



# Administration of Justice Act 1956

## 1956 CHAPTER 46

### PART I

#### ADMIRALTY JURISDICTION AND OTHER PROVISIONS AS TO SHIPS

#### **1 Admiralty jurisdiction of the High Court**

- (1) The Admiralty jurisdiction of the High Court shall be as follows, that is to say, jurisdiction to hear and determine any of the following questions or claims—
- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein;
  - (b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship;
  - (c) any claim in respect of a mortgage of or charge on a ship or any share therein ;
  - (d) any claim for damage done by a ship ;
  - (e) any claim for damage received by a ship ;
  - (f) 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 of the wrongful act, neglect or default of the owners, charterers or persons in possession or control of a ship or of the master or crew thereof or of 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;
  - (g) any claim for loss of or damage to goods carried in a ship;
  - (h) 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;
  - (j) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section fifty-one of the Civil Aviation Act, 1949, of the law relating to salvage to aircraft and their apparel and cargo);
  - (k) any claim in the nature of towage in respect of a ship or an aircraft;

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- (l) any claim in the nature of pilotage in respect of a ship or an aircraft;
- (m) any claim in respect of goods or materials supplied to a ship for her operation or maintenance ;
- (n) any claim in respect of the construction, repair or equipment of a ship or dock charges or dues;
- (o) any claim by a master or member of the crew of a ship for wages and any claim by or in respect of a master or member of the crew of a ship for any money or property which, under any of the provisions of the Merchant Shipping Acts, 1894 to 1954, is recoverable as wages or in the court and in the manner in which wages may be recovered;
- (p) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
- (q) any claim arising out of an act which is or is claimed to be a general average act;
- (r) any claim arising out of bottomry ;
- (s) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty,

together with any other jurisdiction which either was vested in the High Court of Admiralty immediately before the date of the commencement of the Supreme Court of Judicature Act, 1873 (that is to say, the first day of November, eighteen hundred and seventy-five) or is conferred by or under an Act which came into operation on or after that date on the High Court as being a court with Admiralty jurisdiction and any other jurisdiction connected with ships or aircraft vested in the High Court apart from this section which is for the time being assigned by rules of court to the Probate, Divorce and Admiralty Division.

- (2) The jurisdiction of the High Court under paragraph (b) of subsection (1) of this section includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks, fit.
- (3) The reference in paragraph (f) of subsection (1) of this section to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894, or any Order in Council made under section fifty-one of the Civil Aviation Act, 1949, are authorised to be made in connection with a ship or an aircraft.
- (4) The preceding provisions of this section 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;
  - (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); and
  - (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law:

Provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Merchant Shipping Acts, 1894 to 1954.

## **2 Admiralty jurisdiction of the Liverpool Court of Passage and county courts**

- (1) Subject to the limitations of amount specified in subsection (2) of this section, the Liverpool Court of Passage and any county court with Admiralty jurisdiction shall have the following Admiralty jurisdiction, that is to say, jurisdiction as respects any such claims as are mentioned in paragraphs (d) to (p) of subsection (1) of the preceding section and subsections (3) and (4) of that section shall, with the necessary modifications, have effect in relation to them.
- (2) The limitations of amount referred to in subsection (1) of this section are as follows, that is to say, that the court shall not have jurisdiction to hear and determine any claim mentioned in the said subsection (1) for an amount exceeding one thousand pounds, except in the case of a claim in the nature of salvage where the value of the property saved does not exceed three thousand five hundred pounds.
- (3) If, as respects any proceedings as to any such claim as is mentioned in subsection (1) of this section, the parties agree, by a memorandum signed by them or by their respective solicitors or agents, that the Liverpool Court of Passage or a particular county court specified in the memorandum shall have jurisdiction in the proceedings, that court shall, notwithstanding anything in subsection (2) of this section or in any rules made under subsection (3) of section ninety-nine of the County Courts Act, 1934, for prescribing the courts in which proceedings shall be brought, have jurisdiction to hear and determine the proceedings accordingly.
- (4) 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 forty or forty-two of the County Courts Act, 1934, or the jurisdiction of the Liverpool Court of Passage to hear and determine any proceedings in which it has jurisdiction otherwise than by virtue of subsection (3) of section two hundred and forty-nine of the Liverpool Corporation Act, 1921.
- (5) In section fifty-eight of the County Courts Act, 1934 (which relates to the transfer of Admiralty proceedings from the High Court to a county court) subsection (2) (which describes the claims to which that section applies) shall cease to have effect, and that section shall apply to any action where the plaintiff's claim is any such claim as is mentioned in paragraphs (d) to (p) of subsection (1) of section one of this Act and the amount claimed or remaining in dispute does not exceed the amount specified in subsection (2) of this section.

The said section so applies—

- (a) whether the action could or could not have been commenced in a county court; and
  - (b) whether the defendant does or does not set up or intend to rely on a counterclaim ; and
  - (c) whether the counterclaim (if any), if it had been a claim in an action, would or would not have been within the jurisdiction of a county court.
- (6) Nothing in this section, or in section fifty-five of the County Courts Act, 1934, or any order made thereunder shall be taken to confer on the Liverpool Court of Passage or on a county court the jurisdiction of a Prize Court within the meaning of the Naval Prize Acts, 1864 to 1916.

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### **3 Mode of exercise of Admiralty jurisdiction**

- (1) Subject to the provisions of the next following section, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage and any county court may in all cases be invoked by an action in personam.
- (2) The Admiralty jurisdiction of the High Court may in the cases mentioned in paragraphs (a) to (c) and (s) of subsection (1) of section one of this Act be invoked by an action in rem against the ship or property in question.
- (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, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage and any county court may be invoked by an action in rem against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in paragraphs (d) to (r) of subsection (1) of section one of this Act, being a claim arising in connection with a ship, where the person who would be liable on the claim in an action in personam was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship, the Admiralty jurisdiction of the High Court and (where there is such jurisdiction) the Admiralty jurisdiction of the Liverpool Court of Passage or any county court may (whether the claim gives rise to a maritime lien on the ship or not) be invoked by an action in rem against—
  - (a) that ship, if at the time when the action is brought it is beneficially owned as respects all the shares therein by that person ; or
  - (b) any other ship which, at the time when the action is brought, is beneficially owned as aforesaid.
- (5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage and any county court may be invoked by an action in rem 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) Notwithstanding anything in the preceding provisions of this section, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage or any county court shall not be invoked by an action in rem in the case of any such claim as is mentioned in paragraph (o) of subsection (1) of section one of this Act unless the claim relates wholly or partly to wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages).
- (7) Where, in the exercise of its Admiralty jurisdiction, the High Court, the Liverpool Court of Passage or any 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.
- (8) In determining for the purposes of subsections (4) and (5) of this section 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 and Wales.

### **4 Jurisdiction in personam of courts in collision and other similar cases**

- (1) No court in England and Wales shall entertain an action in personam to enforce a claim to which this section applies unless—

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- (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.

In this subsection—

" 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;

" 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 therein, 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.

- (2) No court in England and Wales 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.
- (3) The preceding provisions of this section shall apply to counter-claims (not being counter-claims 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 counter-claim.
- (4) The preceding provisions of this section shall not apply to any action or counter-claim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.
- (5) Subject to the provisions of subsection (2) of this section, the High Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in paragraphs (a) to (c) of subsection (1) of this section are satisfied, and the rules of court relating to the service of process outside the jurisdiction shall make such provision as may appear to the rule-making authority to be appropriate having regard to the provisions of this subsection.
- (6) Nothing in this section shall prevent an action or counterclaim which is brought in accordance with the provisions of this section in the High Court, the Liverpool Court of Passage or a county court being transferred, in accordance with the enactments in that behalf, to some other court.
- (7) The claims to which this section applies are claims for damage, loss of life or personal injury arising out of a collision between ships or 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 out of non-compliance, on the part of one or more of two or more ships, with the collision regulations.

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- (8) For the avoidance of doubt it is hereby declared that this section applies in relation to the jurisdiction of any court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction, if any.

## **5 Wages**

- (1) Section one hundred and sixty-five of the Merchant Shipping Act, 1894 (which imposes restrictions on suits for wages), is hereby repealed.
- (2) Nothing in this Part of this Act shall be construed as limiting the jurisdiction of the 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.

## **6 Courts in England and Wales not to have jurisdiction in cases falling within Rhine Convention**

No court in England and Wales 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 thereof and any proceedings to enforce such a claim which are commenced in any such court shall be set aside.

## **7 Repeals and savings**

- (1) Section six hundred and eighty-eight of the Merchant Shipping Act, 1894, the Shipowners' Negligence (Remedies) Act, 1905 and the Merchant Shipping (Stevedores and Trimmers) Act, 1911 (which relate to the detention of ships by customs officers in certain cases), and so much of subsection (2) of section seventy-five of the Diseases of Animals Act, 1950, as enables a local authority to recover expenses in burying or destroying carcasses in the same manner as salvage is recoverable, shall cease to have effect, but nothing in this Part of this Act affects the provisions of section five hundred and fifty-two of the Merchant Shipping Act, 1894 (which relates to the power of a receiver of wreck to detain a ship in respect of a salvage claim).
- (2) The provisions of sections one to three of this Act shall, as respects the High Court, have effect in lieu of sections twenty-two and thirty-three of the Supreme Court of Judicature (Consolidation) Act, 1925 and, as respects the Liverpool Court of Passage and the county court, in lieu of subsections (1) to (7) of section fifty-six of the County Courts Act, 1934, and those Acts, and in particular any provision of the first-mentioned Act referring to the Admiralty jurisdiction of the High Court, shall be construed accordingly.
- (3) Nothing in this Part of this Act shall 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.

In this subsection " Her Majesty's ships " and " Her Majesty's aircraft" have the meanings assigned to them by subsection (2) of section thirty-eight of the Crown Proceedings Act, 1947.

- (4) Nothing in this Part of this Act shall affect section five of the Mail Ships Act, 1891 (which protects certain mail ships from arrest in certain circumstances).

## **8 Supplemental and transitional provisions**

- (1) In this Part of this Act, unless the context otherwise requires.—
- " ship " includes any description of vessel used in navigation ;
  - " goods " includes baggage ;
  - " collision regulations " means regulations under section four hundred and eighteen of the Merchant Shipping Act, 1894, or any such rules as are mentioned in subsection (1) of section four hundred and twenty-one of that Act or any rules made under subsection (2) of the said section four hundred and twenty-one;
  - " master " has the same meaning as in the Merchant Shipping Act, 1894, 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;
  - " the Rhine Navigation Convention " means the Convention of the seventh of October, eighteen hundred and sixty-eight, as revised by any subsequent Convention.
- (2) Nothing in any provision in this Part of this Act or in any repeal consequential thereon shall affect proceedings in respect of any cause of action arising before the coming into operation thereof.

## **PART II**

### **SUPREME COURT OF JUDICATURE**

#### *Appointment, etc., of official referees and other officers*

## **9 Appointments of official referees to be made by Her Majesty**

- (1) Appointments of persons to be official referees shall be made by Her Majesty.
- (2) Any such appointment shall be of a person recommended to Her Majesty by the Lord Chancellor.
- (3) Every official referee appointed after the commencement of this Act shall take in the presence of the Lord Chancellor the Oath of allegiance and judicial oath; and the Promissory Oaths Act, 1868, shall have effect as if the officers named in the Second Part of the Schedule to that Act included official referees so appointed.
- (4) For the avoidance of doubt it is hereby declared that the tenure of office of official referees is that prescribed by section one hundred and twenty-seven of the principal Act, and so much of subsection (2) of section one hundred and twenty-five of that Act as provides that the tenure of office of the official referees is to be determined by the Lord Chancellor as therein mentioned is hereby repealed.

## **10 Qualifications, etc., of official referees and other officers**

- (1) In addition to persons otherwise qualified—
- (a) a judge of county courts shall be qualified to be appointed an official referee ;

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- (b) the Assistant Master in Lunacy shall be qualified to be appointed Master in Lunacy ;
  - (c) the assistant registrar of the Court of Criminal Appeal shall be qualified to be appointed Queen's Coroner and Attorney, Master of the Crown Office and Registrar of the Court of Criminal Appeal;
  - (d) the deputy assistant registrar of the Court of Criminal Appeal shall be qualified to be appointed—
    - (i) assistant registrar of the Court of Criminal Appeal; or
    - (ii) Queen's Coroner and Attorney, Master of the Crown Office and Registrar of the Court of Criminal Appeal.
- (2) Any person appointed deputy assistant registrar of the Court of Criminal Appeal shall be a barrister of not less than five years' standing and shall be appointed by the Lord Chief Justice of England.

## **11 Appointment, etc., of deputy district registrars**

- (1) Section one hundred and sixteen of the principal Act (which relates to the appointment of deputies for Supreme Court officers) shall not apply to a deputy district registrar appointed after the coming into force of this section, but in lieu thereof the following provisions shall have effect.
- (2) The district registrar for any district may from time to time, with the approval of the Lord Chancellor, appoint a deputy to act for him at any time when he is prevented by illness or unavoidable absence from acting in his office:
- Provided that where the district registrar is unable to make such an appointment the Lord Chancellor may make it.
- (3) Any person being a solicitor of not less than seven years' standing shall be qualified for appointment as deputy district registrar.
- (4) A deputy district registrar, while acting under his appointment, shall have the same powers as if he were the district registrar.
- (5) The appointment of a deputy of a district registrar under subsection (2) of this section shall not be avoided by the vacation of office by the district registrar from any cause whatsoever, but the acts of the deputy done thereafter shall be as valid as if the district registrar had not vacated office, and the deputy shall continue to act until a successor to the district registrar is appointed.
- (6) A deputy district registrar shall not act as such in relation to any proceedings in which he is, either by himself or his partner, directly or indirectly engaged as a solicitor or agent for any party.
- (7) Any person appointing a deputy under this section may at his pleasure remove that deputy from his office.

## **12 Appointment, etc., of assistant district registrars**

- (1) Assistant district registrars of the High Court may be appointed in aid of the district registrars provided for by section eighty-four of the principal Act, and shall be officers of the Supreme Court.



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- (2) Any person being a solicitor of not less than seven years' standing shall be qualified for appointment as assistant district registrar of any district.
- (3) The power to make appointments to the office of assistant district registrar shall be vested in the Lord Chancellor.
- (4) An assistant district registrar of any district shall be capable of discharging any of the functions of the district registrar, and in so doing shall have the same powers as if he were the district registrar.
- (5) The district registrar of any district where there is an assistant district registrar may divide the district registrar's duties as he thinks fit between himself and the assistant district registrar.
- (6) Section one hundred and twenty of the principal Act (which prohibits officers of the Supreme Court from practising as a barrister or solicitor in any court), shall not apply to an assistant district registrar, but an assistant district registrar of any district shall not, either by himself or his partner, be directly or indirectly engaged as a solicitor or agent for a party to any proceeding whatsoever in the registry of that district.
- (7) In the following enactments (which relate to the pensions, etc., of county court registrars and assistant registrars and to their right to engage in other employment, and under which any duties and salary as district registrar of the High Court are taken into account in the same way as duties and salary as county court registrar or assistant registrar), that is to say.—
  - (a) section seventeen of the County Courts Act, 1934, and paragraph 4 of Part II of the First Schedule to that Act; and
  - (b) subsection (4) of section two of the Administration of Justice (Pensions) Act, 1950;any reference to a district registrar of the High Court shall include a reference to an assistant district registrar.

### **13 Power of one district registrar to act for another**

- (1) The district registrar of any district shall be capable of acting in the district registry of any other district for the district registrar of that other district, and subsection (7) of section eighty-four of the principal Act (which prohibits a person who is, or is acting as, the district registrar of any district from acting as solicitor in the registry of that district) shall not apply to a person acting as district registrar of a district by virtue of this section:

Provided that a person shall not by virtue of this section act as district registrar in relation to any proceedings in which he is, either by himself or his partner, directly or indirectly engaged as a solicitor or agent for any party.
- (2) The district registrar of any district, where the district registrar of some other district is acting for him under this section, may divide the district registrar's duties as he thinks fit between himself and the district registrar acting for him.

### **14 Number of conveyancing counsel**

The conveyancing counsel of the court shall be not more than six, nor less than three, in number (instead of being not less than six in number as required by subsection (2) of section two hundred and seventeen of the principal Act).

*Other provisions as to Supreme Court*

**15 Extension of power to make rules of court, and consequential and connected repeals**

- (1) Rules of court may prescribe the cases in which jurisdiction or powers of the High Court or a judge of the High Court may be exercised by official referees or special referees, or by masters, registrars, district registrars or other officers of the court, and without prejudice to the generality of the preceding provision may in particular—
- (a) authorise the whole of any cause or matter or any question or issue therein to be ordered to be tried before, or any question arising in any cause or matter to be ordered to be referred for inquiry and report to, any such referee, master, registrar, district registrar or officer; and
  - (b) authorise powers of attachment and committal to be exercised by any official referee (but not by any other referee and not by any master, registrar, district registrar or other officer),
- and may make any provision incidental to any such provisions as aforesaid.
- (2) The decision of an official referee or special referee, or of a master, registrar, district registrar or other officer, may be called in question in such manner (whether by an appeal to the Court of Appeal or by an appeal or application to a Divisional Court or a judge in court or a judge in chambers, or by an adjournment to a judge in court or a judge in chambers) as may be prescribed by rules of court, but rules of court may, if the rule-making authority think fit, provide either generally or to a limited extent for decisions of official referees being called in question only by appeal on a question of law.
- (3) The preceding provisions of this section shall not affect section six of the Administration of Justice (Miscellaneous Provisions) Act, 1933 (which gives a right to a jury in certain cases), but sections eighty-six to ninety-seven of the principal Act (which relate to district registrars and inquiries and trials by referees) and section one of the Administration of Justice Act, 1932 (which relates to appeals from decisions of official referees) shall cease to have effect.
- (4) Section sixty-two of the principal Act (which enables orders of a judge in chambers to be set aside or discharged by a judge in court or by a Divisional Court) and paragraph (g) of subsection (1) of section thirty-one of that Act (which requires the leave of the judge or of the Court of Appeal for an appeal against any order of a judge in chambers unless an application has been made to have it set aside or discharged as aforesaid) shall cease to have effect, without prejudice, however, to the power of rules of court to make provision corresponding to the said section sixty-two.

**16 Repeal of enactments as to registration, etc., of warrants of attorney, cognovits, and consent judgments**

The Warrants of Attorney Act, 1822, the Warrants of Attorney Act, 1843, and sections twenty-four to twenty-eight of the Debtors Act, 1869 (which require registration of warrants of attorney, cognovits and consent orders for judgment, and contain other provisions as to warrants of attorney and cognovits) are hereby repealed.

## **17 Miscellaneous provisions as to probates and administrations**

- (1) Where it appears to the High Court that a probate or administration either ought not to have been granted or contains an error, the court may call in the probate or administration and, if satisfied that it would be revoked at the instance of a party interested, may revoke it.
- (2) A probate or administration may be revoked under subsection (1) of this section without being called in if it cannot be called in.
- (3) Section one hundred and sixty-nine of the principal Act (which relates to the reseating of probates and administrations granted in Northern Ireland) shall (as amended by section ten of the Administration of Justice Act, 1928)—
  - (a) apply and be deemed always to have applied to grants in respect of all the estate of a person as it applies to grants in respect of the personal estate of a person;
  - (b) have effect and be deemed always to have had effect as if the requirement in paragraph (a) of subsection (3) thereof as to the production of a certificate that a bond has been given applied only to administrations and not to probates.

## **18 Repeal of time limit for filing powers of attorney under the Trustee Act, 1925, s. 25**

- (1) There shall be no time limit for the filing at the Central Office of the Supreme Court of powers of attorney under section twenty-five of the Trustee Act, 1925, and of the statutory declarations mentioned in subsection (4) of that section, and accordingly, in the said subsection (4), as amended by the Schedule to the Law of Property (Amendment) Act, 1926, the words " within ten days after the execution thereof or where not executed within the United Kingdom within ten days after its receipt in the United Kingdom " are hereby repealed.
- (2) This section applies to powers of attorney and statutory declarations executed or made before the coming into operation of this section as well as to powers of attorney and statutory declarations executed or made thereafter.

## **19 Extension of time for laying Supreme Court accounts before Parliament**

The annual account relating to the Supreme Court, which is prepared under section two hundred and fourteen of the principal Act, need not be laid before Parliament within one month after the thirty-first day of March in each year, if Parliament is then sitting, or if Parliament is not then sitting, within one month after the next meeting of Parliament (as required by subsection (4) of that section), but shall be laid before Parliament between the end of March in each year and the beginning of the following year.

## **20 Interpretation of Part II**

- (1) In this Part of this Act, except so far as the context otherwise requires, expressions used in the principal Act have the same meanings as in that Act.
- (2) In this Part of this Act the expression " the principal Act " means the Supreme Court of Judicature (Consolidation) Act, 1925.

## PART III

### COUNTY COURTS

#### *Appointment, etc., of judges and officers*

#### **21 Appointments of county court judges to be made by Her Majesty**

- (1) Appointments of persons to be judges of county courts shall be made by Her Majesty.
- (2) Any such appointment shall be of a person recommended to Her Majesty by the Lord Chancellor:

Provided that when the judge of a Duchy of Lancaster district ceases to be the judge thereof, whether by reason of his vacating office or by reason of any alteration in the distribution of the districts among the judges made under subsection (4) of section four of the principal Act, the appointment of his successor shall, unless made under the said subsection (4), be of a person recommended to Her Majesty by the Chancellor of that Duchy and not by the Lord Chancellor.

- (3) Accordingly—
  - (a) in subsection (1) of section four of the principal Act for the words " Lord Chancellor " in the first place where those words occur there shall be substituted the words " Her Majesty ";
  - (b) proviso (a) to that subsection shall cease to have effect; and
  - (c) in section five of the principal Act for the words " Before appointing any person to be a judge " there shall be substituted the words " Before recommending any person to Her Majesty for appointment as a judge ".
- (4) Every judge of county courts appointed after the commencement of this Act shall take in the presence of the Lord Chancellor the oath of allegiance and judicial oath; and the Promissory Oaths Act, 1868, shall have effect as if the officers named in the Second Part of the Schedule to that Act included judges so appointed.

#### **22 Temporary appointments of persons to act as judges**

- (1) If it appears to the Lord Chancellor, on representations made to him by the judge for any district, that it is expedient so to do in order to avoid delays in the administration of justice in that district, the Lord Chancellor may appoint a person to act for the judge in the despatch of business at any sitting of the court for that district, whether an ordinary sitting appointed under section thirty-five of the principal Act or an additional court.
- (2) Any person appointed under this section shall, at the sitting for which he is appointed (including any adjournment thereof), have all the powers and privileges and may perform any of the duties of the judge he is appointed to act for, whether or not the judge is present, and on the day of the sitting or any adjournment thereof may exercise out of court any powers so exercisable by the judge.
- (3) Where the judge is present, he may divide the judge's duties as he thinks fit between himself and the person appointed to act for him.
- (4) Where the hearing of any proceedings duly commenced before a person appointed under this section is adjourned, or judgment is reserved therein, he shall have power at any subsequent sitting of the court to resume the hearing and determine the

proceedings, or to deliver as the judgment of the court the judgment which he has reserved, as the case may be, as if his appointment had extended to the subsequent sitting.

- (5) No person shall be qualified to be appointed under this section unless he has previously held the office of judge or is a barrister-at-law of at least seven years' standing.
- (6) The Lord Chancellor may, with the approval of the Treasury, allow a person appointed under this section such remuneration as he thinks fit.
- (7) Subsection (1) of section fifteen of the principal Act, in so far as it provides that during the period for which a deputy judge is appointed he shall perform all the duties of the judge for whom he is appointed to act, shall have effect subject to subsection (2) of this section, and subsection (2) of section thirty-six of the principal Act, (which requires the registrar to adjourn the court where the judge is not present at a sitting) shall not apply where a person appointed to act for the judge is present at the sitting.

### **23 Amendment as to appointment of deputy judge**

An appointment of a deputy judge under subsection (1) of section eleven of the principal Act may be made by the Lord Chancellor, instead of by the judge for whom the deputy is to act, in any case where the judge so requests as well as in the case where the judge is unable to make the appointment.

### **24 Persons capable of acting for registrar**

- (1) The registrar for any district shall be capable of acting in any other district for the registrar for that other district, and section thirty of the principal Act (which prohibits an officer of a county court from acting as a solicitor in that court) shall not apply to a person acting as registrar of a court by virtue of this subsection:

Provided that a person shall not by virtue of this subsection act as registrar in relation to any proceedings in which he is, either by himself or his partner, directly or indirectly engaged as solicitor or agent for any party.

- (2) Subsection (2) of section twenty-five of the principal Act (which authorises the Lord Chancellor to direct that particular powers and duties of a registrar shall be exercised and performed by the assistant registrar) shall cease to have effect; but an assistant registrar shall be capable, and be deemed always to have been capable, of discharging any of the functions of the registrar, and in so doing shall have the same powers and be subject to the same liabilities as if he were the registrar.
- (3) The registrar for any district where there is an assistant registrar, or where the registrar for some other district is acting for him under subsection (1) of this section, may divide the registrar's duties as he thinks fit between himself and the assistant registrar or the registrar acting for him, as the case may be.

### **25 Status and pensions of assistant registrars**

- (1) Employment as an assistant registrar shall cease to be included in the expression "court service" as defined in section twenty-nine of the principal Act (which relates to the status as civil servants and pensions of persons in court service), and accordingly in section twenty-one of the principal Act (which relates to the pensions of registrars) there shall cease to have effect so much of the proviso to subsection (1) as relates to

a whole-time registrar who, having immediately before his appointment as such been an assistant registrar, desires to remain subject to the provisions of the said section twenty-nine.

- (2) The said section twenty-one, section fourteen of the Superannuation Act, 1935, and the Administration of Justice (Pensions) Act, 1950, shall apply in relation to whole-time assistant registrars, as well as to whole-time registrars, and shall have effect as if service as a whole-time assistant registrar were service as a whole-time registrar, and references to a whole-time registrar, to a person's appointment as such, and to the date on which a person became such a registrar, were to be construed accordingly.
- (3) The following provisions of the principal Act, that is to say—
- (a) section seventeen (which enables the Lord Chancellor to give a direction that a registrar shall be a whole-time registrar); and
  - (b) subsection (2) of section eighteen (which provides that before giving such a direction the Lord Chancellor shall take steps to satisfy himself as to the registrar's health); and
  - (c) subsection (2) of section nineteen (which relates to the retirement through age of registrars);

shall apply to an assistant registrar as they apply to a registrar, and for the purposes of this section the expression " whole-time assistant registrar " means an assistant registrar in whose case a direction has been given by the Lord Chancellor under the said section seventeen.

- (4) Nothing in this Act shall affect the operation of the proviso to subsection (1) of section twenty-one of the principal Act in relation to a person appointed whole-time registrar before the date of the coming into force of this section; and, notwithstanding anything in subsection (2) of this section, service as an assistant registrar before that date shall not be taken into account for the purposes of the said section twenty-one or of the Administration of Justice (Pensions) Act, 1950, but in the case of a person who at that date is serving as an assistant registrar his period of service shall for those purposes be reckoned as from that date.

*Other provisions as to county courts*

**26 Transfer to county court of money recovered in High Court by infants and others**

Section one hundred and sixty-four of the principal Act (which provides for the transfer to a county court in certain cases of money recovered in the High Court by infants or persons of unsound mind or by widows of persons killed), except subsection (4) thereof, shall apply in relation to any cause or matter in the High Court as it applies in relation to a cause or matter in the Queen's Bench Division.

**27 Penalty for non-attendance on judgment summons**

- (1) Section eighty-one of the principal Act (which provides a pecuniary penalty for neglect of a witness summons) shall not apply to a debtor summoned to attend by a judgment summons.
- (2) If a debtor summoned to attend a county court by a judgment summons fails to attend on the day and at the time fixed for any hearing thereof, the judge may adjourn or

further adjourn the summons to a specified time on a specified day and order the debtor to attend at that time on that day.

- (3) If—
- (a) a debtor, having been ordered under subsection (2) of this section to attend at a specified time on a specified day, fails to do so ; or
  - (b) a debtor who attends for the hearing of a judgment summons refuses to be sworn or to give evidence,

the judge may make an order committing him to prison for a period not exceeding fourteen days in respect of the failure or refusal:

Provided that a debtor shall not be committed to prison under this subsection for having failed to attend as required by an order under the said subsection (2) unless there was paid to him at the time of the service of the judgment summons, or paid or tendered to him at the time of the service of the order under the said subsection (2), such sum in respect of his expenses as may be prescribed for the purposes of this section.

- (4) The judge may at any time revoke an order committing a person to prison under this section and, if he is already in custody, order his discharge.
- (5) Where, under section one hundred and forty-three of the principal Act, an order for the committal of a person under this section has been sent to another court for execution, the judge of that other court shall have the same power of revoking the order and ordering the debtor's discharge as the judge of the court by which the order was made.
- (6) In this section " judgment summons " means a summons issued on the application of a person entitled to enforce a judgment or order under section five of the Debtors Act, 1869, requiring a person, or where two or more persons are liable under the judgment or order, requiring any one or more of them, to appear and be examined on oath as to his or their means.

## **28 Miscellaneous amendments as to executions**

- (1) For subsection (2) of section one hundred and seventeen of the principal Act (which relates to execution where there has been an order for payment by instalments and a default in payment of an instalment) there shall be substituted the following subsections—

“(2) County court rules may prescribe the cases in which execution is to issue if there is any such default and limit the amounts for which and the times at which execution may issue.

- (3) Except so far as may be otherwise provided by county court rules made for the purposes aforesaid, execution or successive executions may issue if there is any such default for the whole of the said sum of money and costs then remaining unpaid or for such part thereof as the court may order either at the time of the original order or at any subsequent time:

Provided that, except so far as may be otherwise provided by such rules, no execution shall issue unless at the time when it issues the whole or some part of an instalment which has already become due remains unpaid.”

- (2) Section one hundred and eighteen of the principal Act (which provides for an execution to be superseded on payment of the sum of money and costs adjudged and

fees for execution of the warrant as inserted in or endorsed on the warrant) shall be amended as follows:—

- (a) the amount required by subsection (1) to be inserted in or endorsed on the warrant of execution shall be the total amount to be levied, inclusive of the fee for issuing the warrant but exclusive of the fees for its execution;
  - (b) the amount required to be paid or tendered for the execution to be superseded under subsection (2) shall be the amount so inserted or endorsed, or such part thereof as the person entitled thereto agrees to accept in full satisfaction, together with the amount stated by the officer of the court to whom the payment or tender is made to be the amount of the fees for the execution of the warrant.
- (3) Brokers and appraisers appointed under section one hundred and twenty-seven of the principal Act for the purpose of selling or valuing any goods, chattels or effects seized in execution under process of the court need not be sworn, and accordingly in section one hundred and twenty-eight of the principal Act (under which the judge may authorise a bailiff to act as a broker or appraiser) for the words " sworn brokers or appraisers " in subsection (2) there shall be substituted the words " brokers or appraisers appointed under the last foregoing section ".
- (4) The duration of any warrant of possession issued by a county court to enforce a judgment or order for the recovery of land or for the delivery of possession of land shall, notwithstanding anything in subsection (4) of section five of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, be such as may be fixed by or in accordance with county court rules.

## **29 Increase of penalties for assaulting officers, rescuing goods seized and contempt of court**

- (1) The fine which may be imposed under any of the following provisions of the principal Act, that is to say.—
- (a) section thirty-one (which deals with assaults on officers of a county court);
  - (b) section one hundred and twenty-four (which deals with rescuing goods seized in execution under process of a county court);
  - (c) section one hundred and thirty-nine (which deals with insulting behaviour in a county court and similar contempts);
- shall be a fine not exceeding twenty pounds, instead of a fine not exceeding five pounds.
- (2) A county court judge instead of imposing a fine on an offender under any of the sections mentioned in subsection (1) of this section may make an order committing the offender for a specified period not exceeding one month to any prison to which he has power to commit:

Provided that the judge may at any time revoke an order committing a person to prison under this section and, if he is already in custody, order his discharge.

- (3) On summary conviction of an offence under section thirty-one or section one hundred and twenty-four of the principal Act, a person shall be liable either to the fine mentioned in subsection (1) of this section or to imprisonment for a term not exceeding one month.



### **30 Extension of powers of registrar as to stay or suspension of judgments and orders and stay of execution**

The powers conferred by subsection (2) of section ninety-six and by section one hundred and nineteen of the principal Act to suspend or stay judgments and orders and to stay executions shall, to such extent as may be provided by county court rules, be exercisable by the registrar as well as by the judge, and accordingly for the references in the said subsection (2) and the said section one hundred and nineteen to the judge there shall be substituted references to the court.

### **31 Miscellaneous procedural amendments**

- (1) In section sixty-two of the principal Act (which provides for a county court order for the grant or revocation of probate or administration to be certified to a district probate registry, and given effect to there), there shall be substituted in paragraph (a) for the words " transmit to the registrar of such district probate registry as he thinks convenient " the words " transmit to the principal or a district probate registry as he thinks convenient", and the references in paragraph (b) to the district probate registry and the district probate registrar shall respectively include references to the principal probate registry and a registrar of the principal probate registry.
- (2) An application to a county court under subsection (2) of section seventeen of the Matrimonial Causes Act, 1950, shall be made in the manner prescribed by county court rules, and shall not be required by that section to be made by petition: and accordingly—
  - (a) in subsection (2) of that section, for the words " by petition to the court" there shall be substituted the words " to the court by petition or to a county court ";
  - (b) in subsection (3) of that section—
    - (i) the words " A petition under the last foregoing subsection may be presented to a county court instead of the High Court" shall be omitted;
    - (ii) for the words " Provided that, where a petition is presented to a county court" there shall be substituted the words " Where an application under the last foregoing subsection is made to a county court ";
    - (iii) for the word " therein " at the end of the subsection, there shall be substituted the words " by a petition presented to the High Court " ;  
and
  - (c) in subsection (6) of that section after the word " petition ", wherever occurring, there shall be inserted the words " or other application " and after the word " presented" there shall be inserted the words " or made ".
- (3) Section one hundred and seventy-five of the principal Act (which enables service of any summons or other process by a bailiff to be proved by an endorsement signed by him, and penalises a false endorsement) shall apply to any officer of a county court as it applies to a bailiff.
- (4) In the proviso to subsection (3) of section eighty-nine of the principal Act (which confers power on the judge of a county court to set aside an award on a reference under that section or to revoke the reference or order another reference) for the words " on application made to him at the first court held after the expiration of one week after the entry of the award " there shall be substituted the words " on application made to him within such time as may be prescribed by county court rules ".

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### **32 Amendments as to the making of rules and orders**

- (1) Notwithstanding anything in section two hundred and six of the Supreme Court of Judicature (Consolidation) Act, 1925, or in subsection (8) of section ninety-nine of the principal Act, county court rules shall not require the concurrence of the authority empowered to make rules under the first mentioned Act.
- (2) The rule committee under the principal Act shall contain two barristers, two registrars and two solicitors instead of one barrister, one registrar and one solicitor, and accordingly in subsection (5) of the said section ninety-nine for the words " three other persons so appointed, one of whom shall be a barrister, one a registrar and the other a solicitor " there shall be substituted the words " six other persons so appointed two of whom shall be barristers, two of whom shall be registrars and two of whom shall be solicitors ".
- (3) The concurrence of the President of the Board of Trade shall not be required to the exercise by the Lord Chancellor of the power under section one hundred and fifty-seven of the principal Act to make general rules for carrying into effect the objects of Part VII of that Act (which relates to administration orders).
- (4) The power to make fees orders under section one hundred and sixty-seven of the principal Act shall be exercisable in relation to proceedings for the recovery by the Tithe Redemption Commission of a debt due to Her Majesty under section sixteen of the Tithe Act, 1936, as if the provisions applied by subsection (3) of the said section sixteen did not include so much of subsection (8) of section two of the Tithe Act, 1891, as limited the fees payable on proceedings under the last mentioned section to those set forth in the Schedule to the said Act of 1891.

### **33 Interpretation and citation of Part III**

- (1) In this Part of this Act, except in so far as the context otherwise requires, expressions used in the principal Act have the same meanings as in that Act.
- (2) In this Part of this Act the expression "the principal Act" means the County Courts Act, 1934.
- (3) This Part of this Act and the County Courts Acts, 1934 and 1955 may be cited together as the County Courts Acts, 1934 to 1956.

## **PART IV**

### GENERAL PROVISIONS AS TO ENFORCEMENT OF JUDGMENTS AND ORDERS

### **34 Abolition of writs of elegit and repeal of enactments imposing charges on land, etc.**

- (1) No writ of elegit shall be issued after the coming into operation of this section.
- (2) Subsections (1) to (3) and (5) of section one hundred and ninety-five of the Law of Property Act, 1925 (which provide that judgments entered up in the Supreme Court operate, subject to the provisions of those subsections, as charges on land of the judgment debtor) shall cease to have effect.

- (3) Section one hundred and thirty-six of the County Courts. Act, 1934 (which relates to the removal to the High Court of a county court judgment where the judgment debtor has no goods or chattels which can be conveniently seized to satisfy the judgment) shall cease to have effect.

### **35 Power of courts to impose charges on land of judgment debtor**

- (1) The High Court and any county court may, for the purpose of enforcing a judgment or order of those courts respectively for the payment of money to a person, by order impose on any such land or interest in land of the debtor as may be specified in the order a charge for securing the payment of any moneys due or to become due under the judgment or order.
- (2) An order under subsection (1) of this section may be made either absolutely or subject to conditions as to notifying the debtor or as to the time when the charge is to become enforceable or as to other matters.
- (3) The Land Charges Act, 1925, and the Land Registration Act, 1925, shall apply in relation to orders under subsection (1) of this section as they apply in relation to other writs or orders affecting land issued or made for the purpose of enforcing judgments, but, save as aforesaid, a charge imposed under the said subsection (1) shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand :

Provided that a charge imposed under the said subsection (1) for the purpose of enforcing a judgment or order of a county court may, notwithstanding that the amount secured by the charge exceeds the amount by which the jurisdiction of a county court is limited by paragraph (c) of subsection (1) of section fifty-two of the County Courts Act, 1934, be enforced in a county court.

- (4) The preceding provisions of this section shall apply in relation to a judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or foreign arbitrator) which is or has become enforceable (whether wholly or to a limited extent) as if it were a judgment or order of the High Court or the county court as they apply in relation to a judgment or order of the High Court or the county court.

### **36 Receivers**

- (1) The power of the High Court and of the county court to appoint a receiver by way of equitable execution shall be extended so as to operate in relation to all legal estates and interests in land.
- (2) The said power may be exercised in relation to an estate or interest in land whether or not a charge has been imposed on that land under the last preceding section for the purpose of enforcing the judgment, decree, order or award in question, and the said power shall be in addition to and not in derogation of any power of any court to appoint a receiver in proceedings for enforcing such a charge.
- (3) Where an order under the last preceding section imposing a charge for the purpose of enforcing a judgment, decree, order or award has been registered under section six of the Land Charges Act, 1925, subsection (1) of section seven of that Act (which provides that, amongst other things, an order appointing a receiver and any proceedings pursuant to the order or in obedience thereto shall be void against a purchaser unless the order is for the time being registered under section six of that

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Act) shall not apply to an order appointing a receiver made either in proceedings for enforcing the charge or by way of equitable execution of- the judgment, decree, order or award or, as the case may be, of so much thereof as requires payment of moneys secured by the charge.

- (4) Consequentially on the provisions of subsection (1) of this section, in subsection (2) of section forty of the Bankruptcy Act, 1914, for the words " or, in the case of an equitable interest," and in subsection (2) of section three hundred and twenty-five of the Companies Act, 1948, for the words " and, in the case of an equitable interest," the word " or " shall be substituted.

### **37 Goods protected from seizure in execution**

- (1) In section eight of the Small Debts Act, 1845, and section one hundred and twenty-one of the County Courts Act, 1934 (which protect wearing apparel, bedding and tools to the value of five pounds from seizure in execution) for the words " the value of five pounds " there shall be substituted the words " the prescribed value ".
- (2) The prescribed value for the purposes of the said sections eight and one hundred and twentyone shall be twenty pounds or such larger amount as may be prescribed by order of the Lord Chancellor, and section four of the Law of Distress Amendment Act, 1888 (which provides, by reference to the said section one hundred and twenty-one, a similar protection in the case of distress for rent) shall have effect accordingly.
- (3) The extent to which goods and chattels are protected from seizure under distresses ordered by a magistrates' court shall, as well in cases in which such courts have jurisdiction by virtue of the Employers and Workmen Act, 1875, as in other cases, be wholly determined by the rules made under section fifteen of the Justices of the Peace Act, 1949, as extended by section one hundred and twenty-two of the Magistrates' Courts Act, 1952, and the rules in force under the said section fifteen as so extended at the time of the coming into force of this section shall have effect accordingly; and accordingly in section nine of the Employers and Workmen Act, 1875, the words " and no goods or chattels shall be taken under a distress ordered by a court of summary jurisdiction which might not be taken under an execution issued by a county court" are hereby repealed.
- (4) The proviso to section one hundred and fifty-two of the County Courts Act, 1934 (which relates to execution under an administration order and protects household goods, wearing apparel, bedding and tools to the value of twenty pounds) shall cease to have effect, and section one hundred and twenty-one of that Act shall apply accordingly on an execution under the said section one hundred and fifty-two.
- (5) Any order of the Lord Chancellor under this section may be varied or revoked by a subsequent order of the Lord Chancellor.
- (6) The power of the Lord Chancellor to make orders under this section shall be exercisable by statutory instrument.
- (7) Any such statutory instrument shall be laid before Parliament after being made.

### **38 Attachment of debts**

- (1) A sum standing to the credit of a person in a deposit account in a bank shall, for the purposes of the jurisdiction of the High Court and the county court to attach debts for the purpose of satisfying judgments or orders for the payment of money, be deemed to

be a sum due or accruing to that person and, subject to rules of court, shall be attachable accordingly, notwithstanding that any of the following conditions applicable to the account, that is to say—

- (a) any condition that notice is required before any money is withdrawn;
- (b) any condition that a personal application must be made before any money is withdrawn ;
- (c) any condition that a deposit book must be produced before any money is withdrawn ; or
- (d) any other condition prescribed by rules of court,

has not been satisfied.

- (2) This section shall not apply to any account in the Post Office Savings Bank, in any Trustee Savings Bank or in any Savings Bank maintained in pursuance of any enactment by any local authority or to any account in any bank with two or more places of business if the terms applicable to that account permit withdrawals on demand, on production of a deposit book, at more than one of those places of business, with or without restrictions as to the amount which may be withdrawn.

### **39 Execution of High Court judgments and orders in county court**

A judgment or order of the High Court for the payment of money to a person, and any judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or foreign arbitrator) being a judgment, order, decree or award for the payment of money to a person which is or has become enforceable (whether wholly or to a limited extent) as if it were a judgment or order of the High Court shall, on an application made to the county court by the party prosecuting the judgment, be enforceable under section one hundred and sixteen of the County Courts Act, 1934, as if it were a judgment of that court, and the provisions of Part VI of that Act (including the provisions thereof relating to the staying of execution) shall have effect accordingly in relation to the enforcement thereof under the said section one hundred and sixteen.

### **40 Effect of registration of judgments of courts outside England and Wales**

Section five of the Debtors Act, 1869, as amended by any subsequent enactment, and the Bankruptcy Act, 1914, as so amended, shall have effect as if—

- (a) any judgment of the High Court of Northern Ireland or decret of the Court of Session a certificate of which has been registered in the High Court under section one or section three of the Judgments Extension Act, 1868; and
- (b) any judgment, as defined in Part II of the Administration of Justice Act, 1920, which has been registered in the High Court under the said Part II; and
- (c) any judgment, as defined in the Inferior Courts Judgments Extension Act, 1882, a certificate of which has been registered in the High Court or in a county court under that Act,

were a judgment of the High Court or, as the case may be, of that county court, and proceedings may be taken under those Acts accordingly.

### **41 Execution by county court of judgments and orders of inferior courts**

- (1) Any execution issued by a local court for the purpose of enforcing any judgment or order of that court for the payment of money (including a penalty), or for the delivery

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of property other than land or money (with or without an option to pay instead the value of the property), or for both, may outside the area in which the local court has jurisdiction, be enforced through a county court in the same way as an execution of the like nature issued by some other county court.

- (2) Where an execution issued by a local court is sent to a county court to be enforced under this section, the judge and officers of the county court shall have the same powers and duties in connection therewith as they have where an execution of the like nature is sent for enforcement from another county court, and the County Courts Act, 1934, shall apply in relation to the enforcement of the execution under this section as if the execution had been issued by a county court:

Provided that this subsection shall not affect the period for which the execution is in force or the manner in which or period for which it may be extended or renewed.

- (3) The foregoing provisions of this section shall apply in relation to any writ, warrant or order for a person's attachment or committal to prison which is issued by a local court as they apply to an execution issued by a local court for a purpose within subsection (1) of this section.
- (4) In this section " local court" means any inferior court of record for the trial of civil actions, other than a county court or any of the barmote courts held under the High Peak Mining Customs and Mineral Courts Act, 1851, or the Derbyshire Mining Customs and Mineral Courts Act, 1852, and includes the Mayor's and City of London Court in relation to proceedings in which it is not regarded as a county court (but without prejudice to the application to the said court of the expression " county court" in relation to executions, attachments and committals issued by other courts).

## **42 Execution and enforcement of judgments and orders of the Court of Appeal**

For the removal of doubts it is hereby declared that any enactment (including any enactment in this Act) which authorises or requires the taking of any steps for the execution or enforcement of a judgment or order of the High Court applies in relation to a judgment or order of the Court of Appeal as it applies in relation to a judgment or order of the High Court.

## **43 Application to existing judgments**

This Part of this Act applies in relation to judgments, orders, decrees and awards whether given or made before or after the coming into operation thereof:

Provided that where a writ of *elegit* has been issued before the coming into operation of section thirty-four of this Act, the like consequences shall flow and the like proceedings may be had under and in connection therewith as would have flowed and might have been had if this Part of this Act and any repeals consequential thereon had not come into operation.

## **44 Power to extend Part IV to inferior courts**

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Part of this Act which are not otherwise applicable shall apply in relation to any inferior court in England and Wales other than a county court as they apply in relation to a county court, subject, however, to such adaptations and modifications as may be specified in the Order.

- (2) An Order in Council under this section may be revoked or varied by a subsequent Order.

## PART V

### ADMIRALTY JURISDICTION AND ARRESTMENT OF SHIPS IN SCOTLAND

#### 45 Jurisdiction in relation to collisions, etc.

- (1) Subject to the provisions of this Part of this Act, any court having Admiralty jurisdiction shall have jurisdiction to entertain, as against any defender, an action to which this section applies if, but only if,—
- (a) the defender has his habitual residence or a place of business in the area for which the court acts, or
  - (b) the cause of action arose in the area for which the court acts and either within inland waters or within the limit of a port, 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 by the court, or
  - (d) the defender has prorogated the jurisdiction of the court, or
  - (e) a ship in which the defender owns one or more shares has been arrested (whether ad fundandam jurisdictionem or on the dependence of the action) within the area for which the court acts.

- (2) Where an action to which this section applies is raised in a court having jurisdiction by virtue only of one or more of the provisions of the preceding subsection other than paragraph (d) thereof, and it appears to the court that cognate proceedings are depending in a competent court outside Scotland, the first mentioned court shall sist the action if so moved by any party thereto, and shall not recall the sist until satisfied that the cognate proceedings have been discontinued or have otherwise come to an end:

Provided that nothing in this subsection shall prevent the first mentioned court from entertaining any application as to diligence in the action.

In this subsection "cognate proceedings", in relation to any action, means proceedings instituted, before the granting of warrant for service in the action, by the pursuer in the action against any other party to the action, being proceedings in respect of the same incident or series of incidents as those with which the action is concerned.

- (3) This section applies to actions for payment of reparation arising out of one or more of the following incidents, that is to say—
- (a) any collision between ships, or
  - (b) the carrying out of, or the omission to carry out, a manoeuvre in the case of one or more of two or more ships, or
  - (c) the non-compliance, on the part of one or more of two or more ships, with the collision regulations.

- (4) In this section—

"inland waters" includes any part of the sea adjacent to the coast of the United Kingdom certified by the Secretary of States to be waters falling by

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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 ;

" 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 or charter to make charges in respect of ships entering it or using the facilities therein, 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.

- (5) For the avoidance of doubt it is hereby declared that any reference in this section to an action for payment of reparation does not include a reference to an action to make good a lien.
- (6) Section six of the Sheriff Courts (Scotland) Act, 1907 (as amended by any subsequent enactment), shall cease to have effect in relation to actions to which this section applies.

#### **46 Exclusion of jurisdiction in cases falling within Rhine Convention**

No 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 thereof.

In this section " the Rhine Navigation Convention " means the Convention of the seventh of October, eighteen hundred and sixty-eight, as revised by any subsequent Convention.

#### **47 Arrest of ships on the dependence of an action or in rem**

- (1) Subject to the provisions of this section and section fifty of this Act, no warrant issued after the commencement of this Part of this Act for the arrest of property on the dependence of an action or in rem shall have effect as authority for the detention of a ship unless the conclusion in respect of which it is issued is appropriate for the enforcement of a claim to which this section applies, and, in the case of a warrant to arrest on the dependence of an action, unless either—
- (a) the ship is the ship with which the action is concerned, or
  - (b) all the shares in the ship are owned by the defender against whom that conclusion is directed.
- (2) This section applies to any claim arising out of one or more of the following, that is to say—
- (a) damage done or received by any ship ;
  - (b) loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or of the wrongful act, neglect or default of the owners, charterers or persons in possession or control of a ship or of the master or crew thereof or of 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, unloading 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 ;



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

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- (c) salvage;
  - (d) any agreement relating to the use or hire of any ship whether by charterparty or otherwise ;
  - (e) any agreement relating to the carriage of goods in any ship whether by charterparty or otherwise ;
  - (f) loss of, or damage to, goods carried in any ship ;
  - (g) general average;
  - (h) any bottomry bond ;
  - (i) towage;
  - (j) pilotage;
  - (k) the supply of goods or materials to a ship for her operation or maintenance;
  - (l) the construction, repair or equipment of any ship ;
  - (m) liability for dock charges or dues ;
  - (n) liability for payment of wages (including any sum allotted out of wages under section one hundred and forty-one of the Merchant Shipping Act, 1894, or adjudged under section three hundred and eighty-seven of that Act by a superintendent to be due by way of wages) of a master or member of the crew of a ship ;
  - (o) master's disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;
  - (p) any dispute as to the ownership or right to possession of any ship or as to the ownership of any share in a ship;
  - (q) any dispute between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;
  - (r) the mortgage or hypothecation of any ship or any share in a ship;
  - (s) any forfeiture or condemnation of any ship, or of goods which are being, or have been, carried, or have been attempted to be carried, in any ship, or for the restoration of a ship or any such goods after seizure.
- (3) In any proceedings having a conclusion appropriate for the enforcement of any claim such as is mentioned in paragraphs (p) to (s) of the last preceding subsection a warrant may be issued—
- (a) if the conclusion is a pecuniary conclusion, for the arrest of the ship on the dependence of the action; or
  - (b) in any other case (whether or not the claimant is entitled to a lien over the ship), for the arrest of the ship in rem;
- but there shall not be issued in respect of any such conclusion as aforesaid (whether pecuniary or otherwise) a warrant to arrest, either in rem or on the dependence of the action, any ship other than the ship to which the conclusion relates.
- (4) Subject to the preceding subsection, nothing in this section shall be taken to authorise—
- (a) the use of an arrestment on the dependence of an action otherwise than in respect of a pecuniary conclusion, or
  - (b) the use of an arrestment in rem otherwise than in respect of a conclusion appropriate for the making good of a lien.
- (5) A warrant for the arrest of a ship in rem issued by virtue of paragraph (b) of subsection (3) of this section in a case where the person in whose favour it is issued is not entitled to a lien over the ship shall have effect as authority for the detention

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of the ship as security for the implementation of the decree of the court so far as it affects that ship:

Provided that the court may, on the application of any person having an interest, recall the arrestment if satisfied that sufficient bail or other security for such implementation has been found.

- (6) Nothing in this section shall authorise the arrest, whether on the dependence of an action or in rerh, of a ship while it is on passage.
- (7) Nothing in this section shall authorise the arrest, whether on the dependence of an action or in rem, of a ship 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.

In this subsection " Her Majesty's ships " and " Her Majesty's aircraft" have the meanings assigned to them by subsection (2) of section thirty-eight of the Crown Proceedings Act, 1947.

- (8) Nothing in this section shall affect section five of the Mail Ships Act, 1891 (which protects certain mail ships from arrest in certain circumstances).

#### **48 Interpretation of Part V**

In this Part of this Act, unless the context otherwise requires.—

- (a) references to an action, a pursuer and a defender include respectively references to a counter-claim, the person making a counter-claim and the person against whom a counter-claim is made ;
- (b) any reference to a conclusion includes a reference to a crave, and " pecuniary conclusion " does not include a conclusion for expenses;
- (c) any reference to a warrant to arrest property includes a reference to letters of arrestment and to a precept of arrestment;
- (d) any reference to a lien includes a reference to any hypothec or charge;
- (e) any reference to claims arising out of salvage includes a reference to such claims for services rendered in-saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894, or any Order in Council made under section fifty-one of the Civil Aviation Act, 1949, are authorised to be made in connection with a ship or an aircraft; and
- (f) the following expressions have the meanings hereby assigned to them respectively, that is to say—

" collision regulations " means regulations under section four hundred and eighteen of the Merchant Shipping Act, 1894, or any such rules as are mentioned in subsection (1) of section four hundred and twenty-one of that Act or any rules made under subsection (2) of the said section four hundred and twenty-one ; " goods " includes baggage ;

" master " has the same meaning as in the Merchant Shipping Act, 1894, and accordingly includes every person (except a pilot) having command or charge of a ship ;

" ship " includes any description of vessel used in navigation not propelled by oars ;

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

## **49 Repeals**

- (1) Section one hundred and sixty-five of the Merchant Shipping Act, 1894 (which imposes restrictions on proceedings for the recovery of wages of seamen and apprentices) shall cease to have effect and is hereby repealed.
- (2) So much of subsection (2) of section seventy-five of the Diseases of Animals Act, 1950, as enables a local authority to recover expenses incurred in burying or destroying carcases in the same manner as salvage is recoverable, shall cease to have effect; and accordingly the words in the said subsection (2) from "and the local authority" to the end of the subsection are hereby repealed.

## **50 Application and commencement of Part V**

- (1) This Part of this Act shall apply to Scotland only.
- (2) This Part of this Act shall come into operation on such -day as the Secretary of State may appoint by order made by statutory instrument.
- (3) Nothing in this Part of this Act shall affect any action in respect of which warrant for service has been granted before the commencement of this Part of this Act.

## **PART VI**

### MISCELLANEOUS AND SUPPLEMENTAL

## **51 Modification of Foreign Judgments (Reciprocal Enforcement) Act, 1933, in relation to certain parts of Her Majesty's dominions**

Where an Order in Council is made extending Part I of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, to a part of Her Majesty's dominions or other territory to which Part II of the Administration of Justice Act, 1920, extends, the said Part I shall, in relation to that part of Her Majesty's dominions or other territory, have effect as if—

- (a) the expression "judgment" included an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place ;
- (b) the fact that a judgment was given before the coming into operation of the Order did not prevent it from being a judgment to which the said Part I applies, but the time limited for the registration of a judgment were, in the case of a judgment so given, twelve months from the date of the judgment or such longer period as may be allowed by the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland;
- (c) any judgment registered in any of the said courts under the said Part II before the coming into operation of the Order had been registered in that court under the said Part I and anything done in relation thereto under the said Part II or any rules of court or other provisions applicable to the said Part II had been done under the said Part I or the corresponding rules of court or other provisions applicable to the said Part I.

## **52 Funds in court in Lancashire Chancery Court**

- (1) Any funds for the time being held in the joint names of the Clerk of the Council of the Duchy of Lancaster, the registrar of any district of the Court of Chancery of the County Palatine of Lancaster and the Comptroller of the said court, being funds held in trust for any charity subject to the jurisdiction of the Charity Commissioners or of the Minister of Education, or in trust for any ecclesiastical corporation in the Church of England may, if the Vice-Chancellor, on an application made in that behalf to the registrar, as the case may be, either by the Charity Commissioners or the Church Commissioners, thinks fit so to direct, be transferred to the official trustees of charitable funds or the Church Commissioners respectively in trust for the charity or ecclesiastical corporation upon the trusts upon which the funds were held before the transfer.
- (2) Notwithstanding anything in the enactments relating to the said court or in any rule or order made thereunder, no fees shall be payable under those Acts or any such rule or order in respect of a transfer of funds made under this section.
- (3) In this section—
  - " ecclesiastical corporation " means any ecclesiastical corporation within the meaning of the Episcopal and Capitular Estates Act, 1851, and includes the incumbent of a benefice;
  - " benefice " means a benefice with or without cure of souls, and includes rectories and vicarages, perpetual curacies and endowed public chapels, parochial chapelries and chapelries or districts belonging or reputed to belong, or annexed or reputed to be annexed, to any church or chapel.

## **53 Qualifications of Land Registrars**

A person shall not be qualified to be appointed Chief Land Registrar unless he is either a barrister or solicitor of not less than ten years' standing, and a person shall not be qualified to be appointed a registrar or an assistant registrar in the Land Registry unless he is either a barrister or solicitor of not less than five years' standing.

## **54 Financial provisions**

- (1) There shall be paid out of moneys provided by Parliament—
  - (a) any remuneration allowed to a person appointed under section twenty-two of this Act; and
  - (b) any increase attributable to section twelve or section twenty-five of this Act in the sums which fall to be so paid under any enactment relating to the salaries or superannuation of officers of the Supreme Court or of county courts.
- (2) There shall be paid into the Exchequer any increase in the sums which fall to be so paid under subsection (3) of section twenty-five of the Administration of Justice (Pensions) Act, 1950.

## **55 Provisions as to Northern Ireland**

- (1) The provisions of Parts I and II of the First Schedule to this Act (being provisions corresponding respectively to Part I and section forty of this Act) shall apply to Northern Ireland, and the enactments specified in Part III of that Schedule are hereby repealed as respects Northern Ireland.

- (2) The provisions of the said Schedule shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and he may appoint different days for different purposes; but nothing in Part I of the said Schedule shall affect proceedings in respect of any cause of action arising before the coming into operation thereof.
- (3) Section fifty-one of this Act shall extend to Northern Ireland.
- (4) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.
- (5) Save as provided by this section this Act shall not extend to Northern Ireland.

## **56 Provisions as to Channel Islands, Isle of Man, colonies, protectorates, etc.**

- (1) Her Majesty may by Order in Council direct that any of the provisions of Part I of this Act specified in the Order shall extend, with such exceptions, adaptations and modifications as may be so specified, to any of the Channel Islands or the Isle of Man or make, for any of the Channel Islands or the Isle of Man, provision for any purposes corresponding to the purposes of any of the provisions of the said Part I.
- (2) Her Majesty may by Order in Council direct, either generally or in relation to particular courts or territories, that the Colonial Courts of Admiralty Act, 1890, shall have effect as if for the reference in subsection (2) of section two thereof to the Admiralty jurisdiction of the High Court in England there were substituted a reference to the Admiralty jurisdiction of that court as defined by section one of this Act, subject, however, to such adaptations and modifications of the said section one as may be specified in the Order.
- (3) Her Majesty may by Order in Council direct that any of the provisions of Part I of this Act specified in the Order (other than the provisions of section one of this Act) shall extend, with such exceptions, adaptations and modifications as may be specified in the Order, to any colony, or any country or place outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction, or any territory consisting partly of one or more colonies and partly of one or more of such countries or places.
- (4) Any Order in Council under this section may be revoked or varied by a subsequent Order in Council.

## **57 Short title, repeal, extent and commencement**

- (1) This Act may be cited as the Administration of Justice Act, 1956.
- (2) Subject to any saving contained in this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) This Act, except Part V and section fifty-one thereof, shall not extend to Scotland.
- (4) The provisions of this Act, other than Part V thereof, section fifty-five thereof and the First Schedule thereto, shall come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument, and he may appoint different days for different purposes.