



Administration of Justice Act 1965

1965 CHAPTER 2

PART II

MISCELLANEOUS AMENDMENTS OF LAW RELATING TO ENGLAND AND WALES.

19 Control by court, in certain cases, of money recovered under Fatal Accidents Acts.

(1) Where, in any proceedings instituted in Her Majesty's High Court of Justice in England, a county court in England or Wales or the Mayor's and City of London Court,

- (a) money is, or has been, recovered by or on behalf of, or adjudged or ordered or agreed to be paid to, or for the benefit of, a widow in satisfaction of a claim made by her or on her behalf under the Fatal Accidents Acts 1846 to 1959 ; or
- (b) money paid into court is, or has been, accepted by or on behalf of a widow in satisfaction of such a claim as is mentioned in paragraph (a) above ;

then, if the proceedings were for the benefit also of a person who, when the money is or was recovered, or adjudged or ordered or agreed to be paid, or accepted, is or was an infant, the money shall, so long as he remains an infant, be subject to be dealt with in like manner as money recovered in proceedings brought by an infant is subject to be dealt with.

(2) Where money that has been recovered, or adjudged or ordered or agreed to be paid, as mentioned in subsection (1)(a) above, or has, after payment into court, been accepted as mentioned in subsection (1)(b) above, is in court at the commencement of this Act, then if it is not subject to be dealt with under that subsection and the person entitled thereto is not under disability it shall be paid out to that person upon an application's being made in that behalf to the court.

(3) In this section " widow ", in relation to a claim, means the widow of the person whose death gave rise to the claim.

20 Increase of amount determining county court jurisdiction to make administration orders, restriction on presentation of bankruptcy petitions and minor amendments about such orders.

- (1) In section 148(1) of the County Courts Act 1959 (which authorises a county court to make an order, hereafter in this section referred to as an "administration order", for the administration of the estate of a debtor who is unable to pay the amount of a judgment against him in that court and alleges that his whole indebtedness amounts to a sum not exceeding £50) for the words "fifty pounds" there shall be substituted the words "three hundred pounds"; and accordingly in section 148(3) (effect on administration order of its being found that the total amount of debts exceeds £50) the like substitution shall be made.
- (2) Her Majesty may by Order in Council vary the said section 148(1) and 148(3) by substituting, for the references therein to £300, references to such greater sum as may be specified in the Order.
- (3) Before an administration order is made by a court, the registrar of the court shall, in accordance with rules made under section 156 of the County Courts Act 1959, send to every person whose name the debtor has notified to the appropriate county court as being a creditor of his notice that that person's name has been so notified; and so long as the order is in force, a creditor whose name is included in the schedule to the order shall not, without the leave of that court, be entitled to present, or join in, a bankruptcy petition against the debtor unless—
 - (a) his name was so notified; and
 - (b) the debt by virtue of which he presents, or joins in, the petition exceeds £100; and
 - (c) the notice given to the creditor by the registrar in accordance with this subsection was received by the creditor within twenty-eight days immediately preceding the day on which the petition is presented.
- (4) In section 150 of the County Courts Act 1959 (which, when an administration order is made, bars a creditor from remedies in respect of a debt which has been notified to a county court or is scheduled to the order, and requires a stay of proceedings in a county court or other inferior court in respect of such a debt)—
 - (a) the requirement to stay proceedings shall not operate as a requirement that a county court in which proceedings in bankruptcy against the debtor are pending shall stay those proceedings; and
 - (b) the reference to notification to a county court shall be construed as a reference to notification to the appropriate county court.
- (5) In section 149(a) of the County Courts Act 1959, the requirement that notice of an administration order shall be sent to every creditor notified by the debtor shall be construed as a requirement that notice shall be sent to every person whose name a debtor has notified to the appropriate county court as being a creditor of his.
- (6) In this section any reference to notification to the appropriate county court shall, in relation to an administration order, be construed as a reference to the giving, before the making of the order, of notice, in accordance with rules made under the said section 156, to the court which, at the time when the notification is given, has the power to make the order.
- (7) The power conferred by subsection (2) above to make an Order in Council shall include power to vary the Order; and an Order in Council under the said subsection (2)

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

21 Application for administration order to be act of bankruptcy.

The making, after the commencement of this Act, of an application to a county court, in accordance with rules made under section 156 of the County Courts Act 1959, for an order under section 148(1) of that Act shall be treated, for the purposes of the Bankruptcy Act 1914, as an act of bankruptcy.

22 Execution.

(1) Section 26(1) of the Sale of Goods Act 1893 (which provides that a writ of execution against goods and chattels shall bind the property therein of the execution debtor as from the time when it is delivered to the sheriff, but that it shall not prejudice the title to the goods acquired by a person in good faith and for valuable consideration unless at the time when he acquired his title he had notice that the writ, or any other writ by virtue of which the goods of the execution debtor might be seized or attached, had been delivered to, and remained unexecuted in the hands of, the sheriff) shall, in the case of,—

- (a) a warrant of execution which is issued after the commencement of this Act from a county court against the goods and chattels of a person and sent to the registrar of another county court for execution under the provisions of section 138 of the County Courts Act 1959;
- (b) an execution which is issued after the commencement of this Act by a local court (as defined by section 140(3) of the said Act of 1959) against the goods and chattels of a person and sent to a county court to be enforced under that section;

have effect as if, for references to the time when the writ is delivered to the sheriff, there were substituted references to the time when it is received by the registrar of the court through which it is to be enforced, and the reference to a writ's having been delivered to, and remaining unexecuted in the hands of, the sheriff shall be construed accordingly.

- (2) References in the said section 26 to the goods of the execution debtor shall, for the purposes of the application of that section to England and Wales, include references to anything else of his that may lawfully be seized in execution.
- (3) Where a claim is made to, or in respect of, any goods seized in execution under process of a county court but the claimant does not comply with the requirements of section 135(1) of the County Courts Act 1959 as to making a deposit with, or giving security to, the bailiff, the goods shall (notwithstanding subsection (3) of that section) not be sold if the registrar decides that, in all the circumstances, the decision of the judge on the claim ought to be awaited.
- (4) Section 138(3) of the County Courts Act 1959 (which provides that, where a warrant of execution is sent by the registrar of one county court to the registrar of another county court for execution under the provisions of that section, the judge of the court to which the warrant is sent shall have the same powers of staying the execution as has the judge of the court from which the warrant is sent) shall have effect with the omission of the words " the judge of " (in both places where those words occur).

23 Power of county court to extend period for giving possession of land in proceedings for enforcement of right of re-entry or forfeiture.

- (1) Where a lessor is proceeding by action in a county court in England or Wales to enforce against a lessee a right of re-entry or forfeiture in respect of any land for non-payment of rent, and the court by order made in pursuance of section 191(1)(b) of the County Courts Act 1959 orders possession of the land to be given to the lessor at the expiration of a period fixed by the court unless within that period the lessee pays into court all the rent in arrear and the costs of the action, the court may extend that period at any time before possession of the land is recovered in pursuance of the order.
- (2) Where, under the foregoing subsection, a court extends a period at a time when that period has expired and a warrant has been issued for the possession of the land, the court shall suspend the warrant for the period of the extension and, if, before the expiration of the last-mentioned period, the lessee pays into court all the rent in arrear and the costs of the action, shall cancel the warrant.
- (3) The extension under subsection (1) above of a period fixed by a court shall not be treated as relief from which the lessee, if he fails within that period to pay into court all the rent in arrear and the costs of the action, is barred by virtue of section 191(1)(c) of the County Courts Act 1959.
- (4) Where, under subsection (1) above, a court extends a period, any reference in the said section 191(1)(c) (which, as well as barring a lessor from relief as mentioned in the last foregoing subsection, provides that if, within the period specified in the order, the lessee pays into court the rent in arrear and costs he shall continue to hold the land) to the period specified in the order shall be construed as reference to that period as so extended.

24 Extension of descriptions of persons qualified for appointment to offices of Master, Chancery Division and Master, Taxing Office.

- (1) In addition to persons otherwise qualified—
 - (a) a registrar of the Chancery Division of the High Court, and a district registrar of that Court, shall be qualified to be appointed a master of the Chancery Division of that Court;
 - (b) a district registrar of the High Court, and a registrar of a district for which a court is to be held under section 2 of the County Courts Act 1959, shall be qualified to be appointed a master of the Supreme Court (Taxing Office).
- (2) In this section " the High Court " means Her Majesty's High Court of Justice in England and " the Supreme Court " means the Supreme Court of Judicature in England.

25 Amelioration of conditions qualifying Lord Chancellor's Legal Visitor for pension.

- (1) Section 128 of the Supreme Court of Judicature (Consolidation) Act 1925 (which relates to the pensions of certain officers) shall, in its application to the retirement of a person, after the commencement of this Act, from the office of Lord Chancellor's Legal Visitor, have effect as if, in subsection (1)(c) thereof (which prohibits the grant of a superannuation allowance to an officer under the age of seventy-two years unless he retires upon a medical certificate or has served fifteen years), for the words " fifteen years there were substituted the words " ten years ".

- (2) Any increase attributable to the foregoing subsection in the sums which, under section 118(2) of the said Act of 1925 or section 25(2) of the Administration of Justice (Pensions) Act 1950, are payable out of moneys provided by Parliament shall be paid out of moneys so provided.

26 District probate registry orders to be subject to negative, instead of affirmative, resolution.

The proviso to section 108(3) of the Supreme Court of Judicature (Consolidation) Act 1925 (which precludes the making, by the President of the Probate, Divorce and Admiralty Division, of an order under that subsection modifying or varying the provisions of Schedule 2 to that Act with respect to district probate registries unless a draft of the order has been approved by a resolution of each House of Parliament) shall cease to have effect; but section 212 of that Act (annulment in pursuance of a resolution of either House of Parliament of certain instruments made under the Act) shall apply to such an order as if it were a regulation made under that Act and by that Act required to be laid before Parliament.

27 Amendment of section 8 of Prosecution of Offences Act 1879.

A statutory instrument by which the power to make, vary, rescind or add to regulations conferred on the Attorney General by section 8 of the Prosecution of Offences Act 1879 is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament, and for the requirement that the approval of the Lord Chancellor and a Secretary of State shall be requisite to the exercise of that power there shall be substituted a requirement that the exercise thereof shall be subject to the concurrence of a Secretary of State.

28 Commutation of benefits under section 10 of Courts of Justice Concentration (Site) Act 1865.

- (1) If a person for the time being entitled to a benefit conferred by section 10 of the Courts of Justice Concentration (Site) Act 1865 on the incumbent of a benefice by way of annuity concurs in the making between the Minister of Public Building and Works and the Church Commissioners of an agreement for the commutation of that benefit into a capital sum specified in the agreement to be paid by that Minister to those Commissioners then, upon payment of that sum, the liability of that Minister under that section to the incumbent of that benefice shall determine.
- (2) A sum paid in pursuance of such an agreement as aforesaid with reference to a benefice shall be deemed, for the purposes of section 4 of the Benefices (Stabilization of Incomes) Measure 1951 (which provides for charging the general fund of the Church Commissioners with the payment to a benefice of interest on the sum appropriated thereto under that section in consequence of money's being received by them on behalf of the benefice to be held as endowment capital otherwise than on special trusts), to have been received by the Church Commissioners on behalf of that benefice to be so held.
- (3) Any sum required by the Minister of Public Building and Works to enable him to make a payment in pursuance of such an agreement as aforesaid shall be paid to him out of moneys provided by Parliament.