

**Administration of Justice
(Miscellaneous Provisions) Act,
1933.**

[23 & 24 GEO. 5. CH. 36.]

ARRANGEMENT OF SECTIONS.

A.D. 1933.

Section.

1. Abolition of grand juries.
2. Procedure for indictment of offenders.
3. Summary determination by High Court of liability as to death duties.
4. Proceedings by the Crown.
5. Amendment of procedure as to certain prerogative writs.
6. Amendment of procedure as to trials by jury in the King's Bench Division.
7. Costs in Crown proceedings.
8. Exercise of jurisdiction in lunacy by officers of the Master.
9. Saving for proceedings affecting His Majesty in His private capacity.
10. Short title, extent, repeal and commencement.

SCHEDULES :

First Schedule.—Enactments by virtue of which bills of indictment may be preferred before grand juries of the counties of London and Middlesex.

Second Schedule.—Consequential adaptations of Enactments.

Third Schedule.—Enactments repealed.



CHAPTER 36.

An Act to abolish grand juries and amend the law as to the presentment of indictments; to provide for the summary determination of questions as to liability for death duties; to make provision for alternative procedure for the recovery of Crown debts and to enable proceedings by the Crown to be instituted in county courts in appropriate cases; to amend the procedure as to certain prerogative writs and as to trials by jury in the High Court; to amend the law as to the payment of costs by and to the Crown; to provide for the further delegation of the jurisdiction of the Master in Lunacy; and for purposes connected with the matters aforesaid. A.D. 1933.

[28th July 1933.]

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:—

1.—(1) Subject to the provisions of this section grand juries are hereby abolished, but where a bill of indictment has been signed in accordance with the provisions of this Act, the indictment shall be proceeded with in the same manner as it would have been proceeded with before the commencement of this Act

Abolition of grand juries.

[CH. 36.] *Administration of* [23 & 24 GEO. 5.]
Justice (Miscellaneous Provisions) Act, 1933.

A.D. 1933. — if it had been found by a grand jury, and all enactments and rules of law relating to procedure in connection with indictable offences shall have effect subject only to such modifications as are rendered necessary by the provisions of this section and of the section next following.

22 & 23 Vict.
c. 17. (2) Where at the commencement of this Act any person has obtained the direction or consent in writing of a judge of the High Court for the preferment of an indictment under the Vexatious Indictments Act 1859, the direction or consent shall have effect as if it were a direction or consent for the preferment of a bill of indictment under this Act.

(3) After the commencement of this Act no precept shall be issued for the summoning of grand jurors nor shall any grand jurors be summoned, and if any such precept or summons has been issued before the commencement of this Act it shall be void so far as it relates to the summoning of grand jurors to attend at any court after the commencement of this Act.

35 & 36 Vict.
c. 52. (4) The provisions of this section, and of the section next following, shall not apply with respect to a bill of indictment preferred before or to an indictment found by a grand jury of the county of London and county of Middlesex by virtue of any of the enactments specified in the First Schedule to this Act, but where within the time limited by the Middlesex Grand Juries Act 1872 the Master of the Crown Office has received notice to the effect that it is intended to prefer a bill of indictment by virtue of any of those enactments and has given notice to the sheriff accordingly, a grand jury of the county of London and county of Middlesex shall be summoned and such a bill of indictment may be preferred and proceedings taken thereon in all respects as if this Act had not been passed.

Procedure
for indictment
of
offenders.

2.—(1) Subject to the provisions of this section, a bill of indictment charging any person with an indictable offence may be preferred by any person before a court in which the person charged may lawfully be indicted for that offence, and where a bill of indictment has been so preferred the proper officer of the court shall, if he is satisfied that the requirements of the next following subsection have been complied with, sign the

bill, and it shall thereupon become an indictment and be proceeded with accordingly: A D. 1933.

Provided that if the judge or chairman of the court is satisfied that the said requirements have been complied with, he may, on the application of the prosecutor or of his own motion, direct the proper officer to sign the bill and the bill shall be signed accordingly.

(2) Subject as hereinafter provided no bill of indictment charging any person with an indictable offence shall be preferred unless either—

- (a) the person charged has been committed for trial for the offence; or
- (b) the bill is preferred by the direction or with the consent of a judge of the High Court or pursuant to an order made under section nine of the Perjury Act 1911 :

1 & 2 Geo. 5.
c. 6.

Provided that—

- (i) where the person charged has been committed for trial, the bill of indictment against him may include, either in substitution for or in addition to counts charging the offence for which he was committed, any counts founded on facts or evidence disclosed in any examination or deposition taken before a justice in his presence, being counts which may lawfully be joined in the same indictment;
- (ii) a charge of a previous conviction of an offence or of being a habitual criminal or a habitual drunkard may, notwithstanding that it was not included in the committal or in any such direction or consent as aforesaid, be included in any bill of indictment.

(3) If a bill of indictment preferred otherwise than in accordance with the provisions of the last foregoing subsection has been signed by the proper officer of the court, the indictment shall be liable to be quashed :

Provided that—

- (a) if the bill contains several counts, and the said provisions have been complied with as respects one or more of them, those counts only that were wrongly included shall be quashed under this subsection; and

[CH. 36.] *Administration of* [23 & 24 GEO. 5.]
Justice (Miscellaneous Provisions) Act, 1933.

A.D. 1933.

(b) where a person who has been committed for trial is convicted on any indictment or any count of an indictment, that indictment or count shall not be quashed under this subsection in any proceedings on appeal, unless application was made at the trial that it should be so quashed.

(4) Where at any assizes no judge of the High Court is present, the direction or consent of the commissioner of assize who is acting, or is to act, as judge at those assizes, shall for the purposes of paragraph (b) of subsection (2) of this section have the like effect as if it had been given by a judge of the High Court.

(5) For the purposes of this section the expression "judge or chairman" includes a deputy recorder, deputy chairman, or acting chairman, and the expression "proper officer" means in relation to a court of assize the clerk of assize, and in relation to a court of quarter sessions the clerk of the peace, and also includes in relation to any court such officer as may be prescribed by rules made under this section.

(6) The Lord Chancellor may make rules for carrying this section into effect and in particular for making provision as to the manner in which and the time at which bills of indictment are to be preferred before any court and the manner in which application is to be made for the consent of a judge of the High Court or of a commissioner of assize for the preferment of a bill of indictment.

(7) The Vexatious Indictments Act 1859 shall cease to have effect, but save as aforesaid nothing in this section shall affect any enactment restricting the right to prosecute in particular classes of case.

(8) The provisions of any enactment passed before the commencement of this Act shall have effect subject to the adaptations and modifications specified in the Second Schedule to this Act.

Summary
determina-
tion by
High Court
of liability
as to death
duties.

3. Any person against whom a claim has been made by the Crown for the payment of any death duties which have, or are alleged to have, become chargeable by reason of the death of any person, or who has reasonable grounds for apprehending that a claim may be made

against him in respect of any death duties which have, or are alleged to have, become so chargeable, may, subject to and in accordance with rules of court, apply in a summary manner to the High Court to have it determined whether he is accountable for or chargeable with, or is or may thereafter become liable to pay, those duties, and, if so, to have the extent of his liability determined, and the Court shall have power to hear any application made under this section and to make such order thereon as seems proper.

A.D. 1933.

4.—(1) Subject to and in accordance with such rules of court as may after the passing of this Act be made under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act 1925, any debt due to the Crown may, without prejudice to the recovery thereof by means of an information in the High Court, be recovered by proceedings instituted by writ of summons.

Proceedings
by the
Crown.
15 & 16
Geo. 5. c. 49.

(2) Subject to the provisions of any enactment limiting the jurisdiction of the 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, and accordingly the power of the Attorney-General, and any power conferred by any enactment upon a Government department or upon an officer of the Crown as such, to institute proceedings by the Crown shall include power to institute such proceedings in a county court.

(3) Subject as hereinafter provided all rules of law and enactments regulating the removal of proceedings from a county court into the High Court and the remittal of proceedings in the High Court to a county court shall apply respectively to the removal of proceedings by the Crown in a county court and to the remittal of proceedings by the Crown in the High Court instituted by writ of summons :

Provided that an order for the remittal to a county court of any proceedings by the Crown in the High Court shall not be made without the consent of the Crown.

(4) Section one hundred and sixteen of the County Courts Act 1888 (which makes provision with respect

51 & 52 Vict.
c. 43.

[CH. 36.] *Administration of* [23 & 24 GEO. 5.]
Justice (Miscellaneous Provisions) Act, 1933.

A.D. 1933. — to costs in High Court cases which could have been commenced in the county court) shall not apply in the case of any proceedings by the Crown.

Amendment of procedure as to certain prerogative writs.

5. As soon as may be after the commencement of this Act, rules of court shall be made under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act 1925,—

- (a) providing for the abolition of the procedure of motion for an order nisi in cases where the issue of a prerogative writ of certiorari mandamus or prohibition is sought;
- (b) requiring, except in such cases as may be specified in the rules, that leave should be obtained before an application is made for an order absolute for the issue of such a writ;
- (c) requiring that where leave is obtained for making such an application as aforesaid, no relief shall be granted and no contention relied upon except the relief and contentions specified when the application for leave was made;
- (d) assimilating the procedure in cases where it is sought to compel justices of the peace or a judge or officer of a county court to do any act relating to the duties of their respective offices to the procedure where the issue of a prerogative writ of mandamus is sought.

Amendment of procedure as to trials by jury in the King's Bench Division.

6.—(1) Subject as hereinafter provided, if, on the application of any party to an action to be tried in the King's Bench Division of the High Court made not later than such time before the trial as may be limited by rules of court, the Court or a judge is satisfied that—

- (a) a charge of fraud against that party; or
- (b) a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage,

is in issue, the action shall be ordered to be tried with a jury unless the Court or judge is of opinion that the trial thereof requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury; but, save as aforesaid, any action to be tried in that Division may, in

the discretion of the Court or a judge, be ordered to be tried either with or without a jury: A.D. 1933.

Provided that the provisions of this section shall be without prejudice to the power of the Court or a judge to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where any such order is made the provisions of this section requiring trial with a jury in certain cases shall have effect only as respects questions relating to any such charge or claim as aforesaid.

(2) In this section the expression "action" has the same meaning as in the Supreme Court of Judicature (Consolidation) Act 1925.

7.—(1) In any civil proceedings to which the Crown is a party in any court having power to award costs in cases between subjects, and in any arbitration to which the Crown is a party, the costs of and incidental to the proceedings shall be in the discretion of the court or arbitrator to be exercised in the same manner and on the same principles as in cases between subjects, and the court or arbitrator shall have power to make an order for the payment of costs by or to the Crown accordingly: Costs in Crown proceedings.

Provided that—

- (a) in the case of proceedings to which by reason of any enactment or otherwise the Attorney-General, a Government department or any officer of the Crown as such is required to be made a party, the court or arbitrator shall have regard to the nature of the proceedings and the character and circumstances in which the Attorney-General, the department or officer of the Crown appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the costs of the Attorney-General, department or officer, whatever may be the result of the proceedings; and
- (b) nothing in this section shall affect the power of the court or arbitrator to order, or any enactment providing for, the payment of

[CH. 36.] *Administration of* [23 & 24 GEO. 5.]
Justice (Miscellaneous Provisions) Act, 1933.

A.D. 1933.

costs out of any particular fund or property, or any enactment expressly relieving any department or officer of the Crown of the liability to pay costs.

(2) In this section the expression "civil proceedings" includes proceedings by petition of right and proceedings by the Crown in the High Court or a county court for the recovery of fines or penalties, and references to proceedings to which the Crown is a party include references to proceedings to which the Attorney-General or any Government department or any officer of the Crown as such is a party, so, however, that the Crown shall not be deemed to be a party to any proceedings by reason only that the proceedings are proceedings by the Attorney-General on the relation of some other person.

(3) This section shall apply to proceedings pending at the commencement of this Act.

Exercise of jurisdiction in lunacy by officers of the Master.

8.—(1) The Lord Chancellor may by order authorise any officer of the Master in Lunacy, being a person qualified to be appointed assistant master, to exercise the jurisdiction of the Master and any such officer so authorised shall, subject to any reservations and conditions contained in the order and subject to rules in lunacy and the directions of the Master, be capable of exercising that jurisdiction accordingly.

12 & 13
Geo. 5. c. 60.

(2) Subsection (2) of section one of the Lunacy Act 1922 (which relates to the jurisdiction of the Assistant Master in Lunacy) shall have effect as if the words "as regards administration and management" were omitted therefrom.

Saving for proceedings affecting His Majesty in His private capacity.

9. Nothing in this Act shall apply to proceedings affecting His Majesty in His private capacity.

Short title, extent, repeal and commencement.

10.—(1) This Act may be cited as the Administration of Justice (Miscellaneous Provisions) Act 1933.

(2) This Act shall not extend to Scotland or to Northern Ireland.

(3) The enactments set out in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) This Act shall come into operation on the first day of September nineteen hundred and thirty-three.

SCHEDULES.

A.D. 1933.

FIRST SCHEDULE.

Section 1.

**ENACTMENTS BY VIRTUE OF WHICH BILLS OF INDICTMENT
MAY BE REFERRED BEFORE GRAND JURIES OF
THE COUNTIES OF LONDON AND MIDDLESEX.**

Session and Chapter.	Title.	Enactment.
35 Hen. 8. c. 2	An Acte concerninge the triall of Treasons comytted out of the Kinge Majesties Domyions.	All provisions.
11 Will. 3. c. 12	An Act to punish Governors of Plantations in this Kingdom for Crimes by them committed in the Plantations.	All provisions.
42 Geo. 3. c. 85	The Criminal Jurisdiction Act 1802.	All provisions.
53 Geo. 3. c. 89	An Act for the more regular conveyance of Writs for the Election of Members to serve in Parliament.	Section six.
1 & 2 Geo. 5. c. 28.	The Official Secrets Act 1911	Section ten.
5 & 6 Geo. 5. c. 61.	The Government of India Act	Section one hundred and twenty-seven.

SECOND SCHEDULE.

Section 2.

CONSEQUENTIAL ADAPTATIONS OF ENACTMENTS.

1. References in any enactment to the preferment of a bill of indictment before or the finding of an indictment by a grand jury shall (whatever words are used) include respectively references to the preferment and signing of a bill of indictment under this Act.

[CH. 36.] *Administration of* [23 & 24 GEO. 5.]
Justice (Miscellaneous Provisions) Act, 1933.

A.D. 1933.

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END SCH.
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2. References in the Counties of Cities Act, 1798 (which provides inter alia for the prosecution of offences committed in cities and towns at the assizes for the adjoining county) to the preferment of a bill of indictment before and the finding of an indictment by a grand jury for any place shall, whatever words are used, be construed respectively as references to the preferment of a bill of indictment before a court of assize for that place, and the signing of the bill by the proper officer of such a court, under this Act.

3. Subsection (2) of section six of the Costs in Criminal Cases Act 1908 (which relates to the power of the Court to order payment of costs by the prosecutor where a person is acquitted on certain indictments) shall extend to all cases where the person acquitted has not been committed for trial.

4. The words "Presentment of the Grand Jury" shall be omitted from the form specified in rule 2 of the First Schedule to the Indictments Act, 1915 (which prescribes the form for the commencement of indictments) in the case of any bill of indictment preferred under this Act.

Section 10.

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
33 Hen. 8. c. 39.	The Byll for the establishment of the Courte of Surveyors.	In section thirty-six, the word "costs."
38 Geo. 3. c. 52.	The Counties of Cities Act 1798.	In section five, the words "before the grand jury" and "and."
16 & 17 Vict. c. 51.	The Succession Duty Act 1853.	In section fifty, the words "and the costs thereof."
18 & 19 Vict. c. 90.	The Crown Suits Act 1855.	The whole Act.
22 & 23 Vict. c. 17.	The Vexatious Indictments Act 1859.	The whole Act.
22 & 23 Vict. c. 21.	The Queen's Remembrancer Act 1859.	Section twenty-one.
27 & 28 Vict. c. 57.	The Admiralty Lands and Works Act 1864.	In section eleven, the words from "and in any such" "action" to the end of the section.

[23 & 24 GEO. 5.] *Administration of* [CH. 36.]
Justice (Miscellaneous Provisions) Act, 1933.

Session and Chapter.	Short Title.	Extent of Repeal.
28 & 29 Vict. c. 104.	The Crown Suits Act 1865.	In section fifty-eight, the words "and for costs"; and in section fifty-nine, the words "and may award costs."
28 & 29 Vict. c. 124.	The Admiralty Powers &c. Act 1865.	In section two, the words from "and in any action" to the end of the section.
30 & 31 Vict. c. 35.	The Criminal Law Amendment Act 1867.	Section one.
31 & 32 Vict. c. 78.	The Admiralty Suits Act 1868.	Section five.
31 & 32 Vict. c. 110.	The Telegraph Act 1868	In section six, the words "to pay costs and."
32 & 33 Vict. c. 62.	The Debtors Act 1869	In section eighteen, the words "shall be deemed to be an offence within and subject to the provisions of the Vexatious Indictments Act, 1859."
40 & 41 Vict. c. 13.	The Customs and Inland Revenue and Savings Bank Act 1877.	Section five, so far as it relates to civil proceedings by the Crown.
43 & 44 Vict. c. 19.	The Taxes Management Act 1880.	In paragraph (b) of subsection (2) of section fifty-nine, the words "and may make such order as to costs."
44 & 45 Vict. c. 60.	The Newspaper Libel and Registration Act 1881.	Section six.
45 & 46 Vict. c. 50.	The Municipal Corporations Act 1882.	In subsection (2) of section one hundred and eighty-six, the words from "and shall" to the end of the subsection.
48 & 49 Vict. c. 69.	The Criminal Law Amendment Act 1885.	In section seventeen, the words from the beginning to "amending the same and."
50 & 51 Vict. c. 28.	The Merchandise Marks Act 1887.	Section thirteen.
52 & 53 Vict. c. 49.	The Arbitration Act 1889.	In section twenty-three, the words "or shall affect the law as to costs payable by the Crown."

A.D. 1933.

3RD SCH.
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[CH. 36.] *Administration of* [23 & 24 GEO. 5.]
Justice (Miscellaneous Provisions) Act, 1933.

A.D. 1933.
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 3RD SCH.
 —cont.

Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vict. c. 39.	The Stamp Act 1891 -	In subsection (4) of section thirteen, the words "with" or without costs as the "court may determine," and subsection (5) of the same section.
57 & 58 Vict. c. 30.	The Finance Act 1894 -	In subsection (3) of section ten, the words "the costs of the appeal shall be in the discretion of the court and."
6 Edw. 7. c. 34	The Prevention of Corruption Act 1906.	Subsection (2) of section two.
8 Edw. 7. c. 15	The Costs in Criminal Cases Act 1908.	In subsection (2) of section six, the words "presented to a grand jury under the Vexatious Indictments Act, 1859"; and subsection (2) of section nine.
8 Edw. 7. c. 41	The Assizes and Quarter Sessions Act 1908.	In subsection (5) of section one, the words "to a grand jury."
8 Edw. 7. c. 45	The Punishment of Incest Act 1908.	Subsection (1) of section four.
1 & 2 Geo. 5. c. 6.	The Perjury Act 1911 -	Section eleven.
4 & 5 Geo. 5. c. 59.	The Bankruptcy Act 1914.	In subsection (3) of section one hundred and sixty-four, the words from "shall be deemed" to "that Act."
5 & 6 Geo. 5. c. 90.	The Indictments Act 1915.	In section seven the words "the Vexatious Indictments Act, 1859, as amended by section one of the Criminal Law Amendment Act, 1867, or" and the proviso.
8 & 9 Geo. 5. c. 40.	The Income Tax Act 1918.	In subsection (2) (a) of section one hundred and forty-nine, the words "and may make such order as to costs"; and in section one hundred and sixty-nine, the words "with full costs of suit."
9 & 10 Geo. 5. c. 50.	The Ministry of Transport Act 1919.	In subsection (1) of section twenty-six, the words "and costs may be awarded to" or against the Minister."

[23 & 24 GEO. 5.] *Administration of Justice (Miscellaneous Provisions) Act, 1933.* [CH. 36.]

Session and Chapter.	Short Title.	Extent of Repeal.
10&11Geo.5. c. 81.	The Administration of Justice Act 1920.	In subsection (1) of section four, the words from "and the grand jury" to the end of the subsection.
12&13Geo.5. c. 11.	The Juries Act 1922	In subsection (1) of section four, the words "on grand juries in the borough and."
12 & 13Geo.5. c. 60.	The Lunacy Act 1922	In subsection (2) of section one, the words "as regards administration and management"
15&16Geo.5. c. 49.	The Supreme Court of Judicature (Consolidation) Act 1925.	In subsection (5) of section seventy-eight, the words "to a grand jury."
15 & 16Geo.5. c. 72.	The Honours (Prevention of Abuses) Act 1925.	Subsection (4) of section one.
15&16Geo.5. c. 86.	The Criminal Justice Act 1925.	Subsection (4) of section thirteen; section nineteen; and in subsection (1) of section thirty-three, the words "to the grand jury."
23&24Geo.5. c. 12.	The Children and Young Persons Act 1933.	Section sixteen.

A.D. 1933.

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3RD SCH.
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Produced in the U.K. for
W.J. SHARP

Controller and Chief Executive of Her Majesty's Stationery Office
and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

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ISBN 0108506134