



Administration of Justice Act 1956

1956 CHAPTER 46

PART IV

GENERAL PROVISIONS AS TO ENFORCEMENT OF JUDGMENTS AND ORDERS

- 34 Abolition of writs of elegit and repeal of enactments imposing charges on land, etc.**
- (1) No writ of elegit shall be issued after the coming into operation of this section.
 - (2) Subsections (1) to (3) and (5) of section one hundred and ninety-five of the Law of Property Act, 1925 (which provide that judgments entered up in the Supreme Court operate, subject to the provisions of those subsections, as charges on land of the judgment debtor) shall cease to have effect.
 - (3) Section one hundred and thirty-six of the County Courts. Act, 1934 (which relates to the removal to the High Court of a county court judgment where the judgment debtor has no goods or chattels which can be conveniently seized to satisfy the judgment) shall cease to have effect.
- 35 Power of courts to impose charges on land of judgment debtor**
- (1) The High Court and any county court may, for the purpose of enforcing a judgment or order of those courts respectively for the payment of money to a person, by order impose on any such land or interest in land of the debtor as may be specified in the order a charge for securing the payment of any moneys due or to become due under the judgment or order.
 - (2) An order under subsection (1) of this section may be made either absolutely or subject to conditions as to notifying the debtor or as to the time when the charge is to become enforceable or as to other matters.
 - (3) The Land Charges Act, 1925, and the Land Registration Act, 1925, shall apply in relation to orders under subsection (1) of this section as they apply in relation to other writs or orders affecting land issued or made for the purpose of enforcing judgments,

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but, save as aforesaid, a charge imposed under the said subsection (1) shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand :

Provided that a charge imposed under the said subsection (1) for the purpose of enforcing a judgment or order of a county court may, notwithstanding that the amount secured by the charge exceeds the amount by which the jurisdiction of a county court is limited by paragraph (c) of subsection (1) of section fifty-two of the County Courts Act, 1934, be enforced in a county court.

- (4) The preceding provisions of this section shall apply in relation to a judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or foreign arbitrator) which is or has become enforceable (whether wholly or to a limited extent) as if it were a judgment or order of the High Court or the county court as they apply in relation to a judgment or order of the High Court or the county court.

36 Receivers

- (1) The power of the High Court and of the county court to appoint a receiver by way of equitable execution shall be extended so as to operate in relation to all legal estates and interests in land.
- (2) The said power may be exercised in relation to an estate or interest in land whether or not a charge has been imposed on that land under the last preceding section for the purpose of enforcing the judgment, decree, order or award in question, and the said power shall be in addition to and not in derogation of any power of any court to appoint a receiver in proceedings for enforcing such a charge.
- (3) Where an order under the last preceding section imposing a charge for the purpose of enforcing a judgment, decree, order or award has been registered under section six of the Land Charges Act, 1925, subsection (1) of section seven of that Act (which provides that, amongst other things, an order appointing a receiver and any proceedings pursuant to the order or in obedience thereto shall be void against a purchaser unless the order is for the time being registered under section six of that Act) shall not apply to an order appointing a receiver made either in proceedings for enforcing the charge or by way of equitable execution of- the judgment, decree, order or award or, as the case may be, of so much thereof as requires payment of moneys secured by the charge.
- (4) Consequentially on the provisions of subsection (1) of this section, in subsection (2) of section forty of the Bankruptcy Act, 1914, for the words " or, in the case of an equitable interest," and in subsection (2) of section three hundred and twenty-five of the Companies Act, 1948, for the words " and, in the case of an equitable interest," the word " or " shall be substituted.

37 Goods protected from seizure in execution

- (1) In section eight of the Small Debts Act, 1845, and section one hundred and twenty-one of the County Courts Act, 1934 (which protect wearing apparel, bedding and tools to the value of five pounds from seizure in execution) for the words " the value of five pounds " there shall be substituted the words " the prescribed value ".
- (2) The prescribed value for the purposes of the said sections eight and one hundred and twentyone shall be twenty pounds or such larger amount as may be prescribed by

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order of the Lord Chancellor, and section four of the Law of Distress Amendment Act, 1888 (which provides, by reference to the said section one hundred and twenty-one, a similar protection in the case of distress for rent) shall have effect accordingly.

- (3) The extent to which goods and chattels are protected from seizure under distresses ordered by a magistrates' court shall, as well in cases in which such courts have jurisdiction by virtue of the Employers and Workmen Act, 1875, as in other cases, be wholly determined by the rules made under section fifteen of the Justices of the Peace Act, 1949, as extended by section one hundred and twenty-two of the Magistrates' Courts Act, 1952, and the rules in force under the said section fifteen as so extended at the time of the coming into force of this section shall have effect accordingly; and accordingly in section nine of the Employers and Workmen Act, 1875, the words "and no goods or chattels shall be taken under a distress ordered by a court of summary jurisdiction which might not be taken under an execution issued by a county court" are hereby repealed.
- (4) The proviso to section one hundred and fifty-two of the County Courts Act, 1934 (which relates to execution under an administration order and protects household goods, wearing apparel, bedding and tools to the value of twenty pounds) shall cease to have effect, and section one hundred and twenty-one of that Act shall apply accordingly on an execution under the said section one hundred and fifty-two.
- (5) Any order of the Lord Chancellor under this section may be varied or revoked by a subsequent order of the Lord Chancellor.
- (6) The power of the Lord Chancellor to make orders under this section shall be exercisable by statutory instrument.
- (7) Any such statutory instrument shall be laid before Parliament after being made.

38 Attachment of debts

- (1) A sum standing to the credit of a person in a deposit account in a bank shall, for the purposes of the jurisdiction of the High Court and the county court to attach debts for the purpose of satisfying judgments or orders for the payment of money, be deemed to be a sum due or accruing to that person and, subject to rules of court, shall be attachable accordingly, notwithstanding that any of the following conditions applicable to the account, that is to say—
 - (a) any condition that notice is required before any money is withdrawn;
 - (b) any condition that a personal application must be made before any money is withdrawn ;
 - (c) any condition that a deposit book must be produced before any money is withdrawn ; or
 - (d) any other condition prescribed by rules of court,has not been satisfied.
- (2) This section shall not apply to any account in the Post Office Savings Bank, in any Trustee Savings Bank or in any Savings Bank maintained in pursuance of any enactment by any local authority or to any account in any bank with two or more places of business if the terms applicable to that account permit withdrawals on demand, on production of a deposit book, at more than one of those places of business, with or without restrictions as to the amount which may be withdrawn.

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39 Execution of High Court judgments and orders in county court

A judgment or order of the High Court for the payment of money to a person, and any judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or foreign arbitrator) being a judgment, order, decree or award for the payment of money to a person which is or has become enforceable (whether wholly or to a limited extent) as if it were a judgment or order of the High Court shall, on an application made to the county court by the party prosecuting the judgment, be enforceable under section one hundred and sixteen of the County Courts Act, 1934, as if it were a judgment of that court, and the provisions of Part VI of that Act (including the provisions thereof relating to the staying of execution) shall have effect accordingly in relation to the enforcement thereof under the said section one hundred and sixteen.

40 Effect of registration of judgments of courts outside England and Wales

Section five of the Debtors Act, 1869, as amended by any subsequent enactment, and the Bankruptcy Act, 1914, as so amended, shall have effect as if—

- (a) any judgment of the High Court of Northern Ireland or decret of the Court of Session a certificate of which has been registered in the High Court under section one or section three of the Judgments Extension Act, 1868; and
- (b) any judgment, as defined in Part II of the Administration of Justice Act, 1920, which has been registered in the High Court under the said Part II; and
- (c) any judgment, as defined in the Inferior Courts Judgments Extension Act, 1882, a certificate of which has been registered in the High Court or in a county court under that Act,

were a judgment of the High Court or, as the case may be, of that county court, and proceedings may be taken under those Acts accordingly.

41 Execution by county court of judgments and orders of inferior courts

- (1) Any execution issued by a local court for the purpose of enforcing any judgment or order of that court for the payment of money (including a penalty), or for the delivery of property other than land or money (with or without an option to pay instead the value of the property), or for both, may outside the area in which the local court has jurisdiction, be enforced through a county court in the same way as an execution of the like nature issued by some other county court.
- (2) Where an execution issued by a local court is sent to a county court to be enforced under this section, the judge and officers of the county court shall have the same powers and duties in connection therewith as they have where an execution of the like nature is sent for enforcement from another county court, and the County Courts Act, 1934, shall apply in relation to the enforcement of the execution under this section as if the execution had been issued by a county court:

Provided that this subsection shall not affect the period for which the execution is in force or the manner in which or period for which it may be extended or renewed.

- (3) The foregoing provisions of this section shall apply in relation to any writ, warrant or order for a person's attachment or committal to prison which is issued by a local court as they apply to an execution issued by a local court for a purpose within subsection (1) of this section.

- (4) In this section " local court" means any inferior court of record for the trial of civil actions, other than a county court or any of the barmote courts held under the High Peak Mining Customs and Mineral Courts Act, 1851, or the Derbyshire Mining Customs and Mineral Courts Act, 1852, and includes the Mayor's and City of London Court in relation to proceedings in which it is not regarded as a county court (but without prejudice to the application to the said court of the expression " county court" in relation to executions, attachments and committals issued by other courts).

42 Execution and enforcement of judgments and orders of the Court of Appeal

For the removal of doubts it is hereby declared that any enactment (including any enactment in this Act) which authorises or requires the taking of any steps for the execution or enforcement of a judgment or order of the High Court applies in relation to a judgment or order of the Court of Appeal as it applies in relation to a judgment or order of the High Court.

43 Application to existing judgments

This Part of this Act applies in relation to judgments, orders, decrees and awards whether given or made before or after the coming into operation thereof:

Provided that where a writ of elegit has been issued before the coming into operation of section thirty-four of this Act, the like consequences shall flow and the like proceedings may be had under and in connection therewith as would have flowed and might have been had if this Part of this Act and any repeals consequential thereon had not come into operation.

44 Power to extend Part IV to inferior courts

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Part of this Act which are not otherwise applicable shall apply in relation to any inferior court in England and Wales other than a county court as they apply in relation to a county court, subject, however, to such adaptations and modifications as may be specified in the Order.
- (2) An Order in Council under this section may be revoked or varied by a subsequent Order.