



Courts Act 1971

1971 CHAPTER 23

^{F1}PART I

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Textual Amendments

F1 Pts. I, II (ss. 1–15) repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

^{F1}PART II

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Status: Point in time view as at 13/08/2001.

Changes to legislation: Courts Act 1971 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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(1) [F2Any direction to appear and] any condition of a recognizance to appear before the Crown Court, and any summons or order to appear before the Crown Court, may be framed so as to require appearance at such time and place as may be directed by the Crown Court, and if a time or place is specified in the [F2direction] condition, summons or order, it may be varied by any subsequent direction of the Crown Court.

(2) Where an indictment has been signed although the person charged has not been committed for trial, the Crown Court may issue a summons requiring that person to appear before the Crown Court, or may issue a warrant for his arrest.

F3(3)

(4) [F4The Crown Court may grant bail to any person]—

- (a) who has been committed in custody for appearance before the Crown Court, or
- (b) who is in custody pursuant to a sentence imposed by a magistrates’ court, and who has appealed to the Crown Court against his conviction or sentence, or
- (c) who is in the custody of the Crown Court pending the disposal of his case by the Crown Court, or
- (d) who, after the decision of his case by the Crown Court, has applied to the Crown Court for the statement of a case for the High Court on that decision, or
- (e) who has applied to the High Court for an order of certiorari to remove proceedings in the Crown Court in his case into the High Court, or has applied to the High Court for leave to make such an application,

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and the time during which a person is [^{F4}released on] bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.

(5) Provision may be made by Crown Court rules as respects the powers of the Crown Court relating to bail, including any provision—

- [^{F5}(a) except in the case of bail in criminal proceedings, allowing the court, instead of requiring a person to enter into a recognizance to consent to his giving other security,]
- (b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates' court or a justice of the peace, or, if the rules so provide, a person of such other description as is specified in the rules,
 - (c) prescribing the manner in which a recognizance is to be entered into or other security given, and the persons by whom and the manner in which the recognizance or security may be enforced,
 - (d) authorising the recommittal, in such cases and by such courts or justices as may be prescribed by the rules, of persons released from custody in pursuance of the powers,
 - (e) making provision corresponding to sections 94 and 95 of the ^{M1}Magistrates' Courts Act 1952 (varying or dispensing with requirements as to sureties, and postponement of taking recognizances).

Any reference in any enactment to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of paragraph (a) above or otherwise.

(6) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—

- (a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station, and
- (b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement.

[^{F6}Provided that in the case of bail in criminal proceedings, the person arrested shall not be required to enter into a recognizance.]

(7) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court shall be brought forthwith before either the Crown Court or a magistrates' court, and if he is brought before a magistrates' court—

- (a) the court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court,
- (b) if the warrant is endorsed for bail, but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions, if satisfied that it is proper to do so.

(8) Section 4 of the ^{M2}Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland) shall apply to process issued under this section as it applies to process issued under the ^{M3}Magistrates' Courts Act 1952 by a magistrates' court.

(9) A magistrates' court shall have jurisdiction, and a justice of the peace may act, under or in pursuance of this section whether or not the offence was committed, or the arrest was made, within the court's area, or the area for which he was appointed.

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[^{F7}(10) In this section “bail in criminal proceedings” has the same meaning as in the ^{M4}Bail Act 1976.]]

Textual Amendments

- F2** Words inserted by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 48\(1\)\(2\)](#)
F3 [S. 13\(3\)](#) repealed by [Bail Act 1976 \(c. 63\)](#), [Sch. 3](#)
F4 Words substituted by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 48\(1\)\(3\)](#)
F5 [S. 13\(5\)\(a\)](#) substituted by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 48\(1\)\(4\)](#)
F6 Proviso added by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 48\(1\)\(5\)](#)
F7 [S. 13\(10\)](#) added by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 48\(1\)\(6\)](#)

Marginal Citations

- M1** 1952 c. 55.
M2 1881 c. 24.
M3 1952 c. 55.
M4 1976 c. 63.

^{F1}**14 Practice and procedure: power to make rules.**

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^{F1}**15 Crown Court rules.**

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PART III

JUDGES

16 Appointment of Circuit Judges.

- (1) Her Majesty may from time to time appoint as Circuit judges, to serve in the Crown Court and county courts and to carry out such other judicial functions as may be conferred on them under this or any other enactment, such qualified persons as may be recommended to Her by the Lord Chancellor.
- (2) The maximum number of Circuit judges shall be such as may be determined from time to time by the Lord Chancellor with the concurrence of the Minister for the Civil Service.
- (3) No person shall be qualified to be appointed a Circuit judge [^{F8}unless—
 - (a) he has a 10 year Crown Court or 10 year county court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) he is a Recorder; or
 - (c) he has held as a full-time appointment for at least 3 years one of the offices listed in Part IA of Schedule 2.]

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- (4) Before recommending any person to Her Majesty for appointment as a Circuit judge, the Lord Chancellor shall take steps to satisfy himself that that person's health is satisfactory.
- (5) The provisions of Part I of Schedule 2 to this Act shall have effect with respect to the appointment as Circuit judges of the holders of certain judicial offices, and the supplementary provisions in Part II of that Schedule shall have effect.

Textual Amendments

F8 S. 16(3)(a)–(c) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 31(1)**

Modifications etc. (not altering text)

C1 S. 16(3)(c) modified by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(6), **Sch. 19 para. 5**

17 Retirement, removal and disqualifications of Circuit judge.

[^{F9}(1) Subject to subsection (4) below and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), a Circuit judge shall vacate his office on the day on which he attains the age of 70.]

^{F10}(2)

^{F10}(3)

(4) The Lord Chancellor may, if he thinks fit, remove a Circuit judge from office on the ground of incapacity or misbehaviour.

(5) **F11**

(6) **F12**

Textual Amendments

F9 S. 17(1) substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 8(2)**; S.I. 1995/631, **art. 2**

F10 S. 17(2)(3) repealed (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para. 8(3)(4), **Sch. 9**; S.I. 1995/631, **art. 2**

F11 S. 17(5) repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3** and Northern Ireland Assembly Disqualification Act 1975 (c. 25), **Sch. 3 Pt. I**

F12 S. 17(6) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

18 Salaries and allowances of Circuit judges.

(1) Subject to Part II of Schedule 2 to this Act, there shall be paid to each Circuit judge such salary as may be determined by the Lord Chancellor with the consent of the Minister for the Civil Service.

(2) Every salary payable under this section—

(a) shall be charged on and paid out of the Consolidated Fund;

(b) shall begin from the date of appointment and accrue due from day to day;

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- (c) shall be payable at such intervals, not exceeding three months, as the Treasury may determine; and
- (d) may be increased, but not reduced, by a further determination under this section.

^{F13}(3)

^{F14}(4)

- (a) became a Circuit judge by virtue of having held any of the offices specified in paragraph 1 of Schedule 2 to this Act, and
- (b) held that office before 10th May 1967 (that is to say before the passing of the ^{M5}Superannuation (Miscellaneous Provisions) Act 1967).

- (5) There shall be paid to Circuit judges out of money provided by Parliament such allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

Textual Amendments

F13 S. 18(3) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), ss. 84(c), 125(7), **Sch. 20**

F14 S. 18(4) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

Modifications etc. (not altering text)

C2 S. 18 modified (9.11.1998) by 1998 c. 42, s. 18(4)(d) (with ss. 7(8), 22(5))

S. 18 modified (27.9.1999) by 1999 c. 22, ss. 68(3)(a), 108(3)(b) (with Sch. 14 para. 7(2))

Marginal Citations

M5 1967 c. 28.

19 ^{F15}(1)

^{F16}(5)

^{F17}(6)

- (7) The decision of the Minister for the Civil Service shall be final on any question arising with regard to—

- (a) the application of any of the provisions of this section to any person, or

^{F18}(b)

Textual Amendments

F15 S. 19(1)–(4) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

F16 S. 19(5) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(7), **Sch. 20** (subject to a saving in s. 125(6), Sch. 19 para. 10(3))

F17 S. 19(6) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

F18 S. 19(7) paragraphs (b) and (c) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

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20 Judges of county courts.

- [^{F19}(1) Every Circuit judge shall, by virtue of his office, be capable of sitting as a judge for any county court district in England and Wales, and the Lord Chancellor shall assign one or more Circuit judges to each district and may from time to time vary the assignment of Circuit judges among the districts.
- (2) Subject to any directions given by or on behalf of the Lord Chancellor, in any case where more than one Circuit judge is assigned to a district under subsection (1) above, any function conferred by or under the ^{M6}County Courts Act 1959 on the judge for a district may be exercised by any of the Circuit judges for the time being assigned to that district.
- (3) The following, that is—
every judge of the Court of Appeal,
every judge of the High Court,
every Recorder,
shall, by virtue of his office, be capable of sitting as a judge for any county court district in England and Wales and if he consents to do so, shall sit as such a judge at such times and on such occasions as the Lord Chancellor considers desirable.
- (4) Notwithstanding that he is not for the time being assigned to a particular district, a Circuit judge—
(a) shall sit as a judge of that district at such times and on such occasions as the Lord Chancellor may direct; and
(b) may sit as a judge of that district in any case where it appears to him that the judge of that district is not, or none of the judges of that district is, available to deal with the case.]
- (5) So much of Part I of the ^{M7}County Courts Act 1959 as makes special provision in relation to county court districts within the Duchy of Lancaster shall cease to have effect.
- (6) On the appointed day all appointments of temporary and deputy judges of county courts shall terminate and the provisions of the ^{M8}County Courts Act 1959 relating to such temporary and deputy judges shall cease to have effect.
- (7) Nothing in this Act shall affect the operation, in relation to the superannuation and other benefits payable to or in respect of persons who ceased to be judges of county courts before the day appointed for the coming into force of section 16(5) of this Act, of any enactment repealed or amended by this Act.

Textual Amendments

F19 S. 20(1)–(4) repealed (E.W.) by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), Sch. 4

Marginal Citations

M6 1959 c. 22.

M7 1959 c. 22.

M8 1959 c. 22.

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21 Appointment of Recorders.

- (1) Her Majesty may from time to time appoint qualified persons, to be known as Recorders, to act as part-time judges of the Crown Court and to carry out such other judicial functions as may be conferred on them under this or any other enactment.
- (2) Every appointment of a person to be a Recorder shall be of a person recommended to Her Majesty by the Lord Chancellor, and no person shall be qualified to be appointed a Recorder unless [^{F20}he has a 10 year Crown Court or 10 year county court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990].
- (3) The appointment of a person as a Recorder shall specify the term for which he is appointed and the frequency and duration of the occasions during that term on which he will be required to be available to undertake the duties of a Recorder.
- (4) Subject to subsection (5) below the Lord Chancellor may, with the agreement of the Recorder concerned, from time to time extend for such period as he thinks appropriate the term for which a Recorder is appointed.
- (5) Neither the initial term for which a Recorder is appointed nor any extension of that term under subsection (4) above shall be such as to continue his appointment as a Recorder after [^{F21}the day on which he attains the age of seventy, but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office up to the age of 75)].
- (6) The Lord Chancellor may if he thinks fit terminate the appointment of a Recorder on the ground of incapacity or misbehaviour or of a failure to comply with any requirement specified under subsection (3) above in the terms of his appointment.
- (7) There shall be paid to Recorders out of money provided by Parliament such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

Textual Amendments

F20 Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 32\(1\)](#)

F21 Words in s. 21(5) substituted (31.3.1995) by [1993 c. 8, s. 26, Sch. 6 para. 9\(1\)](#); [S.I. 1995/631, art. 2](#)

22 Oaths to be taken by Circuit judges and Recorders.

- (1) Subject to the following provisions of this section, every Circuit judge and every Recorder shall take the oath of allegiance and the judicial oath; and the ^{M9}Promissory Oaths Act 1868 shall have effect as if the officers named in the Second Part of the Schedule to that Act included Circuit judges and Recorders.
- (2) Notwithstanding anything in the ^{M10}Promissory Oaths Act 1871, a Circuit judge shall take the oaths referred to in subsection (1) above before the Lord Chancellor, and a Recorder shall take those oaths before a judge of the Court of Appeal or of the High Court or a Circuit judge.
- (3) Nothing in this section shall require an oath to be taken by a person who becomes a Circuit judge in accordance with any provision of Part I of Schedule 2 to this Act.

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Marginal Citations

M9 1868 c. 72.

M10 1871 c. 48.

[^{F22}23 Circuit judge or Recorder sitting as High Court Judge.

- (1) If requested to do so by or on behalf of the Lord Chancellor, a Circuit judge or Recorder shall sit as a judge of the High Court for the hearing of such case or cases or at such place and for such time as may be specified by or on behalf of the Lord Chancellor.
- (2) So long as a Circuit judge or Recorder sits as a judge of the High Court in pursuance of a request under this section he shall be treated, subject to subsection (3) below, for all purposes as, and accordingly may perform any of the functions of, a puisne judge of the High Court.
- (3) A Circuit judge or Recorder sitting as a judge of the High Court in pursuance of a request under this section shall not be treated as a judge of the High Court for the purpose of any provision made by or under any enactment and relating to—
 - (a) the appointment, retirement, removal or disqualification of judges of the High Court,
 - (b) the tenure of office and oaths to be taken by such judges, or
 - (c) the remuneration, allowances or pensions of such judges.
- (4) Where a Circuit judge or Recorder is requested to sit as a judge of the High Court for a period of time then, notwithstanding the expiry of that time, he may attend at the High Court for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case which may have been begun before him when sitting as a judge of that court, and for that purpose and for the purpose of any proceedings subsequent thereon he shall be treated as a judge of the High Court.]

Textual Amendments

F22 S. 23 repealed (E.W.) by [Supreme Courts Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

[^{F23}24 Deputy Circuit judges and assistant Recorders.

- (1) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this section in order to facilitate the disposal of business in the Crown Court or a county court or official referees' business in the High Court, he may—
 - (a) appoint to be a deputy Circuit judge, during such period or on such occasions as he thinks fit, any person who has held office as a judge of the Court of Appeal or of the High Court or as a Circuit judge; or
 - (b) appoint to be an assistant Recorder, during such period or on such occasions as he thinks fit, [^{F24}any person who has a 10 year Crown Court or 10 year county court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990.]

[^{F25}(1A) No appointment of a person under subsection (1) above shall be such as to extend—

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- (a) in the case of appointment as a deputy Circuit judge, beyond the day on which he attains the age of seventy-five; or
- (b) in the case of appointment as an assistant Recorder, beyond the day on which he attains the age of seventy;

but paragraph (b) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).]

- (2) Except as provided by subsection (3) below, during the period or on the occasions for which a deputy Circuit judge or assistant Recorder is appointed under this section he shall be treated for all purposes as, and accordingly may perform any of the functions of, a Circuit judge or a Recorder, as the case may be.
- (3) A deputy Circuit judge appointed under this section shall not be treated as a Circuit judge for the purpose of any provision made by or under any enactment and relating to the appointment, retirement, removal or disqualification of Circuit judges, the tenure of office and oaths, to be taken by such judges, or the remuneration, allowances or pensions of such judges; and section 21 of this Act shall not apply to an assistant Recorder appointed under this section.

^{F26}(4)

- (5) There shall be paid out of money provided by Parliament to deputy Circuit judges and assistant Recorders appointed under this section such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.]

Textual Amendments

- F23** S. 24 with subsections (1)–(5) substituted (E.W.) for s. 24 with subsections (1)–(6) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 146
- F24** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 32\(2\)](#)
- F25** S. 24(1A) inserted (31.3.1995) by [1993 c. 8, s. 26, Sch. 6 para. 9\(2\)](#); S.I. 1995/631, [art. 2](#)
- F26** S. 24(4) repealed (31.3.1995) by [1993 c. 8, s. 26, Sch.9](#); S.I. 1995/631, [art. 2](#)

[^{F27}25 Official referees’ business.

- (1) After the appointed day no person shall be appointed to the office of official referee and on and after that day functions conferred on official referees by provisions of rules of the Supreme Court, or by any other provision, shall be discharged in accordance with the provisions of this section.
- (2) Such of the Circuit judges as the Lord Chancellor may from time to time determine shall discharge the said functions conferred on official referees.
- (3) The cases in which jurisdiction or powers of the High Court or a judge of the High Court may be exercised by official referees, whether by virtue of rules of court made under section 15 of the ^{M11}Administration of Justice Act 1956 or otherwise, shall be known as “official referees’ business”, and except where the context otherwise requires, any reference in any enactment, in rules of court or in any other document to an official referee shall, in accordance with this section, be construed as, or where the context requires as including, a reference to a Circuit judge discharging the functions of an official referee.

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- (4) Subject to rules of court, the distribution of official referees' business, performed in accordance with this section, shall be determined in accordance with directions given by or on behalf of the Lord Chancellor.]

Textual Amendments

F27 Ss. 25, 26 repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

Marginal Citations

M11 1956 c. 46.

PART IV

OFFICERS AND ACCOMMODATION

Modifications etc. (not altering text)

C3 Pt. 4 functions transferred (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887, arts. 1(2), 4, [Sch. 1](#))

[^{F28}26 **Masters and registrars to be appointed by Lord Chancellor.**

- (1) On and after the appointed day the following officers shall be appointed by the Lord Chancellor, with the concurrence of the Minister for the Civil Service as to numbers and salaries,—
- the masters, assistant masters and registrars specified in Part I of Schedule 3 to the ^{M12}Judicature Act 1925, other than the Master of the Court of Protection (for whose appointment by the Lord Chancellor provision is made by section 100 of the ^{M13}Mental Health Act 1959);
 - the Queen's coroner and attorney and master of the Crown Office;
 - the registrar, assistant registrars and deputy assistant registrars of criminal appeals;
 - the admiralty registrar;
 - chancery registrars and assistant chancery registrars; and
 - district probate registrars.
- (2) The person appointed to the office of Queen's coroner and attorney and master of the Crown Office shall, by virtue of his appointment, be a master of the Supreme Court (Queen's Bench Division).
- (3) In section 122 of the Judicature Act 1925 (which relates to certain additional duties of the senior master of the Queen's Bench Division) for the words "The senior master" there shall be substituted the words "The Lord Chancellor shall appoint one of the masters" and after the word "Division)" there shall be inserted the words "to be the senior master and the person so appointed".
- (4) In section 128A of the Judicature Act 1925 (which relates to the office of district probate registrar) for any reference in subsection (2) or subsection (3) to the President of the family division there shall be substituted a reference to the Lord Chancellor.]

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Textual Amendments

F28 Ss. 25, 26 repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

Modifications etc. (not altering text)

C4 The text of ss. 26(3)(4), 51(2), 53(5) and 56(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M12 1925 c. 49.

M13 1959 c. 72.

[27] ^{F29} **Administrative and other court staff.**

- (1) The Lord Chancellor may, with the concurrence of the Treasury as to numbers and salaries, appoint such officers and other staff for the Supreme Court and county courts as appear to him appropriate for the following purposes, namely—
 - (a) maintaining an administrative court service;
 - (b) discharging any functions in those courts conferred by or under this or any other Act on officers so appointed; and
 - (c) generally carrying out the administrative work of those courts.
- (2) The principal civil service pension scheme within the meaning of section 2 of the Superannuation ^{M14}Act 1972 and for the time being in force shall, with the necessary adaptations, apply to officers and staff appointed under subsection (1) above as it applies to other persons employed in the civil service of the State.
- (3) If and to the extent that an order made by the Lord Chancellor so provides, the Lord Chancellor may enter into contracts with other persons for the provision for the purposes mentioned in subsection (1) above, whether by those persons or by sub-contractors of theirs, of officers and staff for the Supreme Court and county courts.
- (4) No order under subsection (3) above shall authorise the contracting out of any functions the discharge of which would constitute—
 - (a) making judicial decisions or advising persons making such decisions;
 - (b) exercising any judicial discretion or advising persons exercising any such discretion; or
 - (c) exercising any power of arrest.
- (5) An order under subsection (3) above may authorise the contracting out of any functions—
 - (a) either wholly or to such extent as may be specified in the order;
 - (b) either generally or in such cases or areas as may be so specified; and
 - (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.
- (6) Before making an order under subsection (3) above, the Lord Chancellor shall consult with the senior judges as to what effect (if any) the order might have on the proper and efficient administration of justice.

Status: Point in time view as at 13/08/2001.

Changes to legislation: Courts Act 1971 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) References in this section to the contracting out of any functions are references to the Lord Chancellor entering into contracts for the provision of officers and staff for the purpose of discharging those functions.
- (9) In this section—
“the senior judges” means the Lord Chief Justice, the Master of the Rolls, the Vice-Chancellor and the President of the Family Division;
“the Supreme Court” includes the district probate registries.]

Textual Amendments

F29 S. 27 substituted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), **Sch. 16 para. 2**

Marginal Citations

M14 1972 c. 11.

28 Provision of accommodation.

- (1) The [^{F30}Secretary of State for Transport, Local Government and the Regions] may with the approval of the Treasury provide, equip, maintain and manage such courts, offices, buildings, judges’ lodgings and other accommodation as may be necessary or desirable for carrying on the business of the Supreme Court and county courts.
- (2) It is hereby declared that the expression “land necessary for the public service” in—
(a) section 2 of the ^{M15}Commissioners of Works Act 1852 (acquisition by agreement), and
[^{F31}(b) section 228(1) of the ^{M16}Town and Country Planning Act 1990 (power of Secretary of State to acquire compulsorily land necessary for the public service)]
includes any land which is required to discharge the duties of the said Secretary of State under this section.
- (3) The [^{F30}Secretary of State for Transport, Local Government and the Regions] may, if he thinks fit, in discharging his duties under this section enter into arrangements with a local or other public authority for the provision of accommodation to be used in part for the purposes set out in this section, and in part for other purposes, including in particular the sittings of a magistrates’ court.
- (4) Schedule 3 to this Act shall have effect as respects premises formerly used for business of the abolished courts, and judges’ lodgings.

Textual Amendments

F30 Words in s. 28(1)(3) substituted (13.8.2001) by S.I. 2001/2568, art. 16, **Sch. para. 4**

F31 S. 28(2)(b) substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 25, Sch. 3**

Status: Point in time view as at 13/08/2001.

Changes to legislation: Courts Act 1971 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M15 1852 c. 28.

M16 1990 c.8 (123:1).

29 Accommodation in City of London.

- (1) The courthouse and accommodation which up to the appointed day have been respectively known as the Central Criminal Court and the Mayor’s and City of London Court shall continue to be known by those names, and it shall be the duty of the Common Council of the City of London (in this section referred to as “the Common Council”) to continue to make the said premises available for use for the sittings and business of those courts respectively.
- (2) The Common Council shall not undertake any alteration or extension of the buildings or accommodation which they are to make available for the purpose of the said courts, or provide further accommodation for that purpose, without the consent of the Lord Chancellor.
- (3) The duties imposed by this section on the Common Council may at any time be varied, restricted or terminated by agreement between the Lord Chancellor and the Common Council.

30 Advisory committees.

The Lord Chancellor may constitute, on a permanent or temporary basis, one or more advisory committees to advise him on such questions relating to the Supreme Court and county courts as he may from time to time refer to them, and shall appoint the members of any such committee with regard to their knowledge of the work of the courts and social conditions.

PART V

31— ^{F32}
40.

Textual Amendments

F32 Ss. 31–40 repealed by *Juries Act 1974 (c. 23), Sch. 3*

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Merger or abolition of certain courts and offices

41 Merger of Palatine Courts with High Court.

- (1) On the appointed day—

Status: Point in time view as at 13/08/2001.

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- (a) the Court of Chancery of the county palatine of Lancaster (in this Act referred to as “the Lancaster Palatine Court”), and
- (b) the Court of Chancery of the county palatine of Durham and Sadberge (in this Act referred to as “the Durham Palatine Court”),

shall be merged with the High Court and accordingly on and after that day no jurisdiction, whether conferred by statute or otherwise, shall be exercised by the Palatine Courts as such.

- (2) The provisions of Part I of Schedule 5 to this Act shall have effect with respect to certain transitional matters consequential on the provisions of this section.

42 Local court for City of London.

- (1) The Mayor’s and City of London Court, as constituted immediately before the commencement of this Act, is hereby abolished.
- (2) For the purpose of establishing a court to exercise so much of the jurisdiction previously exercised by the Mayor’s and City of London Court as is appropriate to a county court and for exercising any other jurisdiction which may hereafter be conferred on a county court, the City of London shall, by virtue of this section, become a county court district and accordingly the enactments relating to county courts shall apply in relation to the county court for the City of London as they apply in relation to a county court for any other county court district.
- (3) Without prejudice to subsection (1) above, the county court for the district constituted by subsection (2) above shall be known as the Mayor’s and City of London Court and the Circuit judge assigned to that district under section 20(1) of this Act shall be known as the judge of the Mayor’s and City of London Court.
- (4) The provisions of Part II of Schedule 5 to this Act shall have effect with respect to certain transitional matters consequential on the provisions of this section.

43 Abolition of certain other local courts.

- (1) There are hereby abolished the following local courts of record, being those which actively exercise a civil jurisdiction comparable to or greater than that of the county court for the district in which they are situated:—
 - (a) the Tolzey and Pie Poudre Courts of the City and County of Bristol;
 - (b) the Liverpool Court of Passage;
 - (c) the Norwich Guildhall Court; and
 - (d) the Court of Record for the Hundred of Salford.
- (2) The provisions of Part III of Schedule 5 to this Act shall have effect with respect to certain transitional matters consequential on the abolition of the courts specified in subsection (1) above.

44 Abolition of certain offices.

- (1) The following offices are hereby abolished:—
 - (a) chairman and deputy chairman of county quarter sessions; recorder, and deputy, assistant or temporary recorder, of a borough (but not the Recorder of London); clerk and deputy clerk of the peace;

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- (b) any judicial or other office in a court abolished or merged with the High Court by the preceding provisions of this Part of this Act, other than the office of Vice-Chancellor of the County Palatine of Lancaster;
 - (c) clerk of assize, circuit bailiff and any other office the duties of which relate exclusively to courts of assize.
- (2) The Lord Chancellor may, with the concurrence of the Minister for the Civil Service, by regulations provide for the payment out of money provided by Parliament of compensation to or in respect of persons who suffer loss of employment or loss or diminution of emoluments which is attributable—
- (a) to the preceding provisions of this section, or
 - (b) to the abolition or merger of any court (including courts of assize, courts of quarter sessions and Palatine courts) by this Act, or
 - (c) to the transfer by this Act of any function to the Lord Chancellor or to any other Minister.
- (3) Regulations under this section may—
- (a) include provision as to the manner in which and the person to whom any claim for compensation under the regulations is to be made, and for the determination of all questions arising under the regulations,
 - (b) make special provision for persons who, but for any national service, would be holders of any office or engaged in any employment,
 - (c) make different provision for different classes of persons and for other different circumstances, and make, or authorise the Lord Chancellor to make, exceptions and conditions,
 - (d) be framed so as to have effect from a date earlier than the making of the regulations,
- but so that regulations having effect from a date earlier than their making shall not place any individual in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making.
- (4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

45 F33

Textual Amendments
F33 S. 45 repealed by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 46(3), [Sch. 3](#)

46 F34

Textual Amendments
F34 S. 46 repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

Status: Point in time view as at 13/08/2001.

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Costs

47— F35
49.

Textual Amendments

F35 Ss. 47–49, 51(1) repealed by Costs in Criminal Cases Act 1973 (c. 14), Sch. 2

50 F36

Textual Amendments

F36 S. 50 repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), Sch. 7

51 Construction and consequential amendments

(1) F37

(2) Schedule 6 to this Act, which amends enactments about costs, shall have effect.

Textual Amendments

F37 Ss. 47–49, 51(1) repealed by Costs in Criminal Cases Act 1973 (c. 14), Sch. 2

Modifications etc. (not altering text)

C5 The text of ss. 26(3)(4), 51(2), 53(5) and 56(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

52 Award of costs where information or complaint is not proceeded with.

(1) F38

(3) Where—

(a) F39

(b) a complaint is made to a justice of the peace acting for any area but the complaint is not proceeded with,
a magistrates' court for that area may make such order as to costs to be paid . . . F40,
by the complainant to the defendant as it thinks just and reasonable.

(4) An order under subsection (3) above shall specify the amount of the costs ordered to be paid.

(5) . . . F40 for the purpose of enforcement an order under subsection (3) above made in relation to a complaint which is not proceeded with shall be treated as if it were an order made under [F41 section 64 of the Magistrates' Courts Act 1980] (power to award, and enforcement of, costs in civil proceedings).

Status: Point in time view as at 13/08/2001.

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Textual Amendments

- F38** S. 52(1)(2) repealed by Costs in [Criminal Cases Act 1973 \(c. 14\)](#), [Sch. 2](#)
- F39** S. 52(3)(a) repealed by Costs in [Criminal Cases Act 1973 \(c. 14\)](#), [Sch. 2](#)
- F40** Words repealed by Costs in [Criminal Cases Act 1973 \(c. 14\)](#), [Sch. 2](#)
- F41** Words substituted by [Magistrates Courts' Act 1980 \(c. 43, SIF 82\)](#), s. 154(1), [Sch. 7 para. 96](#)

Administrative functions of justices

53 Administrative functions of justices.

- (1) ^{F42} the following provisions of this section shall have effect with respect to certain administrative functions exercised by courts of quarter sessions and by members of such courts before the day appointed for the purposes of section 3 of this Act.
- (2) (a) ^{F43}
(b) ^{F44}
- (3) Visiting committees appointed as mentioned in subsection (1) of section 6 of the ^{M17}Prison Act 1952 (that is to say by courts of quarter sessions for counties and benches of magistrates for boroughs) shall be replaced by boards of visitors appointed under subsection (2) of that section, and accordingly the said section 6 and section 43(4) of the ^{M18}Prison Act 1952 (which relates to the application of certain provisions of that Act about prisons to remand centres, detention centres and Borstal institutions) shall be amended in accordance with Part II of Schedule 7 to this Act.
- (4) For the purpose of replacing the references to courts of quarter sessions where they occur in the ^{M19}Licensing Act 1964 in relation to—
(a) ^{F45}
(b) the licensing planning committee for any licensing planning area that consists of or includes the metropolis, as defined in that Act,
the provisions of that Act specified in Part III of Schedule 7 to this Act shall be amended in accordance with that Part of that Schedule.
- ^{F46}(5)
- (6) Without prejudice to their effect on appointments made after the commencement of this Act, nothing in ^{F47} . . . subsection (4) ^{F48} . . . above shall affect the membership of any ^{F47} . . . county compensation authority or police committee in existence at the commencement of this Act.
- (7) The Secretary of State may by order made by statutory instrument make such amendments as appear to him to be expedient in consequence of the provisions of this Act in—
^{F49}(a)
^{F50}

Textual Amendments

- F42** Words repealed by [Justices of the Peace Act 1979 \(c. 55, SIF 82\)](#), s. 71, [Sch. 3](#)

Status: Point in time view as at 13/08/2001.

Changes to legislation: Courts Act 1971 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F43** S. 53(2)(a) repealed by Powers of Criminal Courts Act 1973 (c. 62), **Sch. 6**
- F44** S. 53(2)(b) repealed by Criminal Justice Act 1972 (c. 71), **Sch. 6 Pt. II**
- F45** S. 53(4)(a) repealed (with saving) by Licensing (Alcohol Education and Research) Act 1981 (c. 28, SIF 68A:1), s. 11, **Sch. 2 Pt. I**
- F46** S. 53(5) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.**
- F47** Words in s. 53(6) repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch. 4**
- F48** Words in s. 53(6) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.**
- F49** S. 53(7)(a) repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch. 4**
- F50** In s. 53(7) the words "and (b) any amalgamation " onwards repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.**

Marginal Citations

- M17** 1952 c. 52.
- M18** 1952 c. 52.
- M19** 1964 c. 26.

Boroughs: honorary offices

54 Boroughs: honorary offices.

- (1) The council of a borough shall have power to appoint a person to be honorary recorder of the borough.
- (2) ^{F51}
- (3) A person shall not be qualified to hold office as an honorary recorder of a borough . . .
^{F52} unless he is a Circuit judge or Recorder (that is to say a Recorder appointed under this Act):
Provided that this subsection shall not apply to a borough which immediately before the appointed day—
 - (a) had power by charter to appoint a recorder of the borough, and
 - (b) did not have a separate court of quarter sessions.
- (4) ^{F51}

Textual Amendments

- F51** S. 54(2)(4) repealed by Local Government Act 1972 (c. 70), **Sch. 30**
- F52** Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

Supplemental

55 Financial provisions.

- (1) There shall be paid out of money provided by Parliament, or out of the Consolidated Fund, any increase attributable to the provisions of this Act in the sums respectively so payable under any other enactment.
- (2) There shall be paid out of money provided by Parliament any sums payable by any Minister under or by virtue of this Act.

Status: Point in time view as at 13/08/2001.

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- (3) Any sum payable under this Act to the Lord Chancellor or any other Minister shall be paid into the Consolidated Fund.
- (4) In the application of section 3(1) of the ^{M20}Local Government Act 1966 (variation of rate support grant orders) to a rate support grant order made before the date of the coming into operation of any provision of this Act for a grant period ending after that date, the Minister having power to make orders under the said section 3 shall take into account any relief obtained, or likely to be obtained, by local authorities—
- (a) which is attributable to the coming into operation of the said provision of this Act, and
 - (b) which was not taken into account in making the rate support grant order the variation of which is in question.

The provisions of this subsection are without prejudice to section 3(4) of the said Act of 1966 (under which an order under that section may vary the matters prescribed by a rate support grant order).

Marginal Citations

M20 1966 c. 42.

56 Minor and consequential amendments, transitional provisions and repeals.

- (1) Schedule 8 to this Act (which contains consequential and other amendments) shall have effect.
- (2) In the enactments listed in Schedule 9 to this Act (which confer jurisdiction transferred to the Crown Court) for any reference to quarter sessions there shall be substituted a reference to the Crown Court.

This subsection applies to references to quarter sessions however expressed and in particular to any reference to “the next court of quarter sessions”, or to the quarter sessions for any particular area, or to any sessions which, by section 13(14) of the ^{M21}Interpretation Act 1889, were included in the expression “court of quarter sessions”.

- (3) Schedule 10 to this Act, which contains transitional provisions, shall have effect.
- (4) The enactments specified in Schedule 11 to this Act (which includes certain obsolete or unnecessary enactments) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any proviso at the end of that Schedule.

Modifications etc. (not altering text)

C6 The text of ss. 26(3)(4), 51(2), 53(5) and 56(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M21 1889 c. 63.

Status: Point in time view as at 13/08/2001.

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57 Interpretation of this Act and rules of construction of other Acts.

- (1) In this Act, unless the context otherwise requires—
the “appointed day” means the commencement of this Act which, as provided by this Act, may be a different date for different purposes,
.....^{F53}
“sentence”, in relation to an offence, includes any order made by a court when dealing with an offender including—
(a) a hospital order under [^{F54}Part III of the Mental Health Act 1983], with or without an order restricting discharge, and
(b) a recommendation for deportation made when dealing with an offender.
- (2)^{F55}
- (3) Except where the context otherwise requires, in this or any other Act—
(a)^{F56}
(b) any reference to the courts abolished by this Act shall include a reference to the Lancaster Palatine Court and the Durham Palatine Court (which are abolished on merger with the High Court).
- (4) Except where the context otherwise requires, in any Act passed after this Act the expression “recorder” shall not include the Recorder of London or an honorary recorder of a borough.
- (5) Any power of making orders contained in any provision of this Act shall include power to vary or revoke an order made under that provision.
- (6) It is hereby declared that any power conferred by this Act on the Lord Chancellor or any other authority to give directions includes a power to vary or rescind any direction so given.
- (7) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

Textual Amendments

- F53** Definition of “the Judicature Act 1925” repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)
- F54** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 148(1), [Sch. 4 para. 28](#)
- F55** [S. 57\(2\)](#) repealed by [Criminal Law Act 1977 \(c. 45\)](#), [Sch. 13](#)
- F56** [S. 57\(3\)\(a\)](#) repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

58^{F57}

Textual Amendments

- F57** [S. 58](#) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), s. 42, [Sch. 6 Pt. I](#)

Status: Point in time view as at 13/08/2001.

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59 Short title, commencement and extent.

- (1) This Act may be cited as the Courts Act 1971.
- (2) This Act shall come into force on such date as the Lord Chancellor may by order in a statutory instrument appoint, and different dates may be appointed for different provisions of this Act, or for different purposes.
- (3) Without prejudice to the other transitory provisions of this Act, any order under this section may make such transitional provision as appears to the Lord Chancellor to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or any provisions of this Act then in force, and such savings of the provisions repealed by this Act, as appear to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).
- (4) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The following provisions of this Act, and no others, shall extend to Scotland—
 - (a) section 13(8) and, so far as it relates to the Court of Session, section 46,
 - (b)^{F58}
 - (c) any provision of this Act affecting the operation of the law of Scotland in relation to courts in England and Wales,
 - (d) the provisions of this Act about interpretation and commencement,
 - (e) Schedule 8 to this Act so far as it amends section 14 of the ^{M22}Indictable Offences Act 1848, . . .^{F59}
- (6) The following provisions of this Act, and no others, shall extend to Northern Ireland—
 - (a) section 46 of this Act except so far as it relates to the Court of Session . . .^{F60}
 - (b)^{F61}
 - (c) any provision of this Act affecting the operation of the law of Northern Ireland in relation to courts in England and Wales,
 - (d) the provisions of this Act about interpretation and commencement,
 - (e) Schedule 8 to this Act so far as it amends section 12 of the ^{M23}Indictable Offences Act 1848 and section 30 of the ^{M24}Petty Sessions (Ireland) Act 1851.
- (7) Schedule 8 to this Act shall extend to the Isle of Man and the Channel Islands so far as it amends section 13 of the ^{M25}Indictable Offences Act 1848.

Textual Amendments

F58 S. 59(5)(b) repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

F59 Words repealed by Criminal Law Act 1977 (c. 45), s. 65(7), **Sch. 13**

F60 Words repealed by Northern Ireland Constitution Act 1973 (c. 36), s. 42, **Sch. 6 Pt. I**

F61 S. 59(6)(b) repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3** and Northern Ireland Assembly Disqualification Act 1975 (c. 25), **Sch. 3 Pt. I**

Modifications etc. (not altering text)

C7 Power of appointment conferred by s. 59(2) exercised by **S.I. 1971/1151**

Marginal Citations

M22 1848 c. 42.

Status: Point in time view as at 13/08/2001.

Changes to legislation: Courts Act 1971 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

M23 1848 c. 42.

M24 1851 c. 93.

M25 1848 c. 42.

Status:

Point in time view as at 13/08/2001.

Changes to legislation:

Courts Act 1971 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.