



Administration of Justice Act 1970

1970 CHAPTER 31

PART I

COURTS AND JUDGES

High Court

1 Redistribution of business among divisions of the High Court

- (1) The Probate, Divorce and Admiralty Division of the High Court shall be re-named the Family Division; and the principal probate registry shall be re-named the principal registry of the Family Division.
- (2) There shall be assigned to the Family Division all causes and matters involving the exercise of the High Court's jurisdiction in proceedings specified in Schedule 1 to this Act.
- (3) Causes and matters involving the exercise of the High Court's Admiralty jurisdiction, or its jurisdiction as a prize court, shall be assigned to the Queen's Bench Division.
- (4) As respects the exercise of the High Court's probate jurisdiction—
 - (a) non-contentious or common form probate business shall continue to be assigned to the Family Division ; and
 - (b) all other probate business shall be assigned to the Chancery Division.
- (5) In section 5 of the Supreme Court of Judicature (Consolidation) Act 1925 (which enables Her Majesty, on the recommendation of the judges, by Order in Council to alter the number of divisions of the High Court or of puisne judges to be attached to any division) for the reference to a report or recommendation of the council of judges there shall be substituted a reference to a recommendation of the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor.
- (6) In accordance with the foregoing subsections—

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- (a) the enactments specified in Schedule 2 to this Act (that is to say, the said Act of 1925 and other enactments relative to the High Court, its jurisdiction, judges, divisions and business) shall be amended as shown in that Schedule; and
 - (b) references in any other enactment or document to the Probate, Divorce and Admiralty Division, the President of that division, the principal probate registry, the principal (or senior) probate registrar and a probate registrar shall, so far as may be necessary to preserve the effect of the enactment or document, be construed respectively as references to the Family Division and to the President, principal registry, principal registrar and a registrar of that division.
- (7) This section is not to be taken as affecting any of the following provisions of the said Act of 1925—
- (a) section 55 (which provides for the distribution of business in the High Court to be regulated by rules);
 - (b) section 57 (which enables the Lord Chancellor to assign or re-assign the jurisdiction of the court among divisions and judges);
 - (c) section 58 (which provides for the assignment of causes and matters);
 - (d) section 59 (which enables an action to be transferred at any stage from one division to another).
- (8) Notwithstanding anything in section 114(3) of the said Act of 1925 (appointment of officers attached to a division), the right of filling any vacancy in the office of the Admiralty registrar or assistant Admiralty registrar shall be vested in the Lord Chancellor; and any other officer of the Supreme Court who is to be employed in the Admiralty registry shall be appointed by the Lord Chancellor.

2 Admiralty Court

- (1) There shall be constituted, as part of the Queen's Bench Division of the High Court, an Admiralty Court to take Admiralty business, that is to say causes and matters assigned to that division and involving the exercise of the High Court's Admiralty jurisdiction, or its jurisdiction as a prize court.
- (2) The judges of the Admiralty Court shall be such of the puisne judges of the High Court as the Lord Chancellor may from time to time nominate to be Admiralty Judges.
- (3) Nothing in this section is to be taken as prejudicing provisions of the Supreme Court of Judicature (Consolidation) Act 1925 which enable the whole jurisdiction of the High Court to be exercised by any judge of that court.
- (4) In section 1(1) of the Administration of Justice Act 1956 (which defines the Admiralty jurisdiction of the High Court) for the words " which is for the time being assigned by rules of court to the Probate, Divorce and Admiralty Division " there shall be substituted the words " which is for the time being assigned by rules of court to the Queen's Bench Division and directed by the rules to be exercised by the Admiralty Court ".
- (5) In the Prize Act 1948—
 - (a) in section 7(2) (determination of form and manner of advertising for claims in relation to the Supreme Court Prize Deposit Account), for the words " the President of the Probate Division of the High Court " there shall be substituted the words " such one of the Admiralty Judges of the High Court as the Lord Chancellor may nominate for the purposes of this section " and for the words

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" the said President" there shall be substituted the words " the said Admiralty Judge "; and

- (b) in section 8 (regulation of payments into and out of the said Account) for the words from " the President" onwards there shall be substituted the words " such one of the Admiralty Judges of the High Court as the Lord Chancellor may nominate for the purposes of this section ".

3 Commercial Court

- (1) There shall be constituted, as part of the Queen's Bench Division of the High Court, a Commercial Court to take such causes and matters as may in accordance with rules of court be entered in the commercial list
- (2) The judges of the Commercial Court shall be such of the puisne judges of the High Court as the Lord Chancellor may from time to time nominate to be Commercial Judges.
- (3) Nothing in this section is to be taken as prejudicing provisions of the said Act of 1925 which enable the whole jurisdiction of the High Court to be exercised by any judge of that court.

4 Power of judges of Commercial Court to take arbitrations

- (1) A judge of the Commercial Court may, if in all the circumstances he thinks fit, accept appointment as sole arbitrator, or as umpire, by or by virtue of an arbitration agreement within the meaning of the Arbitration Act 1950, where the dispute appears to him to be of a commercial character.
- (2) A judge of the Commercial Court shall not accept appointment as arbitrator or umpire unless the Lord Chief Justice has informed him that, having regard to the state of business in the High Court and at assizes, he can be made available to do so.
- (3) The fees payable for the services of a judge as arbitrator or umpire shall be taken in the High Court.
- (4) Schedule 3 to this Act shall have effect for modifying, and in certain cases replacing, provisions of the Arbitration Act 1950 in relation to arbitration by judges and, in particular, for substituting the Court of Appeal for the High Court in provisions of that Act whereby arbitrators and umpires, their proceedings and awards, are subject to control and review by the court.
- (5) Any jurisdiction which is exercisable by the High Court in relation to arbitrators and umpires otherwise than under the Arbitration Act 1950 shall, in relation to a judge of the Commercial Court appointed as arbitrator or umpire, be exercisable instead by the Court of Appeal.

5 The Vice-Chancellor

- (1) The Lord Chancellor may, from among the puisne judges for the time being attached to the Chancery Division of the High Court, nominate one of them to be Vice-Chancellor, who shall be responsible to the Lord Chancellor (as president of the Chancery Division) for the organisation and management of the business of the division.

- (2) The Vice-Chancellor shall be included among the persons with power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925 to make rules of court; and in that subsection—
- (a) for the words " and four other judges " there shall be substituted the words " the Vice-Chancellor and three other judges "; and
 - (b) for the words "The four" there shall be substituted the words " The three ".

6 Divisional Courts

In paragraph (b) of the proviso to section 63(6) of the Supreme Court of Judicature (Consolidation) Act 1925 (which requires the president of a division of the High Court, in constituting a divisional court, to obtain the concurrence of other judges of his division, but only two of them in the case of the Queen's Bench Division), the words " with the concurrence of the other judges of the Division or a majority thereof, or in the case of the King's Bench Division " shall be omitted.

Assizes and Central Criminal Court

7 Extension of power to dispense with holding of assizes

- (1) An Order in Council under section 72 of the Supreme Court of Judicature (Consolidation) Act 1925 (regulation of circuits) may contain a direction that, notwithstanding any enactment or custom to the contrary, assizes shall no longer be held for such county or at such place as may be specified in the Order either at all or for the transaction of such class of business as may be so specified.
- (2) Where such an Order contains in relation to any county or place a direction authorised by this section, the Order may also contain such provisions as appear to Her Majesty to be necessary or expedient in consequence of the direction including, without prejudice to the generality of the foregoing provision or to the provisions of paragraphs (f), (g) and (h) of subsection (1) of the said section 72, provision—
 - (a) for enabling business which would or might have been transacted at assizes held in or for that county or place to be transacted at other assizes and persons who would or might have been tried or dealt with by a court of assize held in or at that county or place to be tried or dealt with by a court of assize held elsewhere;
 - (b) for assigning to such local authority as may be prescribed by the Order liability in respect of the costs of cases taken at any assizes in consequence of a provision made by virtue of paragraph (a) above (so far as those costs are payable out of local funds under the Costs in Criminal Cases Act 1952) and in respect of such of the expenses of holding any court of assize at which cases are so taken as may be so prescribed; and
 - (c) for the modification or amendment of any enactment (including an enactment extending to Scotland) relating to courts of assize and their jurisdiction.
- (3) In this section " county" has the same meaning as in the Supreme Court of Judicature (Consolidation) Act 1925.

8 Sittings of Central Criminal Court

The Administration of Justice Act 1964 shall be deemed to have been enacted with the following paragraph in place of paragraph 14 of Schedule 1 (which Schedule relates to the constitution, jurisdiction, sittings, etc. of the Central Criminal Court):—

- “14 (1) The Court may sit in more than one division simultaneously.
- (2) Any division of the Court may sit at any place in Greater London.”.

Court of Appeal

9 Constitution of criminal division and powers of single judge

- (1) A court of the criminal division of the Court of Appeal shall, for the purpose of exercising any of its jurisdiction, be duly constituted if it consists of an uneven number of judges, not being less than three.
- (2) A court of the said division shall be duly constituted if it consists of two judges, but not for the purpose—
 - (a) of determining an appeal; or
 - (b) of determining an application for leave to appeal to the House of Lords; or
 - (c) of refusing an application for leave to appeal to the criminal division, other than an application which has been refused by a single judge under section 31 of the Criminal Appeal Act 1968.
- (3) In section 45(2) of the said Act of 1968 (which defines "single judge", for the purposes of sections 31 and 44 of the Act, as meaning any judge of the Court of Appeal or of the Queen's Bench Division of the High Court) the words "of the Queen's Bench Division of" shall be omitted.
- (4) In section 83(1) of the Criminal Justice Act 1967 (which enables the Secretary of State to make regulations about legal aid in criminal cases and, by paragraph (b), enables a court's powers in relation to legal aid to be made exercisable by a member or officer of the court) that paragraph shall have effect in relation to the criminal division of the Court of Appeal as if for the reference to a person entitled to sit as a member of the court there were substituted a reference to any judge of the court or of the High Court.

Patents and Registered Designs Appeal Tribunals

10 Temporary additional judges

- (1) If it appears to the Lord Chancellor expedient, having regard to the state of business pending before the Patents Appeal Tribunal or the Registered Designs Appeal Tribunal, he may appoint—
 - (a) a judge of the Court of Appeal; or
 - (b) a person who has held office as a judge of the Court of Appeal or of the High Court; or
 - (c) one of Her Majesty's counsel,to sit and act as an additional judge of the Tribunal (either alone or with a judge of the High Court who is a judge of the Tribunal) for such period, or for the purpose of hearing such appeals, as the Lord Chancellor may specify.

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- (2) A person appointed to either Tribunal under this section shall, while sitting and acting as aforesaid, have all the jurisdiction of, but shall not otherwise be deemed to be, a judge of the Tribunal.
- (3) The Lord Chancellor may pay to a person appointed to either Tribunal under this section (other than a judge of the Court of Appeal) such remuneration as he may determine with the approval of the Minister for the Civil Service ; and any such remuneration shall be included in the expenses of the Tribunal.
- (4) In this section " the Patents Appeal Tribunal " means the Appeal Tribunal constituted under section 85 of the Patents Act 1949 (as amended by section 24 of the Administration of Justice Act 1969); and " the Registered Designs Appeal Tribunal " means the Appeal Tribunal constituted under section 28 of the Registered Designs Act 1949 (as so amended).
- (5) In subsection (8) of the said section 85 and subsection (8) of the said section 28 (which confer power on the two Tribunals to make rules about procedure etc.), there shall in each case be inserted at the end of the subsection the words " including right of audience ".

PART II

ENFORCEMENT OF DEBT

Provisions restricting sanction of imprisonment

11 Restriction on power of committal under Debtors Act 1869 (c. 62)

The jurisdiction given by section 5 of the Debtors Act 1869 to commit to prison a person who makes default in payment of a debt, or instalment of a debt, due from him in pursuance of an order or judgment shall be exercisable only—

- (a) by the High Court in respect of a High Court maintenance order; and
- (b) by a county court in respect of—
 - (i) a High Court or a county court maintenance order; or
 - (ii) a judgment or order which is enforceable by a court in England and Wales and is for the payment of any of the taxes, contributions or liabilities specified in Schedule 4 to this Act.

12 Restriction on magistrates' power of committal for civil debt

- (1) The power of a magistrates' court under section 64 of the Act of 1952 to issue a warrant to commit to prison a person who makes default in paying a sum adjudged to be paid by such a court shall be restricted in accordance with this section.
- (2) This section does not affect the court's power to issue such a warrant in the case of default in paying a sum adjudged to be paid by a conviction, or treated (by any enactment relating to the collection or enforcement of fines, costs, compensation or forfeited recognizances) as so adjudged to be paid; but in the case of a sum adjudged to be paid by an order the power shall be exercisable only in respect of default under—
 - (a) a magistrates' court maintenance order;

- (b) an order for the payment of any of the taxes, contributions or liabilities specified in Schedule 4 to this Act; or
- (c) an order (in this Act referred to as a "legal aid contribution order") under section 76 of the Criminal Justice Act 1967 (contribution by legally assisted person to cost of his defence in a criminal case).

Enforcement by attachment of earnings

13 Courts with power to attach earnings

- (1) The High Court may make an attachment of earnings order to secure payments under a High Court maintenance order.
- (2) A county court may make an attachment of earnings order to secure—
 - (a) payments under a High Court or a county court maintenance order;
 - (b) the payment of a judgment debt, other than a debt of less than £5 or such other sum as may be prescribed by county court rules ; or
 - (c) payments under an administration order.
- (3) In this Part of this Act, "judgment debt" means a sum payable under—
 - (a) a judgment or order enforceable by a court in England and Wales (not being a magistrates' court); or
 - (b) an order of a magistrates' court for the payment of money recoverable summarily as a civil debt; or
 - (c) an order of any court which is enforceable as if it were for the payment of money so recoverable,but does not include any sum payable under a maintenance order or an administration order.
- (4) A magistrates' court may make an attachment of earnings order to secure—
 - (a) payments under a magistrates' court maintenance order ;
 - (b) the payment of any sum adjudged to be paid by a conviction or treated (by any enactment relating to the collection and enforcement of fines, costs, compensation or forfeited recognizances) as so adjudged to be paid; or
 - (c) the payment of any sum required to be paid by a legal aid contribution order.
- (5) The following provisions of this Part of this Act apply, except where otherwise stated, to attachment of earnings orders made, or to be made, by any court; and in those provisions—
 - (a) "the relevant adjudication", in relation to any payment secured or to be secured by an attachment of earnings order, means the conviction, judgment, order or other adjudication from which there arises the liability to make the payment; and
 - (b) "the debtor", in relation to an attachment of earnings order, or to proceedings in which a court has power to make an attachment of earnings order, or to proceedings arising out of such an order, means the person by whom payment is required by the relevant adjudication to be made.
- (6) Any power conferred by this Part of this Act to make an attachment of earnings order includes a power to make such an order to secure the discharge of liabilities arising before the coming into force of this Part of this Act.

14 Application for order and conditions of court's power to make it

- (1) The following persons may apply for an attachment of earnings order:—
 - (a) the person to whom payment under the relevant adjudication is required to be made (whether directly or through an officer of any court);
 - (b) where the relevant adjudication is an administration order, any one of the creditors scheduled to the order;
 - (c) without prejudice to paragraph (a) above, where the application is to a magistrates' court for an order to secure maintenance payments, and there is in force an order under section 52(1) of the Act of 1952, or section 19(2) of the Maintenance Orders Act 1950, that those payments be made to the clerk of a magistrates' court, the clerk of that court;
 - (d) in the following cases the debtor—
 - (i) where the application is to a magistrates' court; or
 - (ii) where the application is to the High Court or a county court for an order to secure maintenance payments.
- (2) An application for an attachment of earnings order to secure maintenance payments shall not be made, except by the debtor, unless at least fifteen days have elapsed since the making of the related maintenance order.
- (3) For an attachment of earnings order to be made on the application of any person other than the debtor it must appear to the court that the debtor has failed to make one or more payments required by the relevant adjudication.
- (4) Where proceedings are brought—
 - (a) in the High Court or a county court for the enforcement of a maintenance order by committal under section 5 of the Debtors Act 1869 ; or
 - (b) in a magistrates' court for the enforcement of a maintenance order under section 64 of the Act of 1952 (distress or committal),then, subject to subsection (5) below, the court may make an attachment of earnings order to secure payments under the maintenance order, instead of dealing with the case under section 5 of the said Act of 1869 or, as the case may be, section 64 of the Act of 1952.
- (5) The court shall not, except on the application of the debtor, make an attachment of earnings order to secure payments under a maintenance order if it appears to it that the debtor's failure to make payments in accordance with the maintenance order is not due to his wilful refusal or culpable neglect.
- (6) Where proceedings are brought in a county court for an order of committal under section 5 of the Debtors Act 1869 in respect of a judgment debt for any of the taxes, contributions or liabilities specified in Schedule 4 to this Act, the court may, in any circumstances in which it has power to make such an order, make instead an attachment of earnings order to secure the payment of the judgment debt.
- (7) A county court shall not make an attachment of earnings order to secure the payment of a judgment debt if there is in force an order or warrant for the debtor's committal, under section 5 of the Debtors Act 1869, in respect of that debt; but in any such case the court may discharge the order or warrant with a view to making an attachment of earnings order instead.
- (8) Where a county court makes an administration order in respect of a debtor's estate, it may also make an attachment of earnings order to secure the payments required by the

administration order; and at any time when an administration order is in force a county court may (with or without an application) make an attachment of earnings order to secure the payments required by the administration order, if it appears to the court that the debtor has failed to make any such payment.

- (9) The power of a county court under subsection (8) above to make an attachment of earnings order to secure the payments required by an administration order shall, where the debtor is already subject to an attachment of earnings order to secure the payment of a judgment debt, include power to direct that the last-mentioned order shall take effect (with or without variation under section 18 of this Act) as an order to secure the payments required by the administration order.

15 Effect and contents of order

- (1) An attachment of earnings order shall be an order directed to a person who appears to the court to have the debtor in his employment and shall operate as an instruction to that person—
- (a) to make periodical deductions from the debtor's earnings in accordance with Part I of Schedule 5 to this Act; and
 - (b) at such times as the order may require, or as the court may allow, to pay the amounts deducted to the collecting officer of the court, as specified in the order.
- (2) For the purposes of this Part of this Act, the relationship of employer and employee shall be treated as subsisting between two persons if one of them, as a principal and not as a servant or agent, pays to the other any sums defined as earnings by section 26 of this Act.
- (3) An attachment of earnings order shall contain prescribed particulars enabling the debtor to be identified by the employer.
- (4) Except where it is made to secure maintenance payments, the order shall specify the whole amount payable under the relevant adjudication (or so much of that amount as remains unpaid), including any relevant costs.
- (5) The order shall specify—
- (a) the normal deduction rate, that is to say, the rate (expressed as a sum of money per week, month or other period) at which the court thinks it reasonable for the debtor's earnings to be applied to meeting his liability under the relevant adjudication; and
 - (b) the protected earnings rate, that is to say the rate (so expressed) below which, having regard to the debtor's resources and needs, the court thinks it reasonable that the earnings actually paid to him should not be reduced.
- (6) In the case of an order made to secure payments under a maintenance order (not being an order for the payment of a lump sum), the normal deduction rate—
- (a) shall be determined after taking account of any right or liability of the debtor to deduct income tax when making the payments; and
 - (b) shall not exceed the rate which appears to the court necessary for the purpose of—
 - (i) securing payment of the sums falling due from time to time under the maintenance order, and

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(ii) securing payment within a reasonable period of any sums already due and unpaid under the maintenance order.

- (7) For the purposes of an attachment of earnings order, the collecting officer of the court shall be (subject to later variation of the order under section 18 of this Act)—
- (a) in the case of an order made by the High Court, either—
 - (i) the proper officer of the High Court, or
 - (ii) the registrar of such county court as the order may specify;
 - (b) in the case of an order made by a county court, the registrar of that court; and
 - (c) in the case of an order made by a magistrates' court, the clerk either of that court or of another magistrates' court specified in the order.

16 Compliance with order by employer

- (1) Where an attachment of earnings order has been made, the employer shall, if he has been served with the order, comply with it; but he shall be under no liability for noncompliance before seven days have elapsed since the service.
- (2) Where a person is served with an attachment of earnings order directed to him and he has not the debtor in his employment, or the debtor subsequently ceases to be in his employment, he shall (in either case), within ten days from the date of service or, as the case may be, the cesser, give notice of that fact to the court.
- (3) Part II of Schedule 5 to this Act shall have effect with respect to the priority to be accorded as between two or more attachment of earnings orders directed to a person in respect of the same debtor.
- (4) On any occasion when the employer makes, in compliance with the order, a deduction from the debtor's earnings—
 - (a) he shall be entitled to deduct, in addition, one shilling or such other sum as may be prescribed by order made by the Lord Chancellor towards his clerical and administrative costs; and
 - (b) he shall give to the debtor a statement in writing of the total amount of the deduction.

As from the appointed day for the purposes of the Decimal Currency Act 1969, paragraph (a) of this subsection shall have effect with the substitution for " one shilling " of " five new pence ".

- (5) An order of the Lord Chancellor under subsection (4) (a) above—
 - (a) may prescribe different sums in relation to different classes of cases;
 - (b) may be varied or revoked by a subsequent order made under that paragraph ; and
 - (c) shall be made by statutory instrument subject to annulment by resolution of either House of Parliament.

17 Interrelation with alternative remedies open to creditor

- (1) Where an attachment of earnings order has been made to secure maintenance payments, no order or warrant of commitment shall be issued in consequence of any proceedings for the enforcement of the related maintenance order begun before the making of the attachment of earnings order.

- (2) Where a county court has made an attachment of earnings order to secure the payment of a judgment debt—
 - (a) no order or warrant of commitment shall be issued in consequence of any proceedings for the enforcement of the debt begun before the making of the attachment of earnings order; and
 - (b) so long as the order is in force no execution for the recovery of the debt shall issue against any property of the debtor without the leave of the county court.
- (3) An attachment of earnings order made to secure the payment of a judgment debt shall cease to have effect on the making of an order of commitment or the issue of a warrant of commitment for the enforcement of the debt.
- (4) An attachment of earnings order made to secure any payment specified in section 13 (4) (6) or (c) of this Act shall cease to have effect on the issue of a warrant committing the debtor to prison for default in making that payment.
- (5) Where an attachment of earnings order ceases to have effect under this section, the proper officer of the prescribed court shall give notice of the cessation to the person to whom the order was directed.

18 Variation, lapse and discharge of orders

- (1) The court may make an order discharging or varying an attachment of earnings order.
- (2) Where an order is varied, the employer shall, if he has been served with notice of the variation, comply with the order as varied; but he shall be under no liability for noncompliance before seven days have elapsed since the service.
- (3) Rules of court may make provision—
 - (a) as to the circumstances in which an attachment of earnings order may be varied or discharged by the court of its own motion;
 - (b) in the case of an attachment of earnings order made by a magistrates' court, for enabling a single justice, on an application made by the debtor on the ground of a material change in his resources and needs since the order was made or last varied, to vary the order for a period of not more than four weeks by an increase of the protected earnings rate ;
 - (c) excluding, in the case of any such application as is referred to in paragraph (b) above, the operation of section 20(2) of the Act of 1958 (which requires applications to be made by complaint).

This subsection is without prejudice to any other power to make rules of court.

- (4) Where an attachment of earnings order has been made and the person to whom it is directed ceases to have the debtor in his employment, the order shall lapse (except as respects deduction from earnings paid after the cesser and payment to the collecting officer of amounts deducted at any time) and be of no effect unless and until the court again directs it to a person (whether the same as before or another) who appears to the court to have the debtor in his employment.
- (5) The lapse of an order under subsection (4) above shall not prevent its being treated as remaining in force for other purposes.
- (6) Where an attachment of earnings order—

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- (a) ceases to have effect under section 9(2) of the Act of 1958 (registration of related maintenance order, committal of debtor for arrears, etc.) or under section 17 of this Act; or
- (b) is discharged under this section,

the person to whom the order has been directed shall not incur any liability in consequence of his treating the order as still in force at any time before the expiration of seven days from the date when the notice required by the said section 9(2) or section 17 or, as the case may be, a copy of the discharging order is served on him.

- (7) Where, in the case of an attachment of earnings order made otherwise than to secure maintenance payments, the whole amount payable under the relevant adjudication has been paid, and also any relevant costs, the court shall give notice to the employer that no further compliance with the order is required

19 Application of sums received by collecting officer

- (1) Subject to subsection (3) below, the collecting officer to whom a person makes payments in compliance with an attachment of earnings order shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order, as are deductible from those payments, deal with the sums paid in the same way as he would if they had been paid by the debtor to satisfy the relevant adjudication.
- (2) Any sums paid to the collecting officer under an attachment of earnings order made to secure maintenance payments shall, when paid to the person entitled to receive those payments, be deemed to be payments made by the debtor (with such deductions, if any, in respect of income tax as the debtor is entitled or required to make) so as to discharge—
 - (a) first, any sums for the time being due and unpaid under the related maintenance order (a sum due at an earlier date being discharged before a sum due at a later date); and
 - (b) secondly, any costs incurred in proceedings relating to the related maintenance order which were payable by the debtor when the attachment of earnings order was made or last varied.
- (3) Where a county court makes an attachment of earnings order to secure the payment of a judgment debt and also, under section 29(1) of this Act, orders the debtor to furnish to the court a list of all his creditors, sums paid to the collecting officer in compliance with the attachment of earnings order shall not be dealt with by him as mentioned in subsection (1) above, but shall be retained by him pending the decision of the court whether or not to make an administration order and shall then be dealt with by him as the court may direct.

20 Power of court to obtain statements of earnings etc.

- (1) Where in any proceedings a court has power to make an attachment of earnings order, it may—
 - (a) order the debtor to give to the court, within a specified period, a statement signed by him of—
 - (i) the name and address of any person by whom earnings are paid to him ;
 - (ii) specified particulars as to his earnings and anticipated earnings, and as to his resources and needs; and

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- (iii) specified particulars for the purpose of enabling the debtor to be identified by any employer of his;
 - (b) order any person appearing to the court to have the debtor in his employment to give to the court, within a specified period, a statement signed by him or on his behalf of specified particulars of the debtor's earnings and anticipated earnings.
- (2) Where an attachment of earnings order has been made, the court may at any time thereafter while the order is in force make such an order as is described in subsection (1)(a) or (b) above.
- (3) In the case of an application to a magistrates' court for an attachment of earnings order, or for the variation or discharge of such an order, the power to make an order under subsection (1) or (2) above shall be exercisable also, before the hearing of the application, by a single justice.
- (4) Without prejudice to subsections (1) to (3) above, rules of court may provide that where notice of an application for an attachment of earnings order is served on the debtor, it shall include a requirement that he shall give to the court, within such period and in such manner as may be prescribed, a statement in writing of the matters specified in subsection (1)(a) above and of any other prescribed matters which are, or may be, relevant under section 15 of this Act to the determination of the normal deduction rate and the protected earnings rate to be specified in any order made on the application.
- (5) In any proceedings in which a court has power to make an attachment of earnings order, and in any proceedings for the making, variation or discharge of such an order, a document purporting to be a statement given to the court in compliance with an order under subsection (1)(a) or (b) above, or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in subsection (4) above, shall, in the absence of proof to the contrary, be deemed to be a statement so given and shall be evidence of the facts stated therein.

21 Obligation of debtor and his employers to notify changes of employment and earnings

While an attachment of earnings order is in force—

- (a) the debtor shall from time to time notify the court in writing of every occasion on which he leaves any employment or becomes employed or re-employed not later (in each case) than seven days from the date, on which he did so ;
- (b) the debtor shall, on any occasion when he becomes employed or re-employed, include in his notification under paragraph (a) above particulars of his earnings and anticipated earnings from the relevant employment ; and
- (c) any person who becomes the debtor's employer and knows that the order is in force and by what court it was made shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge (whichever is the later) notify that court in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.

22 Power of court to determine whether particular payments are earnings

- (1) Where an attachment of earnings order is in force, the court shall, on the application of a person specified in subsection (2) below, determine whether payments to the

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debtor of a particular class or description specified by the application are earnings for the purposes of the order; and the employer shall be entitled to give effect to any determination for the time being in force under this section.

- (2) The persons referred to in subsection (1) above are—
 - (a) the employer;
 - (b) the debtor;
 - (c) the person to whom payment under the relevant adjudication is required to be made (whether directly or through an officer of any court); and
 - (d) without prejudice to paragraph (c) above, where the application is in respect of an attachment of earnings order made to secure payments under a magistrates' court maintenance order, the collecting officer.
- (3) Where an application under this section is made by the employer, he shall not incur any liability for non-compliance with the order as respects any payments of the class or description specified by the application which are made by him to the debtor while the application, or any appeal in consequence thereof, is pending; but this subsection shall not, unless the court otherwise orders, apply as respects such payments if the employer subsequently withdraws the application or, as the case may be, abandons the appeal.

23 Consolidated orders

- (1) The powers of a county court under sections 13 and 14 of this Act shall include power to make an attachment of earnings order to secure the payment of any number of judgment debts; and the powers of a magistrates' court under those sections shall include power to make an attachment of earnings order to secure the discharge of any number of such liabilities as are specified in section 13(4).
- (2) An attachment of earnings order made by virtue of this section shall be known as a consolidated attachment order.
- (3) The power to make a consolidated attachment order shall be exercised subject to and in accordance with rules of court; and rules made for the purposes of this section may provide—
 - (a) for the transfer from one court to another—
 - (i) of an attachment of earnings order, or any proceedings for or arising out of such an order ; and
 - (ii) of functions relating to the enforcement of any liability capable of being secured by attachment of earnings;
 - (b) for enabling a court to which any order, proceedings or functions have been transferred under the rules to vary or discharge an attachment of earnings order made by another court and to replace it (if the court thinks fit) with a consolidated attachment order;
 - (c) for the cases in which any power exercisable under this section or the rules may be exercised by a court of its own motion or on the application of a prescribed person;
 - (d) for requiring the clerk or registrar of a court who receives payments made to him in compliance with an attachment of earnings order, instead of complying with section 19 of this Act, to deal with them as directed by the court or the rules; and
 - (e) for modifying or excluding provisions of this Part of this Act, section 9 or 20 of the Act of 1958 or Part III of the Act of 1952, but only so far as may

be necessary or expedient for securing conformity with the operation of rules made by virtue of paragraphs (a) to (d) of this subsection.

- (4) Subsection (3) above is without prejudice to any other power to make rules.

24 Provisions as to persons employed under the Crown

- (1) The fact that an attachment of earnings order is made at the suit of the Crown shall not prevent its operation at any time when the debtor is in the employment of the Crown.
- (2) Where a debtor is in the employment of the Crown and an attachment of earnings order is made in respect of him, then for the purposes of this Part of this Act—
- (a) the chief officer for the time being of the department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment (any transfer of the debtor from one department, office or body to another being treated as a change of employment); and
 - (b) any earnings paid by the Crown or a Minister of the Crown, or out of the public revenue of the United Kingdom, shall be treated as paid by the said chief officer.
- (3) If any question arises, in proceedings for or arising out of an attachment of earnings order, as to what department, office or other body is concerned for the purposes of this section, or as to who for those purposes is the chief officer thereof, the question shall be referred to and determined by the Minister for the Civil Service; but that Minister shall not be under any obligation to consider a reference under this subsection unless it is made by the court.
- (4) A document purporting to set out a determination of the said Minister under subsection (3) above and to be signed by an official of the Civil Service Department shall, in any such proceedings as are mentioned in that subsection, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.
- (5) This Part of this Act shall have effect notwithstanding any enactment passed before this Act and preventing or avoiding the attachment or diversion of sums due to a person in respect of service under the Crown, whether by way of remuneration, pension or otherwise.

25 Enforcement provisions

- (1) If, after being served with notice of an application to a county court for an attachment of earnings order or for the variation of such an order, the debtor fails to attend on the day and at the time specified for any hearing of the application, the court may adjourn the hearing and order him to attend at a specified time on another day; and if the debtor—
- (a) fails to attend at that time on that day ; or
 - (b) attends, but refuses to be sworn or give evidence,
- he may be ordered by the judge to be imprisoned for not more than fourteen days.
- (2) Subject to this section, a person commits an offence if—
- (a) being required by section 16(1) or 18(2) of this Act to comply with an attachment of earnings order, he fails to do so ; or

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- (b) being required by section 16(2) of this Act to give a notice for the purposes of that subsection, he fails to give it, or fails to give it within the time required by that subsection ; or
 - (c) he fails to comply with an order under section 20(1) of this Act or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in section 20(4), or fails (in either case) to comply within the time required by the order or notice; or
 - (d) he fails to comply with section 21 of this Act; or
 - (e) he gives a notice for the purposes of section 16(2) of this Act, or a notification for the purposes of section 21 thereof, which he knows to be false in a material particular or recklessly gives such a notice or notification which is false in a material particular ; or
 - (f) in purported compliance with section 16(2) or 21 of this Act, or with an order under section 20(1) thereof, or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in section 20(4), he makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular.
- (3) Where a person commits an offence under subsection (2) above in relation to proceedings in, or to an attachment of earnings order made by, the High Court or a county court, he shall be liable on summary conviction to a fine of not more than £25 or he may be ordered by a judge of the High Court or the county court judge (as the case may be) to pay a fine of not more than £25 or, in the case of an offence specified in subsection (4) below, to be imprisoned for not more than fourteen days; and where a person commits such an offence otherwise than as mentioned above in this subsection, he shall be liable on summary conviction to a fine of not more than £25.
- (4) The offences referred to above in the case of which a judge may impose imprisonment are—
- (a) an offence under subsection (2)(c) or (d), if committed by the debtor;
 - (b) an offence under subsection (2)(e) or (f), whether committed by the debtor or any other person.
- (5) It shall be a defence—
- (a) for a person charged with an offence under subsection (2)(a) above to prove that he took all reasonable steps to comply with the attachment of earnings order in question;
 - (b) for a person charged with an offence under subsection (2)(b) above to prove that he did not know, and could not reasonably be expected to know, that the debtor was not in his employment or (as the case may be) had ceased to be so and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.
- (6) Where a person is convicted or dealt with for an offence under subsection (2)(a) above, the court may order him to pay, to whoever is the collecting officer of the court for the purposes of the attachment of earnings order in question, any sums deducted by that person from the debtor's earnings and not already paid to the collecting officer.
- (7) Where under this section a person is ordered by a judge of the High Court or a county court judge to be imprisoned, the judge may at any time revoke the order and, if the person is already in custody, order his discharge.

- (8) Any fine imposed by a judge of the High Court under subsection (3) above and any sums ordered by the High Court to be paid under subsection (6) above shall be recoverable in the same way as a fine imposed by that court in the exercise of its jurisdiction to punish for contempt of court; section 179 of the County Courts Act 1959 (enforcement of fines) shall apply to payment of a fine imposed by a county court judge under subsection (3) and of any sums ordered by a county court judge to be paid under subsection (6); and any sum ordered by a magistrates' court to be paid under subsection (6) shall be recoverable as a sum adjudged to be paid on a conviction by that court.
- (9) For the purposes of section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), subsection (3) above shall be treated as an enactment enabling the High Court or a county court to deal with an offence under subsection (2) above as if it were contempt of court.
- (10) In this section references to proceedings in a court are to proceedings in which that court has power to make an attachment of earnings order or has made such an order.

26 Meaning of " earnings "

- (1) For the purposes of this Act, but subject to the following subsection, " earnings " are any sums payable to a person—
- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service);
 - (b) by way of pension (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment).
- (2) The following shall not be treated as earnings:—
- (a) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;
 - (b) pay or allowances payable to the debtor as a member of Her Majesty's forces ;
 - (c) pension, allowances or benefit payable under any of the enactments specified in Schedule 6 to this Act (being enactments relating to social security);
 - (d) pension or allowances payable in respect of disablement or disability;
 - (e) wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat.
- (3) In subsection (2)(e) above, expressions used in the Merchant Shipping Act 1894 have the same meanings as in that Act.

27 Consequential amendments of 1958 Act

- (1) The following provisions of the Act of 1958 (as amended by this section), that is to say—
- (a) section 9(2), (4) and (5) (cases in which attachment of earnings order ceases to have effect or is to be varied or discharged); and
 - (b) section 20 (procedure in magistrates' courts with respect to attachment of earnings orders),

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shall be construed as if they were contained in this Part of this Act.

(2) The provisions of the Act of 1958 which are specified in Part I of Schedule 7 to this Act shall have effect with the amendments there specified; and in accordance with this section, sections 9 and 20 of that Act (omitting subsection (6) of section 20) shall have effect as set out in Part II of that Schedule.

(3) In section 1 of the Act of 1958 (introductory provisions setting out the scheme of Part I as respects registration in one court of a maintenance order made by another), after subsection (1) there shall be inserted the following subsection:—

“(1A) In the following provisions of this Act " maintenance order " means any order specified in Schedule 8 to the Administration of Justice Act 1970.”.

28 Other provisions for interpretation of Part II

(1) In this Part of this Act, except where the context otherwise requires—

" the Act of 1952 " and " the Act of 1958 " mean respectively the Magistrates' Courts Act 1952 and the Maintenance Orders Act 1958 ;

" administration order " means an order made under, and so referred to in, Part VII of the County Courts Act 1959;

" the court ", in relation to an attachment of earnings order, means the court which made the order, subject to rules of court as to the venue for, and the transfer of, proceedings in county courts and magistrates' courts ;

" debtor ", " judgment debt ", and " relevant adjudication " have the meanings given by section 13 of this Act;

" the employer " in relation to an attachment of earnings order, means the person who is required by the order to make deductions from earnings paid by him to the debtor;

" High Court maintenance order ", " county court maintenance order " and " magistrates' court maintenance order " mean respectively a maintenance order enforceable by the High Court, a county court and a magistrates' court;

" legal aid contribution order " means an order under section 76 of the Criminal Justice Act 1967 ;

" maintenance order " means any order specified in Schedule 8 to this Act and includes such an order which has been discharged, if any arrears are recoverable thereunder;

" maintenance payments " means payments required under a maintenance order;

" prescribed " means prescribed by rules of court; and

" rules of court " in relation to a magistrates' court, means rules under section 15 of the Justices of the Peace Act 1949 ;

and, in relation to a magistrates' court, references to a single justice are to a justice of the peace acting for the same petty sessions area as the court.

(2) Any reference in this Act to sums payable under a judgment or order, or to the payment of such sums, includes a reference to costs and the payment of them ; and the references in sections 15(4) and 18(7) to relevant costs are to any costs of the proceedings in which the attachment of earnings order in question was made, being costs which the debtor is liable to pay.

- (3) References in sections 15(5)(b), 18(3)(b) and 20(1)(a) of this Act to the debtor's needs include references to the needs of any person for whom he must, or reasonably may, provide.
- (4) Earnings which, in pursuance of a scheme under the Dock Workers (Regulation of Employment) Act 1946, are paid to a debtor by a body responsible for the local administration of the scheme acting as agent for the debtor's employer or as delegate of the body responsible for the general administration of the scheme shall be treated for the purposes of this Part of this Act as paid to the debtor by the last-mentioned body acting as principal.
- (5) This Part of this Act, so far as it relates to magistrates' courts, and Part III of the Act of 1952 shall be construed as if this Part were contained in that Part.

Supplementary

29 Extension of county court's power to make administration order

- (1) Where, on an application to a county court for an attachment of earnings order to secure the payment of a judgment debt, it appears to the court that the debtor also has other debts, the court—
 - (a) shall consider whether the case may be one in which all the debtor's liabilities should be dealt with together and that for that purpose an order should be made for the administration of his estate ; and
 - (b) if of opinion that it may be such a case, shall have power (whether or not it makes the attachment of earnings order applied for), with a view to making an administration order, to order the debtor to furnish to the court a list of all his creditors and the amounts which he owes to them respectively.
- (2) If, on receipt of the list referred to in subsection (1)(b) above, it appears to the court that the debtor's whole indebtedness amounts to not more than the amount for the time being specified in section 148(1) (b) of the County Courts Act 1959 (limit of total indebtedness governing county court's power to make administration order on application of debtor), the court may make such an order in respect of the debtor's estate, subject however to section 20(3) of the Administration of Justice Act 1965 (which requires that, before such an order is made, notice is to be given to all the creditors and thereafter restricts the right of any creditor to institute bankruptcy proceedings).
- (3) Where under subsection (1) above a county court orders a person to furnish to it a list of all his creditors, the making of the order shall, for the purposes of the Bankruptcy Act 1914, be an act of bankruptcy by him.
- (4) Nothing in this section is to be taken as prejudicing any right of a debtor to apply, under section 148 of the County Courts Act 1959, for an administration order.
- (5) In Part VII of the said Act of 1959 (administration orders)—
 - (a) in section 153 (appropriation of money paid under administration order), paragraph (a) (which requires appropriation first in satisfaction of the plaintiff's costs) shall be omitted and, for the word " next " there shall be substituted the word " first "; and
 - (b) in section 156(1) (power of Lord Chancellor to make rules about administration orders), after the words " the objects of this Part of this Act"

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there shall be inserted the words " and section 29 of the Administration of Justice Act 1970 ".

30 Consequential and transitional provisions

- (1) Sections 11 and 12 of this Act shall not affect the validity of an order made, or warrant issued, by a court before the coming into force of those sections for the committal of a person to prison in respect of any description of liability for which there remains power under either of those sections for that or any other court to commit, nor affect the continuance of any proceedings, or the exercise of any power, in connection with such an order or warrant; but subject to this any order or warrant of committal made or issued by any court before the appointed day shall on that day cease to have effect if it is one which, in consequence of the said sections 11 and 12, that court would, on and after that day, have no jurisdiction to make.
- (2) Any person who immediately before the appointed day was in custody under an order or warrant which ceases to have effect by virtue of subsection (1) above shall be discharged.
- (3) As from the appointed day, an attachment of earnings order made before that day under Part II of the Act of 1958 (including an order made under that Part of that Act as applied by section 46 or 79 of the Criminal Justice Act 1967) shall take effect as an attachment of earnings order made under the corresponding power in this Part of this Act, and the provisions of this Part of this Act shall apply to it accordingly, so far as they are capable of doing so.
- (4) Rules of court may make such provision as the rule-making authority considers requisite—
 - (a) for enabling an attachment of earnings order to which subsection (3) above applies to be varied so as to bring it into conformity, as from the appointed day, with the provisions of this Part of this Act, or to be replaced by an attachment of earnings order having effect as if made under the corresponding power in this Part of this Act;
 - (b) to secure that anything required or authorised by this Part of this Act to be done in relation to an attachment of earnings order made thereunder is required or, as the case may be, authorised to be done in relation to an attachment of earnings order to which the said subsection (3) applies.
- (5) In this section, " the appointed day " means the day appointed under section 54 of this Act for the coming into force of this Part of this Act.

PART III

DISCOVERY AND RELATED PROCEDURES

31 Power of court to order disclosure, etc. of documents before commencement of proceedings

On the application, in accordance with rules of court, of a person who appears to the High Court to be likely to be a party to subsequent proceedings in that court in which a claim in respect of personal injuries to a person or in respect of a person's death is likely to be made, the High Court shall, in such circumstances as may be specified

in the rules, have power to order a person who appears to the court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim—

- (a) to disclose whether those documents are in his possession, custody or power ;
and
- (b) to produce to the applicant such of those documents as are in his possession, custody or power.

32 Extension of existing powers of court to order disclosure of documents, inspection of property, etc.

- (1) On the application, in accordance with rules of court, of a party to any proceedings in which a claim in respect of personal injuries to a person or in respect of a person's death is made, the High Court shall, in such circumstances as may be specified in the rules, have power to order a person who is not a party to the proceedings and who appears to the court to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising out of that claim—
 - (a) to disclose whether those documents are in his possession, custody or power ;
and
 - (b) to produce to the applicant such of those documents as are in his possession, custody or power.
- (2) On the application, in accordance with rules of court, of a party to any such proceedings as are referred to in subsection (1) above, the High Court shall, in such circumstances as may be specified in the rules, have power to make an order providing for any one or more of the following matters, that is to say—
 - (a) the inspection, photographing, preservation, custody and detention of property which is not the property of, or in the possession of, any party to the proceedings but which is the subject matter of the proceedings or as to which any question arises in the proceedings;
 - (b) the taking of samples of any such property as is mentioned in paragraph (a) above and the carrying out of any experiment on or with any such property.
- (3) The foregoing provisions of this section are without prejudice to the exercise by the High Court of any power to make orders which is exercisable apart from those provisions.
- (4) In this section " property " includes any land, chattel or other corporeal property of any description.

33 Provisions supplementary to ss. 31 and 32

- (1) The power to make rules of court under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 shall include power to make rules of court as to the circumstances in which an order under section 31 or 32 of this Act can be made; and any such rules may include such incidental, supplementary and consequential provisions as the authority making the rules may consider necessary or expedient.
- (2) Without prejudice to the generality of subsection (1) above, rules of court shall be made under the said section 99 for the purpose of ensuring that the costs of and incidental to proceedings for an order under section 31 or 32 of this Act incurred by

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the person against whom the order is sought shall be awarded to that person unless the court otherwise directs.

- (3) In this Part of this Act " personal injuries " includes any disease and any impairment of a person's physical or mental condition.

34 Application of ss. 31 to 33 to county courts and High Court in Northern Ireland

- (1) Sections 31, 32 and 33 of this Act shall have effect in relation to county courts in England and Wales as they have effect in relation to the High Court, as if in those sections references to rules of court and to section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 included references to county court rules and to section 102 of the County Courts Act 1959.
- (2) In the application of the provisions of this Part of this Act to Northern Ireland, " the High Court" means the High Court of Justice in Northern Ireland, the reference in section 33(1) to section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 shall be construed as a reference to section 7 of the Northern Ireland Act 1962, and subsection (1) above shall be omitted.

35 Application to Crown

- (1) This Part of this Act shall bind the Crown.
- (2) Section 21 of the Administration of Justice Act 1969 (power of court to order inspection, custody, etc. of property pending commencement of action) shall bind the Crown so far as it relates to property (within the meaning of that section) as to which it appears to the court that it may become the subject-matter of subsequent proceedings involving a claim in respect of personal injuries to a person or in respect of a person's death.
- (3) A court shall not make an order under section 31 or 32 of this Act, nor an order under section 21 of the said Act of 1969, if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.
- (4) In this section references to the Crown do not include references to Her Majesty in Her private capacity nor to Her Majesty in right of Her Duchy of Lancaster, nor to the Duke of Cornwall.

PART IV

ACTIONS BY MORTGAGEES FOR POSSESSION

36 Additional powers of court in action by mortgagee for possession of dwelling-house

- (1) Where the mortgagee under a mortgage of land which consists of or includes a dwelling-house brings an action in which he claims possession of the mortgaged property, not being an action for foreclosure in which a claim for possession of the mortgaged property is also made, the court may exercise any of the powers conferred on it by subsection (2) below if it appears to the court that in the event of its exercising the power the mortgagor is likely to be able within a reasonable period to pay any

sums due under the mortgage or to remedy a default consisting of a breach of any other obligation arising under or by virtue of the mortgage.

- (2) The court—
 - (a) may adjourn the proceedings, or
 - (b) on giving judgment, or making an order, for delivery of possession of the mortgaged property, or at any time before the execution of such judgment or order, may—
 - (i) stay or suspend execution of the judgment or order, or
 - (ii) postpone the date for delivery of possession,for such period or periods as the court thinks reasonable.
- (3) Any such adjournment, stay, suspension or postponement as is referred to in subsection (2) above may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedying of any default as the court thinks fit.
- (4) The court may from time to time vary or revoke any condition imposed by virtue of this section.
- (5) This section shall have effect in relation to such an action as is referred to in subsection (1) above begun before the date on which this section comes into force unless in that action judgment has been given, or an order made, for delivery of possession of the mortgaged property and that judgment or order was executed before that date.
- (6) In the application of this section to Northern Ireland, " the court" means a judge of the High Court in Northern Ireland, and in subsection (1) the words from " not being " to " made " shall be omitted.

37 Exclusive jurisdiction of county court in certain mortgage actions

- (1) Where a mortgage of land consists of or includes a dwelling-house and no part of the land is situated in Greater London or the county palatine of Lancaster, then, subject to subsection (2) below, if a county court has jurisdiction by virtue of section 48 of the County Courts Act 1959 or section 38 of this Act to hear and determine an action in which the mortgagee under that mortgage claims possession of the mortgaged property, no court other than a county court shall have jurisdiction to hear and determine that action.
- (2) This section shall not apply to an action for foreclosure or sale in which a claim for possession of the mortgaged property is also made.
- (3) Nothing in this section shall be taken as affecting the jurisdiction of any court to hear and determine an action which is pending in that court at the date on which this section comes into force.

38 Further provisions as to actions in county court for possession of mortgaged land

- (1) If an action in which the mortgagee under a mortgage of land claims possession of the mortgaged property would, by virtue of section 48 of the County Courts Act 1959, be within the jurisdiction of a county court had that claim been the only claim made in the action, a county court shall have jurisdiction to hear and determine the action notwithstanding that a claim for payment by the mortgagor of the amount owing in

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respect of the mortgage is also made in the action and that by reason of the amount claimed the last-mentioned claim is not within the jurisdiction of a county court.

- (2) Nothing in subsection (1) above shall be taken as empowering a county court to hear and determine an action for foreclosure or sale which is not within the jurisdiction of a county court.
- (3) Without prejudice to section 102(3)(c) of the County Courts Act 1959 (which enables county court rules to authorise the registrar to hear and determine certain proceedings and actions), the registrar of a county court may hear and determine any action in which the mortgagee under a mortgage of land claims possession of the mortgaged land, being an action which is within the jurisdiction of a county court.

39 Interpretation of Part IV

- (1) In this Part of this Act—
 - " dwelling-house " includes any building or part thereof which is used as a dwelling;
 - " mortgage " includes a charge and " mortgagor " and " mortgagee " shall be construed accordingly ;
 - " mortgagor " and " mortgagee " includes any person deriving title under the original mortgagor or mortgagee.
- (2) The fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being a dwelling-house for the purposes of this Part of this Act.

PART V

MISCELLANEOUS PROVISIONS

40 Punishment for unlawful harassment of debtors

- (1) A person commits an offence if, with the object of coercing another person to pay money claimed from the other as a debt due under a contract, he—
 - (a) harasses the other with demands for payment which, in respect of their frequency or the manner or occasion of making any such demand, or of any threat or publicity by which any demand is accompanied, are calculated to subject him or members of his family or household to alarm, distress or humiliation;
 - (b) falsely represents, in relation to the money claimed, that criminal proceedings lie for failure to pay it ;
 - (c) falsely represents himself to be authorised in some official capacity to claim or enforce payment; or
 - (d) utters a document falsely represented by him to have some official character or purporting to have some official character which he knows it has not.
- (2) A person may be guilty of an offence by virtue of subsection (1)(a) above if he concert with others in the taking of such action as is described in that paragraph, notwithstanding that his own course of conduct does not by itself amount to harassment.

- (3) Subsection (1)(a) above does not apply to anything done by a person which is reasonable (and otherwise permissible in law) for the purpose—
- (a) of securing the discharge of an obligation due, or believed by him to be due, to himself or to persons for whom he acts, or protecting himself or them from future loss; or
 - (b) of the enforcement of any liability by legal process.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to a fine of not more than £100, and on a second or subsequent conviction to a fine of not more than £400.

41 Recovery of costs and compensation awarded by magistrates, assizes, quarter sessions, etc.

- (1) In the cases specified in Part I of Schedule 9 to this Act (being cases where, in criminal proceedings, a court makes an order against the accused for the payment of costs, compensation, etc.) any sum required to be paid by such an order as is there mentioned shall be treated, for the purposes of collection and enforcement, as if it had been adjudged to be paid on a conviction by a magistrates' court, being—
- (a) where the order is made by a magistrates' court, that court; and
 - (b) in any other case, such magistrates' court as may be specified in the order.
- (2) In the cases specified in Part II of the said Schedule (being cases where a court makes an order against the prosecutor in criminal proceedings, and certain cases where an order for costs arises out of an appeal to quarter sessions in proceedings which are not criminal) any sum required to be paid by such an order as is there mentioned shall be enforceable as if the order were for the payment of money recoverable summarily as a civil debt.
- (3) Without prejudice to the foregoing subsections, but subject to subsection (4) below, in the cases specified in Schedule 9 to this Act any sum required to be paid by such an order as is there mentioned shall be enforceable by the High Court or a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (4) Subsection (3) above shall not authorise the enforcement by a county court of payment of any sum exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.
- (5) References in subsections (1) and (2) above to orders mentioned in Schedule 9 to this Act include references to orders made before the day appointed under section 54 of this Act for the coming into force of this section, except an order in the case of which the person entitled to payment has before that day begun proceedings for its enforcement; and in relation to such a case the enactments in force immediately before that day with reference to the enforcement of such an order shall continue to apply notwithstanding any repeal effected by this Act, without prejudice however to section 13(6) of this Act.

For the purpose of the operation of subsection (1) above with respect to an order made (otherwise than by a magistrates' court) before the day so appointed, the order shall be deemed to specify the magistrates' court for the petty sessions area in which the person subject to the order for the time being resides.

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- (6) In the Magistrates' Courts Act 1952—
- (a) in section 72(1) (transfer of fine order in England and Wales) and in section 72A(1) (the same as between England and Scotland), for the words from the beginning to " the offender " there shall be substituted in each case the words " Where a magistrates' court has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum and it appears to the court that the person "; and
 - (b) in section 72(2) (enforcement functions on transfer of fine in England and Wales), for the words " the convicting court" there shall be substituted the words " the court which made the order ".
- (7) In section 32(2) of the Courts-Martial (Appeals) Act 1968 (enforcement of order for costs against unsuccessful appellant or applicant for leave to appeal to that court), for paragraph (a) there shall be substituted the following:—
- “(a) in the same manner as an order for costs made by the criminal division of the Court of Appeal under section 25 of the Criminal Appeal Act 1968; or”.
- (8) In any of the cases specified in Part I of Schedule 9 to this Act, a court (other than a magistrates' court) which makes such an order as is there mentioned may, if it thinks that the period for which the person subject to the order is liable apart from this subsection to be committed to prison for default under the order is insufficient, specify a longer period for that purpose, but not exceeding twelve months; and then, in the case of default—
- (a) the specified period shall be substituted as the maximum for which the person may be imprisoned under section 64 of the Magistrates' Courts Act 1952 (distress or committal); and
 - (b) paragraph 2 of Schedule 3 to that Act shall apply, with the necessary modifications, for the reduction of the specified period where, at the time of the person's imprisonment, he has made part payment under the order.
- (9) Where a magistrates' court has power to commit a person to prison for default in paying a sum due under an order enforceable as mentioned in this section, the court shall not exercise the power unless it is satisfied that all other methods of enforcing payment have been tried or considered and either have proved unsuccessful or are likely to do so.

42 Enforcement of fines

In section 45(1) of the Criminal Justice Act 1967 (which enables payment of a fine to be enforced by High Court or county court process, excepting execution on goods and imprisonment) after the words " or by imprisonment" there shall be inserted the words " or attachment of earnings ".

43 Procedure for recovery of legal aid contributions in criminal cases

- (1) The appropriate authority for the purposes of section 76 of the Criminal Justice Act 1967 (that is to say, the authority to whom a recipient of legal aid in a criminal case may under that section be ordered to pay a contribution towards the costs) shall be the clerk of a magistrates' court (referred to in this section as " the collecting court") specified in the order; and the court so specified shall be—

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- (a) in a case where the court making the legal aid contribution order is itself a magistrates' court, that court;
 - (b) in a case where the order is made on the disposal of an appeal from a magistrates' court, or in respect of a person who was committed (whether for trial or otherwise) by a magistrates' court to assizes or quarter sessions, the court from which the appeal is brought or, as the case may be, which committed him ; and
 - (c) in any other case, a magistrates' court nominated by the court making the order.
- (2) Subject to subsection (5) below, any sum required to be paid by a legal aid contribution order shall be recoverable as if it had been adjudged to be paid by an order of the collecting court, subject to and in accordance with the provisions of Schedule 10 to this Act (being provisions which mainly apply the same enforcement procedure as for maintenance orders).
- (3) Without prejudice to subsection (2) above, but subject to the following subsections, payment of any sum required to be paid by a legal aid contribution order shall be enforceable by the High Court or a county court (otherwise than by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings) as if the sum were due to the clerk of the collecting court in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (4) The last foregoing subsection shall not authorise the enforcement by a county court of payment of any sum exceeding the limit for the time being in force under section 40 of the County Courts Act 1959 on the amount of any penalty recoverable by statute in a county court.
- (5) Where a legal aid contribution order has been made by the Courts-Martial Appeal Court in respect of a member of Her Majesty's armed forces and the Secretary of State notifies the collecting court that any sum payable under the order will be recovered by deductions from the person's pay in pursuance of one of the enactments amended by subsection (6) below, the collecting court shall not enforce payment of any such sum unless and until the Secretary of State subsequently notifies it that the person is no longer a member of those forces and that the sum has not been fully recovered.
- (6) In section 150(1) of the Army Act 1955 and section 150(1) of the Air Force Act 1955 (enforcement by deduction from service-man's pay of certain orders made by civil courts), after paragraph (c) there shall be inserted—
 - “(d) a contribution towards the costs of legal aid ordered for him, under Part IV of the Criminal Justice Act 1967, for the purpose of, or in connection with, an appeal to or from the Courts-Martial Appeal Court”;and in section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 (which enables maintenance payments due from a person in naval or marine service to be recovered by deductions from pay), after paragraph (b) there shall be inserted—
 - “(c) for the payment of any contribution towards the costs of legal aid ordered for him, under Part IV of the Criminal Justice Act 1967, for the purpose of, or in connection with, an appeal to or from the Courts-Martial Appeal Court.”
- (7) The clerk of the collecting court shall not take proceedings by virtue of subsection (3) above to recover any sum required to be paid by a legal aid contribution order unless authorised to do so by the court.

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- (8) Any expenses incurred by the clerk of a magistrates' court in recovering any sum so required to be paid shall be treated for the purposes of Part IV of the Justices of the Peace Act 1949 as expenses of the magistrates' court committee.
- (9) Nothing in this section applies to a legal aid contribution order made before the day appointed under section 54 of this Act for the coming into force of this section ; and in relation to such an order the enactments in force immediately before that day and relating to the enforcement of such an order shall continue to apply notwithstanding any repeal effected by this Act, without prejudice however to section 13(6) of this Act.
- (10) In this section " legal aid contribution order " means an order under section 76 of the Criminal Justice Act 1967.

44 Interest on judgment debts

- (1) The Lord Chancellor may by order made with the concurrence of the Treasury direct that section 17 of the Judgments Act 1838 (as that enactment has effect for the time being whether by virtue of this subsection or otherwise) shall be amended so as to substitute for the rate specified in that section as the rate at which judgment debts shall carry interest such rate as may be specified in the order.
- (2) An order under this section shall be made by statutory instrument which shall be laid before Parliament after being made.

45 Removal of limit on number of county court judges assignable to a district and of certain registrars appointed jointly

- (1) There shall be no limit on the number of judges who may be assigned to a district by direction of the Lord Chancellor under section 4(4) of the County Courts Act 1959 and, accordingly, for the words in that subsection from "for a district" to " two judges " there shall be substituted the words " there shall be such number of judges for a district as may be specified in the direction " .
- (2) In section 18(3) of the said Act of 1959 (which enables the Lord Chancellor, in the case of a populous district, to appoint two persons to execute jointly the office of registrar for the district and on the death, etc. of a joint registrar either to appoint another joint registrar in his place or direct that the continuing registrar shall act as sole registrar)—
 - (a) for the words " in the case of a populous district, appoint two persons to execute jointly the office of registrar for the district" there shall be substituted the words " appoint two or more persons to execute jointly the office of registrar for a district "; and
 - (b) at the end there shall be added the words " or, as the case may be, that the continuing registrars shall execute jointly the office of registrar " .

and in the definition of " registrar " and " registrar of a county court" in section 201 of the said Act of 1959, after the word " two " there shall be inserted the words " or more " and after the word " either " there shall be inserted the words " or any " .
- (3) In section 84(3) of the Supreme Court of Judicature (Consolidation) Act 1925 (which makes, in relation to the office of district registrar, provision similar to that made by section 18(3) of the said Act of 1959), after the word "two" there shall be inserted the words " or more " and at the end there shall be added the words " or, as the case may be, that the continuing registrars shall execute jointly the office of district registrar " .

46 Deputy county court registrar not to act as such in certain proceedings

Section 29 of the County Courts Act 1959 (which provides that no officer of a county court shall, either by himself or his partner, be directly or indirectly engaged as solicitor or agent for any party in any proceedings in that court) shall have effect, and be deemed always to have had effect, as if after subsection (1) thereof there were inserted—

“(1A) Subsection (1) of this section shall not apply to a deputy registrar, but a deputy 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.”

47 Extension of power to make rules, etc. for purposes of [Rent Act 1968 \(c. 23\)](#)

Section 106 of the Rent Act 1968 (which empowers the Lord Chancellor or, when the Great Seal is in commission, any Lord Commissioner to make rules and give directions for the purpose of giving effect to the provisions of that Act specified in subsection (3) of that section) shall be amended as follows:—

- (a) in subsection (1), the words " Subject to subsection (3) below" shall be inserted at the beginning and the words " specified in subsection (3) below " shall be omitted;
- (b) for subsection (3) there shall be substituted—

“(3) The power conferred by subsection (1) above shall not be exercisable in relation to the provisions of Part IV or VI of this Act other than section 51(2).”

48 Variation in rate of payments in maintenance order registered in magistrates' court

- (1) Section 4 of the Maintenance Orders Act 1958 (which enables the rate of payments in a maintenance order registered in a magistrates' court under that Act to be varied by the court of registration) shall be amended in accordance with this section.
- (2) Subsection (3) of that section (rate of payments not to be varied upwards) shall cease to have effect in relation to any maintenance order as defined by section 28(1) of this Act, whether made or registered before or after the coming into force of this section.
- (3) In subsection (4) of that section (power of magistrates' court, on application for variation, to remit to the court which made the order), for the words " that, by reason of the Umitations imposed on the court's jurisdiction by the last foregoing subsection or for any other reason, it is " there shall be substituted the words " that it is for any reason ".

49 Amendments relating to guardianship of minors

- (1) Any order made under section 4(2) of the Family Law Reform Act 1969 (maintenance for persons between 18 and 21 who have been subject to an order under the Guardianship of Infants Acts) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.
- (2) In the Guardianship of Infants Act 1886—

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- (a) in section 5, the words from " and in every case " on wards (costs in custody proceedings); and
 - (b) in section 11 (rules of procedure) paragraph (a) and, in paragraph (c), the words " England or ",
- shall cease to have effect.

- (3) Subsection (1) of this section shall be deemed to have come into operation at the same time as section 4 of the said Act of 1969.

50 **Proof of age before magistrates**

Section 126(5) of the Magistrates' Courts Act 1952 (which relates to proof of age) shall have effect as if the provisions of that Act included—

- (a) section 1 of the First Offenders Act 1958 ; and
- (b) section 18, section 24(1) and (2) and section 33 of the Criminal Justice Act 1967.

51 **Minor amendments of *Children and Young Persons Act 1969 (c. 54)***

- (1) In sections 2(4) and 104 of the Act of 1952 the references to sections 20 and 21 of that Act (which are repealed by the Act of 1969 and replaced by section 6 of that Act) shall be construed as references to the said section 6; and for the purposes of section 126(5) of the Act of 1952 and section 70(3) of the Act of 1969 (which relate to proof of age) the said section 6 shall be deemed to be a provision of the Act of 1952 and not the Act of 1969.

- (2) The following paragraph shall be inserted after paragraph 1 of Schedule 4 to the Act of 1969 (transitional provisions and savings)—

“1A (1) Where—

- (a) before the date when section 1 of this Act comes into force any child or young person (hereafter in this paragraph referred to as " the relevant infant ") has been brought before a juvenile court under section 62 of the Children and Young Persons Act 1933 or has been brought before such a court by virtue of a provision of section 40 or 40A of the Education Act 1944 ; and
- (b) immediately before that date that court has neither made any order which it had power to make in respect of the relevant infant under the said section 62 nor dismissed the case,

nothing in paragraph 13 of Schedule 5 to this Act nor in any provision of Schedule 6 thereto shall prevent the proceedings before that court in respect of the relevant infant being continued; but the court shall in those proceedings have power to make any order which it has power to make in proceedings under section 1 of this Act and shall not have power to make any other order, and subsections (3), (4) and (5) of the said section 1 and subsections (10) and (13) of section 2 of this Act shall have effect accordingly with any necessary modifications.

- (2) For the purposes of subsection (12) of the said section 2, any order made in respect of the relevant infant by virtue of sub-paragraph (1) of this paragraph shall be deemed to be made under section 1 of this Act.

(3) Any record of a finding of the fact that the relevant infant is in need of care or protection made in pursuance of section 5 of the Children and Young Persons Act 1938 in any such proceedings as are referred to in sub-paragraph (1) of this paragraph shall, notwithstanding the repeal of the said section 5 by this Act, be admissible as evidence of that fact in those proceedings.”

(3) In this section " the Act of 1952 " and " the Act of 1969 " mean respectively the Magistrates' Courts Act 1952 and the Children and Young Persons Act 1969.

PART VI

GENERAL

52 Financial provisions

There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums payable under any other enactment out of moneys so provided.

53 Powers of Parliament of Northern Ireland

Notwithstanding anything in the Government of Ireland Act 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of section 24 or 37 of this Act.

54 Citation, interpretation, repeals, commencement and extent

- (1) This Act may be cited as the Administration of Justice Act 1970.
- (2) References in this Act to any enactment include references to that enactment as amended or extended by or under any other enactment, including this Act.
- (3) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) This Act shall come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument, and different days may be so appointed for different provisions of this Act, or for different purposes.
- (5) Except insofar as it amends, or authorises the amendment of, any enactment which extends to Scotland, this Act shall not extend to Scotland.
- (6) This section (except subsection (3)) and the following provisions only of this Act extend to Northern Ireland, that is to say—
 - (a) sections 1(6) and 27 and Schedules 2 and 7, so far as they relate to any enactment which extends to Northern Ireland, and section 2(5);
 - (b) Part III; and
 - (c) sections 36, 39, 43(6) and 53.

and the amendment of section 25 of the Court of Probate Act (Ireland) 1859 made by the said section 1(6) and Schedule 2 shall be treated for the purposes of section 6 of the Government of Ireland Act 1920 (which restricts the power of the Parliament of

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Northern Ireland to alter Acts of the Parliament of the United Kingdom passed after the day appointed for the purposes of that section) as having been made by an Act passed before that day.