.

(4) On an application for judicial review the High Court may award damages to the applicant if—

(a) he has joined with his application a claim for damages arising from any matter to which the application relates; and

(b) the court is satisfied that, if the claim had been made in an action begun by the applicant at the time of making his application, he would have been awarded damages.

(5) If, on an application for judicial review seeking an order of certiorari, 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.

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 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.

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.

(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 in which a claim in respect of personal injuries to a person, or in respect of a person's death, is likely to be made, 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; oi

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

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

(1) This section applies to any proceedings in the High Court in which a claim is made in respect of personal injuries to a person, or in respect of a person's death.

(2) 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 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.

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 incidental, supplementary and consequential provisions as the rulemaking 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 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.

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.

(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 the expenses of coming and attending to give evidence and of returning from giving evidence was tendered to that person 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.

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 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 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 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.

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.

(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 the following accounts, namely—
(a) any deposit account with a bank or other deposit-taking institution; and
(b) any withdrawable share account with any deposit-taking institution.

(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 deposit-taking institution so specified or with any deposit-taking institution of a description so specified.

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

(6) In this section "deposit-taking institution" means any person carrying on a business which is a deposit-taking business for the purposes of the Banking Act 1979,

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.

(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.

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 legal 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 legal proceedings, whether in the High Court or any inferior court, and

whether instituted by him or another, the court may, after hearing that person or giving him an opportunity of being heard, order—

(i) that no legal proceedings shall without the leave of the High Court be instituted by him in any court; and

(ii) that any legal 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

(iii) that no application (other than an application for leave under this section) shall without the leave of the High Court be made by him in any legal proceedings instituted, whether by him or another, in any court.

(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 legal 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.

(4) No appeal shall lie from a decision of the High Court refusing leave for the institution or continuance of, or for the making of an application in, legal proceedings by a person who is the subject of an order for the time being in force under subsection (1).

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

43 Power of High Court to vary sentence on certiorari

(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 order of certiorari 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 Criminal 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.

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 the commencement of this Act was imposed or conferred by any statute, 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.

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 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.

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.

47 Sentences and other orders of Crown Court when dealing with offenders

(1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed, unless the court otherwise directs.

(2) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of twenty-eight days beginning with the day on which the sentence or other order was imposed or made or, where subsection (3) applies, within the time allowed by that subsection.

(3) Where two or more persons are jointly tried on an indictment, then, subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court on conviction of any of those persons on the indictment may be varied or rescinded by the Crown Court not later than the expiration of whichever is the shorter of the following periods, that is—

(a) the period of twenty-eight days beginning with the date of conclusion of the joint trial;

(b) the period of fifty-six days beginning with the day on which the sentence or other order was imposed or made.

For the purposes of this subsection the joint trial is concluded on the latest of the following dates, that is any date on which any of the persons jointly tried is sentenced, or is acquitted, or on which a special verdict is brought in.

(4) A sentence or other order shall not be varied or rescinded under this section except by the court constituted as it was when the sentence or other order was imposed or made, or, where that court comprised one or more justices of the peace, a court so constituted except for the omission of any one or more of those justices

(5) Where a sentence or other order is varied under this section, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs:

Provided that for the purposes of section 18(2) of the Criminal Appeal Act 1968 (time limit for notice of appeal or of application for leave to appeal) the sentence or other order shall be regarded as imposed or made on the day on which it is so varied.

(6) Crown Court Rules—

(a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictments, provide for extending the period fixed by subsection (2);

(b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by that court.

(7) In this 'section—

" order " does not include a legal aid contribution order made under section 32 of the Legal Aid Act 1974 ;

" sentence" includes a recommendation for deportation made when dealing with an offender.

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 the decision appealed against; 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) 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 Part V of the Mental Health Act 1959, with or without an order restricting discharge ; and

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

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.

Costs

51 Costs in civil division of Court of Appeal and High Court

(1) Subject to the provisions of this or any other Act and to rules of court, the costs of and incidental to all proceedings in the civil division of the Court of Appeal and in the High Court, including the administration of estates and trusts, shall be in the discretion of the court, and the court shall have full power to determine by whom and to what extent the costs are to be paid.

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

(3) Provision may be made by rules of court for regulating any matters relating to the costs of proceedings in the civil division of the Court of Appeal or in the High Court, including the administration of estates and trusts.

52 Costs in Crown Court

(1) Crown Court Rules 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.

(3) Nothing in this section authorises the making of rules about the payment of costs out of central funds, whether under the Costs in Criminal Cases Act 1973 or otherwise, but rules made in pursuance of this section may make any such provision as is contained in section 4 of that Act (awards by Crown Court as between parties).

(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 Costs in Criminal Cases Act 1973.

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

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 Criminal Appeal Act 1968 ;

(b) the jurisdiction of the Court of Appeal under section 13 of the 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 denovo.

(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.

(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.

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.

(2) 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) A court shall, if it consists of two judges, be duly constituted for the purpose of—

(a) hearing and determining any appeal against an interlocutory order or interlocutory judgment;

(b) hearing and determining any appeal against a decision of a single judge acting by virtue of section 58(1);

(c) hearing and determining any appeal where all the parties have before the hearing filed a consent to the appeal being heard and determined by two judges ;

(d) hearing the remainder of, and determining, any appeal where part of it has been heard by three or more judges of whom one or more are unable to continue and all the parties have consented to the remainder of the appeal being heard, and the appeal being determined, by two remaining judges ; or

(e) hearing and determining an appeal of any such description or in any such circumstances not covered by paragraphs (a) to (d) as may be prescribed for the purposes of this subsection by an order made by the Lord Chancellor with the concurrence of the Master of the Rolls.

(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 party 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.

(6) An application to the civil division of the Court of Appeal for leave to appeal to that court may be determined by a single judge of that court, and no appeal shall lie from a decision of a single judge acting under this subsection.

(7) In any cause or matter pending before the civil division of the Court of Appeal a single judge of that court may at any time during vacation make an interim order to prevent prejudice to the claims of any parties pending an appeal.

(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 Patents Act 1949 and the 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.

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

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) 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) 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 Criminal Procedure (Insanity) Act 1964 (unfitness to plead) that a person is under a disability ;

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

(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.

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.

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

58 Exercise of incidental jurisdiction in civil division

(1) Any jurisdiction exercisable in any proceedings incidental to any cause or matter pending before the civil division of the Court of Appeal and not involving the determination of an appeal may, if and so far as rules of court so provide, be exercised (with or without a hearing) by a single judge of that court, whether in court or in chambers, or by the registrar of civil appeals.

(2) Rules of court may provide for decisions of a single judge or the registrar of civil appeals acting by virtue of subsection (1) to be called in question in such manner as may be prescribed; but, except as may be provided by rules of court, no appeal shall lie from a decision of a single judge or that registrar so acting.

(3) For the purposes of subsection (1) the making of an interlocutory order having the effect of preventing an appeal from reaching the stage of being heard and determined shall not be treated as a determination of the appeal.

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 the 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).

(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 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.

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 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 or 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.

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 of the Circuit judges as the Lord Chancellor may from time to time nominate to deal with official referees' business; or
  (b) special referees ; 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—
  (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 any such person for inquiry and report.

(3) Rules of court shall not authorise the exercise of powers of attachment and committal by any such person as is mentioned in subsection (1)(b) or (c).

(4) Subject to subsection (5), the decision of any such person as is mentioned in subsection (1) 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 Circuit judges 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 Circuit judges 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 judges 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 Circuit judge nominated under subsection (1)(a).

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 Patents Act 1949 and the Patents Act 1977 and for regulating the functions of such advisers.

(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.

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 question 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—

(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, 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.

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) Crown Court Rules 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.

74 Appeals and committals for sentence

(1) On any hearing by the Crown Court—

(a) of any appeal; or

(b) of proceedings on committal to the Crown Court for sentence,

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) Crown Court Rules may, with respect to hearings falling within subsection (1)—

(a) prescribe the number of justices of the peace constituting the court (wkhin 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) Crown Court Rules 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) Crown Court Rules 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;

(b) a person concerned with the committal of a person to the Crown Court for sentence is to be disqualified from hearing proceedings on the committal; and

(c) proceedings on the hearing of an appeal or on committal to the Crown Court for sentence are to be valid notwithstanding that any person taking part in them is disqualified.

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 Magistrates' Courts Act 1980 or 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.

(3) The defendant or the prosecutor, if dissatisfied with the place of trial as fixed by the magistrates' court, or 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) An application under subsection (3) shall be heard in open court by a judge of the High Court.

77 Committal for trial: date of trial

(1) Crown Court Rules shall prescribe the minimum and the maximum period which may elapse between a person's committal for trial 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 magistrates' court—
   (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 and the trial shall be taken to begin when the defendant is arraigned.

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.

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 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 Magistrates' Courts Act 1980 by a magistrates' court.

81 Bail

(1) The Crown Court may grant bail to any person—

(a) who has been committed in custody for appearance before the Crown Court; 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 an order of certiorari 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 ;

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.

(2) Provision may be made by Crown Court Rules as respects the powers of the Crown Court relating to bail, including any provision—

(a) except in the case of bail in criminal proceedings (within the meaning of the 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 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 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.

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.

83 Right of audience for solicitors

(1) The Lord Chancellor may at any time direct that solicitors may appear in, conduct, defend and address the court in any proceedings in the Crown Court, or proceedings in the Crown Court of any description specified in the direction.

(2) A direction under this section may have effect as respects all places where the Crown Court sits, or as respects a specified area, region or circuit, or as respects one or more specified places where the Crown Court sits.

(3) In considering whether to exercise his powers under this section as respects any one or more places where the Crown Court sits, the Lord Chancellor shall have regard to any shortage of counsel in the area in question, any rights of audience formerly exercised by solicitors at any court of quarter sessions in the locality in question, and to any other circumstances affecting the public interest.

(4) Any direction given under this section may be subject to such conditions and restrictions as appear to the Lord Chancellor to be necessary or expedient.

RULES OF COURT

84 Power to make rules of court

(1) Rules of court may be made for the purpose of regulating and prescribing the practice and procedure to be followed in the Supreme Court.

(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).

(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.

(5) Special rules may, to any extent and with or without modifications, apply any rules made under this section to proceedings to which the special rules apply; and rules under this section may, to any extent and with or without modifications, apply any special rules to proceedings in the Supreme Court to which those special rules would not otherwise apply.

(6) Special rules which apply any rules made under this section may apply them as amended from time to time; and rules under this section which apply any special rules may apply them 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 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 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 Supreme Court 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.

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,
   (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,
   (f) two practising barristers, and
   (g) two practising solicitors, of whom one shall be a member of the Council of the Law Society.

(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 t›f their office, shall be appointed by the Lord Chancellor for such time as he may think fit.

(4) Before appointing a barrister under subsection (1)(f) the Lord Chancellor shall consult the Chairman of the Senate of the Inns of Court and the Bar, and before appointing a solicitor under subsection (1)(g) he shall consult the President of the Law Society.

86 The Crown Court Rule Committee

(1) The power to make rules of court under section 84 in relation to the Crown Court and the criminal 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,

(b) two other judges of the Supreme Court,

(c) two Circuit judges,

(d) the registrar of criminal appeals,

(e) a justice of the peace,

(f) two practising barristers, and

(g) two practising solicitors.

(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.

(4) Before appointing a barrister under subsection (1)(f) the Lord Chancellor shall consult the Chairman of the Senate of the Inns of Court and the Bar, and before appointing a solicitor under subsection (1)(g) he shall consult the President of the Law Society.

87 Particular matters for which rules of court may provide

(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 may amend or repeal any statutory provision relating to the practice and procedure of the Supreme Court so far as may be necessary in consequence of provision made by the rules.

(4) Criminal Appeal 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.

(5) Crown Court Rules 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.

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 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;

(d) one of the registrars in bankruptcy of the High Court as Chief Bankruptcy Registrar ;

(e) one of the registrars of the Principal Registry of the Family Division as Senior Registrar of that Division; and

(f) one of the Chancery registrars as Chief Chancery Registrar,

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) The following offices are hereby abolished—

(a) Assistant Master, Queen's Bench Division ;

(b) Taxing Master, High Court in Bankruptcy ; and

(c) Assistant Admiralty Registrar ;

but, as respects the office mentioned in paragraph (a), this subsection shall not have effect so long as there remains in office any person who held that office immediately before the commencement of this Act.

(6) The Lord Chancellor may by order provide for the abolition of the office of Registrar or Assistant Registrar, Chancery Division ; and any order under this subsection abolishing an office may make such consequential or transitional provision as appears to the Lord Chancellor to be necessary or expedient in connection with the abolition of that office, including the amendment or repeal of any statutory provision relating to that office or to existing or past holders of it.

(7) Any order under subsection (6) shall be made by statutory instrument, which shall be laid before Parliament after being made.

(8) Salaries payable under or by virtue of this section shall be paid out of money provided by Parliament.

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.

(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 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).

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.

(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.

(5) Notwithstanding the expiry of any period for which a person is appointed under this section—

(a) he may act as if that period had not expired for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case with which he may have been concerned during that period; and

(b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, he shall be treated as acting or, as the case may be, having acted under that appointment.

(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.

Other provisions relating to officers of Supreme Court

92 Tenure of office

(1) 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 seventy-two years.

(2) Subsection (1) applies to any office listed in column 1 of Part I or II of Schedule 2; and for the purposes of that subsection a person who has successively held two or more offices so listed shall be treated as completing a year of service on the anniversary of his appointment to the first of them.

(3) Where the Lord Chancellor considers it desirable in the public interest to retain in office a person who holds an office to which subsection (1) 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 that person attains the age of seventy-five years, as he thinks fit.

(4) A person appointed to an office to which subsection (1) 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.

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 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 an office within paragraph 1 of Schedule 1 to the Judicial Pensions Act 1981 (pensions of certain judicial officers).

94 Officers not to practise as barristers or solicitors

(1) Subject to subsection (2), no person holding an office listed in column 1 of any Part of Schedule 2 shall either directly or indirectly practise as a barrister or solicitor or as an agent for a solicitor.

(2) Subsection (1) shall not apply to the Official Solicitor acting in his capacity as such.

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.

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.

(2) The office of Accountant General of the Supreme Court shall be held by the Permanent Secretary to the Lord Chancellor, and shall be an office of the Supreme Court.

(3) If—

(a) the Permanent Secretary to the Lord Chancellor is not available to act in the office of Accountant General because of his absence or for some other reason ; or

(b) the office of Permanent Secretary to the Lord Chancellor is vacant,

then, during such unavailability or vacancy, any powers or duties of the Accountant General shall be exercisable or fall to be performed by any person for the time being appointed by the Lord Chancellor as deputy to the Accountant General (and any property vested in the Accountant General may accordingly be dealt with by any such person in all respects as if it were vested in him instead).

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

(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 barrister or solicitor 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.

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 county court registrar as a district registrar of the High Court.

(2) The Lord Chancellor may, if he thinks fit, appoint two or more persons who are county court registrars to execute jointly the office of district registrar in any district registry.

(3) Where joint district registrars 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 district registrar; and

(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 district registrar, or give directions that the continuing registrar shall act as sole registrar or (as the case may be) that the continuing registrars shall execute jointly the office of district registrar.

(4) Subsections (4) to (6) of section 92 shall apply in relation to a person appointed as a district registrar 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 district registrar at such time as, for any cause whatever, he vacates his office as county court registrar.

(5) A district registrar who is a part-time registrar within the meaning of subsection (3) of section 22 of the County Courts Act 1959 (restrictions on practice) shall not, either by himself or by any partner of his, be directly or indirectly engaged as a solicitor or agent for a party to any proceedings in the registry of which he is district registrar.

101 Power of one district registrar to act for another

(1) A district registrar of any registry shall be capable of acting in any other district registry for a district registrar of that registry; and, where a registrar is so acting, the registrar of the other registry may divide the duties of his office as he thinks fit between himself and the registrar acting for him.

(2) Subsection (5) of the preceding section shall not apply to a person acting as district registrar of a registry by virtue of this section, but (in the case of a person who is a part-time registrar within the meaning of the said section 22(3)) he shall not so act as district registrar in relation to any proceedings in which he is, either by himself or by any partner of his, directly or indirectly engaged as a solicitor or agent for any party.

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 deputy district registrar 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 deputy district registrar unless he is, or is qualified for appointment as, a county court registrar.

(3) A person may be appointed as a deputy district registrar if he would, but for his age, be qualified for appointment as a county court registrar and he has previously held the office of county court registrar.

(4) A deputy district registrar, while acting under this section, shall have the same jurisdiction as the district registrar.

(5) Subsections (5) and (6) of section 91 apply in relation to a deputy district registrar appointed under this section as they apply in relation to a person appointed under that section.

(6) A deputy district registrar shall not act as such in relation to any proceedings in which he is, either by himself or by any partner of Ms, directly or indirectly engaged as a solicitor or agent for any party.

103 Assistant district registrars

(1) The Lord Chancellor may appoint assistant district registrars of the High Court in aid of district registrars.

(2) A person shall not be qualified for appointment as an assistant district registrar unless he is a county court registrar or an assistant county court registrar.

(3) An assistant district registrar of any district registry shall be capable of discharging any of the functions of the district registrar, and in so doing shall have the same jurisdiction as the district registrar.

(4) A district registrar of any registry where there is an assistant district registrar may divide the duties of his office as he thinks fit between himself and the assistant district registrar.

(5) Subsections (4) to (6) of section 92 shall apply in relation to a person appointed as an assistant district registrar 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 assistant district registrar at such time as,— for any cause whatever, he vacates his office as county court registrar or, as the case may be, assistant county court registrar (unless in the latter case he is thereupon appointed a county court registrar).

(6) Section 100(5) shall apply to an assistant district registrar as it applies to a district registrar, but as if "a part-time registrar " included a part-time assistant registrar.

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.

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.

(2) No grant shall be made by a district probate registrar—

(a) in any case where there is contention, until the contention is disposed of; or

(b) in any case where it appears to him either—

(i) that a grant ought not to be made without the directions of the High Court under subsection (4), or

(ii) that a grant ought not to be made until any particular matter relating to the grant, or to an application for it, has been determined by the High Court otherwise than under that subsection.

(3) In any case where subsection (2)(b)(i) applies, the district probate registrar shall send a statement of the matter in question to the Principal Registry for the directions of the court.

(4) Where its directions are sought under subsection (3), the High Court may either direct the district probate registrar to proceed with the matter in accordance with such instructions as it may think necessary, or direct him to take no further action in relation to the matter.

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 Part III of the Finance Act 1975 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—

(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 or certification of an account may be dispensed with or that some other document may be substituted for the account required by Part III of the Finance Act 1975.

(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 section 94(1) (a) of the Finance Act 1980.

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.

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.

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.

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 Consular Conventions Act 1949 applies, or in such other cases as may be prescribed.

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.

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.

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 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.

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 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.

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—

" 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 money to arise under a trust for sale of land, nor 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 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.

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 conveyancing counsel in actual practice who have practised as such for not less than ten years.

(2) The conveyancing counsel of the court shall be not more than six, nor less than three, in number, and shall be appointed by the Lord Chancellor.

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 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.

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.

(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

(3) Rules under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

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

(1) Subject to subsection (2), a writ of fieri facias or other writ Of execution against goods issued from the High Court shall bind the property in the goods of the execution debtor as from the time when the writ is delivered to the sheriff to be executed.

(2) Such a writ shall not prejudice the title to any goods of the execution debtor acquired by a person in good faith and for valuable consideration unless he had, at the time when he acquired his title—

(a) notice that that writ or any other such writ by virtue of which the goods of the execution debtor might be seized Of attached had been delivered to and remained unexecuted in the hands of the sheriff; or

(b) notice that an application for the issue of a warrant of execution against the goods of the execution debtor had been made to the registrar of a county court and that the warrant issued on the application either—

(i) remained unexecuted in the hands of the registrar of the court from which it was issued; or

(ii) had been sent for execution to, and received by, the registrar of another county court, and remained unexecuted in the hands of the registrar of that court.

(3) For the better manifestation of the time mentioned in subsection (1), it shall be the duty of the sheriff (without fee) on receipt of any such writ as is there mentioned to endorse on its back the hour, day, month and year when he received it.

(4) For the purposes of this section—

(a) " property " means the general property in goods, and not merely a special property ;

(b) " sheriff " includes any officer charged with the enforcement of a writ of execution ;

(c) any reference to the goods of the execution debtor includes a reference to anything else of his that may lawfully be seized in execution; and

(d) a thing shall be treated as done in good faith if it is in fact done honestly, whether it is done negligently or not.

139 Attachment of National Savings Bank deposits

(1) In section 27 of the 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 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.

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 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.

(3) Where payment of a fine or other sum falls to be enforced as mentioned in paragraph (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 sections 31 and 32 of the Powers of Criminal Courts Act 1973 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 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 sections 31 and 32 of the Powers of Criminal Courts Act 1973 as extended by this section, " fine " includes a penalty imposed in civil proceedings.

141 Abolition of certain writs

Writs of elegit (the issue of which was ended by the Administration of Justice Act 1956) and writs of capias ad satisfaciendum are hereby abolished.

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 Representation of the People Act 1949 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 any 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.

143 Expenses of Lord Chancellor in administering funds in court

In section 12 of the Administration of Justice Act 1965 (investment of money transferred under Supreme Court or County Court Funds Rules to the National Debt Commissioners), for subsection (2) (provision for payment of certain sums into Consolidated Fund by the Commissioners after deduction of any sum required by the Treasury to be set aside to provide for depreciation in the value of investments made by them under subsection (1) of that section, and for certain deficiencies to be made good out of that Fund) there shall be substituted—

"(2) If in any accounting year the aggregate of the sums of money received by the Commissioners by way of interests and dividends on investment made by them under the foregoing subsection, after deduction of—

(a) any sum required by the Treasury to be set aside to provide for depreciation in the value of investments so made; and

(b) such sum as the Lord Chancellor may with the concurrence of the Treasury direct to be paid to him in respect of the cost to him in that year of administering funds in court,

exceeds the aggregate of the sums due to be paid or credited in respect of that year by way of interest on moneys placed in the Supreme Court and in the county courts to deposit and short-term investment accounts, the excess shall be paid into the Consolidated Fund.

(2A) If in any accounting year the aggregate of the sums of money received as mentioned in subsection (2) above, after deduction of the sum or sums falling to be deducted under paragraphs (a) and (b) of that subsection, is less than the aggregate of the sums due as mentioned in that subsection, the deficiency shall be made good out of the Consolidated Fund.

(2B) The Commissioners shall pay to the Lord Chancellor any sum deducted by them under subsection (2)(b) above; and any sum received by the Lord Chancellor under this subsection shall be paid into the Consolidated Fund.”.

144 Amendment of Part VIII of Mental Health Act 1959

(1) Part VIII of the Mental Health Act 1959 shall be amended as follows.

(2) For section 108 (Lord Chancellor's Visitors) there shall be substituted—

“**108 Lord Chancellor's Visitors.**

(1) There shall be constituted in accordance with this section the following panels of Lord Chancellor's Visitors of patients, namely—
  (a) a panel of Medical Visitors ;
  (b) a panel of Legal Visitors ; and
  (c) a panel of General Visitors (being Visitors who are not required by this section to possess either a medical or legal qualification for appointment).

(2) Each panel shall consist of persons appointed to it by the Lord Chancellor, the appointment of each person being for such term and subject to such conditions as the Lord Chancellor may determine.

(3) A person shall not be qualified to be appointed—
  (a) to the panel of Medical Visitors unless he is a medical practitioner who appears to the Lord Chancellor to have special knowledge and experience of cases of mental disorder;
  (b) to the panel of Legal Visitors unless he is a barrister or solicitor of not less than 10 years' standing.

(4) If the Lord Chancellor so determines in the case of any Visitor appointed under this section, he shall be paid out of money provided by Parliament such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.”.

(3) For subsection (1) of section 109 (functions of Visitors) there shall be substituted—

“(1) Patients shall be visited by Lord Chancellor's Visitors in such circumstances, and in such manner, as may be prescribed by directions of a standing nature given by the Master of the Court of Protection with the concurrence of the Lord Chancellor.

(1A) Where it appears to the judge in the case of any patient that a visit by a Lord Chancellor's Visitor is necessary for the purpose of investigating any particular matter or matters relating to the capacity of the patient to manage and administer his property and affairs, or otherwise relating to the exercise in relation to him of the functions of the judge under this Part of this Act, the judge may order that the patient shall be visited for that purpose.

(1B) Every visit falling to be made under subsection (1) or (1A) of this section shall be made by a General Visitor unless, in a case where it appears to the judge that it is in the circumstances essential for the visit to be made by a Visitor

with medical or legal qualifications, the judge directs that the visit shall be made by a Medical or a Legal Visitor.

(1C) A Visitor making a visit under this section shall make such report on the visit as the judge may direct.”.

(4) In subsection (4) of section 109, for " subsection (1) " there shall be substituted " subsection (1A) ".

(5) The offices of Lord Chancellor's Medical Visitor and Lord Chancellor's Legal Visitor under section 108 of the said Act of 1959 as in force immediately before the commencement of this Act shall cease to exist at the commencement of this Act.

145 Amendment of Courts-Martial (Appeals) Act 1968

(1) The 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;

(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 ".

146 Amendment of Courts Act 1971

For section 24 of the 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 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.”.

147 Amendment of Solicitors Act 1974

In section 50 of the 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).”.

148 Amendment of Arbitration Act 1979

(1) The Arbitration Act 1979 shall be amended as follows.

(2) In section 1 (judicial review of arbitration awards), after subsection (6) there shall be inserted—

“(6A) Unless the High Court gives leave, no appeal shall lie to the Court of Appeal from a decision of the High Court—

(a) to grant or refuse leave under subsection (3)(b) or (5)(b) above ; or

(b) to make or not to make an order under subsection (5) above.”.

(3) In section 2 (determination of preliminary point of law by court)—

(a) after subsection (2) there shall be inserted—

“(2A) Unless the High Court gives leave, no appeal shall lie to the Court of Appeal from a decision of the High Court to entertain or not to entertain an application under subsection (1)(a) above.”; and

(b) in subsection (3), for " this section" there shall be substituted " subsection (1) above ".

(4) The amendments made by this section shall not have effect as regards decisions of the High Court pronounced before the commencement of this Act.

149 Amendment of law relating to county courts

(1) The County Courts Act 1959 shall have effect subject to the amendments specified in Schedule 3.

(2) The following enactments relating to county courts shall cease to have effect—

(a) in the Administration of Justice Act 1956, section 56 (provisions as to Channel Islands, Isle of Man, colonies, protectorates etc.) so far as it relates to county courts ;

(b) in the County Courts Act 1959—

section 31 (misconduct of officers);

section 72 (1imitation of costs of action commenced in local court which could have been brought in county court);

section 79 (executors and administrators);
section 173 (accounts);
section 194 (no roll of solicitors to be kept);
section 203 (validation of past acts of assistant registrars etc.);
sections 205(3) and (9) and 206 and Schedule 4 (transitional provisions); and

(c) in the Administration of Justice Act 1965—
section 15(3) (accounts);
section 22(1)(a) (executions issued by local courts).

(3) Sections 33 to 35 shall have effect in relation to county courts as they have effect in relation to the High Court, as if in those sections references to rules of court included references to county court rules.

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 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 Hovercraft Act 1968 (application of the law relating to maritime liens in relation to hovercraft and property connected with them).

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;

" 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 in section 21(1) of the 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 Supreme Court Rule Committee or the Crown Court Rule Committee power to make rules of court.

(4) Except where the context otherwise requires, in this or any other Act—

" Criminal Appeal Rules " means rules of court made by the Crown Court Rule Committee in relation to the criminal division of the Court of Appeal;

" Crown Court Rules " means rules of court made by the Crown Court Rule Committee in relation to the Crown Court;

" divisional court" (with or without capital letters) means a divisional court constituted under section 66 ; " judge of the Supreme Court" means—

(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);

" Rules of the Supreme Court" means rules of court made by the Supreme Court Rule Committee.

(5) The provisions of Schedule 4 (construction of references to superseded courts and officers) shall have effect

152 Amendments of other Acts, transitional provisions, savings and repeals

(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) Until its repeal by this Act takes effect, section 9 of the Administration of Justice Act 1970 (constitution of the criminal division of the Court of Appeal) shall have effect as if the provisions which appear in this Act as subsections (3), (4), and (5) of section 55 were, as subsections (2), (2A) and (2B) respectively, substituted for subsection (2) of the said section 9 (with " court " in those subsections meaning a court of that division).

(3) This Act shall have effect subject to the transitional provisions and savings contained in Schedule 6.

(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) The following instruments are hereby revoked—

(a) the District Probate Registries Order 1968 ;

(b) the Superannuation (Assistant Chancery Registrars) Order 1975; and

(c) any Order in Council amending subsection (1)(b) of section 1 of the Administration of Justice Act 1968 which was made under that section before the commencement of this Act.

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 Admiralty Court Act 1861;

(b) the following provisions extend to Northern Ireland so far as they relate to the 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 Supreme Court of Judicature (Consolidation) Act 1925.

(ii) the House of Commons Disqualification Act 1975, and

(iii) section 4 of the 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 Supreme Court of Judicature (Consolidation) Act 1925 which extend throughout the United Kingdom,

(ii) the Evidence and Powers of Attorney Act 1940, and

(iii) section 57 (3) (a) of the Courts Act 1971 ;

(d) section 145 extends to any place to which the 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—

Army Act 1955,

Air Force Act 1955,

section 9(2) of, and Part II of Schedule 1 to, the Criminal Appeal Act 1966,

Courts-Martial (Appeals) Act 1968,

Hovercraft Act 1968,

section 13(1) of the Merchant Shipping (Oil Pollution) Act 1971,

section 6(1) of the Merchant Shipping Act 1974,

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 Naval Prize Act 1864, the Prize Courts Act 1915 and section 56 of the Administration of Justice Act 1956;

this section;

paragraph 1 of Schedule 4.