

**Changes to legislation:** Judicature (Northern Ireland) Act 1978, SCHEDULE 6 is up to date with all changes known to be in force on or before 14 August 2023. 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) View outstanding changes

## SCHEDULES

### SCHEDULE 6

Section 122(1).

#### TRANSITIONAL PROVISIONS

#### PART I

##### GENERAL

- 1 (1) Proceedings instituted or being carried on heretofore in a court mentioned in the first column of the Table below or in or before any division, judge, office or officer of any such court may hereafter be continued and determined before the court specified opposite such court in the second column of that Table or in or before the appropriate division, judge, office or officer of that court; and any order, writ, summons, warrant, recognizance, notice, grant of legal aid, process, proceeding or document relating to or affecting such proceedings shall have effect accordingly.
- (2) Nothing in sub-paragraph (1) affects the power of any court mentioned in the second column of the Table below to make any order in the proceedings which it is otherwise authorised to make.

#### TABLE

<i>First column</i>	<i>Second column</i>
1. [ <sup>F1</sup> Court of Judicature] of Northern Ireland.	The [ <sup>F2</sup> Court of Judicature].
2. Her Majesty's Court of Appeal in Northern Ireland.	The Court of Appeal.
3. The Court of Criminal Appeal in Northern Ireland.	The Court of Appeal.
4. Her Majesty's High Court of Justice in Northern Ireland sitting otherwise than as a court of assize.	The High Court.

#### Textual Amendments

- F1** Words in Sch. 6 para. 1(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 6\(1\); S.I. 2009/1604, art. 2\(d\)](#)
- F2** Words in Sch. 6 para. 1(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 6\(1\); S.I. 2009/1604, art. 2\(d\)](#)

- 2 Any order or appointment made, direction or authority given or thing done which—

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- (a) was heretofore in force with respect to any property under the control or management of the Lord Chief Justice or the High Court or any division, judge, office or officer thereof; and
- (b) could have been made, given or done under any provision of this Act if that provision had been in force at the material time;

shall continue to have effect as if made, given or done under that provision.

- 3 Every rule of court made or deemed to have been made under section 7 of the <sup>M1</sup>Northern Ireland Act 1962 and not revoked before the commencement of section 55 shall have effect as if made under that section and may be varied or revoked accordingly.

#### Marginal Citations

M1 1962 c. 32.

- 4 General orders made by the Lord Chief Justice under section 118 of the <sup>M2</sup>Lunacy Regulation (Ireland) Act 1871 which were in force immediately before the commencement of section 28 shall be deemed to be rules of court and shall continue in force until amended or revoked by such rules.

#### Marginal Citations

M2 1871 c. 22.

- 5 All forms and methods of civil and criminal procedure and practice which were heretofore in force in the High Court of Justice in Northern Ireland, the Court of Appeal in Northern Ireland or the Court of Criminal Appeal, and which are not inconsistent with this Act or with the rules of court, may continue to be used in the High Court and the Court of Appeal in the cases and for the purposes in and for which they were used heretofore but with such modifications as may appear necessary in consequence of this Act.

- 6 Until the coming into force of section 69(1)—
- (a) <sup>F3</sup> .....
  - (b) any person heretofore holding office or serving in or in connection with—
    - (i) a court mentioned in the first column of the Table mentioned in paragraph 1 shall except as provided by Part VI of this Act or Part III of this Schedule, continue in corresponding office or service in or in connection with the court specified opposite that court in the second column of that Table as if he had been appointed under sub-paragraph (a) upon the terms and conditions on which he heretofore held office or served;
    - (ii) county courts, magistrates' courts, the Enforcement of Judgments Office or coroners' courts shall continue to do so as if he had been appointed under sub-paragraph (a) upon the terms and conditions on which he heretofore held office;
    - (iii) county courts shall be deemed to be an officer of the Crown Court.

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#### Textual Amendments

- F3** Sch. 6 para. 6(a) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(2), **Sch. 18 Pt. 3**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 12(a), 30(c)

- 7 In so far as any instrument made or other thing done under a statutory provision repealed by this Act could have been made or done under a corresponding provision of this Act then it shall on the commencement of the relevant provision of this Act have effect as if done under that provision.

<sup>F48</sup> .....

#### Textual Amendments

- F4** Sch. 6 para. 8 repealed (N.I.) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 74(3), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

- 9 Until an order under section 68(3) comes into force in relation to any place in which heretofore there was established a district probate registry, that registry shall continue in existence and—
- (a) shall be deemed to be a branch office of the Probate and Matrimonial Office;
  - (b) may transact such of the business of that Office as may be specified in directions given by the Lord Chancellor [<sup>F5</sup>after consultation with the Lord Chief Justice]; and
  - (c) may be placed under the supervision of a circuit registrar.

#### Textual Amendments

- F5** Words in Sch. 6 para. 9(b) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 40(3)**; S.I. 2006/1014, {art. 2(a), Sch. 1 para. 12(a)}

#### Modifications etc. (not altering text)

- C1** Sch. 6 para. 9: transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 17 para. 6(j)** (with arts. 28-31)

- [<sup>F6</sup>9A The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph 9—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F6** Sch. 6 para. 9A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 40(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)

- 10 This Part and Parts II and III of this Schedule apply subject to the express provisions of this Act.

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## PART II

### THE CROWN COURT

- 11 (1) For the purpose of enabling indictable proceedings instituted before the commencement of Part IV of this Act to be continued thereafter, and for preserving in other respects the continuity of the administration of justice, the Crown Court shall be treated as succeeding to, and being the same court as, all courts of assize and county courts when exercising jurisdiction in or in relation to such proceedings.
- (2) Any order, writ, summons, warrant, recognizance, notice, grant of legal aid or other proceeding or document shall have effect in accordance with sub-paragraph (1) and shall be construed, unless the context otherwise requires, in accordance with the Table in paragraph 2 of Part I of Schedule 5.
- (3) <sup>F7</sup> .....

#### Textual Amendments

- F7** Sch. 6 para. 11(3) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(5), Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

- 12 Any indictable proceeding the hearing of which has begun but is not completed before the commencement of Part IV of this Act before a court of assize or county court shall be continued and disposed of as if this Act had not been passed.
- 13 Nothing in this Act shall affect any order made before the commencement of Part IV of this Act for the payment of costs under the <sup>M3</sup>Costs in Criminal Cases Act (Northern Ireland) 1968, and any such costs shall be taxable and recoverable as if this Act had not been passed.

#### Marginal Citations

- M3** 1968 c. 10 (N.I.)

- 14 <sup>F8</sup> .....

#### Textual Amendments

- F8** Sch. 6 para. 14 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(5), Sch. 18 Pt. 3; S. I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

- 15 (1) Subject to any provision made by rules of court, and to sub-paragraph (2) below—
- (a) any civil proceedings (including civil bill appeals) which had been begun in a court of assize before the commencement of Part IV of this Act may be continued thereafter in the High Court as if they had been begun in the High Court, and
- (b) any act, judgment or order in civil proceedings in a court of assize shall be treated as having been done, given or made in accordance with the rules applicable to proceedings in the High Court, other than in a court of assize.

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- (2) Any civil proceedings in a court of assize the hearing of which has begun but is not completed before the commencement of Part IV of this Act shall be continued and disposed of as if this Act had not passed.
- 16 (1) The Lord Chief Justice may, if it appears to him expedient, give directions as to the conduct of any civil proceedings begun in a court of assize or any indictable proceedings instituted before the commencement of Part IV of this Act if in his opinion the direction is required to meet any difficulty arising from the commencement of that Part.
- (2) The preceding provisions of this Part shall have effect subject to any direction under this paragraph.
- (3) A direction under this paragraph may relate either to a specified proceeding, or to proceedings of a specified class or description.

### PART III

#### STATUTORY OFFICERS

- 17 <sup>F9</sup> .....

#### Textual Amendments

- F9** Sch. 6 para. 17 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(5), Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

- 18 Notwithstanding the provisions of section 70(2), a person who heretofore held any office in the [<sup>F10</sup>Court of Judicature] shall be qualified for appointment to any office listed in column 1 of Schedule 3.

#### Textual Amendments

- F10** Words in Sch. 6 para. 18 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 6(1); S.I. 2009/1604, art. 2(d)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(1)(1A) substituted for s. 14(1) by [2002 c. 26 Sch. 12 para. 13](#) (This amendment not applied to legislation.gov.uk. Sch. 5 repealed (3.4.2006) without ever being in force by 2005 c. 4, Sch. 5 para. 125, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2, Sch. 1 paras. 12(f), 30(c))
- s. 106(3A) inserted by [2011 c. 24 \(N.I.\) s. 89\(1\)](#)