Senior Courts Act 1981

1981 CHAPTER 54

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 [M1]Criminal Appeal Act 1968;

(b) the jurisdiction of the Court of Appeal under section 13 of the [M2]Administration of Justice Act 1960 (appeals in cases of contempt of court) in relation to appeals from orders and decisions of the Crown Court;

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

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

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

(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—

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

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

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

Marginal Citations

M1 1968 c. 19.

M2 1960 c. 65.

Composition of court

54 Court of civil division.

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

[[F1](2) Subject as follows, a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of one or more judges.

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

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

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

(5) Where—

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

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

the case shall, on the application of any part to the appeal, be re-argued before and determined by an uneven number of judges not less than three, before any appeal to the **[**[F2]Supreme Court**]**.

[F3](6) . . . . . .

[F3](7) . . . . . .

(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 [M3]Patents Act 1949 and the [M4]Patents Act 1977) shall apply in

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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.

[F3](10) . . . . . .

Textual Amendments

F1 S. 54(2)-(4A) substituted for s. 54(2)-(4) (27.9.1999) by 1999 c. 22, **ss. 59**, 108(3)(b) (with Sch. 14 para. 7(2))

F2 Words in s. 54(5) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148(1), **Sch. 9 para. 36(5)**; S.I. 2009/1604, **art. 2(d)**

F3 S. 54(6)(7)(10) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

Marginal Citations

M3 1949 c. 87.

M4 1977 c. 37.

55 Court of criminal division.

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

(2) **[**[F4]Subject to subsection (6),**]**a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of judges not less than three.

(3) Where—

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

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

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

(4) **[**[F4]Subject to subsection (6),**]**a court shall, if it consists of two judges, be duly constituted for every purpose except—

(a) determining an appeal against—

(i) conviction; or

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

(iii) a finding [F5]... under section 4 of the [M5]Criminal Procedure (Insanity) Act 1964 (unfitness to plead) that a person is under a disability;

[[F6](aa) reviewing sentencing under Part IV of the Criminal Justice Act 1988;**]**

(b) determining an application for leave to appeal to the **[**[F7]Supreme Court**]**; 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.

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[[F8](6) A court shall not be duly constituted if it includes more than one Circuit judge acting as a judge of the court under section 9.**]**

Textual Amendments

F4 Words in s. 55(2)(4) inserted (11.1.1995) by 1994 c. 33, **s. 52(7)(a)**; S.I. 1994/3258, **art.2**

F5 Words in s. 55(4)(a)(iii) repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1)(2), 60, Sch. 10 para. 14, **Sch. 11**; S.I. 2005/579, **art. 3(i)(v)**

F6 S. 55(4)(aa) added by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 170(1), Sch. 8 para. 16, **Sch. 15 para. 80**

F7 Words in s. 55(4)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148(1), **Sch. 9 para. 36(5)**; S.I. 2009/1604, **art. 2(d)**

F8 S. 55(6) inserted (11.1.1995) by 1994 c. 33, **s. 52(7)(b)**; S.I. 1994/3258, **art.2**

Marginal Citations

M5 1964 c. 84.

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

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

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

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

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

56A Circuit judges not to sit on certain appeals.

[F9] . . . . . .

Textual Amendments

F9 S. 56A repealed (26.1.2004) by Courts Act 2003 (c. 39), ss. 67, 109(3), **Sch. 10**; S.I. 2003/3345, **art. 2(a)(v)(c)(iii)**

[[F10]56B Allocation of cases in criminal division.

(1) The appeals or classes of appeals suitable for allocation to a court of the criminal division of the Court of Appeal in which a Circuit judge is acting under section 9 shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice **[**[F11]after consulting the Lord Chancellor**]**.

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

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Textual Amendments

F10 S. 56B inserted (11.1.1995) by 1994 c. 33, **s. 52(9)**; S.I. 1994/3258, **art. 2**

F11 Words in s. 56B(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 5), ss. 15, 148, **Sch. 4 para. 127**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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 **[**[F12]after consulting the Lord Chief Justice**]**.

(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.

[[F13](5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

Textual Amendments

F12 Words in s. 57(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 128(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F13 S. 57(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 128(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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Other provisions

[F14 58 Calling into question of incidental decisions in civil division.

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

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

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

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

(2) No appeal shall lie to the **[**F15 Supreme Court**]** from a decision which may be called into question pursuant to rules under subsection (1).**]**

Textual Amendments

F14 S. 58 substituted (27.9.1999) by 1999 c. 22, **ss. 60**, 108(3)(b) (with Sch. 14 para. 7(2))

F15 Words in s. 58(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148(1), **Sch. 9 para. 36(6)**; S.I. 2009/1604, **art. 2(d)**

59 Form of judgment of court of criminal division.

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

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

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

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

THE HIGH COURT

Distribution of business

61 Distribution of business among Divisions.

(1) Subject to any provision made by or under this or any other Act (and in particular to any rules of court made in pursuance of subsection (2) and any order under subsection (3)), business in the High Court of any description mentioned in Schedule 1, as for the

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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 **[**[F16]Lord Chief Justice may, with the concurrence of the Lord Chancellor,**]** 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 **[**[F17]appears to the Lord Chief Justice and the Lord Chancellor**]** 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.

[[F18](9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3).**]**

Textual Amendments

F16 Words in s. 61(3) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 129(2)(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F17 Words in s. 61(3)(b) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 129(2)(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F18 S. 61(9) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 129(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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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 [M6]Patents Act 1977, and such other proceedings relating to patents or other matters as may be prescribed.

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

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

Marginal Citations

M6 1977 c. 37.

63 Business assigned to specially nominated judges.

(1) Any business assigned, in accordance with this or any other Act or rules of court, to one or more specially nominated judges of the High Court may—

(a) during vacation; or

(b) during the illness or absence of that judge or any of those judges; or

(c) for any other reasonable cause,

be dealt with by any judge of the High Court named for that purpose **[**[F19]by the Lord Chief Justice after consulting the Lord Chancellor**]**.

(2) If at any time it appears to the **[**[F20]Lord Chief Justice, after consulting the Lord Chancellor, to be**]** 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.

[[F21](4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1) or (2).**]**

Textual Amendments

F19 Words in s. 63(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 130(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F20 Words in s. 63(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 130(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F21 S. 63(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 130(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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64 Choice of Division by plaintiff.

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

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

65 Power of transfer.

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

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

Divisional courts

66 Divisional courts of High Court.

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

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

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

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

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

Mode of conducting business

67 Proceedings in court and in chambers.

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

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—

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(a) such **[**[F22]Circuit judges, deputy Circuit judges or Recorders**]** as the **[**[F23]Lord Chief Justice may, after consulting the Lord Chancellor,**]** from time to time nominate to deal with official referees' business; or

(b) special referees; **[**[F24]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—

[[F25](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 **[**[F26]a special referee**]** for inquiry and report.

(3) Rules of court shall not authorise the exercise of powers of attachment and committal by **[**[F27]a special referee or any officer or other staff of the court**]**.

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

[[F28](a)**]** any such person as is mentioned in subsection (1) **[**[F29]or

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

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

(5) Rules of court may provide either generally or to a limited extent for decisions of **[**[F30]persons**]** nominated under subsection (1)(a) being called in question only by appeal on a question of law.

(6) The cases in which jurisdiction of the High Court may be exercised by **[**[F30]persons**]** nominated under subsection (1)(a) shall be known as "official referees' business"; and, subject to rules of court, the distribution of official referees' business among **[**[F31]persons**]** so nominated shall be determined in accordance with directions given **[**[F32]by the Lord Chief Justice after consulting 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 **[**[F33]person**]** nominated under subsection (1)(a).

[[F34](8) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsections (1)(a) and (6).**]**

Textual Amendments

F22 Words substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(1)**

F23 Words in s. 68(1)(a) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 131(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F24 S. 68(1)(a) and the preceding word "or" omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(a)**; S.I. 1999/1009, **art. 3(a)**

F25 S. 68(2)(a) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(b)(i)**; S.I. 1999/1009, **art. 3(a)**

F26 Words in s. 68(2)(b) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(b)(ii)**; S.I. 1999/1009, **art. 3(a)**

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F27 Words in s. 68(3) substituted (26.4.1999) by 1997 c. 12, **s. 10**,Sch. 2 para. 1(3)(c); S.I. 1999/1009, **art. 3(a)**

F28 S. 68(4): "(a)" inserted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(d)(i)**; S.I. 1999/1009, **art. 3(a)**

F29 S. 68(4)(b) and the preceding word "or" inserted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(3)(d)(ii)**; S.I. 1999/1009, **art. 3(a)**

F30 Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(2)**(*a*)(i)

F31 Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(2)**(*a*)(ii)

F32 Words in s. 68(6) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 131(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F33 Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 59(2)**(*b*)

F34 S. 68(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 131(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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.

Status: *Point in time view as at 05/11/2012.*
Changes to legislation: *Senior Courts Act 1981, Part III is up to date with all changes known to be in force on or before 27 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 [M7]Patents Act 1949 and the [M8]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.

Marginal Citations

M7 1949 c. 87.

M8 1977 c. 37.

Sittings and vacations

71 Sittings and vacations.

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

(2) Subject to rules of court—

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

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

shall be determined in accordance with directions given by the Lord Chancellor **[**[F35]after consulting the Lord Chief Justice**]**.

(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.

[[F36](6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

Status: *Point in time view as at 05/11/2012.*
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Textual Amendments

F35 Words in s. 71(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 132(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F36 S. 71(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 132(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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 **[**[F37]or civil partner**]**, to proceedings for a related offence or for the recovery of a related penalty—

(a) from answering any questions put to that person in the first-mentioned proceedings; or

(b) from complying with any order made in those proceedings.

(2) Subsection (1) applies to the following civil proceedings in the High Court, namely—

(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 **[**[F38]married or became civil partners after the making of the statement or admission) against the spouse or civil partner**]** 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 **[**[F39], design right**]**, registered design, technical or commercial information or other intellectual property;

"related offence", in relation to any proceedings to which subsection (1) applies, means—

(a) in the case of proceedings within subsection (2)(a) or (b)—

(i) any offence committed by or in the course of the infringement or passing off to which those proceedings relate; or

(ii) any offence not within sub-paragraph (i) committed in connection with that infringement or passing off, being an offence involving fraud or dishonesty;

(b) in the case of proceedings within subsection (2)(c), any offence revealed by the facts on which the plaintiff relies in those proceedings;

"related penalty", in relation to any proceedings to which subsection (1) applies means—

(a) in the case of proceedings within subsection (2)(a) or (b), any penalty incurred in respect of anything done or omitted in connection with the infringement or passing off to which those proceedings relate;

(b) in the case of proceedings within subsection (2)(c), any penalty incurred in respect of any act or omission revealed by the facts on which the plaintiff relies in those proceedings.

(6) Any reference in this section to civil proceedings in the High Court of any description includes a reference to proceedings on appeal arising out of civil proceedings in the High Court of that description.

Textual Amendments

F37 Words in s. 72(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 69(2)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

F38 Words in s. 72(3) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 69(3)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

F39 Words inserted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(1), **Sch. 7 para. 28(1)(2)**

Modifications etc. (not altering text)

C1 S. 72 extended by Cable and Broadcasting Act 1984 (c. 46, SIF 96), **s. 54(6)** (Cable and Broadcasting Act 1984 (c. 46) is repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 134, 203(3)(4), Sch. 12 Pt. II para. 1, Sch. 21, **Sch. 22 para. 4**, the repeal being in force 1.1.1991 subject to the provisions of art. 3 of S.I. 1990/2347)
S. 72(5) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art.2**

C2 S. 72 extended by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), **ss. 296(6)(b)**, 298(4)

C3 S. 72 applied (28.5.2000) by 1988 c. 48, **s. 298(4)** (as substituted (28.5.2000) by S.I. 2000/1175, **reg. 2(3)**)

C4 S. 72 applied (31.10.2003) by 1988 c. 48, ss. 296(7), 296ZA(5), 296ZD(6) (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 24(1)** (with regs. 31-40))

C5 S. 72 applied (31.10.2003) by 1988 (c. 48), s. 296ZG (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), **reg. 25** (with regs. 31-40))

C6 Definition of "intellectual property" extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2(3), **Sch. 2 Pt I para. 1(2)**(*h*)

Status: *Point in time view as at 05/11/2012.*
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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) **[**[F40]Rules of court**]** may authorise or require a judge of the High Court, Circuit judge **[**[F41] , Recorder or qualifying judge advocate **]** , 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 **[**[F42] , Recorder or qualifying judge advocate **]** 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 **[**[F42] , Recorder or qualifying judge advocate **]** shall have a second and casting vote.

Textual Amendments

F40 Words in s. 73(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/3175), art. 3, **Sch. para. 12(b)** (with art. 2(2))

F41 Words in s. 73(2) substituted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 2 para. 2**; S.I. 2012/669, art. 4(c)

F42 Words in s. 73(3) substituted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 2 para. 2**; S.I. 2012/669, art. 4(c)

74 Appeals and committals for sentence.

(1) On any hearing by the Crown Court—

(a) of any appeal; [F43]. . .

[F43](b) . . . . . .

the Crown Court shall consist of a judge of the High Court or a Circuit judge or a Recorder **[**[F44] or a qualifying judge advocate **]** 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) **[**[F45]Rules of court**]** may, with respect to hearings falling within subsection (1)—

(a) prescribe the number of justices of the peace constituting the court (within the limits mentioned in that subsection); and

(b) prescribe the qualifications to be possessed by any such justices of the peace;

and the rules may make different provision for different descriptions of cases, different places of sitting or other different circumstances.

(3) **[**[F45]Rules of court**]** may authorise or require a judge of the High Court, Circuit judge **[**[F46] , Recorder or qualifying judge advocate, **]** 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.

[[F47](5A) Before exercising any functions under subsection (4), the Lord Chancellor must consult the Lord Chief Justice.**]**

(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) **[**[F45]Rules of court**]** may make provision as to the circumstances in which—

(a) a person concerned with a decision appealed against is to be disqualified from hearing the appeal;

[F48](b) . . . . . .

(c) proceedings on the hearing of an appeal [F49]. . . are to be valid notwithstanding that any person taking part in them is disqualified.

[[F50](8) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

Textual Amendments

F43 S. 74(1)(b) and the preceding "or" repealed (12.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(4)** (with Sch. 14 paras. 7(2), 27, 36(9)); S.I. 1999/2657, **art. 4**

F44 Words in s. 74(1) inserted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 2 para. 3(a)**; S.I. 2012/669, art. 4(c)

F45 Words in s. 74(2)(3)(7) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 12(c)** (with art. 2(2))

F46 Words in s. 74(3) substituted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 2 para. 3(b)**; S.I. 2012/669, art. 4(c)

F47 S. 74(5A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 133(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(p)

F48 S. 74(7)(b) repealed (12.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(4)** (with Sch. 14 paras. 7(2), 27, 36(9)); S.I. 1999/2657, **art. 4**

F49 Words in s. 74(7)(c) repealed (12.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(4)** (with Sch. 14 paras. 7(2), 27, 36(9)); S.I. 1999/2657, **art. 4**

F50 S. 74(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 133(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 10, 11(p)

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Distribution of business

75 [F51][F52] 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 **[**[F53], Circuit judge, Recorder, qualifying judge advocate or District Judge (Magistrates' Courts)**]** , 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.

Textual Amendments

F51 Word in s. 76 heading substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(2)(d)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F52 Word in s. 77 heading substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(3)(e)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F53 Words in s. 75(1) substituted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 2 para. 4**; S.I. 2012/669, art. 4(c)

76 **[**[F51]Committal**]**[[F51]Sending**]** 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 **[**[F54]varying the decision of a magistrates' court under section 7 of the Magistrates' Courts Act 1980 or **[**[F55]by substituting some other place for the place specified in a notice under **[**[F56]a relevant transfer provision**]** (notices of transfer from magistrates' court to Crown Court)**]**[[F54]substituting some other place for the place specified in a notice under section 51D(1) of the Crime and Disorder Act 1998 (a "section 51D notice") **]** or by varying**]** a previous decision of the Crown Court.

(2) Directions under subsection (1) may be given on behalf of the Crown Court by an officer of the court.

[[F57](2A) Where a preparatory hearing has been ordered under section 7 of the Criminal Justice Act 1987, directions altering the place of trial may be given under subsection (1) at any time before **[**[F58]the time when the jury are sworn**]**.**]**

[[F59](2B) The reference in subsection (2A) to the time when the jury are sworn includes the time when the jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.**]**

Status: *Point in time view as at 05/11/2012.*
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(3) The defendant or the prosecutor, if dissatisfied with the place of trial as **[**[F60]fixed by the magistrates' court, as specified in a notice under a relevant transfer provision**][**[F60]specified in a section 51D notice**]** or as fixed by the Crown Court, may apply to the Crown Court for a direction, or further direction, varying the place of trial; and the court shall take the matter into consideration and may comply with or refuse the application, or give a direction not in compliance with the application, as the court thinks fit.

(4) [F61]. . . . . .

[[F62](5) **[**[F63]In this section "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.**]]**

Textual Amendments

F51 Word in s. 76 heading substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(2)(d)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F54 Words in s. 76(1) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(2)(a)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F55 Words inserted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 10(a)**

F56 Words in s. 76(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 17(a)** (by words at the end of para. 17 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 51 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F57 S. 76(2A) inserted by Criminal Justice Act 1987 (c. 38, SIF 39:1), s. 15, **Sch. 2 para. 10(b)**

F58 Words in s. 76(2A) substituted (24.7.2006) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 47(2)**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3)

F59 S. 76(2B) inserted (24.7.2006) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 47(3)**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3)

F60 Words in s. 76(3) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(2)(b)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F61 S. 76(4) repealed (1.5.2004) by Courts Act 2003 (c. 39), ss. 86, 109(3), 110, **Sch. 10**; S.I. 2004/1104, **art. 3(a)(h)(ii)(i)**

F62 S. 76(5) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 17(c)** (by words at the end of para. 17 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F63 S. 76(5) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 54(2)(c), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

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77 [F52Committal][F52Sending] for trial: date of trial.

(1) [F64Criminal Procedure Rules] shall prescribe the minimum and the maximum period which may elapse between a person's [F65being sent 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 [F66sent for trial]—

(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 [F67when the defendant is sent for trial] and the trial shall be taken to begin when the defendant is arraigned.

[F68(4) [F69In this section "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.]]

Textual Amendments

F52 Word in s. 77 heading substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(3)(e)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F64 Words in s. 77(1) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 13** (with art. 2(2))

F65 Words in s. 77(1) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(3)(a)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)

F66 Words in s. 77(2) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(3)(b)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)

F67 Words in s. 77(3) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(3)(c)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)

F68 S. 77(4) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 18(d)** (by words at the end of para. 18 it is provided that amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act); S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F69 S. 77(4) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 54(3)(d), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I.

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2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

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 **[**[F70]after consulting the Lord Chief Justice**]**.

[[F71](4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

Textual Amendments

F70 Words in s. 78(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 134(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F71 S. 78(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 134(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

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.

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(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 **[**[F72]sent**]** 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 [M9]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 [M10]Magistrates' Courts Act 1980 by a magistrates' court.

Textual Amendments

F72 Word in s. 80(2) substituted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 54(4)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

Marginal Citations

M9 1881 c. 24.
M10 1980 c. 43.

81 Bail.

(1) The Crown Court may **[**[F73],subject to section 25 of the Criminal Justice and Public Order Act 1994,**]** grant bail to any person—

(a) **[**[F74]who has been committed in custody for appearance before the Crown Court **[**[F75]or in relation to whose case a notice of transfer has been given under **[**[F76]a relevant transfer provision**][**[F77]or**]** who has been sent in custody to the Crown Court for trial under section 51 **[**[F78]or 51A**]** of the Crime and Disorder Act 1998**]**; or

(b) who is in custody pursuant to a sentence imposed by a magistrates' court, and who has appealed to the Crown Court against his conviction or sentence; or

(c) who is in the custody of the Crown Court pending the disposal of his case by that court; or

(d) who, after the decision of his case by the Crown Court, has applied to that court for the statement of a case for the High Court on that decision; or

(e) who has applied to the High Court for **[**[F79]a quashing order**]** to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application; **[**[F80]or

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(f) to whom the Crown Court has granted a certificate under section 1(2) or 11(1A) of the Criminal Appeal Act 1968 or under subsection (1B) below;**]**[F81]or

(g) who has been remanded in custody by a magistrates' court on adjourning a case under **[**[F82]section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) **[**[F83] , section 52(5) of the Crime and Disorder Act 1998 (adjournment of proceedings under section 51 etc) **]** or**]**—

(i) **[**[F84]section 5 (adjournment of inquiry into offence); **]**

(ii) section 10 (adjournment of trial); [F85]...

[F86](iia) **[** section 17C (intention as to plea: adjournment);**]**

(iii) section 18 (initial procedure on information against adult for offence triable either way); [F87]. . .**[**[F88]or

(iiia) section 24C (intention as to plea by child or young person: adjournment);**]**

[F87](iv) . . . . . .**]**

[[F89](h) in respect of whom a judge of the Crown Court is required to make a decision pursuant to section 115(3) of the Coroners and Justice Act 2009 (bail decisions in murder cases to be made by Crown Court judge);", and**]**

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.

[[F90](1A) The power conferred by subsection (1)(*f*) does not extend to a case to which section 12 or 15 of the Criminal Appeal Act 1968 (appeal against verdict of not guilty by reason of insanity or against **[**[F91]findings that the accused is under a disability and that he did the act or made the omission charged against him**]**) applies.

(1B) A certificate under this subsection is a certificate that a case is fit for appeal on a ground which involves a question of law alone.

(1C) The power conferred by subsection (1)(*f*) is to be exercised—

(a) where the appeal is under section 1 or 9 of the Criminal Appeal Act 1968, by the judge who tried the case; and

(b) where it is under section 10 of that Act, by the judge who passed the sentence.

(1D) The power may only be exercised within twenty-eight days from the date of the conviction appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.

(1E) The power may not be exercised if the appellant has made an application to the Court of Appeal for bail in respect of the offence or offences to which the appeal relates.

(1F) It shall be a condition of bail granted in the exercise of the power that, unless a notice of appeal has previously been lodged in accordance with subsection (1) of section 18 of the Criminal Appeal Act 1968—

(a) such a notice shall be so lodged within the period specified in subsection (2) of that section; and

(b) not later than 14 days from the end of that period, the appellant shall lodge with the Crown Court a certificate from the registrar of criminal appeals that a notice of appeal was given within that period.

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(1G) If the Crown Court grants bail to a person in the exercise of the power, it may direct him to appear—

(a) if a notice of appeal is lodged within the period specified in section 18(2) of the Criminal Appeal Act 1968 at such time and place as the Court of Appeal may require; and

(b) if no such notice is lodged within that period, at such time and place as the Crown Court may require.**]**

[[F92](1H) Where the Crown Court grants a person bail under subsection (1)(*g*) it may direct him to appear at a time and place which the magistrates' court could have directed and the recognizance of any surety shall be conditioned accordingly.

(1J) The Crown Court may only grant bail to a person under subsection (1)(*g*) if the magistrates' court which remanded him in custody has certified under section 5(6A) of the Bail Act 1976 that it heard full argument on his application for bail before it refused the application.**]**

(2) Provision may be made by **[**[F93]rules of court**]** 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 [M11]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 [M12]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 [M13]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 **[**[F94]—

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(a) if the person is charged with murder or with murder and one or more other offences, the Crown Court, and

(b) in any other case, 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.

[[F95](7) **[**[F96]In subsection (1) above "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.**]]**

Textual Amendments

F73 Words in s. 81(1) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 48**; S.I. 1995/721, art. 2, **Sch.** Appendix A

F74 Words in s. 81(1)(a) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 54(5)(a)(i), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F75 Words inserted by Criminal Justice Act 1987 (c. 38 SIF 39:1), s. 15, Sch. 2 para. 12

F76 Words in s. 81(1)(a) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 19(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F77 Words in s. 81(1)(a) inserted (4.1.1999 for certain purposes and otherwise 15.1.2001) (after the words "Criminal Justice Act 1987" which words had been previously replaced by the substition made by 1994 c. 33, **Sch. 9 para. 19(a)**) by 1998 c. 37, s. 119, **Sch. 8 para. 48**; S.I. 1998/2327, **art.4(2)(c)**; S.I. 2000/3283, **art. 2(c)**

F78 Words in s. 81(1)(a) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 54(5)(a)(i), **(b)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)

F79 Words in s. 81(1)(e) substituted (1.5.2004) by The Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 (S.I. 2004/1033), **art. 6**

F80 S. 81(1)(*f*) and the preceding word "or" added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 29(1)**(*a*)

F81 S. 81(1)(*g*) and the preceding word "or" added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(1)**(*a*)

F82 Words in s. 81(1)(g) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 87(a)**

F83 Words in s. 81(1)(g) inserted (18.6.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 4(2)**; S.I. 2012/1320, art. 3(e)

F84 S. 81(1)(g)(i) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 54(5)(a)(ii), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F85 Word in s. 81(1)(g)(ii) repealed (18.6.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 36 para. 4(3), **Sch. 37 Pt. 2**; S.I. 2012/1320, art. 3(e)(f)(i)

F86 S. 81(1)(g)(iia) inserted (18.6.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 4(3)**; S.I. 2012/1320, art. 3(e)

F87 S. 81(1)(g)(iv) and the word "or" immediately preceding it repealed (25.8.2000) by 2000 c. 6, ss. 165(1)(4), 168(1), Sch. 9 para. 87(c), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F88 S. 81(1)(g)(iiia) and word inserted (18.6.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 36 para. 4(4)**; S.I. 2012/1320, art. 3(e)

F89 S. 81(1)(h) inserted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 76(a)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)

F90 S. 81(1A)–(1G) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 29(1)**(*b*)

F91 Words in s. 81(1A) substituted (01.01.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1) ss. 7, 8, Sch. 3 para. 6; S.I. 1991/2488, **art. 2**.

F92 S. 81(1H)(1J) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 60(1)**(*b*)

F93 Words in s. 81(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 14** (with art. 2(2))

F94 Words in s. 81(5) substituted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 76(b)** (with s. 180); S.I. 2010/145, art. 2(2), Sch. para. 25(b)

F95 S. 81(7) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 19(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A

F96 S. 81(7) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 54(5)(b), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

Modifications etc. (not altering text)

C7 S. 81(5) excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 89(6)**, 336; S.I. 2005/950, **art. 2**, Sch. 1 (subject to Sch. 2)

C8 S. 81(5) excluded (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 2, 153, **Sch. 2 para. 21(3)**; S.I. 2009/ 3074, {art. 2(n)}

Marginal Citations

M11 1976 c. 63.

M12 1980 c. 43.

M13 1976 c. 63.

82 Duties of officers of Crown Court.

(1) The officers of the Crown Court shall be responsible for the keeping of the records of the proceedings of the court, **[**[F97]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 **[**[F98]after consulting the Lord Chief Justice**]**.

(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.

[[F99](3) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

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Textual Amendments

F97 Words in s. 82(1) repealed (with retrospective effect in accordance with Sch. 22 para. 26 of the repealing Act) by Coroners and Justice Act 2009 (c. 25), ss. 116(2), 182(1)(b), **Sch. 23 Pt. 3** (with s. 180)

F98 Words in s. 82(1) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 135(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

F99 S. 82(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 135(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(p)

[F100]83 . . . . . .

Textual Amendments

F100 S. 83 repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

RULES OF COURT

84 Power to make rules of court.

(1) Rules of court may be made **[**[F101]by the Lord Chief Justice**]** for the purpose of regulating and prescribing **[**[F102], except in relation to any criminal cause or matter,**]** the practice and procedure to be followed in the **[**[F103]Crown Court [F104]. . . **]**.

(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 **[**[F105]Senior Courts**]** 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).

[F106]**[**(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 **[**[F105]Senior Courts**]** of any particular kind.**]**

[[F107](5) Special rules may apply—

(a) any rules made under this section,[F108]. . .

(b) Civil Procedure Rules,

to proceedings to which the special rules apply.

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[[F109](c) Criminal Procedure Rules, or

(d) Family Procedure Rules,**]**

(5A) Rules made under this section may apply—

(a) any special rules,[F108]. . .

(b) Civil Procedure Rules,

to proceedings to which rules made under this section apply.

[[F109](c) Criminal Procedure Rules, or

(d) Family Procedure Rules,**]**

(6) Where rules may be applied under subsection (5) or (5A), they may be applied—

(a) to any extent,

(b) with or without modification, and

(c) as amended from time to time.**]**

(7) No rule which may involve an increase of expenditure out of public funds may be made under this section except with the concurrence of the Treasury, but the validity of any rule made under this section shall not be called in question in any proceedings in any court either by the court or by any party to the proceedings on the ground only that 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) [F110]. . . . . .

(9) In this section "special rules" means rules applying to proceedings of any particular kind in the **[**[F105]Senior Courts**]**, being rules made by an authority other than the **[**[F111]Civil Procedure Rule Committee**][**[F112], the Family Procedure Rule Committee **[**[F113]or**]** , the Criminal Procedure Rule Committee**]**[F114]... 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 **[**[F105]Senior Courts**]**.

[[F115](10) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the Lord Chief Justice's functions under this section.**]**

Textual Amendments

F101 Words in s. 84(1) inserted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 2(2)**

F102 Words in s. 84(1) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(2)(a)** (with art. 2(2))

F103 Words in s. 84(1) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(a)**; S.I. 1999/1009, **art. 3(b)**

F104 Words in s. 84(1) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(2)(b)** (with art. 2(2))

F105 Words in s. 84 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 26(1)(2)**; S.I. 2009/1604, **art. 2(d)**

F106 S. 84(4) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(b)**; S.I. 1999/1009, **art. 3(b)**

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F107 S. 84(5)(5A)(6) substituted (27.4.1997) for s. 84(5)(6) by 1997 c. 12, ss. 10, 11(2), **Sch. 2 para. 1(4)(c)**; S.I. 1997/841, **arts. 3(b)**, 4(b)

F108 Word in s. 84(5)(5A) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(3)(a)** (with art. 2(2))

F109 S. 84(5)(c)(d)(5A)(c)(d) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(3)(b)** (with art. 2(2))

F110 S. 84(8) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 4 para. 136, **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(p), 29, 30(b)

F111 Words in s. 84 substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(4)(d)**; S.I. 1999/1009, **art. 3(b)**

F112 Words in s. 84(9) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 15(4)** (with art. 2(2))

F113 Word in s. 84(9) inserted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 2(3)(a)**

F114 Words in s. 84(9) repealed (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 2(3)(b)**

F115 S. 84(10) inserted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 2(4)**

Modifications etc. (not altering text)

C9 S. 84 extended by Multilateral Investment Guarantee Agency Act 1988 (c. 8, SIF 88), **s. 5**

C10 S. 84 extended (1. 10. 1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 20(5)(a), 101(1), **Sch. 12**, para. 6; S.I. 1992/333, art. 2(2), **Sch. 2**.
S. 84 extended (4.7.1996 but with effect as mentioned in s. 1 (3)(5)) by 1996 c. 25, **s. 19(1)** (with s. 78(1)); S.I. 1997/682.

[F117]85 The [[F116]Senior Courts] 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 [[F118]Senior Courts],

[[F119](f) two persons who have a [[F118]Senior Courts] qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

(g) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the [[F118]Senior Courts].]

(2) The persons mentioned in subsection (1), acting in pursuance of that subsection, shall be known as "the [[F118]Senior Courts] 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.

[[F120](4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph.]**]**

Textual Amendments

F116 Words in s. 85 sidenote substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 26(1)**; S.I. 2009/1604, **art. 2(d)**

F117 S. 85 omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(5)**; S.I. 1999/1009, **art. 3(c)**

F118 Words in s. 85 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 26(1)**; S.I. 2009/1604, **art. 2(d)**

F119 S. 85(1)(*f*)(*g*) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(a)**

F120 S. 85(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 36(1)(b)**

[F121]86 The Crown Court Rule Committee.

. . . . . .

Textual Amendments

F121 S. 86 repealed (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 3**

[[F122]86A Process for making rules of court under section 84

(1) Crown Court rules must be **[**[F123]submitted to the Lord Chancellor after being made by the Lord Chief Justice**]**

(2) The Lord Chancellor may allow or disallow rules so made.

(3) If the Lord Chancellor disallows rules, he must give the **[**[F124]Lord Chief Justice**]** written reasons for doing so.

(4) Rules so made and allowed by the Lord Chancellor—
   (a) come into force on such day as the Lord Chancellor directs, and
   (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.

(5) A statutory instrument containing Crown Court rules is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section and section 86B "Crown Court rules" means rules of court made under section 84.

Textual Amendments

F122 Ss. 86A, 86B inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 138**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)

F123 Words in s. 86A(1) substituted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 4(2)**

F124 Words in s. 86A(3) substituted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 4(3)**

86B Rules to be made if required by Lord Chancellor

(1) This section applies if the Lord Chancellor gives the **[**[F125]Lord Chief Justice**]** written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.

(2) The **[**[F126]Lord Chief Justice**]** must make such Crown Court rules as **[**[F127]the Lord Chief Justice**]** considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the **[**[F128]Lord Chief Justice**]**;

(b) made in accordance with section 86A.**]**

Textual Amendments

F122 Ss. 86A, 86B inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 138**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)

F125 Words in s. 86B(1) substituted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 5(2)**

F126 Words in s. 86B(2) substituted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 5(3)(a)**

F127 Words in s. 86B(2) substituted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 5(3)(b)**

F128 Words in s. 86B(3)(a) substituted (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 5(4)**

87 Particular matters for which rules of court may provide.

[[F129](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;

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(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 **[**[F130]made under section 84**]** may amend or repeal any statutory provision relating to the practice and procedure of the **[**[F131]Crown Court **[**[F132](except so far as relating to criminal causes or matters)**]]** so far as may be necessary in consequence of provision made by the rules.

(4) **[**[F133]Criminal Procedure Rules**]** may require courts from which an appeal lies to the criminal division of the Court of Appeal to furnish that division with any assistance or information which it may request for the purpose of exercising its jurisdiction.

(5) **[**[F134]Rules of court made under section 84**]** may amend or repeal any statutory provision about appeals to the Crown Court so far as it relates to the practice and procedure with respect to such appeals **[**[F135](except so far as relating to criminal causes or matters)**]**.

Textual Amendments

F129 S. 87(1)(2) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, **Sch. 2 para. 1(6)(a)**; S.I. 1999/1009, **art. 3(d)**

F130 Words in s. 87(3) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(2)(a)** (with art. 2(2))

F131 Words in s. 87(3) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 1(6)(b)**; S.I. 1999/1009, **art. 3(d)**

F132 Words in s. 87(3) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(2)(b)** (with art. 2(2))

F133 Words in s. 87(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(3)** (with art. 2(2))

F134 Words in s. 87(5) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(4)(a)** (with art. 2(2))

F135 Words in s. 87(5) inserted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 17(4)(b)** (with art. 2(2))

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