



# County Courts Act 1984

## 1984 CHAPTER 28

### PART III

#### PROCEDURE

##### *Parties*

#### **46 Proceedings by the Crown**

- (1) Subject to the provisions of any enactment limiting the jurisdiction of a county court, whether by reference to the subject matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise, proceedings by the Crown may be instituted in a county court.
- (2) Subject to section 40(5), all rules of law and enactments regulating the removal or transfer of proceedings from a county court to the High Court and the transfer of proceedings in the High Court to a county court shall apply respectively to the removal or transfer of proceedings by the Crown in a county court and to the transfer of proceedings by the Crown in the High Court.
- (3) Nothing in this section shall apply to proceedings affecting Her Majesty in Her private capacity.

<sup>F1</sup>47 .....

#### **Textual Amendments**

**F1** S. 47 omitted (26.4.1999) by S.I. 1998/2940, arts. 1, 6(a); S.I. 1998/3132

*Status: Point in time view as at 01/04/2005.*

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#### **48 Persons jointly liable.**

- (1) Where a plaintiff has a demand recoverable under this Act against two or more persons jointly liable, it shall be sufficient to serve any of those persons with process, and judgment may be obtained and execution issued against any person so served, notwithstanding that others jointly liable may not have been served or sued or may not be within the jurisdiction of the court.
- (2) Where judgment is so obtained against any person by virtue of subsection (1) and is satisfied by that person, he shall be entitled to recover in the court contribution from any other person jointly liable with him.

#### **49 Bankruptcy of plaintiff.**

- (1) The bankruptcy of the plaintiff in any action in a county court which the trustee might maintain for the benefit of the creditors shall not cause the action to abate if, within such reasonable time as the court orders, the trustee elects to continue the action and to give security for the costs of the action.
- (2) The hearing of the action may be adjourned until such an election is made.
- (3) Where the trustee does not elect to continue the action and to give such security as is mentioned in subsection (1) within the time limited by the order, the defendant may avail himself of the bankruptcy as a defence to the action.

#### *Interim payments in pending proceedings*

#### **50 Orders for interim payment.**

- (1) Provision may be made by [F<sup>2</sup>rules of court] for enabling the court, in such circumstances as may be prescribed, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order, with provision for the payment to be made to such other party to the proceedings as may be so specified or, if the order so provides, by paying it into court.
- (2) Any [F<sup>2</sup>rules of court] which make provision in accordance with subsection (1) may include provision for enabling a party to any proceedings who, in pursuance of such an order, has made an interim payment to recover the whole or part of the amount of the payment in such circumstances, and from such other party to the proceedings, as may be determined in accordance with the rules.
- (3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the [F<sup>3</sup>Civil Procedure Rule Committee] may consider necessary or expedient.
- (4) Nothing in this section shall be construed as affecting the exercise of any power relating to costs, including any power to make [F<sup>2</sup>rules of court] relating to costs.
- (5) In this section “interim payment”, in relation to a party to any proceedings, means a payment on account of any damages, debt or other sum (excluding any costs) which that party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the court in the proceedings is given or made in favour of that other party; and any reference to a party to any proceedings includes a reference to any person who for the purposes of the proceedings acts as next friend or guardian of a party to the proceedings.

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#### Textual Amendments

- F2** Words in s. 50(1)(2)(4) substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3**.
- F3** Words in s. 50(3) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 2(3)**; S.I. 1999/1009, **art. 3(f)**

### *Provisional damages for personal injuries*

#### **51 Orders for provisional damages for personal injuries.**

- (1) This section applies to an action for damages for personal injuries in which there is proved or admitted to be a chance that at some definite or indefinite time in the future the injured person will, as a result of the act or omission which gave rise to the cause of action, develop some serious disease or suffer some serious deterioration in his physical or mental condition.
- (2) Subject to subsection (4), as regards any action for damages to which this section applies in which a judgment is given in the county court, provision may be made by [<sup>F4</sup>rules of court] for enabling the court, in such circumstances as may be prescribed, to award the injured person—
- (a) damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition; and
  - (b) further damages at a future date if he develops the disease or suffers the deterioration.
- (3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the [<sup>F5</sup>Civil Procedure Rule Committee] may consider necessary or expedient.
- (4) Nothing in this section shall be construed—
- (a) as affecting the exercise of any power relating to costs, including any power to make [<sup>F4</sup>rules of court] relating to costs; or
  - (b) as prejudicing any duty of the court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from any such duty.
- (5) In this section “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

#### Textual Amendments

- F4** Words in s. 51(2)(4)(a) substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3**.
- F5** Words in s. 51(3) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 2(3)**; S.I. 1999/1009, **art. 3(f)**

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### *Discovery and related procedures*

## **52 Powers of court exercisable before commencement of action.**

- (1) On the application of any person in accordance with [<sup>F6</sup>rules of court], a county court shall, in such circumstances as may be prescribed, have power to make an order providing for any one or more of the following matters, that is to say—
- (a) the inspection, photographing, preservation, custody and detention of property which appears to the court to be property which may become the subject-matter of subsequent proceedings in the court, or as to which any question may arise in any such proceedings; and
  - (b) the taking of samples of any such property as is mentioned in paragraph (a), and the carrying out of any experiment on or with any such property.
- (2) On the application, in accordance with [<sup>F6</sup>rules of court], of a person who appears to a county court to be likely to be a party to subsequent proceedings in that court <sup>F7</sup>. . . the county court shall, in such circumstances as may be prescribed, have power to order a person who appears to the court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim—
- (a) to disclose whether those documents are in his possession, custody or power; and
  - (b) to produce such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order,—
    - (i) to the applicant’s legal advisers; or
    - (ii) to the applicant’s legal advisers and any medical or other professional adviser of the applicant; or
    - (iii) if the applicant has no legal adviser, to any medical or other professional adviser of the applicant.

[<sup>F8</sup>(3) This section is subject to any provision made under section 38,]

#### **Textual Amendments**

- F6** Words in s. 52(1)(2) substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3**.
- F7** Words in s. 52(2) omitted (26.4.1999) by S.I. 1998/2940, **arts. 1, 6(b)**; S.I. 1998/3132
- F8** S. 52(3) added (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 43**; S.I. 1991/1364, **art. 2, Sch.**

#### **Modifications etc. (not altering text)**

- C1** Power to amend s. 52(2) conferred (27.4.1997) by 1997 c. 12, **s. 8(1)**; S.I. 1997/841, **art. 3**.

## **53 Power of court to order disclosure of documents, inspection of property etc. in proceedings for personal injuries or death.**

<sup>F9</sup>(1) . . . . .

- (2) On the application, in accordance with [<sup>F10</sup>rules of court], of a party to any proceedings <sup>F11</sup>. . . , a county court shall, in such circumstances as may be prescribed, have power to order a person who is not a party to the proceedings and who appears to the court to be

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likely to have in his possession, custody or power any documents which are relevant to an issue arising out of the said claim—

- (a) to disclose whether those documents are in his possession, custody or power; and
  - (b) to produce such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order,—
    - (i) to the applicant’s legal advisers; or
    - (ii) to the applicant’s legal advisers and any medical or other professional adviser of the applicant; or
    - (iii) if the applicant has no legal adviser, to any medical or other professional adviser of the applicant.
- (3) On the application, in accordance with [F10rules of court], of a party to any proceedings [F11 . . .], a county court shall, in such circumstances as may be prescribed, have power to make an order providing for any one or more of the following matters, that is to say—
- (a) the inspection, photographing, preservation, custody and detention of property which is not the property of, or in the possession of, any party to the proceedings but which is the subject-matter of the proceedings or as to which any question arises in the proceedings;
  - (b) the taking of samples of any such property as is mentioned in paragraph (a) and the carrying out of any experiment on or with any such property.
- (4) The preceding provisions of this section are without prejudice to the exercise by a county court of any power to make orders which is exercisable apart from those provisions.

[F12(5) This section is subject to any provision made under section 38,]

#### Textual Amendments

- F9** S. 53(1) omitted (26.4.1999) by S.I. 1998/2940, arts. 1, 6(c)(i); S.I. 1998/3132
- F10** Words in s. 53(2)(3) substituted (27.4.1997) by 1997 c. 12, s. 10, Sch. 2 para. 2(2); S.I. 1997/841, art. 3.
- F11** Words in s. 53(2)(3) omitted (26.4.1999) by S.I. 1998/2940, arts. 1, 6(c)(ii); S.I. 1998/3132
- F12** S. 53(5) added (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 44; S.I. 1991/1364, art. 2, Sch.

#### 54 Provisions supplementary to sections 52 and 53.

- (1) A county court shall not make an order under section 52 or 53 if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.
- (2) [F13Rules of court] may make provision as to the circumstances in which an order under section 52 or 53 can be made; and any rules making such provision may include such incidental, supplementary and consequential provisions as the [F14Civil Procedure Rule Committee] may consider necessary or expedient.
- (3) Without prejudice to the generality of subsection (2), [F13rules of court] shall be made for the purpose of ensuring that the costs of and incidental to proceedings for an order under section 52(2) or 53 incurred by the person against whom the order is sought shall be awarded to that person unless the court otherwise directs.

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- (4) Sections 52(2) and 53 and this section bind the Crown; and section 52(1) binds the Crown so far as it relates to property as to which it appears to the court that it may become the subject-matter of subsequent proceedings involving a claim in respect of personal injuries to a person or in respect of a person’s death.

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

- (5) In sections 52 and 53 and this section—  
“property” includes any land, chattel or other corporeal property of any description;  
“personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

[<sup>F15</sup>(6) This section is subject to any provision made under section 38,]

#### Textual Amendments

- F13** Words in s. 54(2)(3) substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3**.
- F14** Words in s. 54(2) substituted (26.4.1999) by 1997 c. 12, s. 10, **Sch. 2 para. 2(3)**; S.I. 1999/1009, **art. 3(f)**
- F15** S. 54(6) added (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 45**; S.I. 1991/1364, **art. 2, Sch.**

#### *Witnesses and evidence*

### **55 Penalty for neglecting or refusing to give evidence.**

- (1) Subject to subsections (2) and (3), any person who—  
(a) having been summoned in pursuance of [<sup>F16</sup>rules of court] as a witness in a county court refuses or neglects, without sufficient cause, to appear or to produce any documents required by the summons to be produced; or  
(b) having been so summoned or being present in court and being required to give evidence, refuses to be sworn or give evidence,  
shall forfeit such fine as the judge may direct.
- (2) A judge shall not have power under subsection (1) to direct that a person shall forfeit a fine of an amount exceeding [<sup>F17</sup>£1,000].
- (3) No person summoned in pursuance of [<sup>F16</sup>rules of court] as a witness in a county court shall forfeit a fine under this section unless there has been paid or tendered to him at the time of the service of the summons such sum in respect of his expenses (including, in such cases as may be prescribed, compensation for loss of time) as may be prescribed for the purposes of this section.
- (4) The judge may at his discretion direct that the whole or any part of any such fine, after deducting the costs, shall be applicable towards indemnifying the party injured by the refusal or neglect.

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[<sup>F18</sup>(4A) A district judge, assistant district judge or deputy district judge shall have the same powers under this section as a judge.]

(5) This section does not apply to a debtor summoned to attend by a judgment summons.

#### Textual Amendments

- F16** Words in s. 55 substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**, S.I. 1997/841, art. 3(b), 4(c)
- F17** Words in s. 55(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3), **Sch. 4 Pt. I** (with s. 28); S.I. 1992/333, art. 2, **Sch. 2**
- F18** S. 55(4A) added (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 74(5); S.I. 1991/1364, art. 2, **Sch.**

#### Modifications etc. (not altering text)

- C2** S. 55 modified (25.4.2000) by 1999 c. 17, ss. 3(5), 4(6), 5(12), **Sch. 3 Pt. IV para. 23(2)** (with s. 15); S.I. 2000/880, art. 2, **Sch. 2**  
S. 55 extended (14.2.2000) by S.I. 2000/124, **reg. 30(4)(b)**
- C3** Power to amend s. 55(2) conferred (1.10.1992) by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(3), **Sch. 6A** (as substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3), **Sch. 4 Pt. IV** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**)

## 56 Examination of witnesses abroad.

The High Court shall have the same power to issue a commission, request or order to examine witnesses abroad for the purpose of proceedings in a county court as it has for the purpose of an action or matter in the High Court.

## 57 Evidence of prisoners.

- (1) Subject to subsection (2), in any proceedings pending before a county court, the judge may, if he thinks fit, upon application on affidavit by any party, issue an order under his hand for bringing up before the court any person (in this section referred to as a “prisoner”) confined in any place under any sentence or under committal for trial or otherwise, to be examined as a witness in the proceedings.
- (2) No such order shall be made with respect to a person confined under process in any civil action or matter.
- (3) Subject to subsection (4), the prisoner mentioned in any such order shall be brought before the court under the same custody, and shall be dealt with in the same manner in all respects, as a prisoner required by a writ of habeas corpus to be brought before the High Court and examined there as a witness.
- (4) The person having the custody of the prisoner shall not be bound to obey the order unless there is tendered to him a reasonable sum for the conveyance and maintenance of a proper officer or officers and of the prisoner in going to, remaining at, and returning from, the court.

## 58 Persons who may take affidavits for use in county courts.

- (1) An affidavit to be used in a county court may be sworn before—

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- (a) the judge or registrar of any court; or
  - (b) any justice of the peace; or
  - (c) an officer of any court appointed by the judge of that court for the purpose, as well as before [<sup>F19</sup>a commissioner for oaths or any other person]authorised to take affidavits under the Commissioners for Oaths Acts 1889 and 1891 . . . <sup>F20</sup>.
- (2) An affidavit sworn before a judge or registrar or before any such officer may be sworn without the payment of any fee.

**Textual Amendments**

**F19** Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 67(1), **Sch. 7 para. 8(a)**

**F20** Words repealed by Administration of Justice Act 1985 (c. 61, SIF 34), s. 67(1)(2), **Sch. 7 para. 8(b)**, Sch. 8 Pt. II

**59 Evidence in Admiralty proceedings.**

- (1) In any Admiralty proceedings, evidence taken before a registrar of an Admiralty county court, in accordance with the directions of a judge or pursuant to [<sup>F21</sup>rules of court], may be received as evidence in any other Admiralty county court.
- (2) The registrar of any Admiralty county court shall, for the purpose of the examination of any witness within the district assigned to that court for Admiralty purposes, have all the power of an examiner of the High Court, and evidence taken by him in that capacity may be received as evidence in the High Court.

**Textual Amendments**

**F21** Words in s. 59 substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3(b)**, 4(c)

*Right of audience*

**60 Right of audience.**

- (1) . . . . . <sup>F22</sup>
- (2) Where an action is brought in a county court by a local authority for either or both of the following—
  - (a) the recovery of possession of a house belonging to the authority;
  - (b) the recovery of any rent, mesne profits, damages or other sum claimed by the authority in respect of the occupation by any person of such a house,
 then, in so far as the proceedings in the action are heard by the registrar, any officer of the authority authorised by the authority in that behalf, . . . <sup>F23</sup> may address the registrar . . . <sup>F23</sup>.
- (3) In this section—
 

“local authority” means a county council, . . . <sup>F24</sup> a district council [<sup>F25</sup>the Broads Authority], [<sup>F26</sup>any National Park authority,]a London borough council [<sup>F27</sup>, a police authority established under [<sup>F28</sup>section 3 of thePolice Act 1996]]



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, [F29 the Metropolitan Police Authority]. . . [F30][F31 the Inner London Education Authority], a joint authority established by Part IV of the Local Government Act 1985.][F32 the London Fire and Emergency Planning Authority,]or the Common Council of the City of London; and

“house” includes a part of a house, a flat or any other dwelling and also includes any yard, garden, outhouse or appurtenance occupied with a house or part of a house or with a flat or other dwelling,

and any reference to the occupation of a house by a person includes a reference to anything done by that person, or caused or permitted by him to be done, in relation to the house as occupier of the house, whether under a tenancy or licence or otherwise.

#### Textual Amendments

- F22** S. 60(1) repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#)
- F23** Words repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#)
- F24** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F25** Words inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), s. 21, [Sch. 6 para. 24](#)
- F26** Words in s. 60(3) inserted (23.11.1995) by 1995 c. 25, s. 78, [Sch. 10 para. 23](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); S.I. 1995/2950, [art. 2\(1\)](#).
- F27** Words in s. 60(3) inserted (1.10.1994 for certain purposes, 1.4.1995 for remaining purposes) by 1994 c. 29, s. 43, [Sch. 4 Pt. II para. 57](#); S.I. 1994/2025, [art. 6\(1\)](#); S.I. 1994/3262, [art. 4, Sch.](#)
- F28** Words in s. 60(3) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), [Sch. 7 para. 1\(1\)\(2\)\(u\)](#).
- F29** Words in definition of “local authority” in s. 60(3) inserted (3.7.2000) by 1999 c. 29, s. 325, [Sch. 27 para. 49](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/1648, [art. 2, Sch.](#)
- F30** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, [Sch. 14 para. 63](#)
- F31** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237, [Sch. 13 Pt. I](#)
- F32** Words in definition of “local authority” in s. 60(3) inserted (3.7.2000) by 1999 c. 29, s. 328, [Sch. 29 para. 38](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/1094, [art. 4\(h\)](#)

#### Modifications etc. (not altering text)

- C4** S. 60 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 para. 13\(l\)](#)
- C5** S. 60 extended (5.7.1994) by 1994 c. 19, s. 39, [Sch. 13 para. 20\(k\)](#) (with s. 54, [Sch. 17 paras. 22\(1\), 23\(2\)](#)).
- C6** S. 60(3) amended by S.I. 1985/1884, [art. 10, Sch. 3 para. 4\(w\)](#)

## 61 Right of audience by direction of Lord Chancellor.

- (1) The Lord Chancellor may at any time direct that such categories of persons in relevant legal employment as may be specified in the direction may address the court in any proceedings in a county court, or in proceedings in a county court of such description as may be so specified.
- (2) In subsection (1), “relevant legal employment” means employment which consists of or includes giving assistance in the conduct of litigation to a [F33 legal representative] whether in private practice or not.
- (3) A direction under this section may be given subject to such conditions and restrictions as appear to the Lord Chancellor to be necessary or expedient, and may be expressed to have effect as respects every county court or as respects a specified county court or as respects one or more specified places where a county court sits.

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- (4) The power to give directions conferred by this section includes a power to vary or rescind any direction given under this section.

**Textual Amendments**

**F33** Words in s. 61(2) substituted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 49(2)**; S.I. 1991/608, art. 2, **Sch.**

*Mode of trial*

**62 General power of judge to determine questions of law and fact.**

Subject to the provisions of this Act and of [<sup>F34</sup>rules of court], the judge of a county court shall be the sole judge in all proceedings brought in the court, and shall determine all questions of fact as well as of law.

**Textual Amendments**

**F34** Words in s. 62 substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, art. 3(b), 4(c)

**63 Assessors.**

- (1) In any proceedings the judge may, if he thinks fit <sup>F35</sup> . . . , summon to his assistance, in such manner as may be prescribed, one or more persons of skill and experience in the matter to which the proceedings relate who may be willing to sit with the judge and act as assessors.

<sup>F36</sup>(2) . . . . .

- (3) Subject to subsection (4), the remuneration of assessors for sitting under this section shall be [<sup>F37</sup>determined by the judge] and shall be costs in the proceedings unless otherwise ordered by the judge.
- (4) Where one or more assessors are summoned for the purposes of [<sup>F38</sup>assisting the judge in reviewing the taxation by the district judge of the costs of any proceedings] the remuneration of any such assessor—
  - (a) shall be at such rate as may be determined by the Lord Chancellor with the approval of the Treasury; and
  - (b) shall be payable out of moneys provided by Parliament.
- (5) Where any person is proposed to be summoned as an assessor, objection to him, either personally or in respect of his qualification, may be taken by any party in the prescribed manner.

**Textual Amendments**

**F35** Words in s. 63(1) omitted (26.4.1999) by S.I. 1998/2940, **arts. 1, 6(d)(i)**; S.I. 1998/3132

**F36** S. 63(2) omitted (26.4.1999) by S.I. 1998/2940, **arts. 1, 6(d)(ii)**; S.I. 1998/3132

**F37** Words in s. 63(3) substituted (26.4.1999) by S.I. 1998/2940, **arts. 1, 6(d)(iii)**; S.I. 1998/3132

*Status: Point in time view as at 01/04/2005.*

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**F38** Words in s. 63(4) substituted (26.4.1999) by S.I. 1999/2940, arts. 1, 6(d)(iv); S.I. 1998/3132

**Modifications etc. (not altering text)**

**C7** S. 63(1) modified by Telecommunications Act 1984 (c. 12, SIF 96), s. 10, Sch. 2 paras. 5(6), 15

**64 Reference to arbitration.**

- (1) [<sup>F39</sup>Rules of court]—
- (a) may prescribe cases in which proceedings are (without any order of the court) to be referred to arbitration, and
  - (b) may prescribe the manner in which and the terms on which cases are to be so referred, and
  - (c) may, where cases are so referred, require other matters within the jurisdiction of the court in dispute between the parties also to be referred to arbitration.

- (2) [<sup>F39</sup>Rules of court]—
- (a) may prescribe cases in which proceedings may be referred to arbitration by order of the court, and
  - (b) may authorise the court also to order other matters in dispute between the parties and within the jurisdiction of the court to be so referred.

[<sup>F40</sup>(2A) [<sup>F39</sup>Rules of court] may prescribe the procedures and rules of evidence to be followed on any reference under subsection (1) or (2).

(2B) Rules made under subsection (2A) may, in particular, make provision with respect to the manner of taking and questioning evidence.]

- (3) On a reference under subsection (1) or (2) the award of the arbitrator, arbitrators or umpire shall be entered as the judgment in the proceedings and shall be as binding and effectual to all intents, subject to subsection (4), as if it had been given by the judge.
- (4) The judge may, if he thinks fit, on application made to him within such time as may be prescribed, set aside the award, or may, with the consent of the parties, revoke the reference or order another reference to be made in the manner specified in this section.
- (5) In this section “award” includes an interim award.

**Textual Amendments**

**F39** Words in s. 64 substituted (27.4.1997) by 1997 c. 12, s. 10, Sch. 2 para. 2(2); S.I. 1997/841, art. 3(b), 4(c)

**F40** S. 64(2A),(2B) added by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 6

**65 Power of judge to refer to registrar or referee.**

- (1) Subject to [<sup>F41</sup>rules of court], the judge may refer to the registrar or a referee for inquiry and report—
- (a) any proceedings which require any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the judge, conveniently be made before him;
  - (b) any proceedings where the question in dispute consists wholly or in part of matters of account;

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- (c) with the consent of the parties, any other proceedings;
  - (d) subject to any right to have particular cases tried with a jury, any question arising in any proceedings.
- (2) In such cases as may be prescribed by, and subject to, [<sup>F41</sup>rules of court] the registrar may refer to a referee for inquiry and report any question arising in any proceedings.
- (3) Where any proceedings or question are referred under subsection (1) or (2), the judge or, as the case may be, the registrar may direct how the reference shall be conducted, and may remit any report for further inquiry and report, and on consideration of any report or further report may give such judgment or make such order in the proceedings as may be just.
- (4) The judge may, after deciding or reserving any question of liability, refer to the registrar any mere matter of account which is in dispute between the parties and, after deciding the question of liability, may give judgment on the registrar's report.

#### Textual Amendments

**F41** Words in s. 65 substituted (27.4.1997) by 1997 c. 12, s. 10, Sch. 2 para. 2(2), S.I. 1997/841, art. 3(b), 4(c)

### *Juries*

#### **66 Trial by jury.**

- (1) In the following proceedings in a county court the trial shall be without a jury—
- (a) Admiralty proceedings;
  - (b) proceedings arising—
    - (i) under Part I, II or III of the Rent (Agriculture) <sup>M1</sup>Act 1976, or
    - (ii) under any provision of the <sup>M2</sup>Rent Act 1977 other than a provision contained in Part V, sections 103 to 106 or Part IX, or
    - (iii) under Part I of the <sup>M3</sup>Protection from Eviction Act 1977; [<sup>F42</sup>or
    - (iv) under Part I of the Housing Act 1988]
  - (c) any appeal to the county court under [<sup>F43</sup>the Housing Act 1985].
- (2) In all other proceedings in a county court the trial shall be without a jury unless the court otherwise orders on an application made in that behalf by any party to the proceedings in such manner and within such time before the trial as may be prescribed.
- (3) Where, on any such application, the court is satisfied that there is in issue—
- (a) a charge of fraud against the party making the application; 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.

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- (4) There shall be payable, in respect of the trial with a jury of proceedings in a county court, such fees as may be prescribed by [<sup>F44</sup>an order under section 92 of the Courts Act 2003 (fees)].

#### Textual Amendments

- F42** S. 66(1)(b)(iv) inserted by [Housing Act 1988 \(c. 50, SIF 61:1\)](#), s. 140, **Sch. 17 para. 35(1)**
- F43** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 57(2)**
- F44** Words in s. 66(4) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110(1), **Sch. 8 para. 271**; S.I. 2005/910, **art. 3**

#### Marginal Citations

- M1** 1976 c. 80.
- M2** 1977 c. 42.
- M3** 1977 c. 43.

### 67 Impanelling and swearing of jury.

At any county court where proceedings are to be tried with a jury, eight jurymen shall be impanelled and sworn as occasion requires to give their verdicts in the proceedings brought before them, and being once sworn need not be re-sworn in each trial.

### 68 Duty of judge to determine foreign law in jury trials.

Where, for the purpose of disposing of any proceedings which are being tried in a county court by the 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.

#### *Interest on debts and damages*

### 69 Power to award interest on debts and damages.

- (1) Subject to [<sup>F45</sup>rules of court], in proceedings (whenever instituted) before a county court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as may be prescribed, on all or any part of the debt or damages in respect of which judgment is given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—
- in the case of any sum paid before judgment, the date of the payment; and
  - in the case of the sum for which judgment is given, the date of the judgment.
- (2) In relation to a judgment given for damages for personal injuries or death which exceed £200 subsection (1) shall have effect—
- with the substitution of “shall be included” for “may be included”; and
  - with the addition of “unless the court is satisfied that there are special reasons to the contrary” after “given”, where first occurring.

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- (3) Subject to [<sup>F45</sup>rules of court], where—
- (a) there are proceedings (whenever instituted) before a county court for the recovery of a debt; and
  - (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),
- the defendant shall be liable to pay the plaintiff simple interest, at such rate as the court thinks fit or as may be prescribed, on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.
- (4) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.
- (5) Interest under this section may be calculated at different rates in respect of different periods.
- (6) In this section “plaintiff” means the person seeking the debt or damages and “defendant” means the person from whom the plaintiff seeks the debt or damages and “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.
- (7) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.
- [<sup>F46</sup>(8) In determining whether the amount of any debt or damages exceeds that prescribed by or under any enactment, no account shall be taken of any interest payable by virtue of this section except where express provision to the contrary is made by or under that or any other enactment.]

#### Textual Amendments

- F45** Words in s. 69 substituted (27.4.1997) by 1997 c. 12, s. 10, **Sch. 2 para. 2(2)**; S.I. 1997/841, **art. 3(b), 4(c)**
- F46** S. 69(8) substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 46**; S.I. 1991/1364, **art. 2, Sch.**

#### *Judgments and orders.*

#### **70 Finality of judgments and orders.**

Every judgment and order of a county court shall, except as provided by this or any other Act or as may be prescribed, be final and conclusive between the parties.

#### **71 Satisfaction of judgments and orders for payment of money.**

- (1) Where a judgment is given or an order is made by a county court under which a sum of money of any amount is payable, whether by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise, the court may, as it thinks fit, order the money to be paid either—
- (a) in one sum, whether forthwith or within such period as the court may fix; or
  - (b) by such instalments payable at such times as the court may fix.

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- (2) If at any time it appears to the satisfaction of the court that any party to any proceedings is unable from any cause to pay any sum recovered against him (whether by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise) or any instalment of such a sum, the court may, in its discretion, suspend or stay any judgment or order given or made in the proceedings for such time and on such terms as the court thinks fit, and so from time to time until it appears that the cause of inability has ceased.

## **72 Set-off in cases of cross judgments in county courts and High Court.**

- (1) Where one person has obtained a judgment or order in a county court against another person, and that other person has obtained a judgment or order against the first-mentioned person in the same or in another county court or in the High Court, either such person may, in accordance with rules of court, give notice in writing to the court or the several courts as the case may be, and may apply to the court or any of the said courts in accordance with rules of court for leave to set off any sums, including costs, payable under the several judgments or orders.
- (2) Upon any such application, the set-off may be allowed in accordance with the practice for the time being in force in the High Court as to the allowance of set-off and in particular in relation to any solicitor's lien for costs.
- (3) Where the cross judgments or orders have not been obtained in the same court, a copy of the order made on any such application shall be sent by the proper officer of the court to which the application is made to the proper officer of the other court.

## **73 Register of judgments and orders.**

- [<sup>F47</sup>(1) A register of every–
- (a) judgment entered in a county court;
  - (b) administration order made under section 112; and
  - (c) order restricting enforcement made under section 112A, shall be kept in such manner and in such place as may be prescribed.]
- (2) The Lord Chancellor may, by statutory instrument, make regulations as to the keeping of the register, and in this section “prescribed” means prescribed by those regulations.
- [<sup>F48</sup>(3) Regulations under this section may–
- (a) prescribe circumstances in which judgments [<sup>F49</sup>or orders] are to be exempt from registration or in which the registration of any judgment [<sup>F50</sup>or order] is to be cancelled;
  - (b) provide for any specified class of judgments [<sup>F51</sup>or orders] to be exempt from registration.]
- (4) Regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F52</sup>(5) The Lord Chancellor may, with the concurrence of the Treasury, fix the fees to be paid in respect of–
- (a) the making of any information contained in an entry in the register available for inspection in visible and legible form;
  - (b) the carrying out of any official search of the register;

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- (c) the supply of a certified copy of any information contained in an entry in the register.]
- (6) The proceeds of the fees shall be applied in such manner as the Treasury may direct in paying the expenses incurred in maintaining the register, and any surplus, after providing for the payment of those expenses, shall be paid to the credit of the Consolidated Fund.

#### Textual Amendments

- F47** S. 73(1) substituted (14.10.1991) by virtue of Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 14(2)**; S.I. 1991/1883, art.3, **Sch.**
- F48** S. 73(3) substituted by Administration of Justice Act 1985 (c.61, SIF 34), s. **54(3)**
- F49** Words in s. 73(3)(a) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 14(3)(a)(i)**; S.I. 1991/1883, art.3, **Sch.**
- F50** Words in s. 73(3)(a) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 14(3)(a)(ii)**; S.I. 1991/1883, art.3, **Sch.**
- F51** Words in s. 73(3)(b) inserted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 14(3)(b)**; S.I. 1991/1883, art.3, **Sch.**
- F52** S. 73(5) substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. **54(4)**

#### Modifications etc. (not altering text)

- C8** S. 73 extended (4.9.1995) by 1991 c. 48, s. **33(5)** (as inserted by 1995 c. 34, s. 30(5), **Sch. 3 para.10**); S.I. 1995/2302, art. **2(1)**

#### [<sup>F53</sup>73A Provision for register under s.73 to be kept by body under contract to Lord Chancellor

- (1) If—
- (a) there is in force an agreement between the Lord Chancellor and a body corporate relating to the keeping by that body corporate of the register under section 73 (“the register”); and
  - (b) provision is made by regulations under that section for the register to be kept in accordance with such an agreement,
- the register shall be kept by that body corporate.
- (2) Where the register is kept by a body corporate in pursuance of subsection (1)—
- (a) the Lord Chancellor may recover from that body any expenses incurred by the Lord Chancellor in connection with the supply of information to that body for the purposes of the register;
  - (b) subsection (5) of section 73 shall have effect as if the words “maximum amounts in relation to” were inserted after the word “fix”; and
  - (c) subsection (6) of that section shall not apply.
- (3) Where subsection (1) of this section ceases to apply to a body corporate as a result of the termination (for any reason) of the agreement in question, the Lord Chancellor may require the information for the time being contained in the entries in the register to be transferred to such person as he may direct.]



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#### Textual Amendments

**F53** S. 73A inserted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 54(5)

### 74 Interest on judgment debts etc.

- (1) The Lord Chancellor may by order made with the concurrence of the Treasury provide that any sums to which this subsection applies shall carry interest at such rate and between such times as may be prescribed by the order.
  - (2) The sums to which subsection (1) applies are—
    - (a) sums payable under judgments or orders given or made in a county court, including sums payable by instalments; and
    - (b) sums which by virtue of any enactment are, if the county court so orders, recoverable as if payable under an order of that court, and in respect of which the county court has so ordered.
  - (3) The payment of interest due under subsection (1) shall be enforceable as a sum payable under the judgment or order.
  - (4) The power conferred by subsection (1) includes power—
    - (a) to specify the descriptions of judgment or order in respect of which interest shall be payable;
    - (b) to provide that interest shall be payable only on sums exceeding a specified amount;
    - (c) to make provision for the manner in which and the periods by reference to which the interest is to be calculated and paid;
    - (d) to provide that any enactment shall or shall not apply in relation to interest payable under subsection (1) or shall apply to it with such modifications as may be specified in the order; and
    - (e) to make such incidental or supplementary provisions as the Lord Chancellor considers appropriate.
  - (5) Without prejudice to the generality of subsection (4), an order under subsection (1) may provide that the rate of interest shall be the rate specified in section 17 of the <sup>M4</sup>Judgments Act 1838 as that enactment has effect from time to time.
- [<sup>F54</sup>(5A) The power conferred by subsection (1) includes power to make provision enabling a county court to order that the rate of interest applicable to a sum expressed in a currency other than sterling shall be such rate as the court thinks fit (instead of the rate otherwise applicable).]
- (6) The power to make an order under subsection (1) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F54** S. 74(5A) inserted (1.11.1996) by [1995 c. 42, s.2](#); [S.I. 1996/2515, art.2](#)

#### Modifications etc. (not altering text)

**C9** S. 74: power to exclude conferred (26.4.1999) by [S.I. 1998/3132, rule 47.8\(3\)\(ii\)](#), [47.14\(5\)\(ii\)](#)

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**Marginal Citations**

**M4** 1838 c. 110.

*[<sup>F55</sup>Practice directions]*

**Textual Amendments**

**F55** S. 74A and crossheading inserted (27.4.1997) by 1997 c. 12, s. 5(2); S.I. 1997/841, art. 3(a)

**[<sup>F56</sup>74A Practice directions.**

- (1) Directions as to the practice and procedure of county courts may be made by the Lord Chancellor.
- (2) Directions as to the practice and procedure of county courts may not be made by any other person without the approval of the Lord Chancellor.
- (3) The power of the Lord Chancellor to make directions under subsection (1) includes power—
  - (a) to vary or revoke directions made by him or any other person, and
  - (b) to make different provision for different cases or different areas, including different provision—
    - (i) for a specific court, or
    - (ii) for specific proceedings, or a specific jurisdiction, specified in the directions.
- (4) References in this section to the Lord Chancellor include any person authorised by him to act on his behalf.]

**Textual Amendments**

**F56** S. 74A and crossheading inserted (27.4.1997) by 1997 c. 12, s. 5(2); S.I. 1997/841, art. 3(a)

*General rules of procedure*

**<sup>F57</sup>75** .....

**Textual Amendments**

**F57** S. 75 omitted (26.4.1999) by 1997 c. 12, s. 10, Sch. 2 para. 2(6); S.I. 1999/1009, art. 3(g)

**76 Application of practice of High Court.**

In any case not expressly provided for by or in pursuance of this Act, the general principles of practice in the High Court may be adopted and applied to proceedings in a county court.

**Status:**

Point in time view as at 01/04/2005.

**Changes to legislation:**

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