



County Courts Act 1984

1984 CHAPTER 28

PART II **E+W**

JURISDICTION AND TRANSFER OF PROCEEDINGS

Actions of contract and tort

15 **General jurisdiction in actions of contract and tort.** **E+W**

- (1) Subject to subsection (2), a county court shall have jurisdiction to hear and determine any action founded on contract or tort ^{F1}
- (2) A county court shall not, except as in this Act provided, have jurisdiction to hear and determine—
 - ^{F2}(a)
 - (b) any action in which the title to ^{F3} . . . any toll, fair, market or franchise is in question; or
 - (c) any action for libel of slander.
- ^{F4}(3)

Textual Amendments

- F1** Words in s. 15(1) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**
- F2** S. 15(2)(a) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**
- F3** Words in s. 15(2)(b) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**
- F4** S. 15(3) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**

Modifications etc. (not altering text)

- C1** S. 15 excluded by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 39(4)
S. 15 extended by S.I. 1991/724, art. 2(1)(l)

Status: Point in time view as at 01/01/1996.

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16 Money recoverable by statute. E+W

A county court shall have jurisdiction to hear and determine an action for the recovery of a sum recoverable by virtue of any enactment for the time being in force, if—

- (a) it is not provided by that or any other enactment that such sums shall only be recoverable in the High Court or shall only be recoverable summarily; ^{F5} . . .
- ^{F5}(b)

Textual Amendments

F5 S. 16(b) and words in s. 16(a) repealed by S.I. 1991/724, art. 2(8), Schedule Part I

Modifications etc. (not altering text)

C2 S. 16 extended by S.I. 1991/724, art. 2(1)(l)

17 Abandonment of part of claim to give court jurisdiction. E+W

- (1) Where a plaintiff has a cause of action for more than the county court limit in which, if it were not for more than the county court limit, a county court would have jurisdiction, the plaintiff may abandon the excess, and thereupon a county court shall have jurisdiction to hear and determine the action, but the plaintiff shall not recover in the action an amount exceeding the county court limit.
- (2) Where the court has jurisdiction to hear and determine an action by virtue of this section, the judgment of the court in the action shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be made accordingly.

18 Jurisdiction by agreement in certain actions. E+W

If the parties to any action, other than an action which, if commenced in the High Court, would have been assigned to the Chancery Division or to the Family Division or have involved the exercise of the High Court’s Admiralty jurisdiction, agree, by a memorandum signed by them or by their respective [^{F6}legal representatives], that a county court specified in the memorandum shall have jurisdiction in the action, that court shall have jurisdiction to hear and determine the action accordingly.

Textual Amendments

F6 Words in s. 18 substituted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 49(3); S.I. 1991/608, art. 2, Sch.

^{F7}**19** **E+W**

Textual Amendments

F7 S. 19 repealed (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20; S.I. 1991/1364, art. 2, Sch.

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F8 20 **E+W**

Textual Amendments

F8 S. 20 repealed (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/1364, art. 2, **Sch.**

Recovery of land and cases where title in question

21 **Actions for recovery of land and actions where title is in question.** **E+W**

- (1) A county court shall have jurisdiction to hear and determine any action for the recovery of land ^{F9}
- (2) A county court shall have jurisdiction to hear and determine any action in which the title to any hereditament comes in question, ^{F10} . . .
 - ^{F10}(a)
 - ^{F10}(b)
- (3) Where a mortgage of land consists of or includes a dwelling-house and no part of the land is situated in Greater London then, subject to subsection (4), if a county court has jurisdiction by virtue of this section to hear and determine an action in which the mortgagee under that mortgage claims possession of the mortgaged property, no court other than a county court shall have jurisdiction to hear and determine that action.
- (4) Subsection (3) shall not apply to an action for foreclosure or sale in which a claim for possession of the mortgaged property is also made.
- ^{F11}(5)
- ^{F11}(6)
- (7) In this section—
 - “dwelling-house” includes any building or part of a building which is used as a dwelling;
 - “mortgage” includes a charge and “mortgagor” and “mortgagee” shall be construed accordingly;
 - “mortgagor” and “mortgagee” includes any person deriving title under the original mortgagor or mortgagee.
- (8) The fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being a dwelling-house for the purposes of this section.
- (9) This section does not apply to a mortgage securing an agreement which is a regulated agreement within the meaning of the ^{M1}Consumer Credit Act 1974.

Textual Amendments

F9 Words in s. 21(1) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**
F10 Words in s. 21(2) and s. 21(2)(a)(b) repealed by S.I. 1991/724, **art. 2(8) Schedule**, Part I
F11 S. 21(5)(6) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**

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Modifications etc. (not altering text)

- C3 Ss. 21, 22 amended by S.I. 1990/776, [art. 4\(1\)\(g\)\(2\)](#)
S. 21 extended by S.I. 1991/724, [art. 2\(1\)\(l\)](#)

Marginal Citations

- M1 1974 c. 39.

^{F12}22 **E+W**

Textual Amendments

- F12 S. 22 repealed (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch.20](#); [S.I. 1991/1364](#), [art. 2](#),Sch.

Equity proceedings

23 Equity jurisdiction. **E+W**

A county court shall have all the jurisdiction of the High Court to hear and determine—

- (a) proceedings for the administration of the estate of a deceased person, where the estate does not exceed in amount or value the county court limit;
- (b) proceedings—
 - (i) for the execution of any trust, or
 - (ii) for a declaration that a trust subsists, or
 - (iii) under section 1 of the ^{M2}Variation of Trusts Act 1958,
 where the estate or fund subject, or alleged to be subject, to the trust does not exceed in amount or value the county court limit;
- (c) proceedings for foreclosure or redemption of any mortgage or for enforcing any charge or lien, where the amount owing in respect of the mortgage, charge or lien does not exceed the county court limit;
- (d) proceedings for the specific performance, or for the rectification, delivery up or cancellation, or any agreement for the sale, purchase or lease of any property, where, in the case of a sale or purchase, the purchase money, or in the case of a lease, the value of the property, does not exceed the county court limit;
- (e) proceedings relating to the maintenance or advancement of a minor, where the property of the minor does not exceed in amount or value the county court limit;
- (f) proceedings for the dissolution or winding-up of any partnership (whether or not the existence of the partnerships is in dispute), where the whole assets of the partnership do not exceed in amount or value the county court limit;
- (g) proceedings for relief against fraud or mistake, where the damage sustained or the estate or fund in respect of which relief is sought does not exceed in amount or value the county court limit.

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Marginal Citations

M2 1958 c. 53.

24 Jurisdiction by agreement in certain equity proceedings. **E+W**

- (1) If, as respects any proceedings to which this section applies, the parties agree, by a memorandum signed by them or by their respective [^{F13}legal representatives] or agents, that a county court specified in the memorandum shall have jurisdiction in the proceedings, that court shall, notwithstanding anything in any enactment, have jurisdiction to hear and determine the proceedings accordingly.
- (2) Subject to subsection (3), this section applies to any proceedings in which a county court would have jurisdiction by virtue of—
- (a) section 113(3) of the ^{M3}Settled Land Act 1925,
 - (b) section 63A of the ^{M4}Trustee Act 1925,
 - (c) sections 3(7), ^{F14} . . . 49(4), 66(4), 89(7), 90(3), 91(8), 92(2), 136(3), ^{F14} . . . 181(2), 188(2) of, and paragraph 3A of Part III and paragraph 1(3A) and (4A) of Part IV of Schedule 1 to, the ^{M5}Law of Property Act 1925,
 - (d) sections 17(2), 38(4), 41(1A), and 43(4) of the ^{M6}Administration of Estates Act 1925,
 - (e) section 6(1) of the ^{M7}Leasehold Property (Repairs) Act 1938,
 - (f) sections 1(6A) and 5(11) of the ^{M8}Land Charges Act 1972, and
 - (g) sections 23 and 25 of this Act,
- but for the limits of the jurisdiction of the court provided in those enactments.
- (3) This section does not apply to proceedings under section 1 of the ^{M9}Variation of Trusts Act 1958.

Textual Amendments

F13 Words in s. 24(1) substituted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 49(3)**; S.I. 1991/608, art. 2, **Sch.**

F14 Words in s. 24(2)(c) repealed by S.I. 1991/724, art. 2(8), **Schedule Part I**

Marginal Citations

M3 1925 c. 18.

M4 1925 c. 19.

M5 1925 c. 20.

M6 1925 c. 23.

M7 1938 c. 34.

M8 1972 c. 61.

M9 1958 c. 53.

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Family provision proceedings

25 Jurisdiction under Inheritance (Provision for Family and Dependants) Act 1975. E+W

A county court shall have jurisdiction to hear and determine any application for an order under section 2 of the^{M10}Inheritance (Provision for Family and Dependants) Act 1975 (including any application for permission to apply for such an order and any application made, in the proceedings on an application for such an order, for an order under any other provision of that Act)^{F15} . . .

Textual Amendments

F15 Words in s. 25 repealed by S.I. 1991/724, art. 2(8), Schedule Part I

Modifications etc. (not altering text)

C4 S. 25 extended by S.I. 1991/724, art. 2(1)(I)

Marginal Citations

M10 1975 c. 63.

Admiralty proceedings

26 Districts for Admiralty purposes. E+W

- (1) If at any time it appears expedient to the Lord Chancellor that any county court should have Admiralty jurisdiction, it shall be lawful for him, by order—
 - (a) to appoint that court to have, as from such date as may be specified in the order, such Admiralty jurisdiction as is provided in this Act; and
 - (b) to assign to that court as its district for Admiralty purposes any part or parts of any county court district or of two or more county court districts.
- (2) Where a district has been so assigned to a court as its district for Admiralty purposes, the parts of the sea (if any) adjacent to that district to a distance of 3 miles from the shore thereof shall be deemed to be included in that district, and the judge and all officers of the court shall have jurisdiction and authority for those purposes throughout that district as if it were the district for the court for all purposes.
- (3) Where an order is made under this section for the discontinuance of the Admiralty jurisdiction of any county court, whether wholly or within a part of the district assigned to it for Admiralty purposes, provision may be made in the order with respect to any Admiralty proceedings commenced in that court before the order comes into operation.
- (4) The power to make orders under this section shall be exercisable by statutory instrument.

27 Admiralty jurisdiction. E+W

- (1) Subject to the limitations of amount specified in subsection (2), an Admiralty county court shall have the following Admiralty jurisdiction, that is to say, jurisdiction to hear and determine—

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- (a) any claim for damage received by a ship;
- (b) any claim for damage done by a ship;
- (c) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act neglect or default of—
 - (i) the owners, charterers or persons in possession or control of a ship; or
 - (ii) the master or crew of a ship, or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible,

being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;

- (d) any claim for loss of or damage to goods carried in a ship;
- (e) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
- [^{F16}(f) any claim—
 - (i) under the Salvage Convention 1989;
 - (ii) under any contract for or in relation to salvage services; or
 - (iii) in the nature of salvage not falling within (i) or (ii) above;or any corresponding claim in connection with an aircraft;]
- (g) any claim in the nature of towage in respect of a ship or an aircraft;
- (h) any claim in the nature of pilotage in respect of a ship or an aircraft;
- (j) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
- (k) any claim in respect of the construction, repair or equipment of a ship or dock charges or dues;
- (l) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);
- (m) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship.

(2) The limitations of amount referred to in subsection (1) are that the court shall not have jurisdiction to hear and determine—

- (a) a claim [^{F17}falling within paragraph (f) of that subsection] where the value of the property saved exceeds £15,000; or
- (b) any other claim mentioned in that subsection for an amount exceeding £5,000.

[^{F18}(3) In subsection (1)(f)—

- (a) the “Salvage Convention 1989” means the International Convention on Salvage, 1989 as it has effect under [^{F19}section 224 of the Merchant Shipping Act 1995];
- (b) the reference to salvage services includes services rendered in saving life from a ship and the reference to any claim under any contract for or in relation to salvage services includes any claim arising out of such a contract whether or not arising during the provision of the services;
- (c) the reference to a corresponding claim in connection with an aircraft is a reference to any claim corresponding to any claim mentioned in sub-

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paragraph (i) or (ii) of paragraph (f) which is available under section 87 of the Civil Aviation Act 1982.

- (4) Subject to subsection (5), subsections (1) to (3) apply—
 - (a) in relation to all ships or aircraft whether British or not and whether registered or not and wherever the residence or domicile of their owners may be, and
 - (b) in relation to all claims, wheresoever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land).
- (5) Nothing in subsection (4) shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the [F20Merchant Shipping Acts 1995].
- (6) If, as regards any proceedings as to any such claim as is mentioned in subsection (1), the parties agree, by a memorandum signed by them or by their respective [F21legal representatives]or agents, that a particular county court specified in the memorandum shall have jurisdiction in the proceedings, that court shall, notwithstanding anything in subsection (2) or in county court rules for prescribing the courts in which proceedings shall be brought, have jurisdiction to hear and determine the proceedings accordingly.
- (7) Nothing in this section shall be taken to affect the jurisdiction of any county court to hear and determine any proceedings in which it has jurisdiction by virtue of section 15 or 17.
- (8) Nothing in this section, or in section 26 or in any order made under that section, shall be taken to confer on a county court the jurisdiction of a prize court within the meaning of the Naval Prize Acts 1864 to 1916.
- (9) No county court shall have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions of that Convention; and any proceedings to enforce such a claim which are commenced in a county court shall be set aside.
- (10) In subsection (9) “the Rhine Navigation Convention” means the Convention of the 7th October 1868 as revised by any subsequent Convention.

F22(11)

Textual Amendments	
F16	S. 27(1)(f) substituted (1.1.1995) by 1994 c. 28, s. 1(6), Sch. 2 para. 7(2) ; S.I. 1994/2971, art. 2, Sch.
F17	Words in s. 27(2) substituted (1.1.1995) by 1994 c. 28, s. 1(6), Sch. 2 para. 7(3) ; S.I. 1994/2971, art. 2, Sch.
F18	S. 27(3) substituted (1.1.1995) by 1994 c. 28, s. 1(6), Sch. 2 para. 7(4) ; S.I. 1994/2971, art. 2, Sch.
F19	Words in s. 27(3)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 72(2)(a) .
F20	Words in s. 27(5) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 72(2)(b)
F21	Words in s. 27(6) substituted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 49(3) ; S.I. 1991/608, art. 2, Sch.
F22	S. 27(11) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), Sch.12

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28 Mode of exercise of Admiralty jurisdiction. E+W

- (1) The following provisions of this section shall apply to cases within the Admiralty jurisdiction of a county court.
- (2) Subject to the following provisions of this Part of this Act, an action in personam may be brought in all such cases.
- (3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, an action in rem may be brought in a county court against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in paragraphs (b) to (m) of section 27(1), where—
 - (a) the claim arises in connection with a ship; and
 - (b) the person who would be liable on the claim in an action in personam (“the relevant person”) was, when the cause of action arose, the owner or charterer of, or in possession of or in control of, the ship,
an action in rem may (whether or not the claim gives rise to a maritime lien on that ship) be brought in a county court against—
 - (i) that ship if at the time when the action is brought the relevant person is either the beneficial owner of that ship as respects all the shares in it or the charterer of it under a charter by demise; or
 - (ii) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner as respects all the shares in it.
- (5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, an action in rem may be brought in a county court against that aircraft if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action in personam.
- (6) Where, in the exercise of its Admiralty jurisdiction, a county court orders any ship, aircraft or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.
- (7) In determining for the purposes of subsections (4) and (5) whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England or Wales.
- (8) Where, as regards any such claim as is mentioned in section 27(1)(b) to (m), a ship has been served with a summons or arrested in an action in rem brought to enforce that claim, no other ship may be served with a summons or arrested in that or any other action in rem brought to enforce that claim; but this subsection does not prevent the issue, in respect of any one such claim, of a summons naming more than one ship or of two or more summonses each naming a different ship.
- (9) A county court may issue a warrant for the arrest and detention of any vessel, aircraft or property to which an action in rem brought in the court relates unless or until bail to the amount of the claim made in the action and the reasonable costs of the plaintiff in the action be entered into and perfected by or on behalf of the defendant.
- (10) Except as provided by subsection (9), no vessel, aircraft or property shall be arrested or detained in Admiralty proceedings in a county court otherwise than in execution.
- (11) Where—

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- (a) a vessel, aircraft or other property would or might be sold under an execution to enforce a judgment or order given or made by a county court in Admiralty proceedings; and
- (b) the owner of the vessel, aircraft or property desires that the sale should be conducted in the High Court instead of in the county court,

he shall be entitled, on giving security for costs, and subject to such other provisions as may be prescribed, to obtain an order of the county court for transfer of the proceedings for sale, with or without (as the judge of the county court thinks fit) the transfer of any subsequent proceedings to the High Court.

- (12) On an appeal by a party to any Admiralty proceedings, the Court of Appeal, if it appears to it expedient that any sale ordered to be made of the vessel, aircraft or other property to which the proceedings relate should be conducted in the High Court instead of in the county court, may direct the transfer of the proceedings for sale, with or without the transfer of the subsequent proceedings, to the High Court.
- (13) Where an action is transferred to a county court under section 40, any vessel, aircraft or other property which has been arrested in the action before the transfer shall, notwithstanding the transfer, remain in the custody of the Admiralty Marshal who shall, subject to any directions of the High Court, comply with any orders, made by the county court with respect to that vessel, aircraft or property.

^{F23}29 **E+W**

Textual Amendments

F23 S. 29 repealed (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#); [S.I. 1991/1364](#), [art. 2](#), Sch.

30 **Restrictions on entertainment of actions in personam in collision and other similar cases.** **E+W**

- (1) The claims to which this section applies are claims for damage, loss of life or personal injury arising—
 - (a) out of a collision between ships;
 - (b) out of the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or
 - (c) out of the non-compliance, on the part of one or more of two or more ships [^{F24}with safety regulations under section 85 of the Merchant Shipping Act 1995]
- (2) No county court shall entertain an action in personam to enforce a claim to which this section applies unless—
 - (a) the defendant has his habitual residence or a place of business within England and Wales; or
 - (b) the cause of action arose within inland waters of England and Wales or within the limits of a port of England and Wales; or
 - (c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.

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(3) In subsection (2)—

“inland waters” includes any part of the sea adjacent to the coast of the United Kingdom certified by the Secretary of State to be waters falling by international law to be treated as within the territorial sovereignty of Her Majesty apart from the operation of that law in relation to territorial waters; and

“port” means any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of persons is empowered by or under an Act to make charges in respect of ships entering it or using the facilities in it, and “limits of a port” means the limits thereof as fixed by or under the Act in question or, as the case may be, by the relevant charter or custom;

“charges” means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

- (4) No county court shall entertain an action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside England and Wales against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (5) Subsections (1) to (4) shall apply to counterclaims (except counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions in personam, but as if the references to the plaintiff and the defendant were respectively references to the plaintiff on the counterclaim and the defendant to the counterclaim.
- (6) Subsections (1) to (5) shall not apply to any action or counterclaim if the defendant submits or has agreed to submit to the jurisdiction of the court.
- (7) Nothing in this section shall prevent an action or counterclaim which is brought in accordance with the provisions of this section in a county court being transferred, in accordance with the enactments in that behalf, to some other court (whether a county court or not).
- (8) This section applies in relation to the jurisdiction of any county court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction, if any.

Textual Amendments

F24 Words in s. 30(1)(c) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 72(3)

31 Admiralty—interpretation. E+W

- (1) In the provisions of this Part of this Act relating to Admiralty proceedings, unless the context otherwise requires,—

“goods” includes baggage;

“master” has the same meaning as in the [^{F25}Merchant Shipping Act 1995], and accordingly includes every person (except a pilot) having command or charge of a ship;

“towage” and “pilotage”, in relation to an aircraft, mean towage and pilotage while the aircraft is waterborne.

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- (2) Nothing in those provisions shall—
- (a) be construed as limiting the jurisdiction of a county court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship;
 - (b) affect section [^{F26}226 of the Merchant Shipping Act 1995] (power of receiver of wreck to detain a ship in respect of a salvage claim);
 - (c) authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty’s ships or Her Majesty’s aircraft, or of any cargo or other property belonging to the Crown.
- (3) In subsection (2) “Her Majesty’s ships” and “Her Majesty’s aircraft” have the meanings given by section 38(2) of the ^{M11}Crown Proceedings Act 1947.

Textual Amendments

F25 Words in s. 31(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 72(4)(a)**

F26 Words in s. 31(2)(b) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 72(4)(b)**

Marginal Citations

M11 1947 c. 44.

Probate proceedings

[^{F27}32 Contentious probate jurisdiction. E+W

- (1) Where—
- (a) an application for the grant or revocation of probate or administration has been made through the principal registry of the Family Division or a district probate registry under section 105 of the ^{M12}Supreme Court Act 1981; and
 - (b) it is shown to the satisfaction of a county court that the value at the date of the death of the deceased of his net estate does not exceed the county court limit,
- the county court shall have the jurisdiction of the High Court in respect of any contentious matter arising in connection with the grant or revocation.
- (2) In subsection (1) “net estate”, in relation to a deceased person, means the estate of that person exclusive of any property he was possessed of or entitled to as a trustee and not beneficially, and after making allowances for funeral expenses and for debts and liabilities.]

Textual Amendments

F27 S. 32 substituted by **Administration of Justice Act 1985 (c. 61, SIF 34), s. 51(1)**

Marginal Citations

M12 1981 c.54 (37)

Status: Point in time view as at 01/01/1996.

Changes to legislation: County Courts Act 1984, Part II is up to date with all changes known to be in force on or before 22 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)

33 Effect of order of judge in probate proceedings. E+W

Where an order is made by . . . ^{F28}a county court for the grant or revocation of probate or administration, in pursuance of any jurisdiction conferred upon [^{F29}the court]by section 32—

- (a) the registrar of the county court shall transmit to the principal registry of the Family Division or a district probate registry, as he thinks convenient, a certificate under the seal of the court certifying that the order has been made; and
- (b) on the application of a party in favour of whom the order has been made, probate or administration in compliance with the order shall be issued from the registry to which the certificate was sent or, as the case may require, the probate or letters of administration previously granted shall be recalled or varied by, as the case may be, a registrar of the principal registry of the Family Division or the district probate registrar according to the effect of the order.

Textual Amendments

- F28** Words repealed by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 67(1)(2), [Sch. 7 para. 7\(a\)](#), Sch. 8 Pt. III
- F29** Words substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 67(1), [Sch. 7 para. 7\(b\)](#)

Miscellaneous provisions as to jurisdiction

^{F30}**34** **E+W**

Textual Amendments

- F30** [S. 34](#) repealed (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#); [S.I. 1991/1364](#), art. 2, [Sch.](#)

35 Division of causes of action. E+W

It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in one or more of the county courts.

36 No action on judgment of High Court. E+W

No action shall be brought in a county court on any judgment of the High Court.

Exercise of jurisdiction and ancillary jurisdiction

37 Persons who may exercise jurisdiction of court. E+W

- (1) Any jurisdiction and powers conferred by this or any other Act—
 - (a) on a county court; or
 - (b) on the judge of a county court,may be exercised by any judge of the court.

Status: Point in time view as at 01/01/1996.

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- (2) Subsection (1) applies to jurisdiction and powers conferred on all county courts or judges of county courts or on any particular county court or the judge of any particular county court.

[^{F31}38 Remedies available in county courts. E+W

- (1) Subject to what follows, in any proceedings in a county court the court may make any order which could be made by the High Court if the proceedings were in the High Court.
- (2) Any order made by a county court may be –
- (a) absolute or conditional;
 - (b) final or interlocutory.
- (3) A county court shall not have power –
- (a) to order mandamus, certiorari or prohibition; or
 - (b) to make any order of a prescribed kind.
- (4) Regulations under subsection (3) –
- (a) may provide for any of their provisions not to apply in such circumstances or descriptions of case as may be specified in the regulations;
 - (b) may provide for the transfer of the proceedings to the High Court for the purpose of enabling an order of a kind prescribed under subsection (3) to be made;
 - (c) may make such provision with respect to matters of procedure as the Lord Chancellor considers expedient; and
 - (d) may make provision amending or repealing any provision made by or under any enactment, so far as may be necessary or expedient in consequence of the regulations.
- (5) In this section “prescribed” means prescribed by regulations made by the Lord Chancellor under this section.
- (6) The power to make regulations under this section shall be exercised by statutory instrument.
- (7) No such statutory instrument shall be made unless a draft of the instrument has been approved by both Houses of Parliament.]

Textual Amendments

- F31** S. 38 commencing "Subject to what follows" substituted (1.7.1991) for s. 38 commencing "Every county court" and s. 39 by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), **s. 3**

39 Ancillary powers of judge. E+W

A judge shall have jurisdiction in any pending proceedings to make any order or exercise any authority or jurisdiction which, if it related to an action or proceeding pending in the High court, might be made or exercised by a judge of the High Court in chambers.

Status: Point in time view as at 01/01/1996.

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Transfer of proceedings

[^{F32}40 **Transfer of proceedings to county court.** **E+W**]

- (1) Where the High Court is satisfied that any proceedings before it are required by any provision of a kind mentioned in subsection (8) to be in a county court it shall—
 - (a) order the transfer of the proceedings to a county court; or
 - (b) if the court is satisfied that the person bringing the proceedings knew, or ought to have known, of that requirement, order that they be struck out.
- (2) Subject to any such provision, the High Court may order the transfer of any proceedings before it to a county court.
- (3) An order under this section may be made either on the motion of the High Court itself or on the application of any party to the proceedings.
- (4) Proceedings transferred under this section shall be transferred to such county court as the High Court considers appropriate, having taken into account the convenience of the parties and that of any other persons likely to be affected and the state of business in the courts concerned.
- (5) The transfer of any proceedings under this section shall not affect any right of appeal from the order directing the transfer.
- (6) Where proceedings for the enforcement of any judgment or order of the High Court are transferred under this section—
 - (a) the judgment or order may be enforced as if it were a judgment or order of a county court; and
 - (b) subject to subsection (7), it shall be treated as a judgment or order of that court for all purposes.
- (7) Where proceedings for the enforcement of any judgment or order of the High Court are transferred under this section—
 - (a) the powers of any court to set aside, correct, vary or quash a judgment or order of the High Court, and the enactments relating to appeals from such a judgment or order, shall continue to apply; and
 - (b) the powers of any court to set aside, correct, vary or quash a judgment or order of a county court, and the enactments relating to appeals from such a judgment or order, shall not apply.
- (8) The provisions referred to in subsection (1) are any made—
 - (a) under section 1 of the Courts and Legal Services Act 1990; or
 - (b) by or under any other enactment.
- (9) This section does not apply to family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.]

Textual Amendments

F32 S. 40 substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 2(1); S.I. 1991/1364, art. 2, Sch.

Status: Point in time view as at 01/01/1996.

Changes to legislation: County Courts Act 1984, Part II is up to date with all changes known to be in force on or before 22 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)

Modifications etc. (not altering text)

C5 S. 40(2) restricted by S.I. 1991/724, art. 7(5)

41 Transfer to High Court by order of High Court. **E+W**

- (1) If at any stage in proceedings commenced in a county court or transferred to a county court under section 40, the High Court thinks it desirable that the proceedings, or any part of them, should be heard and determined in the High Court, it may order the transfer to the High court of the proceedings or, as the case may be, of that part of them.
- (2) The power conferred by subsection (1) is without prejudice to section 29 of the ^{M13}Supreme Court Act 1981 (power of High Court to issue prerogative orders) [^{F33}but shall be exercised in relation to family proceedings (within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984) in accordance with any directions given under section 37 of that Act (directions as to distribution and transfer of family business and proceedings).]
- [^{F34}(3) The power conferred by subsection (1) shall be exercised subject to any provision made—
 - (a) under section 1 of the Courts and Legal Services Act 1990; or
 - (b) by or under any other enactment.]

Textual Amendments

F33 Words inserted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), s. 46(1), **Sch. 1 para. 30**

F34 S. 41(3) added (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 2(2); S.I. 1991/1364, art. 2, **Sch.**

Modifications etc. (not altering text)

C6 S. 41 restricted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A) ss. 289, 305(3)

C7 S. 41(1) restricted by S.I. 1991/724, art. 7(5)

Marginal Citations

M13 1981 c. 54.

[^{F35}42 Transfer to High Court by order of a county court. **E+W**

- (1) Where a county court is satisfied that any proceedings before it are required by any provision of a kind mentioned in subsection (7) to be in the High Court, it shall—
 - (a) order the transfer of the proceedings to the High Court; or
 - (b) if the court is satisfied that the person bringing the proceedings knew, or ought to have known, of that requirement, order that they be struck out.
- (2) Subject to any such provision, a county court may order the transfer of any proceedings before it to the High Court.
- (3) An order under this section may be made either on the motion of the court itself or on the application of any party to the proceedings.

Status: Point in time view as at 01/01/1996.

Changes to legislation: County Courts Act 1984, Part II is up to date with all changes known to be in force on or before 22 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)

- (4) The transfer of any proceedings under this section shall not affect any right of appeal from the order directing the transfer.
- (5) Where proceedings for the enforcement of any judgment or order of a county court are transferred under this section—
 - (a) the judgment or order may be enforced as if it were a judgment or order of the High Court; and
 - (b) subject to subsection (6), it shall be treated as a judgment or order of that court for all purposes.
- (6) Where proceedings for the enforcement of any judgment or order of a county court are transferred under this section—
 - (a) the powers of any court to set aside, correct, vary or quash a judgment or order of a county court, and the enactments relating to appeals from such a judgment or order, shall continue to apply; and
 - (b) the powers of any court to set aside, correct, vary or quash a judgment or order of the High Court, and the enactments relating to appeals from such a judgment or order, shall not apply.
- (7) The provisions referred to in subsection (1) are any made—
 - (a) under section 1 of the Courts and Legal Services Act 1990; or
 - (b) by or under any other enactment.
- (8) This section does not apply to family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.]

Textual Amendments

F35 S. 42 substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 2(3); S.I. 1991/1364, art. 2, Sch.

Modifications etc. (not altering text)

C8 S. 42(2) restricted by S.I. 1991/724, art. 7(5)

^{F36} 43 **E+W**

Textual Amendments

F36 S. 43 repealed (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20; S.I. 1991/1364, art. 2, Sch.

^{F37} 44 **E+W**

Textual Amendments

F37 S. 44 repealed (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20; S.I. 1991/1364, art. 2, Sch.

Status: Point in time view as at 01/01/1996.

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45 Costs in transferred cases. E+W

(1) Where an action, counterclaim or matter is ordered to be transferred—

- (a) from the High Court to a county court; or
- (b) from a county court to the High Court; or
- (c) from one county court to another county court,

the costs of the whole proceedings both before and after the transfer shall, subject to any order of the court which ordered the transfer, be in the discretion of the court to which the proceedings are transferred; and that court shall have power to make orders with respect to the costs^{F38} . . . , and the costs of the whole proceedings shall be taxed in that court.

^{F39}(2)

Textual Amendments

F38 Words in s. 45(1) repealed (1.6.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1992/1221, **art. 2**, Sch.

F39 S. 45(2) repealed (1.6.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1992/1221, **art. 2**, Sch.

Modifications etc. (not altering text)

C9 S. 45 excluded by S.I. 1988/1328, **rule 23**

Status:

Point in time view as at 01/01/1996.

Changes to legislation:

County Courts Act 1984, Part II is up to date with all changes known to be in force on or before 22 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.