



# Administration of Justice Act 1985

## 1985 CHAPTER 61

### PART V

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous*

#### **57 Time limits for actions for libel and slander**

- (1) The Limitation Act 1980 shall be amended as follows.
- (2) After section 4 there shall be inserted—

##### **“4A Time limit for actions for libel or slander.**

The time limit under section 2 of this Act shall not apply to an action for libel or slander, but no such action shall be brought after the expiration of three years from the date on which the cause of action accrued.”

- (3) In section 28 (persons under disability), after subsection (4) there shall be inserted—

“(4A) If the action is one to which section 4A of this Act applies, subsection (1) above shall have effect as if for the words from " at any time " to " occurred) " there were substituted the words " by him at any time before the expiration of three years from the date when he ceased to be under a disability.””

- (4) After section 32 there shall be inserted—

*“Discretionary extension of time limit for actions for libel or slander.*

##### **32A Discretionary extension of time limit for actions for libel or slander.**

Where a person to whom a cause of action for libel or slander has accrued has not brought such an action within the period of three years mentioned

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in section 4A of this Act (or, where applicable, the period allowed by section 28(1) as modified by section 28(4A)) because all or any of the facts relevant to that cause of action did not become known to him until after the expiration of that period, such an action—

- (a) may be brought by him at any time before the expiration of one year from the earliest date on which he knew all the facts relevant to that cause of action ; but
  - (b) shall not be so brought without the leave of the High Court.”.
- (5) In section 36(1) (exclusion of claims for equitable relief from certain time limits), after paragraph (a) there shall be inserted—
- “(aa) the time limit under section 4A for actions for libel or slander;”.

### **58 Power of High Court to appoint an arbitrator on behalf of party in default**

In section 10 of the Arbitration Act 1950 (power of court in certain cases to appoint an arbitrator or umpire), after subsection (2) there shall be inserted—

- “(3) In any case where—
- (a) an arbitration agreement provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties or in some other manner specified in the agreement; and
  - (b) one of the parties (" the party in default") refuses to appoint an arbitrator or does not do so within the time specified in the agreement or, if no time is specified, within a reasonable time,
- the other party to the agreement, having appointed his arbitrator, may serve the party in default with a written notice to appoint an arbitrator and, if the appointment is not made within seven clear days after the service of the notice, the High Court or a judge thereof may, on the application of the party who gave the notice, appoint an arbitrator on behalf of the party in default who shall have the like powers to act in the reference and make an award (and, if the case so requires, the like duty in relation to the appointment of a third arbitrator) as if he had been appointed in accordance with the terms of the agreement.
- (4) Except in a case where the arbitration agreement shows that it was intended that the vacancy should not be supplied, paragraph (b) of each of subsections (2) and (3) shall be construed as extending to any such refusal or failure by a person as is there mentioned arising in connection with the replacement of an arbitrator who was appointed by that person (or, in default of being so appointed, was appointed under that subsection) but who refuses to act, or is incapable of acting or has died.”.

### **59 Pensions Appeal Tribunals: provision for appeals by non-residents to be heard in Scotland or Northern Ireland**

- (1) The Schedule to the Pensions Appeal Tribunals Act 1943 shall be amended as follows.
- (2) In paragraph 6 (which provides for appeals by persons not resident in Scotland or Northern Ireland to be heard by one of the Tribunals appointed for England and Wales), after " and " there shall be inserted " , subject to any provision made by virtue of paragraph 6A of this Schedule,".

(3) After paragraph 6 there shall be inserted—

“6A Rules made under this Schedule may make provision for enabling an appeal brought by a person who, at the time when the notice of appeal was given, did not reside in any part of the United Kingdom to be heard by one of the Tribunals appointed for Scotland or, as the case may be, for Northern Ireland where, on an application in that behalf by the appellant made in such manner as may be prescribed by the rules to such authority as may be so prescribed, that authority is satisfied—

- (a) that the appellant has a closer connection with Scotland or, as the case may be, with Northern Ireland than with England and Wales ; or
- (b) that there is some other good reason for the appeal to be heard in Scotland or, as the case may be, Northern Ireland.”

## **60 Proceedings in connection with European patents**

(1) The Patents Act 1977 shall be amended as follows.

(2) In section 84 (restriction on acting as agent etc. in connection with European patents)

- (a) in subsection (1), after " proceedings " there shall be inserted " in relation to applications for or otherwise"; and
- (b) after subsection (3) there shall be inserted—

“(3A) In so far as it imposes any prohibition in relation to the business of acting as agent of other persons for the purpose of conducting proceedings before the comptroller in connection with European patents (UK) to which section 77(1) above for the time being applies—

- (a) subsection (1) above does not apply to any individual who carries on such a business alone if he is registered as a patent agent in the register of patent agents, or to an individual who carries on such a business in partnership if he and each of his partners is so registered; and
- (b) subsection (3) above does not apply to any body corporate which satisfies the condition specified in paragraph (a) or (b) of section 114(2) below (as the case may require).”

(3) In section 102(2) (right of audience in patent proceedings), for " under any such treaty or convention," there shall be substituted " in relation to applications for, or otherwise in connection with, European patents,".

(4) In section 114 (restrictions on practice as patent agent), after subsection (2) there shall be inserted—

“(2A) Notwithstanding the definition of " patent agent " in section 130(1) below, subsections (1) and (2) above do not impose any prohibition in relation to the business of acting as agent for other persons for the purpose of conducting proceedings before the comptroller in connection with European patents (UK) to which section 77(1) above for the time being applies.”,

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- (5) In section 130(1) (interpretation), in the definition of " patent agent", for " in connection with such patents before the comptroller; " there shall be substituted " before the comptroller—
- (a) in relation to applications for, or otherwise in connection with, such patents, or
  - (b) in connection with European patents (UK) to which section 77(1) above for the time being applies;".
- (6) The amendment specified in subsection (2) (a) of this section shall also be made in paragraph 10A of Schedule 4 to the Fair Trading Act 1973 and in paragraph 10A of Schedule 1 to the Restrictive Trade Practices Act 1976 (excluded services for purposes of provisions of those Acts).

## **61 Constitution of juvenile courts in London**

In Schedule 2 to the Children and Young Persons Act 1963 (which by virtue of section 17(1) of that Act has effect as Schedule 2 to the Children and Young Persons Act 1933), in Part II (constitution of juvenile courts in Inner London and the City), after paragraph 15 there shall be inserted—

- “15A (1) Where, in the case of any sitting of a juvenile court, a person nominated under paragraph 15(b) of this Schedule—
- (a) is available to act as chairman ; but
  - (b) considers that it would be appropriate for another member of the court to act as chairman,
- he may nominate that member to act as chairman at that sitting.
- (2) A member of a juvenile court nominated to act as chairman under subparagraph (1) shall only so act while the person making the nomination continues to sit as a member of the court.”.

## **62 Amendments of Judicature (Northern Ireland) Act 1978**

- (1) In section 70(2)(a) of the Judicature (Northern Ireland) Act 1978 the words " and is in practice as such " (which disqualify non-practising barristers and solicitors for appointment as statutory officers under section 70(2) of that Act) shall be omitted.
- (2) In section 103(3) of that Act (appointment and removal from office of justices of the peace) for the words from " on behalf " to " Chancellor " there shall be substituted the words " by the Lord Chancellor by instrument on behalf and in the name of Her Majesty".

## **63 Limitation of damages in respect of acts by resident magistrates etc. in Northern Ireland**

- (1) Where in any action brought against a resident magistrate or other justice of the peace in respect of anything done by him in the execution or purported execution of his office as such a magistrate or justice the plaintiff would (apart from this section) be entitled to recover—
- (a) damages in respect of any sum paid or levied under a conviction or order ; or
  - (b) damages in respect of his imprisonment under a conviction or order; or

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- (c) damages in respect of his detention, or any other restriction of liberty imposed on him, under an order made under any of the enactments mentioned in subsection (2),

then, if this section applies to the recovery of any such damages by virtue of subsection (3), (4) or (5), the plaintiff shall not be entitled to recover the amount of the sum so paid or levied or (as the case may be) to recover any sum beyond the sum of one penny as damages in respect of any such imprisonment, detention or restriction of liberty as aforesaid, and shall not be entitled to any costs.

- (2) The enactments referred to in subsection (1)(c) are—
  - (a) section 48 of the Mental Health Act (Northern Ireland) 1961 (hospital and guardianship orders);
  - (b) section 5(1) of the Treatment of Offenders Act (Northern Ireland) 1968 (detention in a young offenders centre);
  - (c) section 74(1)(a), (b) and (e) of the Children and Young Persons Act (Northern Ireland) 1968 (powers of courts on finding of guilt of juvenile offenders);
  - (d) section 75 of that Act (power to commit juveniles in default to remand homes); and
  - (e) section 140(2) of, and paragraph 11 of Schedule 5 to, that Act (orders made in the case of persons subject to training school orders).
- (3) This section shall apply to the recovery of any such damages as are mentioned in subsection (1)(a) if the court is satisfied that the plaintiff was guilty of the offence of which he was convicted or (as the case may be) that he was liable by law to pay the sum he was ordered to pay.
- (4) This section shall apply to the recovery of any such damages as are mentioned in subsection (1)(b) if the court is satisfied—
  - (a) where the plaintiff was imprisoned following a conviction, that he was guilty of the offence of which he was convicted; or
  - (b) where the plaintiff was imprisoned for any default—
    - (i) that he was by law liable to pay the sum of money he was ordered to pay or (as the case may be) required to do or abstain from doing something other than the payment of money, and
    - (ii) that any such liability had not been discharged or any such requirement had not been complied with;and in addition that the duration of his imprisonment did not exceed the maximum term of imprisonment prescribed by law for the offence or default in question.
- (5) This section shall apply to the recovery of any such damages as are mentioned in subsection (1)(c) if the court is satisfied—
  - (a) in the case of an order made under section 48 of the Mental Health Act (Northern Ireland) 1961, that the plaintiff—
    - (i) was guilty of the offence of which he was convicted or (as the case may be) did any such act or made any such omission as is referred to in subsection (2) of that section, and
    - (ii) (in either case) was suffering at the time when the order was made from any such mental disorder as is referred to in subsection (1) of that section ; or

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- (b) in the case of an order made following a conviction or other finding of guilt (not being an order falling within paragraph (a)), that the plaintiff was guilty of the offence of which he was convicted or found guilty ; or
- (c) in the case of an order made following any default, that sub-paragraphs (i) and (ii) of subsection (4)(b) are applicable in relation to the plaintiff; or
- (d) in the case of an order made under either of the provisions referred to in subsection (2)(e), that the conduct of the plaintiff leading to the making of the order was such as to warrant the making of an order of that nature by a court having power to do so ;

and in addition, where the duration of any detention or other restriction of liberty that could be ordered in pursuance of the enactment in question following any such conviction, finding of guilt, default or conduct as aforesaid was subject to any limit prescribed by law, that the duration of the detention or other restriction undergone by the plaintiff under the order did not exceed that limit.

- (6) Any reference in subsection (1), in relation to the plaintiff in an action, to his imprisonment or detention or to any other restriction of liberty imposed on him as mentioned in that subsection includes a reference to any act done by any person in connection with carrying out the sentence or order resulting in that imprisonment, detention or restriction of liberty, as the case may be.
- (7) The provisions of this section shall apply in relation to—
  - (a) a county court judge sitting in connection with an appeal under Part XII of the Magistrates' Courts (Northern Ireland) Order 1981; or
  - (b) a member of a panel formed under paragraph 1 of Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 (juvenile court panels),
 as they apply in relation to a resident magistrate.

- (8) In this section—

" default" means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing anything required to be done or left undone ;

"resident magistrate" means a resident magistrate or deputy resident magistrate appointed under Part II of the Magistrates' Courts Act (Northern Ireland) 1964 ;

and any reference to an order made under any enactment includes a reference to an order purporting to be made under that enactment.

## **64 Northern Ireland rules of court with respect to disclosure of expert evidence etc.**

- (1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings, or in connection with the obtaining or giving of legal advice, are in certain circumstances privileged from disclosure, provision may be made by rules of court for requiring, in the case of civil proceedings of any description specified in the rules—
  - (a) a party who has been afforded a medical examination of another party to disclose to that other party the result of the examination;
  - (b) a party who proposes to adduce at the trial expert evidence with respect to medical matters, or matters of any other class specified in the rules, to disclose that evidence to every other party to the proceedings ;

and any such disclosure shall be made by the furnishing of any such document or documents as may be specified in the rules, and shall be so made by such time as may be determined by or in accordance with the rules.

- (2) Provision may be made by rules of court as to the conditions subject to which expert evidence may be given in civil proceedings.
- (3) Without prejudice to the generality of subsection (2), rules of court made in pursuance of that subsection may make provision for prohibiting a party from adducing, except with the leave of the court, any expert evidence the contents of which were required to be, but have not been, disclosed by him in accordance with rules under subsection (1) (b).
- (4) Any rules of court made in pursuance of this section may make different provision for different classes of cases and for other different circumstances.
- (5) In this section " rules of court " means—
  - (a) rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978 ; or
  - (b) county court rules made under Article 47 of the County Courts (Northern Ireland) Order 1980 ;and nothing in this section shall prejudice the generality of either of those provisions.
- (6) Section 71 of the Administration of Justice Act 1982 (which is superseded by this section) shall cease to have effect.

## **65 Administration of oaths and taking of affidavits by public notaries in London**

- (1) Subject to the provisions of this section, every member of the Incorporated Company of Scriveners (" the Company ") who has been admitted to practise as a public notary within the jurisdiction of the Company shall have the powers conferred on a commissioner for oaths by the Commissioners for Oaths Acts 1889 and 1891 ; and any reference to such a commissioner in an enactment or instrument (including an enactment passed or instrument made after the commencement of this section) shall include a reference to such a member of the Company unless the context otherwise requires.
- (2) A member of the Company shall not exercise the powers conferred by this section in a proceeding in which he is interested.
- (3) A member of the Company before whom any oath or affidavit is taken or made in pursuance of this section shall state in the jurat or attestation the place at which and the date on which the oath or affidavit is taken or made.
- (4) A document containing such a statement and purporting to be sealed or signed by a member of the Company shall be admitted in evidence without proof of the seal or signature, and without proof that he is a member of the Company or that he has been admitted to practise as mentioned in subsection (1).
- (5) Nothing in this section affects the power to appoint commissioners under the Commissioners for Oaths Act 1889.