



# Administration of Justice Act 1956

## 1956 CHAPTER 46

### PART II

#### SUPREME COURT OF JUDICATURE

##### *Appointment, etc., of official referees and other officers*

#### **9 Appointments of official referees to be made by Her Majesty**

- (1) Appointments of persons to be official referees shall be made by Her Majesty.
- (2) Any such appointment shall be of a person recommended to Her Majesty by the Lord Chancellor.
- (3) Every official referee appointed after the commencement of this Act shall take in the presence of the Lord Chancellor the Oath of allegiance and judicial oath; and the Promissory Oaths Act, 1868, shall have effect as if the officers named in the Second Part of the Schedule to that Act included official referees so appointed.
- (4) For the avoidance of doubt it is hereby declared that the tenure of office of official referees is that prescribed by section one hundred and twenty-seven of the principal Act, and so much of subsection (2) of section one hundred and twenty-five of that Act as provides that the tenure of office of the official referees is to be determined by the Lord Chancellor as therein mentioned is hereby repealed.

#### **10 Qualifications, etc., of official referees and other officers**

- (1) In addition to persons otherwise qualified—
  - (a) a judge of county courts shall be qualified to be appointed an official referee ;
  - (b) the Assistant Master in Lunacy shall be qualified to be appointed Master in Lunacy ;
  - (c) the assistant registrar of the Court of Criminal Appeal shall be qualified to be appointed Queen's Coroner and Attorney, Master of the Crown Office and Registrar of the Court of Criminal Appeal;

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- (d) the deputy assistant registrar of the Court of Criminal Appeal shall be qualified to be appointed—
  - (i) assistant registrar of the Court of Criminal Appeal; or
  - (ii) Queen's Coroner and Attorney, Master of the Crown Office and Registrar of the Court of Criminal Appeal.
- (2) Any person appointed deputy assistant registrar of the Court of Criminal Appeal shall be a barrister of not less than five years' standing and shall be appointed by the Lord Chief Justice of England.

## **11 Appointment, etc., of deputy district registrars**

- (1) Section one hundred and sixteen of the principal Act (which relates to the appointment of deputies for Supreme Court officers) shall not apply to a deputy district registrar appointed after the coming into force of this section, but in lieu thereof the following provisions shall have effect.
- (2) The district registrar for any district may from time to time, with the approval of the Lord Chancellor, appoint a deputy to act for him at any time when he is prevented by illness or unavoidable absence from acting in his office:
 

Provided that where the district registrar is unable to make such an appointment the Lord Chancellor may make it.
- (3) Any person being a solicitor of not less than seven years' standing shall be qualified for appointment as deputy district registrar.
- (4) A deputy district registrar, while acting under his appointment, shall have the same powers as if he were the district registrar.
- (5) The appointment of a deputy of a district registrar under subsection (2) of this section shall not be avoided by the vacation of office by the district registrar from any cause whatsoever, but the acts of the deputy done thereafter shall be as valid as if the district registrar had not vacated office, and the deputy shall continue to act until a successor to the district registrar is appointed.
- (6) A deputy district registrar shall not act as such in relation to any proceedings in which he is, either by himself or his partner, directly or indirectly engaged as a solicitor or agent for any party.
- (7) Any person appointing a deputy under this section may at his pleasure remove that deputy from his office.

## **12 Appointment, etc., of assistant district registrars**

- (1) Assistant district registrars of the High Court may be appointed in aid of the district registrars provided for by section eighty-four of the principal Act, and shall be officers of the Supreme Court.
- (2) Any person being a solicitor of not less than seven years' standing shall be qualified for appointment as assistant district registrar of any district.
- (3) The power to make appointments to the office of assistant district registrar shall be vested in the Lord Chancellor.

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- (4) An assistant district registrar of any district shall be capable of discharging any of the functions of the district registrar, and in so doing shall have the same powers as if he were the district registrar.
- (5) The district registrar of any district where there is an assistant district registrar may divide the district registrar's duties as he thinks fit between himself and the assistant district registrar.
- (6) Section one hundred and twenty of the principal Act (which prohibits officers of the Supreme Court from practising as a barrister or solicitor in any court), shall not apply to an assistant district registrar, but an assistant district registrar of any district shall not, either by himself or his partner, be directly or indirectly engaged as a solicitor or agent for a party to any proceeding whatsoever in the registry of that district.
- (7) In the following enactments (which relate to the pensions, etc., of county court registrars and assistant registrars and to their right to engage in other employment, and under which any duties and salary as district registrar of the High Court are taken into account in the same way as duties and salary as county court registrar or assistant registrar), that is to say.—
  - (a) section seventeen of the County Courts Act, 1934, and paragraph 4 of Part II of the First Schedule to that Act; and
  - (b) subsection (4) of section two of the Administration of Justice (Pensions) Act, 1950;any reference to a district registrar of the High Court shall include a reference to an assistant district registrar.

### **13 Power of one district registrar to act for another**

- (1) The district registrar of any district shall be capable of acting in the district registry of any other district for the district registrar of that other district, and subsection (7) of section eighty-four of the principal Act (which prohibits a person who is, or is acting as, the district registrar of any district from acting as solicitor in the registry of that district) shall not apply to a person acting as district registrar of a district by virtue of this section:

Provided that a person shall not by virtue of this section act as district registrar in relation to any proceedings in which he is, either by himself or his partner, directly or indirectly engaged as a solicitor or agent for any party.
- (2) The district registrar of any district, where the district registrar of some other district is acting for him under this section, may divide the district registrar's duties as he thinks fit between himself and the district registrar acting for him.

### **14 Number of conveyancing counsel**

The conveyancing counsel of the court shall be not more than six, nor less than three, in number (instead of being not less than six in number as required by subsection (2) of section two hundred and seventeen of the principal Act).

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*Other provisions as to Supreme Court*

**15 Extension of power to make rules of court, and consequential and connected repeals**

- (1) Rules of court may prescribe the cases in which jurisdiction or powers of the High Court or a judge of the High Court may be exercised by official referees or special referees, or by masters, registrars, district registrars or other officers of the court, and without prejudice to the generality of the preceding provision may in particular—
- (a) authorise the whole of any cause or matter or any question or issue therein to be ordered to be tried before, or any question arising in any cause or matter to be ordered to be referred for inquiry and report to, any such referee, master, registrar, district registrar or officer; and
  - (b) authorise powers of attachment and committal to be exercised by any official referee (but not by any other referee and not by any master, registrar, district registrar or other officer),
- and may make any provision incidental to any such provisions as aforesaid.
- (2) The decision of an official referee or special referee, or of a master, registrar, district registrar or other officer, may be called in question in such manner (whether by an appeal to the Court of Appeal or by an appeal or application to a Divisional Court or a judge in court or a judge in chambers, or by an adjournment to a judge in court or a judge in chambers) as may be prescribed by rules of court, but rules of court may, if the rule-making authority think fit, provide either generally or to a limited extent for decisions of official referees being called in question only by appeal on a question of law.
- (3) The preceding provisions of this section shall not affect section six of the Administration of Justice (Miscellaneous Provisions) Act, 1933 (which gives a right to a jury in certain cases), but sections eighty-six to ninety-seven of the principal Act (which relate to district registrars and inquiries and trials by referees) and section one of the Administration of Justice Act, 1932 (which relates to appeals from decisions of official referees) shall cease to have effect.
- (4) Section sixty-two of the principal Act (which enables orders of a judge in chambers to be set aside or discharged by a judge in court or by a Divisional Court) and paragraph (g) of subsection (1) of section thirty-one of that Act (which requires the leave of the judge or of the Court of Appeal for an appeal against any order of a judge in chambers unless an application has been made to have it set aside or discharged as aforesaid) shall cease to have effect, without prejudice, however, to the power of rules of court to make provision corresponding to the said section sixty-two.

**16 Repeal of enactments as to registration, etc., of warrants of attorney, cognovits, and consent judgments**

The Warrants of Attorney Act, 1822, the Warrants of Attorney Act, 1843, and sections twenty-four to twenty-eight of the Debtors Act, 1869 (which require registration of warrants of attorney, cognovits and consent orders for judgment, and contain other provisions as to warrants of attorney and cognovits) are hereby repealed.

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## **17 Miscellaneous provisions as to probates and administrations**

- (1) Where it appears to the High Court that a probate or administration either ought not to have been granted or contains an error, the court may call in the probate or administration and, if satisfied that it would be revoked at the instance of a party interested, may revoke it.
- (2) A probate or administration may be revoked under subsection (1) of this section without being called in if it cannot be called in.
- (3) Section one hundred and sixty-nine of the principal Act (which relates to the reseating of probates and administrations granted in Northern Ireland) shall (as amended by section ten of the Administration of Justice Act, 1928)—
  - (a) apply and be deemed always to have applied to grants in respect of all the estate of a person as it applies to grants in respect of the personal estate of a person;
  - (b) have effect and be deemed always to have had effect as if the requirement in paragraph (a) of subsection (3) thereof as to the production of a certificate that a bond has been given applied only to administrations and not to probates.

## **18 Repeal of time limit for filing powers of attorney under the Trustee Act, 1925, s. 25**

- (1) There shall be no time limit for the filing at the Central Office of the Supreme Court of powers of attorney under section twenty-five of the Trustee Act, 1925, and of the statutory declarations mentioned in subsection (4) of that section, and accordingly, in the said subsection (4), as amended by the Schedule to the Law of Property (Amendment) Act, 1926, the words " within ten days after the execution thereof or where not executed within the United Kingdom within ten days after its receipt in the United Kingdom " are hereby repealed.
- (2) This section applies to powers of attorney and statutory declarations executed or made before the coming into operation of this section as well as to powers of attorney and statutory declarations executed or made thereafter.

## **19 Extension of time for laying Supreme Court accounts before Parliament**

The annual account relating to the Supreme Court, which is prepared under section two hundred and fourteen of the principal Act, need not be laid before Parliament within one month after the thirty-first day of March in each year, if Parliament is then sitting, or if Parliament is not then sitting, within one month after the next meeting of Parliament (as required by subsection (4) of that section), but shall be laid before Parliament between the end of March in each year and the beginning of the following year.

## **20 Interpretation of Part II**

- (1) In this Part of this Act, except so far as the context otherwise requires, expressions used in the principal Act have the same meanings as in that Act.
- (2) In this Part of this Act the expression " the principal Act " means the Supreme Court of Judicature (Consolidation) Act, 1925.