



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART I

#### PROCEDURE ETC. IN CIVIL COURTS

##### *Allocation and transfer of business*

#### **1 Allocation of business between High Court and county courts.**

- (1) The Lord Chancellor may by order make provision—
- conferring jurisdiction on the High Court in relation to proceedings in which county courts have jurisdiction;
  - conferring jurisdiction on county courts in relation to proceedings in which the High Court has jurisdiction;
  - allocating proceedings to the High Court or to county courts;
  - specifying proceedings which may be commenced only in the High Court;
  - specifying proceedings which may be commenced only in a county court;
  - specifying proceedings which may be taken only in the High Court;
  - specifying proceedings which may be taken only in a county court.

[<sup>F1</sup>(1A) An order under subsection (1)(a) or (b) may be made only with the concurrence of the Lord Chief Justice.]

- (2) Without prejudice to the generality of section 120(2), any such order may differentiate between categories of proceedings by reference to such criteria as the Lord Chancellor sees fit to specify in the order.
- (3) The criteria so specified may, in particular, relate to—
- the value of an action (as defined by the order);
  - the nature of the proceedings;
  - the parties to the proceedings;
  - the degree of complexity likely to be involved in any aspect of the proceedings; and

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- (e) the importance of any question likely to be raised by, or in the course of, the proceedings.
- (4) An order under subsection (1)(b), (e) or (g) may specify one or more particular county courts in relation to the proceedings so specified.
- (5) Any jurisdiction exercisable by a county court, under any provision made by virtue of subsection (4), shall be exercisable throughout England and Wales.
- (6) Rules of court may provide for a matter—
- (a) which is pending in one county court; and
  - (b) over which that court has jurisdiction under any provision made by virtue of subsection (4),
- to be heard and determined wholly or partly in another county court which also has jurisdiction in that matter under any such provision.
- (7) Any such order may—
- (a) amend or repeal any provision falling within subsection (8) and relating to—
    - (i) the jurisdiction, practice or procedure of the [<sup>F2</sup>Senior Courts] ; or
    - (ii) the jurisdiction, practice or procedure of any county court,
 so far as the Lord Chancellor considers it to be necessary, or expedient, in consequence of any provision made by the order; or
  - (b) make such incidental or transitional provision as the Lord Chancellor considers necessary, or expedient, in consequence of any provision made by the order.
- (8) A provision falls within this subsection if it is made by any enactment other than this Act or made under any enactment.
- (9) Before making any such order the Lord Chancellor shall consult the Lord Chief Justice, the Master of the Rolls, [<sup>F3</sup>the President of the Queen's Bench Division, the President of the Family Division, the Chancellor of the High Court] and the Senior Presiding Judge (appointed under section 72).
- (10) No such order shall be made so as to confer jurisdiction on any county court to hear any application for judicial review.
- (11) For the purposes of this section the commencement of proceedings may include the making of any application in anticipation of any proceedings or in the course of any proceedings.
- (12) <sup>F4</sup>.....
- [<sup>F5</sup>(13) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

#### Textual Amendments

- F1** S. 1(1A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 212\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11](#)
- F2** Words in s. 1 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 4](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

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- F3** Words in s. 1(9) repealed (1.10.2005) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 212(3)**; S.I. 2005/2505, **art. 2(c)**
- F4** S. 1(12) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 348, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)(bb)**
- F5** S. 1(13) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 212(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11

## 2 Transfer of proceedings between courts.

- (1) The following section shall be substituted for section 40 of the <sup>M1</sup>County Courts Act 1984 (transfer of proceedings to county court)—

### “40 Transfer of proceedings to county court.

- (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—

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- (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.”
- (2) In section 41 of the <sup>M2</sup>County Courts Act 1984 (transfer to High Court by order of the High Court), the following subsection shall be added at the end—
- “(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.”
- (3) The following section shall be substituted for section 42 of the County Courts Act 1984 (transfer to High Court by order of a county court)—

**“42 Transfer to High Court by order of a county court.**

- (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.
- (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

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(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.”

(4) <sup>F6</sup> .....

**Textual Amendments**

**F6** S. 2(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 1 Group. 4}

**Commencement Information**

**I1** S. 2 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art.2, Sch.

**Marginal Citations**

**M1** 1984 c. 28.

**M2** 1984 c. 28.

*Remedies*

**3 Remedies available in county courts.**

The following section shall be substituted for sections 38 and 39 of the County Courts Act 1984 (general ancillary jurisdiction and ancillary powers of judge)—

**“38 Remedies available in county courts.**

- (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

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- (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.”

#### **Commencement Information**

**I2** S. 3 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, Sch.

### *Costs*

#### **4 Costs.**

- (1) The following section shall be substituted for section 51 of the <sup>M3</sup>[<sup>F7</sup>Senior Courts Act 1981] (costs in civil division of Court of Appeal and High Court)—

**“51 Costs in civil division of Court of Appeal, High Court and county courts.**

- (1) Subject to the provisions of this or any other enactment and to rules of court, the costs of and incidental to all proceedings in—
  - (a) the civil division of the Court of Appeal;
  - (b) the High Court; and
  - (c) any county court,
 shall be in the discretion of the court.
- (2) Without prejudice to any general power to make rules of court, such rules may make provision for regulating matters relating to the costs of those proceedings including, in particular, prescribing scales of costs to be paid to legal or other representatives.
- (3) The court shall have full power to determine by whom and to what extent the costs are to be paid.
- (4) In subsections (1) and (2) “proceedings” includes the administration of estates and trusts.
- (5) Nothing in subsection (1) shall alter the practice in any criminal cause, or in bankruptcy.
- (6) In any proceedings mentioned in subsection (1), the court may disallow, or (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with rules of court.

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- (7) In subsection (6), “wasted costs” means any costs incurred by a party—
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
  - (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.
- (8) Where—
- (a) a person has commenced proceedings in the High Court; but
  - (b) those proceedings should, in the opinion of the court, have been commenced in a county court in accordance with any provision made under section 1 of the Courts and Legal Services Act 1990 or by or under any other enactment,
- the person responsible for determining the amount which is to be awarded to that person by way of costs shall have regard to those circumstances.
- (9) Where, in complying with subsection (8), the responsible person reduces the amount which would otherwise be awarded to the person in question—
- (a) the amount of that reduction shall not exceed 25 per cent; and
  - (b) on any taxation of the costs payable by that person to his legal representative, regard shall be had to the amount of the reduction.
- (10) The Lord Chancellor may by order amend subsection (9)(a) by substituting, for the percentage for the time being mentioned there, a different percentage.
- (11) Any such order shall be made by statutory instrument and may make such transitional or incidental provision as the Lord Chancellor considers expedient.
- (12) No such statutory instrument shall be made unless a draft of the instrument has been approved by both Houses of Parliament.
- (13) In this section “legal or other representative”, in relation to a party to proceedings, means any person exercising a right of audience or right to conduct litigation on his behalf.”
- (2) In section 52 of that Act (costs in Crown Court) the following subsection shall be inserted after subsection (2)—

“(2A) Subsection (6) of section 51 applies in relation to any civil proceedings in the Crown Court as it applies in relation to any proceedings mentioned in subsection (1) of that section”.

#### Textual Amendments

- F7** S. 4: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

- I3** S. 4 wholly in force at 1.10.1991 see [s. 124\(3\)](#) and [S.I. 1991/1883, art. 2](#)

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**Marginal Citations**

M3 1981 c. 54.

*Evidence*

**5 Witness statements.**

- (1) Rules of court may make provision—
  - (a) requiring, in specified circumstances, any party to civil proceedings to serve on the other parties a written statement of the oral evidence which he intends to adduce on any issue of fact to be decided at the trial;
  - (b) enabling the court to direct any party to civil proceedings to serve such a statement on the other party; and
  - (c) prohibiting a party who fails to comply with such a requirement or direction from adducing oral evidence on the issue of fact to which it relates.
- (2) Where a party to proceedings has refused to comply with such a requirement or direction, the fact that his refusal was on the ground that the required statement would have been a document which was privileged from disclosure shall not affect any prohibition imposed by virtue of subsection (1)(c).
- (3) This section is not to be read as prejudicing in any way any other power to make rules of court.

**6 Evidence given in arbitrations on small claims.**

In section 64 of the <sup>M4</sup>County Courts Act 1984 (references to arbitration) the following subsections shall be inserted after subsection (2)—

- “(2A) County court rules may prescribe the procedures and rules of evidence to be followed on any reference under subsection (1) or (2).
- (2B) Rules made under subsection (2A) may, in particular, make provision with respect to the manner of taking and questioning evidence.”

**Marginal Citations**

M4 1984 c. 28.

*Appeals*

**7 Appeals to Court of Appeal.**

- (1) Section 18 of the <sup>M5</sup>[<sup>F8</sup>Senior Courts Act 1981] (restrictions on appeals to Court of Appeal) shall be amended as follows.
- (2) In subsection (1), paragraphs (e), (f) and (h) (which deal with cases in which leave is required for an appeal) shall be omitted.
- <sup>F9</sup>(3) .....



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<sup>F9</sup>(4) .....

#### Textual Amendments

- F8** S. 7: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(d\)](#)
- F9** S. 7(3)(4) repealed (27.9.1999) by [1999 c. 22, ss. 106, 108\(3\)\(f\), Sch. 15 Pt. III](#) (with [Sch. 14 paras. 7\(2\), 36\(9\)](#))

#### Commencement Information

- I4** S. 7 wholly in force at 1.10.1993; s. 7 not in force at Royal Assent see [s. 124\(3\); s. 7\(2\)](#) and s. 7(1) so far as relating to s. 7(2) in force at 1.10.1993, and subject thereto s. 7 came into force on 23.7.1993, by [S.I. 1993/2132, arts. 2, 3, Sch.](#)

#### Marginal Citations

- M5** 1981 c. 54.

## 8 Powers of Court of Appeal to award damages.

- (1) In this section “case” means any case where the Court of Appeal has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate.
- (2) Rules of court may provide for the Court of Appeal, in such classes of case as may be specified in the rules, to have power, in place of ordering a new trial, to substitute for the sum awarded by the jury such sum as appears to the court to be proper.
- (3) This section is not to be read as prejudicing in any way any other power to make rules of court.

### *Family proceedings*

## 9 Allocation of family proceedings which are within the jurisdiction of county courts.

- (1) [<sup>F10</sup>The President of the Family Division may, after consulting the Lord Chancellor,] give directions that, in such circumstances as may be specified—
  - (a) any family proceedings which are within the jurisdiction of county courts; or
  - (b) any specified description of such proceedings,shall be allocated to specified judges or to specified descriptions of judge.
- (2) Any such direction shall have effect regardless of any rules of court.
- (3) Where any directions have been given under this section allocating any proceedings to specified judges, the validity of anything done by a judge in, or in relation to, the proceedings shall not be called into question by reason only of the fact that he was not a specified judge.
- (4) For the purposes of subsection (1) “county court” includes the principal registry of the Family Division of the High Court in so far as it is treated as a county court.
- (5) In this section—

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“family proceedings” has the same meaning as in the <sup>M6</sup>Matrimonial and Family Proceedings Act 1984 and also includes any other proceedings which are family proceedings for the purposes of the <sup>M7</sup>Children Act 1989;

“judge” means any person who—

- (a) is capable of sitting as a judge for a county court district;
- (b) is a district judge, an assistant district judge or a deputy district judge; or
- (c) is a district judge of the principal registry of the Family Division of the High Court; and

“specified” means specified in the directions.

**Textual Amendments**

**F10** Words in s. 9(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 213](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11

**Marginal Citations**

**M6** 1984 c. 42.  
**M7** 1989 c. 41.

**10 Family proceedings in magistrates’ courts and related matters.**

[<sup>F11</sup>(1) In subsection(2) “family proceedings” means proceedings under Part I of the Domestic Proceedings Magistrates’ Courts Act 1978 [<sup>F12</sup>or Schedule 6 to the Civil Partnership Act 2004] .]

- (2) [<sup>F13</sup>Rules made under section 144 of the <sup>M8</sup>Magistrates’ Courts Act 1980] may make, in relation to any family proceedings, any provision which—
  - (a) falls within subsection (2) of section 93 of the <sup>M9</sup>Children Act 1989 (rules of court); and
  - (b) may be made in relation to relevant proceedings under section 93 of the Act of 1989.

<sup>F14</sup>(3) .....

<sup>F14</sup>(4) .....

<sup>F14</sup>(5) .....

**Textual Amendments**

**F11** S. 10(1) substituted (14.10.1991) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 11(1), [Sch. 2 para. 11\(1\)](#); S.I. 1991/2042, [art. 2\(a\)\(b\)](#)  
**F12** Words in s. 10(1) inserted (15.4.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, [Sch. 27 para. 137](#); S.I. 2005/1112, [art. 2](#), Sch. 1  
**F13** Words in s. 10(2) substituted (14.10.1991) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 11(1), [Sch. 2 para. 11\(2\)](#); S.I. 1991/2042, [art. 2\(a\)\(b\)](#)  
**F14** S. 10(3)-(5) repealed (1.4.1995) by 1994 c. 29, s. 93, [Sch. 9 Pt. II](#); S.I. 1995/685, [art. 1\(2\)](#)

**Commencement Information**

**I5** S. 10 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, [art. 2](#), [Sch.](#)

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#### Marginal Citations

- M8** 1980 C. 43.  
**M9** 1989 c. 41.

### Miscellaneous

#### 11 Representation in certain county court cases.

- (1) The Lord Chancellor may [<sup>F15</sup>, with the concurrence of the Lord Chief Justice,] by order provide that there shall be no restriction on the persons who may exercise rights of audience, or rights to conduct litigation, in relation to proceedings in a county court of such a kind as may be specified in the order.
- (2) The power to make an order may only be exercised in relation to proceedings—
  - (a) for the recovery of amounts due under contracts for the supply of goods or services;
  - (b) for the enforcement of any judgment or order of any court or the recovery of any sum due under any such judgment or order;
  - (c) on any application under the <sup>M10</sup>Consumer Credit Act 1974;
  - (d) in relation to domestic premises; or
  - [<sup>F16</sup>(e) dealt with as a small claim in accordance with rules of court,]or any category (determined by reference to such criteria as the Lord Chancellor considers appropriate) of such proceedings.
- (3) Where an order is made under this section, section 20 of the <sup>M11</sup>Solicitors Act 1974 (unqualified person not to act as solicitor) shall cease to apply in relation to proceedings of the kind specified in the order.
- (4) Where a county court is of the opinion that a person who would otherwise have a right of audience by virtue of an order under this section is behaving in an unruly manner in any proceedings, it may refuse to hear him in those proceedings.
- (5) Where a court exercises its power under subsection (4), it shall specify the conduct which warranted its refusal.
- (6) Where, in any proceedings in a county court—
  - (a) a person is exercising a right of audience or a right to conduct litigation;
  - (b) he would not be entitled to do so were it not for an order under this section; and
  - (c) the judge has reason to believe that (in those or any other proceedings in which he has exercised a right of audience or a right to conduct litigation) that person has intentionally misled the court, or otherwise demonstrated that he is unsuitable to exercise that right,the judge may order that person's disqualification from exercising any right of audience or any right to conduct litigation in proceedings in any county court.
- (7) Where a judge makes an order under subsection (6) he shall give his reasons for so doing.
- (8) Any person against whom such an order is made may appeal to the Court of Appeal.
- (9) Any such order may be revoked at any time by any judge of a county court.

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(10) <sup>F17</sup> .....

(11) In this section “domestic premises” means any premises which are wholly or mainly used as a private dwelling.

[<sup>F18</sup>(12) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1) or (2).]

#### Textual Amendments

- F15** Words in s. 11(1) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 214\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), Sch. 1 para. 11
- F16** S. 11(2)(e) substituted (26.4.1999) by [S.I. 1999/1217](#), [art. 3](#)
- F17** S. 11(10) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 146, 148, [Sch. 4 para. 214\(3\)](#), [Sch. 18 Pt. 2](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), Sch. 1 paras. 11, 30
- F18** S. 11(12) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 214\(4\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), Sch. 1 para. 11

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

- C1** S. 11 restricted (26.4.1999) by [S.I. 1998/3132](#), [rule 27.14\(4\)](#)

#### Marginal Citations

- M10** [1974 c. 39](#).
- M11** [1974 c. 47](#).

## 12 Penalty for failure to warn that hearing will not be attended.

<sup>F19</sup> .....

#### Textual Amendments

- F19** [S. 12](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [s. 1\(1\)](#), {[Sch. 1 Pt. 1 Group. 4](#)}

PROSPECTIVE

## 13 Administration orders.

(1) For subsection (1) of section 112 of the County Courts Act 1984 (power to make administration orders) there shall be substituted—

“(1) Where a debtor is unable to pay forthwith the amount of any debt owed by him, a county court may make an order providing for the administration of his estate.

(1A) The order may be made—

- (a) on the application of the debtor (whether or not a judgment debt has been obtained against the debtor in respect of his debt, or any of his debts);

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*Status: Point in time view as at 01/10/2009. This version of this part contains provisions that are prospective.*  
*Changes to legislation: Courts and Legal Services Act 1990, Part I is up to date with all changes known to be in force on or before 01 June 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)*

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- (b) on the application of any creditor under a judgment obtained against the debtor; or
- (c) of the court’s own motion during the course of, or on the determination of, any enforcement or other proceedings.”

(2) In that section the following subsection shall be inserted after subsection (4)—

“(4A) Subsection (4) is subject to section 112A.”

(3) Subsection (5) of that section shall be omitted.

(4) The following subsection shall be added at the end of that section—

“(9) An administration order shall cease to have effect—

- (a) at the end of the period of three years beginning with the date on which it is made; or
- (b) on such earlier date as may be specified in the order.”

(5) After that section there shall be inserted the following sections—

**“112A Further powers of the court.**

(1) Where the court is satisfied—

- (a) that it has power to make an administration order with respect to the debtor concerned; but
- (b) that an order restricting enforcement would be a more satisfactory way of dealing with the case,

it may make such an order instead of making an administration order.

(2) Where an order restricting enforcement is made, no creditor specified in the order shall have any remedy against the person or property of the debtor in respect of any debt so specified, without the leave of the court.

(3) Subsection (4) applies to any creditor—

- (a) who is named in the schedule to an administration order or in an order restricting enforcement; and
- (b) who provides the debtor with mains gas, electricity or water for the debtor’s own domestic purposes.

(4) While the order has effect, the creditor may not stop providing the debtor with—

- (a) mains gas, electricity or (as the case may be) water for the debtor’s own domestic purposes; or
- (b) any associated service which it provides for its customers,

without leave of the court unless the reason for doing so relates to the non-payment of charges incurred by the debtor after the making of the order or is unconnected with non-payment by him of any charges.

(5) In this section “mains gas” means a supply of gas by a public gas supplier within the meaning of Part I of the Gas Act 1986.

(6) Rules of court may make provision with respect to the period for which any order restricting enforcement is to have effect and for the circumstances in which any such order may be revoked.

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**112B Administration orders with composition provisions.**

- (1) Where the court is satisfied—
  - (a) that it has power to make an administration order with respect to the debtor concerned; and
  - (b) that the addition of a composition provision would be a more satisfactory way of dealing with the case,
 it may make an administration order subject to such a provision.
- (2) Where, at any time while an administration order is in force—
  - (a) the debtor has not discharged the debts to which that order relates; and
  - (b) the court considers that he is unlikely to be able to discharge them,
 the court may add a composition provision to that order.
- (3) A composition provision shall specify an amount to which the debtor’s total indebtedness in respect of debts owed to creditors scheduled to the administration order is to be reduced.
- (4) The amount of the debt owed to each of the creditors so scheduled shall be reduced in proportion to the reduction in his total indebtedness specified by the composition provision.
- (5) Where a composition provision is added to an administration order after the order is made, section 113(a) shall apply as if the addition of the composition provision amounted to the making of a new administration order.”

**14 Assessors.**

F20 .....

**Textual Amendments**  
 F20 S. 14 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 1 Group. 4}

**15 Enforcement.**

- (1) <sup>F21</sup> .....
- (2) In section 89(1) of the <sup>M12</sup>County Courts Act 1984 (goods which may be seized under any warrant of execution), the following paragraph shall be substituted for paragraph (a)—
  - “(a) any of that person’s goods except—
    - (i) such tools, books, vehicles and other items of equipment as are necessary to that person for use personally by him in his employment, business or vocation;
    - (ii) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of that person and his family;”

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- (3) Where a person takes steps to enforce a judgment or order of the High Court or a county court for the payment of any sum due, the costs of any previous attempt to enforce that judgment shall be recoverable to the same extent as if they had been incurred in the taking of those steps.
- (4) Subsection (3) shall not apply in respect of any costs which the court considers were unreasonably incurred (whether because the earlier attempt was unreasonable in all the circumstances of the case or for any other reason).

**Textual Amendments**

**F21** S. 15(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

**Commencement Information**

**I6** S. 15 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **sch.**

**Marginal Citations**

**M12** 1984 c. 28.

**16 County court rules.**

**F22** .....

**Textual Amendments**

**F22** S. 16 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

**Status:**

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**Changes to legislation:**

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