



Administration of Justice Act 1920

1920 CHAPTER 81

An Act to amend the law with respect to the administration of justice and with respect to the constitution of the Supreme Court, to facilitate the reciprocal enforcement of judgments and awards in the United Kingdom and other parts of His Majesty's Dominions or Territories under His Majesty's protection, and to regulate the fees chargeable by, and on the registration of, Commissioners for Oaths. [23rd December 1920.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

TRIAL OF MATRIMONIAL CAUSES, TRIAL BY JURY, ADMIRALTY JURISDICTION OF HIGH COURT, AND AMENDMENTS OF JUDICATURE ACTS

1 Power to try matrimonial causes at assizes

Any commissioner acting under a commission of assize or any other commission granted under section twenty-nine of the Supreme Court of Judicature Act, 1873, shall, subject to rules of court, have power to try and determine matrimonial causes of any prescribed class and any matters arising out of or connected with any such causes, and shall for that purpose have all such powers and duties as are vested in the Probate, Divorce, and Admiralty Division of the High Court under the enactments relating to divorce and matrimonial causes.

For the purpose of the foregoing provision, the expression "prescribed" means prescribed by the Lord Chancellor by order made with the concurrence of the Lord Chief Justice of England and the President of the Probate, Divorce, and Admiralty Division of the High Court.

2 Trial by jury in the High Court

- (1) Where, in any action or other matter whatsoever requiring to be tried in the High Court, the court or a judge is satisfied, on an application made by either party to the proceedings in accordance with rules of court, that the action, or matter cannot as conveniently be tried with a jury as without a jury, the court or a judge shall, subject to the provisions of this section, have power notwithstanding anything in any Act, to order the action or matter to be tried without a jury:

Provided that—

- (a) no order for trial without a jury shall, except with the consent of both parties, be made under this section where the action or matter is one in which fraud is alleged or in which there is a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction, or breach of promise of marriage; and.
 - (b) nothing in this section shall affect the right of any party under section twenty-eight of the Matrimonial Causes Act, 1857, to insist on having contested matters of fact tried with a jury, or the right of an heir at law, cited to appear in or otherwise made a party to a probate action, to a trial with a jury if he makes an application for the purpose in accordance with rules of court.
- (2) Provision shall be made by rules of court for enabling the plaintiff in any action or matter in which an order for trial without a jury may be made under this section to signify his desire to have the action or matter tried without a jury, and for providing, but, without prejudice to the discretion of the court or a judge, that where the plaintiff so signifies his desire an order shall be made for trial without a jury unless any party makes an application to the contrary.
- (3) This section shall come into operation on the date on which the Juries Act, 1918, expires, or, if His Majesty by Order in Council so directs, on such earlier date as may be specified in the Order, and, if any Order is so made, section one of the Juries Act, 1918, shall cease to have effect on the date so specified.

3 Trial by jury in county courts and other inferior courts of civil jurisdiction

- (1) Where, in any action or other matter whatsoever requiring to be tried in a county court or any other inferior court of civil jurisdiction, - the court or a judge is satisfied, on an application made by either party to the proceedings in accordance with rules of court, that the action or matter cannot as conveniently be tried with a jury as without a jury, the court or a judge shall, subject as hereinafter provided, have power, notwithstanding anything in any Act, to order the trial of the action or matter without a jury :

Provided that—

- (a) no order for trial without a jury shall be "made where the action or matter is one in the case of which, if it were tried in the High Court, there would be no power under the provisions of this Act to order a trial without a jury; and
 - (b) no such order shall be made without the consent of both parties, where the action or matter is one in the case of which, if it were tried in the High Court, there would be no power under the provisions of this Act to make such an order except with the consent of both parties,
- (2) Notwithstanding anything in any Act, it shall not be lawful for any party in a county court or any other inferior court of civil jurisdiction to require any action or other

matter arising under the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, to be tried with a jury.

- (3) This section shall come into operation on the date on which the Juries Act, 1918, expires, or, if His Majesty by Order in Council so directs, on such earlier date as may be specified in the Order, and, if any Order is so made, sections three and four of the Juries Act, 1918, shall cease to have effect on the date so specified.

4 Proceedings before grand jury where defendant has admitted charge before examining justices

- (1) Where any person charged before any justice or justices with an offence pleads guilty or admits the truth of the charge before the justice or justices and is committed for trial, the clerk to the justice or justices shall, before the date fixed for the holding of the assizes or quarter sessions at which the person so committed is to be tried, transmit to the clerk of the assize or clerk of the peace, as the case may be, a certificate stating that the person so committed so pleaded guilty or admitted the truth of the charge, and the grand jury, on the production to them of the certificate, shall forthwith, without hearing or examining any witnesses, return a true bill as respects that charge.
- (2) This section shall come into operation on the date on which the Grand Juries (Suspension) Act, 1917, expires, or, if His Majesty by Order in Council so directs, on such earlier date as may be specified in the Order, and, if any Order is so made, the Grand Juries (Suspension) Act, 1917, shall cease to have effect on the date so specified.

5 Amendment as to Admiralty jurisdiction of High Court

- (1) The Admiralty jurisdiction of the High Court shall, subject to the provisions of this section, extend to—
- (a) any claim arising out of an agreement relating to the use or hire of a ship; and
 - (b) any claim relating to the carriage of goods in any ship; and
 - (c) any claim in tort in respect of goods carried in any ship:

Provided that—

- (i) this section shall not apply in any case in which it is shown to the court that at the time of the institution of the proceedings any owner or part owner of the ship was domiciled in England or Wales; and
 - (ii) if in any proceedings under this section the plaintiff recovers a less amount than twenty pounds, he shall not be entitled to any costs of the proceedings, or, if in any such proceedings the plaintiff recovers a less amount than three hundred pounds, he shall not be entitled to any more costs than those to which he would have been entitled if the proceedings had been brought in a county court, unless in either case the court or a judge certifies that there was sufficient reason for bringing the proceedings in the High Court.
- (2) The jurisdiction conferred by this section may be exercised, either in proceedings in rem or in proceedings in personam.

6 Power to make rules as to proof

The power to make rules conferred by the Judicature Acts, 1873 to 1910, shall include power to make rules for regulating the means by which particular facts may be proved,

and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings.

7 Precedence of President of Probate, Divorce, and Admiralty Division

The President of the Probate, Divorce, and Admiralty Division of the High Court shall have rank and precedence next after the Master of the Rolls.

8 Ex-judges of Supreme Court empowered on request of the Lord Chancellor to sit as judges

The Lord Chancellor may at any time, subject to the provisions of this section, request any person who has held the office of a judge of the Court of Appeal or of a judge of the High Court to sit and act as a judge either of the Court of Appeal or of the High Court, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers, and privileges of a judge of the court in which he is so sitting and acting, but shall not otherwise be deemed to be a judge of the court:

Provided that—

- (a) nothing in this section shall be deemed to require any such person as aforesaid to sit and act as a judge unless he consents so to do; and
- (b) the Lord Chancellor shall not request any person to sit and act as a judge of the King's Bench Division or of the Probate, Divorce and Admiralty Division except with the concurrence of the Lord Chief Justice of England or of the President of the Probate, Divorce and Admiralty Division respectively.

PART II

RECIPROCAL ENFORCEMENT OF JUDGMENTS IN THE UNITED KINGDOM AND IN OTHER PARTS OF HIS MAJESTY'S DOMINIONS

9 Enforcement in the United Kingdom of judgments obtained in superior courts in other British dominions

- (1) Where a judgment has been obtained in a superior court in any part of His Majesty's dominions outside the United Kingdom to which this Part of this Act extends, the judgment creditor may apply to the High Court in England or Ireland, or to the Court of Session in Scotland, at any time within twelve months after the date of the judgment, or such longer period as may be allowed by the court, to have the judgment registered in the court, and on any such application the court may, if in all the circumstances of the case they think it is just and convenient that the judgment should be enforced in the United Kingdom, and subject to the provisions of this section, order the judgment to be registered accordingly.
- (2) No judgment shall be ordered to be registered under this section if—
 - (a) the original court acted without jurisdiction; or
 - (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court; or

- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
 - (d) the judgment was obtained by fraud; or
 - (e) the judgment debtor satisfies the registering court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment; or
 - (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the registering court.
- (3) Where a judgment is registered under this section—
- (a) the judgment shall, as from the date of registration, be of the same force and effect, and proceedings may be taken thereon, as if it had been a judgment originally obtained or entered up on the date of registration in the registering court ;
 - (b) the registering court shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section;
 - (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original court and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.
- (4) Rules of court shall provide—
- (a) for service on the judgment debtor of notice of the registration of a judgment under this section ; and
 - (b) for enabling the registering court on an application by the judgment debtor to set aside the registration of a judgment under this section on such terms as the court thinks fit; and
 - (c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.
- (5) In any action brought in any court in the United Kingdom on any judgment which might be ordered to be registered under this section, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this section has previously been refused, or unless the court otherwise orders.

10 Issue of certificates of judgments obtained in the United Kingdom

"Where a judgment has been obtained in the High Court in England or Ireland, or in the Court of Session in Scotland, against any person, the court shall, on an application made by the judgment creditor and on proof that the judgment debtor is resident in some part of His Majesty's dominions outside the United Kingdom to which this Part of this Act extends, issue to the judgment creditor a certified copy of the judgment.

11 Power to make rules

Provision may be made by rules of court for regulating the practice and procedure, (including scales of fees and evidence), in respect of proceedings of any kind under this Part of this Act.

12 Interpretation

(1) In this Part of this Act, unless the context otherwise requires—

The expression " judgment " means any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of this Act, whereby any sum of money is made payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place:

The expression " original court " in relation to any judgment means the court by which the judgment was given:

The expression " registering court " in relation to any judgment means the court by which the judgment was registered:

The expression ." judgment creditor " means the person by whom the judgment was obtained, and includes the successors and assigns of that person:

The expression " judgment debtor " means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given.

(2) Subject to rules of court, any of the powers conferred by this Part of this Act on any court may be exercised by a judge of the court.

13 Power to apply Part II of Act to territories under His Majesty's protection

His Majesty may by Order in Council declare that this Part of this Act shall apply to any territory which is under His Majesty's protection, or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions, as if that territory were part of His Majesty's dominions, and on the making of any such Order this Part of this Act shall, subject to the provisions of the Order, have effect accordingly.

14 Extent of Part II of Act

(1) Where His Majesty is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's dominions outside the United Kingdom for the enforcement within that part of His dominions of judgments obtained .in the High Court in England, the. Court of Session in Scotland, and the High Court in Ireland, His Majesty may by Order in Council declare that this Part of this Act shall extend to that part of His dominions, and on any such Order being made this Part of this Act shall extend accordingly.

(2) An Order in Council under this section may be varied or revoked by a" subsequent Order.

PART III

MISCELLANEOUS

15 Questions of foreign law to be decided by judge

Where, for the purpose of disposing of any action or other matter which is being tried by a judge with a jury in any court in England or Wales, 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.

16 Power as to appointment of arbitrators where submission provides for three arbitrators

- (1) "Where a submission to arbitration 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, then, unless the submission expresses a contrary intention—
 - (a) If one party fails to appoint an arbitrator for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and the award of the arbitrator so appointed shall be binding on both parties as if he had been appointed by consent:-
 - (b) If after each party has appointed an arbitrator the two arbitrators appointed fail to appoint a third arbitrator within seven clear days after the service by either party of a notice upon them to make the appointment, the court or a judge may, on an application by the party who gave the notice, exercise in the place of the two arbitrators the power of appointing the third arbitrator:
 - (c) If an arbitrator, appointed either by one of the parties, by the two arbitrators, or by the court or a judge, refuses to act, or is incapable of acting, or dies, a new arbitrator may be appointed in his place by the party, arbitrators, or court or judge, as the case may be.
- (2) The court or a judge may set aside any appointment of a person to act as sole arbitrator made in pursuance of this section.
- (3) This section shall be construed as if it were included in the Arbitration Act, 1889, and that Act shall have effect accordingly.

17 Power to grant probate to corporations

- (1) Where a corporation, being a corporation to which this section applies, is named as the executor of the will of a deceased person who at the time of his death was domiciled in England, probate of the will may be granted by the High Court to that corporation by its corporate name, and a corporation to which probate is granted in pursuance of this section shall, subject to the provisions of any rules made for giving effect to this section, have the same rights and be subject to the same liabilities and duties in all respects as an individual to whom probate is granted.
- (2) Rules may be made under section thirty of the Court of Probate Act, 1857, for giving effect to this section, and in particular for modifying in their application to a corporation any enactments relating to executors and for prescribing the person who

is to act on behalf of a corporation for the purpose of any oath required to be taken, or any other thing required to be done, by an executor on an application for or otherwise in connection with a grant of probate.

- (3) The corporations to which this section applies are all corporations having their principal place of business in the United Kingdom.

18 Amendment of law as to administration bonds

- (1) All bonds given after the commencement of this Act under section eighty-one of the Court of Probate Act, 1857, shall be taken to or for the use of His Majesty, and, subject as aforesaid, shall be in such form as the President of the Probate, Divorce, and Admiralty Division of the High Court may by general or special order direct.
- (2) Any bond given under the section aforesaid before the commencement of this Act may be enforced in the same manner in all respects as if it had been taken to or for the use of His Majesty.

19 Fees of commissioners for oaths and registrar of solicitors

- (1) Such fees shall be chargeable—
- (a) by commissioners for oaths in respect of the administration of an oath or the taking of an affidavit; and
 - (b) by the registrar of solicitors in respect of the registration under section thirty of the Solicitors Act, 1860, of any authority or appointment;
- as may be prescribed by the Lord Chancellor by order made with the concurrence of the Lord Chief Justice of England and the Master of the Rolls.
- (2) Any order made under this section may be revoked or varied by a subsequent order so made.
- (3) In this section the expression " affidavit" has the same meaning as in the Commissioners for Oaths Act, 1889.

20 Power to make regulations as to enrolment of deeds

- (1) The Master of the Rolls may, subject to the provisions of this section, make regulations—
- (a) for authorising and regulating the enrolment or filing of deeds in the Supreme Court and for prescribing the form in which certificates of enrolment or filing are to be granted; and
 - (b) prescribing the fees to be paid on the enrolment or filing of any deed, including any additional fees payable on the enrolment or filing of any deed out-of-time :

Provided that regulations shall not be made under paragraph (a) of this subsection so as to affect or prejudice in any manner the operation of any enactment requiring or authorising the enrolment in the Supreme Court of any deed or prescribing the manner in which any deed is to be so enrolled.

- (2) Every regulation made under this section shall be laid before each House of Parliament within forty days next after it is made, if Parliament is then sitting, or, if not, within forty days after the commencement of the then next ensuing session, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent

twenty-one days on which that House has sat, praying that the regulation may be annulled, His Majesty may by Order in Council annul the same, and any regulation so annulled shall thenceforth be void and of no effect, but without prejudice to the validity of anything previously done thereunder.

- (3) In this section the expression " deeds " includes assurances and other instruments.

21 Short title, repeal, and application

- (1) This Act may be cited as the Administration of Justice Act, 1920.
- (2) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.
- (3) This Act, except Part II thereof, applies only to England and Wales.

Status: This is the original version (as it was originally enacted).

SCHEDULE

Section 21.

ENACTMENTS REPEALED

Session and Chapter.	Short Title.	Extent of Repeal.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	In section eighty-one the words " to " the judge of the Court of Probate " to enure for the benefit of the judge " for the time being," and the words " which bond shall be in such form as " the judge shall from time to time by " any general or special order direct" ; section eighty-three.
23 & 24 Vict. c. 127.	The Solicitors Act, 1860.	In section thirty the words " and for " the entry of every such authority or " appointment the registrar shall be " paid by or on behalf of the person " having such authority or appointment the Sum of one shilling."
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	Section six.
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	In section four the words from " he " shall " to the end of the section.
47 & 48 Vict. c. 61.	The Supreme Court of Judicature Act, 1884.	Section three.
51 & 52 Vict. c. 42.	The Mortmain and Charitable Uses Act, 1888.	In subsection (1) of section five the words "on application in such " manner and on payment of such " fee as may be prescribed by rules " of the Supreme Court."
51 & 52 Vict. c. 43.	The County Courts Act, 1888.	Section one hundred and one from the beginning down to the words " in this " Act contained."
54 & 55 Vict. c. 53.	The Supreme Court of Judicature Act, 1891.	In section two the words from " and the " person so appointed " to the end of the section.
57 & 58 Vict. c. 16.	The Supreme Court of Judicature (Procedure) Act, 1894.	Section three.