



Administration of Justice Act 1969

1969 CHAPTER 58

PART II

APPEAL FROM HIGH COURT TO HOUSE OF LORDS

12 Grant of certificate by trial judge

- (1) Where on the application of any of the parties to any proceedings to which this section applies the judge is satisfied—
- (a) that the relevant conditions are fulfilled in relation to his decision in those proceedings, and
 - (b) that a sufficient case for an appeal to the House of Lords under this Part of this Act has been made out to justify an application for leave to bring such an appeal, and
 - (c) that all the parties to the proceedings consent to the grant of a certificate under this section,

the judge, subject to the following provisions of this Part of this Act, may grant a certificate to that effect.

- (2) This section applies to any civil proceedings in the High Court which are either—
- (a) proceedings before a single judge of the High Court (including a person acting as such a judge under section 3 of the Judicature Act 1925), or
 - (b) proceedings before a commissioner acting under a commission issued under section 70 of the Judicature Act 1925, or
 - (c) proceedings before a Divisional Court.
- (3) Subject to any Order in Council made under the following provisions of this section, for the purposes of this section the relevant conditions, in relation to a decision of the judge in any proceedings, are that a point of law of general public importance is involved in that decision and that that point of law either—
- (a) relates wholly or mainly to the construction of an enactment or of a statutory instrument, and has been fully argued in the proceedings and fully considered in the judgment of the judge in the proceedings, or

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- (b) is one in respect of which the judge is bound by a decision of the Court of Appeal or of the House of Lords in previous proceedings, and was fully considered in the judgments given by the Court of Appeal or the House of Lords (as the case may be) in those previous proceedings.
- (4) Any application for a certificate under this section shall be made to the judge immediately after he gives judgment in the proceedings:
- Provided that the judge may in any particular case entertain any such application made at any later time before the end of the period of fourteen days beginning with the date on which that judgment is given or such other period as may be prescribed by rules of court.
- (5) No appeal shall lie against the grant or refusal of a certificate under this section.
 - (6) Her Majesty may by Order in Council amend subsection (3) of this section by altering, deleting, or substituting one or more new paragraphs for, either or both of paragraphs (a) and (b) of that subsection, or by adding one or more further paragraphs.
 - (7) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
 - (8) In this Part of this Act " civil proceedings " means any proceedings other than proceedings in a criminal cause or matter, and " the judge", in relation to any proceedings to which this section applies, means the judge or commissioner referred to in paragraph (a) or paragraph (b) of subsection (2) of this section, or the Divisional Court referred to in paragraph (c) of that subsection, as the case may be.

13 Leave to appeal to House of Lords

- (1) Where in any proceedings the judge grants a certificate under section 12 of this Act, then, at any time within one month from the date on which that certificate is granted or such extended time as in any particular case the House of Lords may allow, any of the parties to the proceedings may make an application to the House of Lords under this section.
- (2) Subject to the following provisions of this section, if on such an application it appears to the House of Lords to be expedient to do so, the House may grant leave for an appeal to be brought directly to the House; and where leave is granted under this section—
 - (a) no appeal from the decision of the judge to which the certificate relates shall lie to the Court of Appeal, but
 - (b) an appeal shall lie from that decision to the House of Lords.
- (3) Applications under this section shall be determined without a hearing.
- (4) Any order of the House of Lords which provides for applications under this section to be determined by a committee of the House—
 - (a) shall direct that the committee shall consist of or include not less than three of the persons designated as Lords of Appeal in accordance with section 5 of the Appellate Jurisdiction Act 1876, and
 - (b) may direct that the decision of the committee on any such application shall be taken on behalf of the House.

- (5) Without prejudice to subsection (2) of this section, no appeal shall lie to the Court of Appeal from a decision of the judge in respect of which a certificate is granted under section 12 of this Act until—
- (a) the time within which an application can be made under this section has expired, and
 - (b) where such an application is made, that application has been determined in accordance with the preceding provisions of this section.

14 Appeal where leave granted

In relation to any appeal which lies to the House of Lords by virtue of subsection (2) of section 13 of this Act—

- (a) section 4 of the Appellate Jurisdiction Act 1876 (which provides for the bringing of appeals to the House of Lords by way of petition),
- (b) section 5 of that Act (which regulates the composition of the House for the hearing and determination of appeals), and
- (c) except in so far as those orders otherwise provide, any orders of the House of Lords made with respect to the matters specified in section 11 of that Act (which relates to the procedure on appeals),

shall have effect as they have effect in relation to appeals under that Act.

15 Cases excluded from s. 12

- (1) No certificate shall be granted under section 12 of this Act in respect of a decision of the judge in any proceedings where by virtue of any enactment, apart from the provisions of this Part of this Act, no appeal would lie from that decision to the Court of Appeal, with or without the leave of the judge or of the Court of Appeal.
- (2) No certificate shall be granted under section 12 of this Act in respect of a decision of the judge where—
 - (a) the decision is in proceedings other than proceedings under the Matrimonial Causes Act 1965, and
 - (b) by virtue of any enactment, apart from the provisions of this Part of this Act, no appeal would (with or without the leave of the Court of Appeal or of the House of Lords) lie from any decision of the Court of Appeal on an appeal from the decision of the judge.
- (3) Where by virtue of any enactment, apart from the provisions of this Part of this Act, no appeal would lie to the Court of Appeal from the decision of the judge except with the leave of the judge or of the Court of Appeal, no certificate shall be granted under section 12 of this Act in respect of that decision unless it appears to the judge that apart from the provisions of this Part of this Act it would be a proper case for granting such leave.
- (4) No certificate shall be granted under section 12 of this Act where the decision of the judge, or any order made by him in pursuance of that decision, is made in the exercise of jurisdiction to punish for contempt of court.

16 Application of Part II to Northern Ireland

- (1) In the application of this Part of this Act to Northern Ireland—

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

" the Court of Appeal " means Her Majesty's Court of Appeal in Northern Ireland ;

" the High Court " means the High Court of Justice in Northern Ireland;

" statutory instrument " includes an instrument made under an enactment of the Parliament of Northern Ireland;

for the references in section 12(2) to sections 3 and 70 of the Judicature Act 1925 there shall be substituted respectively references to section 5(1) of the Northern Ireland Act 1962 and to sections 29 and 41 of the Supreme Court of Judicature Act (Ireland) 1877 ; and

for the reference in section 15(2)(a) to the Matrimonial Causes Act 1965 there shall be substituted a reference to the Matrimonial Causes Act (Northern Ireland) 1939 or any enactment re-enacting that Act (whether with or without modifications).

(2) Nothing in this Part of this Act shall affect the operation of—

- (a) any enactment of the Parliament of Northern Ireland having effect after the commencement of this Act by virtue of section 1(8) or section 2(3) of the Northern Ireland Act 1962, or
- (b) paragraph 6(2) of Schedule 1 to the Irish Free State (Consequential Provisions) Act 1922 (Session 2) (appeals to the Court of Appeal in Northern Ireland where validity of Acts of the Northern Ireland Parliament is involved and an appeal would not otherwise lie).