



Administration of Justice Act 1973

1973 CHAPTER 15

PART II

MISCELLANEOUS

6 Jurisdiction of county courts in relation to land

- (1) In the enactments mentioned in Schedule 2 to this Act (which deal with the jurisdiction of county courts in actions relating to land, and connected matters) there shall be made the amendments required by that Schedule, in lieu of any amendment of the same words made by previous enactments; and the county court limit under any of the enactments amended by an entry in Part I of the Schedule shall be the amount specified in column 3 in that entry or such greater amount as Her Majesty may from time to time by Order in Council direct.
- (2) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.
- (3) No provision of this Act or of any Order in Council under this section shall affect the operation of section 49 of the County Courts Act 1959 or that of section 109(2)(a), (b) or (c) of that Act in the case of actions commenced before the coming into force of that provision.

7 Extension of power to refer proceedings or questions arising in proceedings in county courts to arbitration or for inquiry and report

- (1) In section 92 of the County Courts Act 1959 (which enables the judge, but not the registrar, of the court to refer proceedings to arbitration with the consent of the parties) there shall be made the following amendments—
 - (a) for subsection (1) there shall be substituted the following—

“(1) A county court may, in such cases as may be prescribed, order any proceedings to be referred to arbitration (whether with or without other matters within the jurisdiction of the court in dispute between

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the parties) to such person or persons (including the judge or registrar) and in such manner and on such terms as the court thinks just and reasonable.”; and

- (b) in subsection (2), for the word " judge " there shall be substituted the word " court ".

- (2) In section 93 of that Act (which enables the judge to refer proceedings or questions arising in proceedings for inquiry and report) there shall be made the following amendments—

- (a) in subsection (1), at the end, there shall be inserted the words " and, in such cases as may be prescribed by and subject to county court rules, the registrar may refer to a referee for inquiry and report any question arising in any proceedings. "; and
- (b) in subsection (2), after the word " judge ", there shall be inserted the words " or, as the case may be, the registrar ".

8 Extension of powers of court in action by mortgagee of dwelling-house

- (1) Where by a mortgage of land which consists of or includes a dwelling-house, or by any agreement between the mortgagee under such a mortgage and the mortgagor, the mortgagor is entitled or is to be permitted to pay the principal sum secured by instalments or otherwise to defer payment of it in whole or in part, but provision is also made for earlier payment in the event of any default by the mortgagor or of a demand by the mortgagee or otherwise, then for purposes of section 36 of the Administration of Justice Act 1970 (under which a court has power to delay giving a mortgagee possession of the mortgaged property so as to allow the mortgagor a reasonable time to pay any sums due under the mortgage) a court may treat as due under the mortgage on account of the principal sum secured and of interest on it only such amounts as the mortgagor would have expected to be required to pay if there had been no such provision for earlier payment.
- (2) A court shall not exercise by virtue of subsection (1) above the powers conferred by section 36 of the Administration of Justice Act 1970 unless it appears to the court not only that the mortgagor is likely to be able within a reasonable period to pay any amounts regarded (in accordance with subsection (1) above) as due on account of the principal sum secured, together with the interest on those amounts, but also that he is likely to be able by the end of that period to pay any further amounts that he would have expected to be required to pay by then on account of that sum and of interest on it if there had been no such provision as is referred to in subsection (1) above for earlier payment.
- (3) Where subsection (1) above would apply to an action in which a mortgagee only claimed possession of the mortgaged property, and the mortgagee brings an action for foreclosure (with or without also claiming possession of the property), then section 36 of the Administration of Justice Act 1970 together with subsections (1) and (2) above shall apply as they would apply if it were an action in which the mortgagee only claimed possession of the mortgaged property, except that—
- (a) section 36(2)(b) shall apply only in relation to any claim for possession; and
- (b) section 36(5) shall not apply.
- (4) For purposes of this section the expressions "dwelling-house", "mortgage", "mortgagee" and "mortgagor" shall be construed in the same way as for the purposes of Part IV of the Administration of Justice Act 1970.

- (5) This section shall have effect in relation to an action begun before the date on which this section comes into force if before that date judgment has not been given, nor an order made, in that action for delivery of possession of the mortgaged property and, where it is a question of subsection (3) above, an order nisi for foreclosure has not been made in that action.
- (6) In the application of this section to Northern Ireland, subsection (3) shall be omitted.

9 Judicial salaries

- (1) Subject to the following subsections, there shall be paid to—
- (a) Lords of Appeal in Ordinary ;
 - (b) judges of the Supreme Court in England and Wales other than the Lord Chancellor;
 - (c) judges of the Court of Session ;
 - (d) judges of the Supreme Court in Northern Ireland ;
 - (e) metropolitan stipendiary magistrates;
 - (f) stipendiary magistrates appointed under this Act;
- such salaries as may be determined, with the consent of the Minister for the Civil Service, by the Lord Chancellor or, in the case of judges of the Court of Session, by the Secretary of State.
- (2) Until otherwise determined under this section, there shall be paid to the holders of judicial office mentioned in paragraphs (a) to (e) of subsection (1) above the same salaries as at the coming into force of this section.
- (3) Any salary payable under this section may be increased, but not reduced, by a determination or further determination under this section.
- (4) The salary payable to any holder of judicial office under this section shall in each case be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected; but any abatement under this subsection shall be disregarded for the purposes of computing the pension payable to him in respect of that judicial office and any derivative benefit within the meaning of the Administration of Justice (Pensions) Act 1950 which depends upon eligibility for such a pension.
- (5) Salaries payable under this section shall be charged on and paid out of the Consolidated Fund of the United Kingdom.

10 Judicial pensions (increase of widow's and children's pensions)

- (1) The annual amount of the widow's pension that may be granted under or by virtue of the Administration of Justice (Pensions) Act 1950 wholly or partly in respect of relevant service after the passing of this Act, and the annual amount of the children's pension that may be so granted, shall be increased in accordance with this section ; and where the widow's pension or children's pension (if any) that may be granted in respect of a person's relevant service is so increased, there shall be made towards the cost of the liability therefor such contributions (in lieu of or in addition to that required by section 8 of the Act of 1950) as may be prescribed, in the form either of a reduction or further reduction of the lump sum pension benefit payable in respect of that service

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or of deductions from the salary so payable or partly in one of those forms and partly in the other.

(2) In the case of pensions attributable wholly to relevant service after the passing of this Act.—

(a) the annual amount of a widow's pension may be one-half of the annual amount of the personal pension of the deceased; and

(b) subject to section 7(4) of the Act of 1950 (which makes provision for the case of a widow remarrying), the annual amount of a children's pension, while there is only one person for whose benefit it can enure, may amount—

(i) where the deceased was a man who left a widow and she is still alive, to one-quarter of the annual amount of the personal pension; and

(ii) in any other case, to one-third of the annual amount of the personal pension ;

and while there are two or more persons for whose benefit it can enure, may amount to twice the figure given by whichever is applicable of sub-paragraphs (i) and (ii) above.

In section 7(4) of the Act of 1950 the reference to subsection (2) of that section shall include paragraph (b)(ii) of this subsection.

(3) Subject to subsection (4) below, in the case of pensions payable partly in respect of relevant service after the passing of this Act but not attributable wholly to that service, the annual value of the widow's pension or children's pension that may be granted shall be determined by reference to the proportions which the relevant service before and after that time bear to the whole of the relevant service, and shall be the amount obtained by adding—

(a) the part proportionate to the service before that time of the annual amount of the pension that might have been granted if this section had not been passed; and

(b) the part proportionate to the service after that time of the annual amount of the pension that might have been granted if this section had always had effect.

(4) In relation to persons serving at the passing of this Act provision may be made by regulations whereby, subject to any prescribed conditions, an election may be made by or with respect to a person—

(a) that subsection (2) above shall apply to him as if the whole of his relevant service were service after the passing of this Act, and subsection (3) shall not apply ;

(b) that subsections (1) to (3) above shall not apply to him, and the Act of 1950 shall apply as if this section had not been passed;

(c) in the case of a person who elected under section 11(1) or (2) of the Act of 1950 for his eligibility for pension not to satisfy the conditions for the grant of a widow's or children's pension, that the election under that section shall be revoked.

(5) Where a person's relevant service is partly before and partly after the passing of this Act, then for the purposes of this section any widow's or children's pension payable in respect of that service is to be regarded as attributable wholly to the service after that time if the service before that time does not add to the annual rate of the personal pension, and for the purposes of subsection (3) there shall be left out of account so much (if any) of the service before that time as does not add to the annual amount of the personal pension.

- (6) Regulations made for purposes of this section may make provision for consequential or incidental matters, including provision excluding or modifying the operation of any enactment passed before this Act; and in particular any regulations providing for contributions by deduction from salary may make consequential provision as to sections 10 and 11 of the Act of 1950 and any other enactment referring or relating to lump sums payable under that Act.
- (7) Regulations for purposes of this section may be made, with the concurrence of the Minister for the Civil Service, by the Lord Chancellor or, in relation to pensions for service in offices existing only in Scotland, by the Secretary of State; and the power to make regulations for purposes of this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The foregoing provisions of this section shall have effect in relation to the enactments mentioned in Schedule 3 to this Act as they have effect in relation to the Act of 1950, but subject to the adaptations provided for by that Schedule; and provision corresponding to that which is made by subsections (1) and (3) above, or which may be made by regulations under this section for purposes of those subsections may, in relation to the pension benefits of any resident magistrate or county court registrar included in Schedule 5 to the Superannuation (Northern Ireland) Order 1972 (persons remaining subject to the Superannuation Acts (Northern Ireland) 1967 and 1969), be made by order of the Ministry of Finance for Northern Ireland.

For the purposes of section 6 of the Government of Ireland Act 1920 this subsection shall be deemed to have been passed before the appointed day within the meaning of that section.

- (9) In this section—
 - (a) "the Act of 1950" means the Administration of Justice (Pensions) Act 1950;
 - (b) "prescribed" means prescribed by regulations made for purposes of this section.

11 Pensions of higher judiciary

- (1) The provisions of Schedule 4 to this Act (which reproduce for certain judicial pensions the effect of existing enactments, except in providing for pensions to be payable without a grant by Letters Patent and in omitting any express provision as to time of payment) shall, with the savings and consequential amendments there contained, have effect in place of those enactments.
- (2) Except as provided by Schedule 4 to this Act, the provisions of that Schedule shall apply in relation to persons who retired or died before this section comes into force.

12 Retirement of higher judiciary in event of incapacity

- (1) Where the Lord Chancellor is satisfied by means of a medical certificate that a person holding office as Lord of Appeal in Ordinary, as judge of the Supreme Court in England and Wales or as judge of the Supreme Court in Northern Ireland is disabled by permanent infirmity from the performance of the duties of his office, but is for the time being incapacitated from resigning it, then subject to subsections (2) to (4) below the Lord Chancellor may by instrument under his hand declare that person's office to

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have been vacated, and the instrument shall have the like effect for all purposes as if that person had on the date of the instrument resigned his office.

- (2) A declaration under this section with respect to a Lord of Appeal in Ordinary shall be of no effect unless it is made with the concurrence of the senior of the Lords of Appeal or, if made with respect to him, with that of the next senior of them.
- (3) A declaration under this section with respect to a judge of the Supreme Court in England and Wales shall be of no effect unless it is made—
 - (a) in the case of any of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor, with the concurrence of two others of them;
 - (b) in the case of a Lord Justice of Appeal, with the concurrence of the Master of the Rolls ;
 - (c) in the case of a puisne judge of the Queen's Bench Division, with the concurrence of the Lord Chief Justice;
 - (d) in the case of a puisne judge of the Chancery Division other than the Vice-Chancellor, with the concurrence of the Vice-Chancellor;
 - (e) in the case of a puisne judge of the Family Division, with the concurrence of the President of the Family Division.
- (4) A declaration under this section with respect to a judge of the Supreme Court of Northern Ireland shall be of no effect unless it is made with the concurrence of the Lord Chief Justice of Northern Ireland or, if made with respect to him, with that of the senior Lord Justice of Appeal.

13 Pension etc. of president of pensions appeal tribunals

- (1) In the case of any person appointed after the coming into force of this section as president of the pension appeal tribunals established under the Pensions Appeal Tribunals Act 1943—
 - (a) the Lord Chancellor may pay such pension, allowances or gratuity to or in respect of him on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as the Lord Chancellor with the approval of the Minister for the Civil Service may determine ; and
 - (b) if, on his ceasing to hold office as president of the pensions appeal tribunals, it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation, the Lord Chancellor may, with the approval of the Minister for the Civil Service, pay to him a sum of such amount as the Lord Chancellor may, with the like approval, determine.
- (2) The expenses of the Lord Chancellor under this section shall be defrayed out of moneys provided by Parliament.

14 Pensions of resident magistrates in Northern Ireland

- (1) In the Resident Magistrates' Pensions Act (Northern Ireland) 1960 the definition of "retiring salary " in section 22(1) shall be amended by omitting the word " average " and by substituting for the words " during the three years immediately preceding the date of his retirement " the words " immediately before his retirement " .
- (2) This section shall not affect any pension or other benefit payable to or in respect of a person who retired or died before the coming into force of this section.

- (3) For the purposes of section 6 of the Government of Ireland Act 1920 this section shall be deemed to have been passed before the appointed day within the meaning of that section.

15 Qualification for appointment as deputy Circuit judge

For section 24(2)(a) of the Courts Acts 1971 (under which a person is qualified for appointment as deputy Circuit judge if he is a barrister of at least ten years' standing or a Recorder who has held that office for at least five years) there shall be substituted—

“(a) any barrister or solicitor of at least ten years' standing”.

16 Appointment of deputy district registrars of High Court and deputy county court registrars

- (1) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the High Court, he may appoint a person to be a deputy district registrar in any district registry of the High Court during such period or on such occasions as the Lord Chancellor thinks fit; and a deputy district registrar, while acting under his appointment, shall have the same powers as if he were the district registrar.
- (2) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in county courts, he may appoint a person to be deputy county court registrar for any county court district during such period or on such occasions as the Lord Chancellor thinks fit; and a deputy county court registrar, while acting under his appointment, shall have the same powers and be subject to the same liabilities as if he were the registrar.
- (3) Any person being a solicitor of not less than seven years' standing shall be qualified for appointment under this section as deputy district registrar or deputy county court registrar.
- (4) Section 29(1) 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 a solicitor or agent for any party in any proceedings in that court) shall not apply to a deputy county court registrar appointed under this section; but a deputy district registrar or deputy county court registrar so appointed 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.
- (5) Notwithstanding the expiry of any period for which a person is appointed under this section to be deputy district registrar or deputy county court registrar, he may act as such for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case with which he may have been concerned during the period of his appointment, and for that purpose shall be treated as acting under that appointment.
- (6) The Lord Chancellor may, out of moneys provided by Parliament, pay to any person appointed deputy district registrar or deputy county court registrar under this section such remuneration and allowances as he may, with the approval of the Minister for the Civil Service, determine.

- (7) After the coming into force of this section no further appointment shall be made of provisional district registrars or deputy district registrars under section 84 of the Supreme Court of Judicature (Consolidation) Act 1925 or section 11 of the Administration of Justice Act 1956, or of deputy county court registrars under section 27 of the County Courts Act 1959 ; and on the coming into force of this section any person then holding office as deputy district registrar or deputy county court registrar shall vacate that office, but so that subsections (4), (5) and (6) above shall thereafter apply to him as if he had been appointed under this section for a period then expiring.

17 Payment of interpreters in criminal cases (England and Wales)

- (1) Where in any criminal proceedings an interpreter is required because of a defendant's lack of English, the expenses properly incurred on his employment shall be ordered by the court to be paid out of central funds ; and—
- (a) where there is laid before a justice of the peace for any area an information charging with an offence a person who because of his lack of English would require an interpreter on his trial, but the information is not proceeded with, then, if he has incurred expenses on the employment of an interpreter for the proceedings on the information, he may apply to a magistrates' court for that area and the court shall order the payment out of central funds of the expenses properly so incurred by him; and
 - (b) where such a person is committed for trial but is not ultimately tried, then if he has incurred expenses on the employment of an interpreter for the proceedings in the Crown Court, he may apply to the Crown Court and the court shall order the payment out of central funds of the expenses properly so incurred by him.
- (2) In this section " criminal proceedings " means any proceedings in which a court has power under the Costs in Criminal Cases Act 1973 to make an order for payment of costs out of central funds or would have power to do so if any reference in that Act to an indictable offence were a reference to any offence; and sections 13 to 17 of that Act (which relate to the procedure for implementing orders under the Act and other supplemental matters) shall apply in relation to this section as they apply in relation to that Act, except that—
- (a) in section 15 (costs ordered by magistrates' court to be paid out of central funds) subsection (1) shall apply as if the reference in paragraph (a) to an indictable offence included any offence, and shall also apply where an order is made by a magistrates' court under subsection (1)(a) above ; and
 - (b) section 16(2) (payment of costs ordered to be paid out of central funds and by accused or prosecutor) shall not apply so as to require a defendant to reimburse any costs paid out of central funds by virtue of this section.
- (3) In this section "court" includes the House of Lords, and " defendant" means the person (whether convicted or not) who is alleged to be guilty of an offence.

18 Payment of interpreters in criminal cases (Northern Ireland)

- (1) In the Costs in Criminal Cases Act (Northern Ireland) 1968, after section 5 thereof, there shall be inserted the following section—

“5A Fees of required interpreter.

Notwithstanding anything to the contrary contained in this Act, where in any criminal proceedings an interpreter is required because of a defendant's lack of English, the expenses properly incurred on his employment shall, in accordance with rules made pursuant to section 7, be defrayed by the Ministry.”.

- (2) Where in any of the following proceedings, that is to say.—
- (a) any proceedings on an appeal to the Court of Criminal Appeal in Northern Ireland, or preliminary or incidental to such an appeal;
 - (b) any proceedings before a divisional court of the Queen's Bench Division of the High Court of Justice in Northern Ireland in a criminal cause or matter;
 - (c) any proceedings on an appeal to the House of Lords from a decision in proceedings within (a) or (b) above or an application for leave to appeal from such a decision;

an interpreter is required because of a defendant's lack of English, the expenses properly incurred on his employment shall be defrayed by the Ministry of Home Affairs for Northern Ireland, up to an amount allowed by the court or (in the case of proceedings in that House) by the House of Lords.

In this subsection " defendant" means the person (whether convicted or not) who is alleged to be guilty of an offence.

- (3) For the purposes of section 6 of the Government of Ireland Act 1920 this section shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to have been passed before the appointed day within the meaning of that section.