



# Supreme Court Act 1981

## 1981 CHAPTER 54

### 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

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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.

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- (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.

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- (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—



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- (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

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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 (limitation 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.