



Senior Courts Act 1981

1981 CHAPTER 54

PART II

JURISDICTION

THE COURT OF APPEAL

15 General jurisdiction of Court of Appeal.

- (1) The Court of Appeal shall be a superior court of record.
- (2) Subject to the provisions of this Act, there shall be exercisable by the Court of Appeal—
 - (a) all such jurisdiction (whether civil or criminal) as is conferred on it by this or any other Act; and
 - (b) all such other jurisdiction (whether civil or criminal) as was exercisable by it immediately before the commencement of this Act.
- (3) For all purposes of or incidental to—
 - (a) the hearing and determination of any appeal to the civil division of the Court of Appeal; and
 - (b) the amendment, execution and enforcement of any judgment or order made on such an appeal,the Court of Appeal shall have all the authority and jurisdiction of the court or tribunal from which the appeal was brought.
- (4) It is hereby declared that any provision in this or any other Act which authorises or requires the taking of any steps for the execution or enforcement of a judgment or order of the High Court applies in relation to a judgment or order of the civil division of the Court of Appeal as it applies in relation to a judgment or order of the High Court.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

16 Appeals from High Court.

- (1) Subject as otherwise provided by this or any other Act (and in particular to the provision in section 13(2)(a) of the ^{M1}Administration of Justice Act 1969 excluding appeals to the Court of Appeal in cases where leave to appeal from the High Court directly to the House of Lords is granted under Part II of that Act), the Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of the High Court.
- (2) An appeal from a judgment or order of the High Court when acting as a prize court shall not be to the Court of Appeal, but shall be to Her Majesty in Council in accordance with the Prize Acts 1864 to 1944.

Modifications etc. (not altering text)

- C1 S. 16 extended by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), **ss. 54(3)(a)(5)**, 84(6), 119(5)
- C2 S. 16 extended by [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9, SIF 123:1\)](#), **s. 65(3)**

Marginal Citations

- M1 1969 c. 58.

17 Applications for new trial.

- (1) Where any cause or matter, or any issue in any cause or matter, has been tried in the High Court, any application for a new trial thereof, or to set aside a verdict, finding or judgment therein, shall be heard and determined by the Court of Appeal except where rules of court made in pursuance of subsection (2) provide otherwise.
- (2) As regards cases where the trial was by a judge alone and no error of the court at the trial is alleged, or any prescribed class of such cases, rules of court may provide that any such application as is mentioned in subsection (1) shall be heard and determined by the High Court.
- (3) Nothing in this section shall alter the practice in bankruptcy.

18 Restrictions on appeals to Court of Appeal.

- (1) No appeal shall lie to the Court of Appeal—
 - (a) except as provided by the ^{M2}Administration of Justice Act 1960, from any judgment of the High Court in any criminal cause or matter;
 - (b) from any order of the High Court or any other court or tribunal allowing an extension of time for appealing from a judgment or order;
 - (c) from any order, judgment or decision of the High Court or any other court or tribunal which, by virtue of any provision (however expressed) of this or any other Act, is final;
 - (d) from a decree absolute of divorce or nullity of marriage, by a party who, having had time and opportunity to appeal from the decree nisi on which that decree was founded, has not appealed from the decree nisi;
 - [^{F1}(e) without the leave of the divisional court in question or of the Court of Appeal, from the determination by a divisional court of any appeal to the High Court;

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (f) without the leave of the court or tribunal in question, from any order of the High Court or any other court or tribunal made with the consent of the parties or relating only to costs which are by law left to the discretion of the court or tribunal;]
- (g) except as provided by the ^{M3}Arbitration Act 1979, from any decision of the High Court—
 - (i) on an appeal under section 1 of that Act on a question of law arising out of an arbitration award; or
 - (ii) under section 2 of that Act on a question of law arising in the course of a reference;
- [^{F1}(h) without the leave of the court or tribunal in question or of the Court of Appeal, from any interlocutory order or interlocutory judgment made or given by the High Court or any other court or tribunal, except in the following cases, namely—
 - (i) where the liberty of the subject or the [^{F2}custody][^{F2}residence], education or welfare of a minor is concerned;
 - (ii) where an applicant for [^{F3}access to][^{F3}contact with] a minor is refused all [^{F3}access to][^{F3}contact with] the minor;
 - (iii) where an injunction or the appointment of a receiver is granted or refused;
 - (iv) in the case of a decision determining the claim of any creditor, or the liability of any contributory or of any director or other officer, under the law relating to companies;
 - (v) in the case of a decree nisi in a matrimonial cause, or a judgment or order in an admiralty action determining liability;
 - (vi) in such other cases as may be prescribed.]
- [^{F4}(1A) In any such class of case as may be prescribed by Rules of the Supreme Court, an appeal shall lie to the Court of Appeal only with the leave of the Court of Appeal or such court or tribunal as may be specified by the rules in relation to that class.
- (1B) Any enactment which authorises leave to appeal to the Court of Appeal being given by a single judge, or by a court consisting of two judges, shall have effect subject to any provision which—
 - (a) is made by Rules of the Supreme Court; and
 - (b) in such classes of case as may be prescribed by the rules, requires leave to be given by such greater number of judges (not exceeding three) as may be so specified.]
- [^{F5}(2) For the purposes of subsection (1)(h)—
 - (a) an order refusing unconditional leave to defend an action shall not be treated as an interlocutory order; and
 - (b) “education” includes training and religious instruction.]

Textual Amendments

- F1** S. 18(1)(e)(f)(h) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, 37), ss. 7(2), 125(7), Sch. 20
- F2** Word “residence” substituted (*prosp.*) for word “custody” by Children Act 1989 (c. 41, SIF 20), s. 108(2)(5)(6), Sch. 13 para. 45(1)(a), Sch. 14 para. 1(1)

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F3** Words “contact with” substituted (*prosp.*) for words “access to” by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 45(1)(b), **Sch. 14 para. 1(1)**
- F4** S. 18(1A)(1B) inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), **s. 7(3)**
- F5** S. 18(2) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

Marginal Citations

- M2** 1960 c. 65.
M3 1979 c. 42.

THE HIGH COURT

General jurisdiction

19 General jurisdiction of High Court.

- (1) The High Court shall be a superior court of record.
- (2) Subject to the provisions of this Act, there shall be exercisable by the High Court—
 - (a) all such jurisdiction (whether civil or criminal) as is conferred on it by this or any other Act; and
 - (b) all such other jurisdiction (whether civil or criminal) as was exercisable by it immediately before the commencement of this Act (including jurisdiction conferred on a judge of the High Court by any statutory provision).
- (3) Any jurisdiction of the High Court shall be exercised only by a single judge of that court, except in so far as it is—
 - (a) by or by virtue of rules of court or any other statutory provision required to be exercised by a divisional court; or
 - (b) by rules of court made exercisable by a master, registrar or other officer of the court, or by any other person.
- (4) The specific mention elsewhere in this Act of any jurisdiction covered by subsection (2) shall not derogate from the generality of that subsection.

Admiralty jurisdiction

20 Admiralty jurisdiction of High Court.

- (1) The Admiralty jurisdiction of the High Court shall be as follows, that is to say—
 - (a) jurisdiction to hear and determine any of the questions and claims mentioned in subsection (2);
 - (b) jurisdiction in relation to any of the proceedings mentioned in subsection (3);
 - (c) any other Admiralty jurisdiction which it had immediately before the commencement of this Act; and
 - (d) any jurisdiction connected with ships or aircraft which is vested in the High Court apart from this section and is for the time being by rules of court made or coming into force after the commencement of this Act assigned to the Queen’s Bench Division and directed by the rules to be exercised by the Admiralty Court.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The questions and claims referred to in subsection (1)(a) are—
- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein;
 - (b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship;
 - (c) any claim in respect of a mortgage of or charge on a ship or any share therein;
 - (d) any claim for damage received by a ship;
 - (e) any claim for damage done by a ship;
 - (f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act, neglect or default of—
 - (i) the owners, charterers or persons in possession or control of a ship; or
 - (ii) the master or crew of a ship, or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible,being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;
 - (g) any claim for loss of or damage to goods carried in a ship;
 - (h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
 - (j) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under [F6section 87 of the Civil Aviation Act 1982], of the law relating to salvage to aircraft and their apparel and cargo);
 - (k) any claim in the nature of towage in respect of a ship or an aircraft;
 - (l) any claim in the nature of pilotage in respect of a ship or an aircraft;
 - (m) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
 - (n) any claim in respect of the construction, repair or equipment of a ship or in respect of dock charges or dues;
 - (o) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);
 - (p) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
 - (q) any claim arising out of an act which is or is claimed to be a general average act;
 - (r) any claim arising out of bottomry;
 - (s) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty.
- (3) The proceedings referred to in subsection (1)(b) are—
- (a) any application to the High Court under the M4Merchant Shipping Acts 1894 to 1979 other than an application under section 55 of the Merchant Shipping Act 1894 for the appointment of a person to act as a substitute for a person incapable of acting;

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) any action to enforce a claim for damage, loss of life or personal injury arising out of—
 - (i) a collision between ships; or
 - (ii) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or
 - (iii) non-compliance, on the part of one or more of two or more ships, with the collision regulations;
 - (c) any action by shipowners or other persons under the Merchant Shipping Acts 1894 to 1979 for the limitation of the amount of their liability in connection with a ship or other property.
- (4) The jurisdiction of the High Court under subsection (2)(b) includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks fit.
- (5) Subsection (2)(e) extends to—
- (a) any claim in respect of a liability incurred under the ^{M5}Merchant Shipping (Oil Pollution) Act 1971; and
 - (b) any claim in respect of a liability falling on the International Oil Pollution Compensation Fund [^{F7}, or on the International Oil Pollution Compensation Fund 1984,] under Part I of the ^{M6}Merchant Shipping Act 1974.
- (6) The reference in subsection (2)(j) to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections 544 to 546 of the ^{M7}Merchant Shipping Act 1894, or any Order in Council made under [^{F8}section 87 of the Civil Aviation Act 1982], are authorised to be made in connection with a ship or an aircraft.
- (7) The preceding provisions of this section apply—
- (a) in relation to all ships or aircraft, whether British or not and whether registered or not and wherever the residence or domicile of their owners may be;
 - (b) in relation to all claims, wherever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and
 - (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law:

Provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Merchant Shipping Acts 1894 to 1979.

Textual Amendments

- F6** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\), s. 109\(2\), Sch. 15 para. 25](#)
- F7** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), ss. 57\(4\), 58\(4\), Sch. 6, Sch. 8 para. 1](#)
- F8** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\), s. 109\(2\), Sch. 15 para. 25](#)

Modifications etc. (not altering text)

- C3** [S. 20](#) extended (Guernsey) (1.12.1993) (with modifications) by [S.I. 1993/2664, art.3, Sch.](#)

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

- M4** 1894 c. 60.
- M5** 1971 c. 59.
- M6** 1974 c. 43.
- M7** 1894 c. 60.

21 Mode of exercise of Admiralty jurisdiction.

- (1) Subject to section 22, an action in personam may be brought in the High Court in all cases within the Admiralty jurisdiction of that court.
- (2) In the case of any such claim as is mentioned in section 20(2)(a), (c) or (s) or any such question as is mentioned in section 20(2)(b), an action in rem may be brought in the High Court against the ship or property in connection with which the claim or question arises.
- (3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, an action in rem may be brought in the High Court against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in section 20(2)(e) to (r), where—
 - (a) the claim arises in connection with a ship; and
 - (b) the person who would be liable on the claim in an action in personam (“the relevant person”) was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship,an action in rem may (whether or not the claim gives rise to a maritime lien on that ship) be brought in the High Court against—
 - (i) that ship, if at the time when the action is brought the relevant person is either the beneficial owner of that ship as respects all the shares in it or the charterer of it under a charter by demise; or
 - (ii) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner as respects all the shares in it.
- (5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, an action in rem may be brought in the High Court against that aircraft if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action in personam.
- (6) Where, in the exercise of its Admiralty jurisdiction, the High Court orders any ship, aircraft or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.
- (7) In determining for the purposes of subsections (4) and (5) whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England or Wales.
- (8) Where, as regards any such claim as is mentioned in section 20(2)(e) to (r), a ship has been served with a writ or arrested in an action in rem brought to enforce that claim, no other ship may be served with a writ or arrested in that or any other action in rem brought to enforce that claim; but this subsection does not prevent the issue, in respect of any one such claim, of a writ naming more than one ship or of two or more writs each naming a different ship.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C4 S. 21 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, art. 3, Sch.

22 Restrictions on entertainment of actions in personam in collision and other similar cases.

- (1) This section applies to any claim for damage, loss of life or personal injury arising out of—
- (a) a collision between ships; or
 - (b) the carrying out of, or omission to carry out, a manoeuvre in the case of one or more of two or more ships; or
 - (c) non-compliance, on the part of one or more of two or more ships, with the collision regulations.
- (2) The High Court shall not entertain any action in personam to enforce a claim to which this section applies unless—
- (a) the defendant has his habitual residence or a place of business within England or Wales; or
 - (b) the cause of action arose within inland waters of England or Wales or within the limits of a port of England or Wales; or
 - (c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.

In this subsection—

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

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

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

- (3) The High Court shall not entertain any action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside England and Wales against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (4) Subsections (2) and (3) shall apply to counterclaims (except counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions, the references to the plaintiff and the defendant being for this purpose read as references to the plaintiff on the counterclaim and the defendant to the counterclaim respectively.
- (5) Subsections (2) and (3) shall not apply to any action or counterclaim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) Subject to the provisions of subsection (3), the High Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in subsection (2)(a) to (c) is satisfied, and the rules of court relating to the service of process outside the jurisdiction shall make such provision as may appear to the rule-making authority to be appropriate having regard to the provisions of this subsection.
- (7) Nothing in this section shall prevent an action which is brought in accordance with the provisions of this section in the High Court being transferred, in accordance with the enactments in that behalf, to some other court.
- (8) For the avoidance of doubt it is hereby declared that this section applies in relation to the jurisdiction of the High Court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction.

Modifications etc. (not altering text)

C5 S. 22 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, art. 3, Sch.

23 High Court not to have jurisdiction in cases within Rhine Convention.

The High Court shall not have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions of that Convention; and any proceedings to enforce such a claim which are commenced in the High Court shall be set aside.

Modifications etc. (not altering text)

C6 S. 23 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, art. 3, Sch.

24 Supplementary provisions as to Admiralty jurisdiction.

- (1) In sections 20 to 23 and this section, unless the context otherwise requires—
- “collision regulations” means regulations under section 418 of the ^{M8}Merchant Shipping Act 1894, or any such rules as are mentioned in section 421(1) of that Act, or any rules made under section 421(2) of that Act;
- “goods” includes baggage;
- “master” has the same meaning as in the Merchant Shipping Act 1894, and accordingly includes every person (except a pilot) having command or charge of a ship;
- “the Rhine Navigation Convention” means the Convention of the 7th October 1868 as revised by any subsequent Convention;
- “ship” includes any description of vessel used in navigation and (except in the definition of “port” in section 22(2) and in subsection (2)(c) of this section) includes, subject to section 2(3) of the ^{M9}Hovercraft Act 1968, a hovercraft;
- “towage” and “pilotage”, in relation to an aircraft, mean towage and pilotage while the aircraft is water-borne.
- (2) Nothing in sections 20 to 23 shall—

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) be construed as limiting the jurisdiction of the High Court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship;
- (b) affect the provisions of section 552 of the Merchant Shipping Act 1894 (power of a receiver of wreck to detain a ship in respect of a salvage claim); or
- (c) authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty’s ships or Her Majesty’s aircraft, or, subject to section 2(3) of the Hovercraft Act 1968, Her Majesty’s hovercraft, or of any cargo or other property belonging to the Crown.

(3) In this section—

“Her Majesty’s ships” and “Her Majesty’s aircraft” have the meanings given by section 38(2) of the ^{M10}Crown Proceedings Act 1947;

“Her Majesty’s hovercraft” means hovercraft belonging to the Crown in right of Her Majesty’s Government in the United Kingdom or Her Majesty’s Government in Northern Ireland.

Modifications etc. (not altering text)

C7 S. 24 extended (Guernsey) (1.12.1993) (with modifications) by S.I. 1993/2664, art. 3, Sch.

Marginal Citations

M8 1894 c. 60.

M9 1968 c. 59.

M10 1947 c. 44.

Other particular fields of jurisdiction

25 Probate jurisdiction of High Court.

- (1) Subject to the provisions of Part V, the High Court shall, in accordance with section 19(2), have the following probate jurisdiction, that is to say all such jurisdiction in relation to probates and letters of administration as it had immediately before the commencement of this Act, and in particular all such contentious and non-contentious jurisdiction as it then had in relation to—
 - (a) testamentary causes or matters;
 - (b) the grant, amendment or revocation of probates and letters of administration; and
 - (c) the real and personal estate of deceased persons.
- (2) Subject to the provisions of Part V, the High Court shall, in the exercise of its probate jurisdiction, perform all such duties with respect to the estates of deceased persons as fell to be performed by it immediately before the commencement of this Act.

26 Matrimonial jurisdiction of High Court.

The High Court shall, in accordance with section 19(2), have all such jurisdiction in relation to matrimonial causes and matters as was immediately before the commencement of the ^{M11}Matrimonial Causes Act 1857 vested in or exercisable by any ecclesiastical court or person in England or Wales in respect of—

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) divorce a mensa et thoro (renamed judicial separation by that Act);
- (b) nullity of marriage . . . ^{F9}; and
- (c) any matrimonial cause or matter except marriage licences.

Textual Amendments

F9 Words repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), s. 68(1)(2), [Sch. 1 para. 25](#), [Sch. 2](#)

Marginal Citations

M11 [1857 c. 85](#).

27 Prize jurisdiction of High Court.

The High Court shall, in accordance with section 19(2), have as a prize court—

- (a) all such jurisdiction as is conferred on it by the Prize Acts 1864 to 1944 (in which references to the High Court of Admiralty are by virtue of paragraph 1 of Schedule 4 to this Act to be construed as references to the High Court); and
- (b) all such other jurisdiction on the high seas and elsewhere as it had as a prize court immediately before the commencement of this Act.

28 Appeals from Crown Court and inferior courts.

- (1) Subject to subsection (2), any order, judgment or other decision of the Crown Court may be questioned by any party to the proceedings, on the ground that it is wrong in law or is in excess of jurisdiction, by applying to the Crown Court to have a case stated by that court for the opinion of the High Court.
- (2) Subsection (1) shall not apply to—
 - (a) a judgment or other decision of the Crown Court relating to trial on indictment; or
 - (b) any decision of that court under the ^{M12}Betting, Gaming and Lotteries Act 1963, the ^{M13}Licensing Act 1964 [^{F10}, the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982] which, by any provision of any of those Acts, is to be final.
- (3) Subject to the provisions of this Act and to rules of court, the High Court shall, in accordance with section 19(2), have jurisdiction to hear and determine—
 - (a) any application, or any appeal (whether by way of case stated or otherwise), which it has power to hear and determine under or by virtue of this or any other Act; and
 - (b) all such other appeals as it had jurisdiction to hear and determine immediately before the commencement of this Act.

Textual Amendments

F10 Words substituted by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. 2, [Sch. 3 para. 27\(6\)](#)

Marginal Citations

M12 [1963 c. 2](#).

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

M13 1964 c. 26.

VALID FROM 05/11/1993

[^{F11}28A Proceedings on case stated by magistrates' court.

- (1) The following provisions apply where a case is stated for the opinion of the High Court under section 111 of the Magistrates' Courts Act 1980 (case stated on question of law or jurisdiction).
- (2) The High Court may, if it thinks fit, cause the case to be sent back for amendment, whereupon it shall be amended accordingly.
- (3) The High Court shall hear and determine the question arising on the case (or the case as amended) and shall—
 - (a) reverse, affirm or amend the determination in respect of which the case has been stated, or
 - (b) remit the matter to the justice or justices with the opinion of the court, and may make such other order in relation to the matter (including as to costs) as it thinks fit.
- (4) Except as provided by the Administration of Justice Act 1960 (right of appeal to House of Lords in criminal cases), a decision of the High Court under this section is final and conclusive on all parties.]

Textual Amendments

F11 S. 28A inserted (5.11.1993) by 1993 c. 50, s. 1(2), Sch. 2 Pt. 1 para.9

29 Orders of mandamus, prohibition and certiorari.

- (1) The High Court shall have jurisdiction to make orders of mandamus, prohibition and certiorari in those classes of cases in which it had power to do so immediately before the commencement of this Act.
- (2) Every such order shall be final, subject to any right of appeal therefrom.
- (3) In relation to the jurisdiction of the Crown Court, other than its jurisdiction in matters relating to trial on indictment, the High Court shall have all such jurisdiction to make orders of mandamus, prohibition or certiorari as the High Court possesses in relation to the jurisdiction of an inferior court.
- (4) The power of the High Court under any enactment to require justices of the peace or a judge or officer of a county court to do any act relating to the duties of their respective offices, or to require a magistrates' court to state a case for the opinion of the High Court, in any case where the High Court formerly had by virtue of any enactment jurisdiction to make a rule absolute, or an order, for any of those purposes, shall be exercisable by order of mandamus.
- (5) In any enactment—

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) references to a writ of mandamus, of prohibition or of certiorari shall be read as references to the corresponding order; and
- (b) references to the issue or award of any such writ shall be read as references to the making of the corresponding order.

30 Injunctions to restrain persons from acting in offices in which they are not entitled to act.

- (1) Where a person not entitled to do so acts in an office to which this section applies, the High Court may—
 - (a) grant an injunction restraining him from so acting; and
 - (b) if the case so requires, declare the office to be vacant.
- (2) This section applies to any substantive office of a public nature and permanent character which is held under the Crown or which has been created by any statutory provision or royal charter.

31 Application for judicial review.

- (1) An application to the High Court for one or more of the following forms of relief, namely—
 - (a) an order of mandamus, prohibition or certiorari;
 - (b) a declaration or injunction under subsection (2); or
 - (c) an injunction under section 30 restraining a person not entitled to do so from acting in an office to which that section applies,shall be made in accordance with rules of court by a procedure to be known as an application for judicial review.
- (2) A declaration may be made or an injunction granted under this subsection in any case where an application for judicial review, seeking that relief, has been made and the High Court considers that, having regard to—
 - (a) the nature of the matters in respect of which relief may be granted by orders of mandamus, prohibition or certiorari;
 - (b) the nature of the persons and bodies against whom relief may be granted by such orders; and
 - (c) all the circumstances of the case,it would be just and convenient for the declaration to be made or the injunction to be granted, as the case may be.
- (3) No application for judicial review shall be made unless the leave of the High Court has been obtained in accordance with rules of court; and the court shall not grant leave to make such an application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.
- (4) On an application for judicial review the High Court may award damages to the applicant if—
 - (a) he has joined with his application a claim for damages arising from any matter to which the application relates; and
 - (b) the court is satisfied that, if the claim had been made in an action begun by the applicant at the time of making his application, he would have been awarded damages.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) If, on an application for judicial review seeking an order of certiorari, the High Court quashes the decision to which the application relates, the High Court may remit the matter to the court, tribunal or authority concerned, with a direction to reconsider it and reach a decision in accordance with the findings of the High Court.
- (6) Where the High Court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant—
 - (a) leave for the making of the application; or
 - (b) any relief sought on the application,
 if it considers that the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.
- (7) Subsection (6) is without prejudice to any enactment or rule of court which has the effect of limiting the time within which an application for judicial review may be made.

VALID FROM 03/11/2008

[^{F12}31A Transfer of judicial review applications to Upper Tribunal

- (1) This section applies where an application is made to the High Court—
 - (a) for judicial review, or
 - (b) for permission to apply for judicial review.
- (2) If Conditions 1, 2, 3 and 4 are met, the High Court must by order transfer the application to the Upper Tribunal.
- (3) If Conditions 1, 2 and 4 are met, but Condition 3 is not, the High Court may by order transfer the application to the Upper Tribunal if it appears to the High Court to be just and convenient to do so.
- (4) Condition 1 is that the application does not seek anything other than—
 - (a) relief under section 31(1)(a) and (b);
 - (b) permission to apply for relief under section 31(1)(a) and (b);
 - (c) an award under section 31(4);
 - (d) interest;
 - (e) costs.
- (5) Condition 2 is that the application does not call into question anything done by the Crown Court.
- (6) Condition 3 is that the application falls within a class specified under section 18(6) of the Tribunals, Courts and Enforcement Act 2007.
- (7) Condition 4 is that the application does not call into question any decision made under—
 - (a) the Immigration Acts,
 - (b) the British Nationality Act 1981 (c. 61),
 - (c) any instrument having effect under an enactment within paragraph (a) or (b), or

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) any other provision of law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.]

Textual Amendments

- F12** S. 31A inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 19, 148; S.I. 2008/2696, art. 5(a) (with arts. 3, 4)

Powers

32 Orders for interim payment.

- (1) As regards proceedings pending in the High Court, provision may be made by rules of court for enabling the court, in such circumstances as may be prescribed, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order, with provision for the payment to be made to such other party to the proceedings as may be so specified or, if the order so provides, by paying it into court.
- (2) Any rules of court which make provision in accordance with subsection (1) may include provision for enabling a party to any proceedings who, in pursuance of such an order, has made an interim payment to recover the whole or part of the amount of the payment in such circumstances, and from such other party to the proceedings, as may be determined in accordance with the rules.
- (3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the rule-making authority may consider necessary or expedient.
- (4) Nothing in this section shall be construed as affecting the exercise of any power relating to costs, including any power to make rules of court relating to costs.
- (5) In this section “interim payment”, in relation to a party to any proceedings, means a payment on account of any damages, debt or other sum (excluding any costs) which that party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the court in the proceedings is given or made in favour of that other party.

[^{F13}32A Orders for provisional damages for personal injuries.

- (1) This section applies to an action for damages for personal injuries in which there is proved or admitted to be a chance that at some definite or indefinite time in the future the injured person will, as a result of the act or omission which gave rise to the cause of action, develop some serious disease or suffer some serious deterioration in his physical or mental condition.
- (2) Subject to subsection (4) below, as regards any action for damages to which this section applies in which a judgment is given in the High Court, provision may be made by rules of court for enabling the court, in such circumstances as may be prescribed, to award the injured person—

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition; and
 - (b) further damages at a future date if he develops the disease or suffers the deterioration.
- (3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the rule-making authority may consider necessary or expedient.
- (4) Nothing in this section shall be construed—
- (a) as affecting the exercise of any power relating to costs, including any power to make rules of court relating to costs; or
 - (b) as prejudicing any duty of the court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from any such duty.]

Textual Amendments

F13 S. 32A inserted by Administration of Justice Act 1982 (c. 53, SIF 37), ss. 6(1), 73(2)

Modifications etc. (not altering text)

C8 S. 32A amended by Administration of Justice Act 1982 (c. 53, SIF 37), ss. 6(3), 73(2)

[^{F14}33 Powers of High Court exercisable before commencement of action.

- (1) On the application of any person in accordance with rules of court, 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 appears to the court to be property which may become the subject-matter of subsequent proceedings in the High Court, or as to which any question may arise in any such proceedings; and
 - (b) the taking of samples of any such property as is mentioned in paragraph (a), and the carrying out of any experiment on or with any such property.
- ^{F15}(2) 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 such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order—
 - (i) to the applicant's legal advisers; or
 - (ii) to the applicant's legal advisers and any medical or other professional adviser of the applicant; or

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (iii) if the applicant has no legal adviser, to any medical or other professional adviser of the applicant.]

Textual Amendments

- F14** S. 33 repealed so far as it relates to county courts by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), [Sch. 4](#)
- F15** Power to amend conferred on s. 33(2) (27.4.1997) by [1997 c. 12, s. 8\(1\)](#); [S.I.1997/841, art.3\(a\)](#)

Modifications etc. (not altering text)

- C9** S.33 extended by [SI 1988/593](#), art. 4(2)
- C10** S.33 extended (temp. for a period of 12 months beginning with 22.3.90: [SI 1990/675](#); and for a further period of 12 months beginning with 22.3.1991: [SI 1991/549, 779](#)) by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 13(8), [Sch. 4 para. 9\(6\)](#)

[^{F16}34 **Power of High Court to order disclosure of documents, inspection of property etc. in proceedings for personal injuries or death.**

- (1) This section applies to any proceedings in the High Court in which a claim is made in respect of personal injuries to a person, or in respect of a person's death.
- (2) On the application, in accordance with rules of court, of a party to any proceedings to which this section applies, 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 in his possession, custody or power any documents which are relevant to an issue arising out of the said claim—
- (a) to disclose whether those documents are in his possession, custody or power; and
- (b) to produce such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order—
- (i) to the applicant's legal advisers; or
- (ii) to the applicant's legal advisers and any medical or other professional adviser of the applicant; or
- (iii) if the applicant has no legal adviser, to any medical or other professional adviser of the applicant.
- (3) On the application, in accordance with rules of court, of a party to any proceedings to which this section applies, 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) and the carrying out of any experiment on or with any such property.
- (4) The preceding 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.]

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F16 S. 34 repealed so far as it relates to county courts by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), [Sch. 4](#)

[^{F17}35 Provisions supplementary to ss. 33 and 34.

- (1) The High Court shall not make an order under section 33 or 34 if it considers that compliance with the order, if made, would be likely to be injurious to the public interest.
- (2) Rules of court may make provision as to the circumstances in which an order under section 33 or 34 can be made; and any rules making such provision may include such incidental, supplementary and consequential provisions as the rule-making authority may consider necessary or expedient.
- (3) Without prejudice to the generality of subsection (2), rules of court shall be made for the purpose of ensuring that the costs of and incidental to proceedings for an order under section 33(2) or 34 incurred by the person against whom the order is sought shall be awarded to that person unless the court otherwise directs.
- (4) Sections 33(2) and 34 and this section bind the Crown; and section 33(1) binds the Crown so far as it relates to property 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.

In this subsection references to the Crown do not include references to Her Majesty in Her private capacity or to Her Majesty in right of Her Duchy of Lancaster or to the Duke of Cornwall.

- (5) In sections [^{F18}32A,] 33 and 34 and this section—
 - “property” includes any land, chattel or other corporeal property of any description;
 - “personal injuries” includes any disease and any impairment of a person's physical or mental condition.]

Textual Amendments

F17 S. 35 repealed so far as it relates to county courts by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), [Sch. 4](#)

F18 “32A,” inserted by [Administration of Justice Act 1982 \(c. 53, SIF 37\)](#), [ss. 6\(2\), 73\(2\)](#)

[^{F19}35A Power of High Court to award interest on debts and damages.

- (1) Subject to rules of court, in proceedings (whenever instituted) before the High Court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as rules of court may provide, on all or any part of the debt or damages in respect of which judgment is given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—
 - (a) in the case of any sum paid before judgment, the date of the payment; and

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in the case of the sum for which judgment is given, the date of the judgment.
- (2) In relation to a judgment given for damages for personal injuries or death which exceed £200 subsection (1) shall have effect—
- (a) with the substitution of “shall be included” for “may be included”; and
- (b) with the addition of “unless the court is satisfied that there are special reasons to the contrary” after “given”, where first occurring.
- (3) Subject to rules of court, where—
- (a) there are proceedings (whenever instituted) before the High Court for the recovery of a debt; and
- (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),
- the defendant shall be liable to pay the plaintiff simple interest at such rate as the court thinks fit or as rules of court may provide on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.
- (4) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.
- (5) Without prejudice to the generality of section 84, rules of court may provide for a rate of interest by reference to the rate specified in section 17 of the Judgments Act 1838 as that section has effect from time to time or by reference to a rate for which any other enactment provides.
- (6) Interest under this section may be calculated at different rates in respect of different periods.
- (7) In this section “plaintiff” means the person seeking the debt or damages and “defendant” means the person from whom the plaintiff seeks the debt or damages and “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.
- (8) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.]

Textual Amendments

F19 S. 35A inserted by [Administration of Justice Act 1982 \(c. 53, SIF 37\)](#), s. 15(1), [Sch. 1 Pt. I](#)

36 Subpoena issued by High Court to run throughout United Kingdom.

- (1) If in any cause or matter in the High Court it appears to the court that it is proper to compel the personal attendance at any trial of a witness who may not be within the jurisdiction of the court, it shall be lawful for the court, if in the discretion of the court it seems fit so to do, to order that a writ of subpoena ad testificandum or writ of subpoena duces tecum shall issue in special form commanding the witness to attend the trial wherever he shall be within the United Kingdom; and the service of any such writ in any part of the United Kingdom shall be as valid and effectual for all purposes as if it had been served within the jurisdiction of the High Court.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Every such writ shall have at its foot a statement to the effect that it is issued by the special order of the High Court, and no such writ shall issue without such a special order.
- (3) If any person served with a writ issued under this section does not appear as required by the writ, the High Court, on proof to the satisfaction of the court of the service of the writ and of the default, may transmit a certificate of the default under the seal of the court or under the hand of a judge of the court—
- (a) if the service was in Scotland, to the Court of Session at Edinburgh; or
 - (b) if the service was in Northern Ireland, to the High Court of Justice in Northern Ireland at Belfast;
- and the court to which the certificate is sent shall thereupon proceed against and punish the person in default in like manner as if that person had neglected or refused to appear in obedience to process issued out of that court.
- (4) No court shall in any case proceed against or punish any person for having made such default as aforesaid unless it is shown to the court that a reasonable and sufficient sum of money to defray [^{F20}the expenses of coming and attending to give evidence and of returning from giving evidence was tendered to that person at the time when the writ was served upon him.]
- [^{F20}(a) the expenses of coming and attending to give evidence and of returning from giving evidence; and
- (b) any other reasonable expenses which he has asked to be defrayed in connection with his evidence,
- was tendered to him at the time when the writ was served upon him.]
- (5) Nothing in this section shall affect—
- (a) the power of the High Court to issue a commission for the examination of witnesses out of the jurisdiction of the court in any case in which, notwithstanding this section, the court thinks fit to issue such a commission; or
 - (b) the admissibility at any trial of any evidence which, if this section had not been enacted, would have been admissible on the ground of a witness being outside the jurisdiction of the court.
- (6) In this section references to attendance at a trial include references to attendance before an examiner or commissioner appointed by the High Court in any cause or matter in that court, including an examiner or commissioner appointed to take evidence outside the jurisdiction of the court.

Textual Amendments

F20 Words commencing “(a) the expenses of coming” substituted (*prosp.*) for words commencing “the expenses” by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(2), **Sch. 17 para. 13**

Modifications etc. (not altering text)

- C11** S. 36 extended by Medical Act 1983 (c. 54, SIF 83:1), s. 43, **Sch. 4 para. 2(2)**
- C12** S. 36 extended by Dentists Act 1984 (c. 24, SIF 83:1), ss. 33, 50(2), **Sch. 3 para. 3**
- C13** S. 36 extended by Administration of Justice Act 1985 (c. 61, SIF 98:1), s. 30, **Sch. 4 para. 2(2)**
- C14** S. 36 applied by Opticians Act 1989 (c. 44, SIF 83:1), s. 21(2)
- C15** S. 36(1)–(4) modified by Mental Health Act 1983 (c. 20, SIF 85), s. 104(4), **Sch. 5 para. 43(2)**

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

37 Powers of High Court with respect to injunctions and receivers.

- (1) The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.
- (2) Any such order may be made either unconditionally or on such terms and conditions as the court thinks just.
- (3) The power of the High Court under subsection (1) to grant an interlocutory injunction restraining a party to any proceedings from removing from the jurisdiction of the High Court, or otherwise dealing with, assets located within that jurisdiction shall be exercisable in cases where that party is, as well as in cases where he is not, domiciled, resident or present within that jurisdiction.
- (4) The power of the High Court to appoint a receiver by way of equitable execution shall operate in relation to all legal estates and interests in land; and that power—
 - (a) may be exercised in relation to an estate or interest in land whether or not a charge has been imposed on that land under section 1 of the ^{M14}Charging Orders Act 1979 for the purpose of enforcing the judgment, order or award in question; and
 - (b) shall be in addition to, and not in derogation of, any power of any court to appoint a receiver in proceedings for enforcing such a charge.
- (5) Where an order under the said section 1 imposing a charge for the purpose of enforcing a judgment, order or award has been, or has effect as if, registered under section 6 of the ^{M15}Land Charges Act 1972, subsection (4) of the said section 6 (effect of non-registration of writs and orders registrable under that section) shall not apply to an order appointing a receiver made either—
 - (a) in proceedings for enforcing the charge; or
 - (b) by way of equitable execution of the judgment, order or award or, as the case may be, of so much of it as requires payment of moneys secured by the charge.

Marginal Citations

M14 1979 c. 53.

M15 1972 c. 61.

38 Relief against forfeiture for non-payment of rent.

- (1) In any action in the High Court for the forfeiture of a lease for non-payment of rent, the court shall have power to grant relief against forfeiture in a summary manner, and may do so subject to the same terms and conditions as to the payment of rent, costs or otherwise as could have been imposed by it in such an action immediately before the commencement of this Act.
- (2) Where the lessee or a person deriving title under him is granted relief under this section, he shall hold the demised premises in accordance with the terms of the lease without the necessity for a new lease.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

39 Execution of instrument by person nominated by High Court.

- (1) Where the High Court has given or made a judgment or order directing a person to execute any conveyance, contract or other document, or to indorse any negotiable instrument, then, if that person—
 - (a) neglects or refuses to comply with the judgment or order; or
 - (b) cannot after reasonable inquiry be found,
 the High Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed, or that the negotiable instrument shall be indorsed, by such person as the court may nominate for that purpose.
- (2) A conveyance, contract, document or instrument executed or indorsed in pursuance of an order under this section shall operate, and be for all purposes available, as if it had been executed or indorsed by the person originally directed to execute or indorse it.

40 Attachment of debts.

- (1) Subject to any order for the time being in force under subsection (4), this section applies to the following accounts, namely—
 - (a) any deposit account with a bank or other deposit-taking institution; and
 - (b) any withdrawable share account with any deposit-taking institution.
- (2) In determining whether, for the purposes of the jurisdiction of the High Court to attach debts for the purpose of satisfying judgments or orders for the payment of money, a sum standing to the credit of a person in an account to which this section applies is a sum due or accruing to that person and, as such, attachable in accordance with rules of court, any condition mentioned in subsection (3) which applies to the account shall be disregarded.
- (3) Those conditions are—
 - (a) any condition that notice is required before any money or share is withdrawn;
 - (b) any condition that a personal application must be made before any money or share is withdrawn;
 - (c) any condition that a deposit book or share-account book must be produced before any money or share is withdrawn; or
 - (d) any other prescribed condition.
- (4) The Lord Chancellor may by order make such provision as he thinks fit, by way of amendment of this section or otherwise, for all or any of the following purposes, namely—
 - (a) including in, or excluding from, the accounts to which this section applies accounts of any description specified in the order;
 - (b) excluding from the accounts to which this section applies all accounts with any particular deposit-taking institution so specified or with any deposit-taking institution of a description so specified.
- (5) Any order under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “deposit-taking institution” means any person carrying on a business which is a deposit-taking business for the purposes of [F21the Banking Act 1987].

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F21 Words substituted by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 108(1), [Sch. 6 para. 11](#)

[^{F22}40A Administrative and clerical expenses of garnishees.

[Where an order nisi made in the exercise of the jurisdiction mentioned in subsection (2)
^{F23}(1) of the preceding section is served on any deposit-taking institution, the institution may, subject to the provisions of this section, deduct from the relevant debt or debts an amount not exceeding the prescribed sum towards the administrative and clerical expenses of the institution in complying with the order; and the right of an institution to make a deduction under this subsection shall be exercisable as from the time the order nisi is served on it.

(1A) In subsection (1) “the relevant debt or debts”, in relation to an order nisi served on any such institution as is mentioned in that subsection, means the amount, as at the time the order is served on the institution, of the debt or debts of which the whole or a part is expressed to be attached by the order.

(1B) A deduction may be made under subsection (1) in a case where the amount referred to in subsection (1A) is insufficient to cover both the amount of the deduction and the amount of the judgment debt and costs in respect of which the attachment was made, notwithstanding that the benefit of the attachment to the creditor is reduced as a result of the deduction.]

(2) [^{F24}An amount may not in pursuance of subsection (1)] be deducted or, as the case may be, retained in a case where, by virtue of [^{F25}section 346 of the Insolvency Act ^{M16}1986] or [^{F26}section]^{F27} 183 of the Insolvency Act 1986] or otherwise, the creditor is not entitled to retain the benefit of the attachment.

(3) In this section—

“deposit-taking institution” has the meaning assigned to it by section 40(6);
and

“prescribed” means prescribed by an order made by the Lord Chancellor.

(4) An order under this section—

(a) may make different provision for different cases; . . . ^{F28}

(b) without prejudice to the generality of paragraph (a) of this subsection, may prescribe sums differing according to the amount due under the judgment or order to be satisfied.

[
^{F29}(c) may provide for this section not to apply to deposit-taking institutions of any prescribed description.]

(5) Any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F22 S. 40A inserted by [Administration of Justice Act 1982 \(c. 53, SIF 37\)](#), s. 55(1), [Sch. 4 Pt. I](#)

F23 S. 40A(1)(1A)(1B) substituted for s. 40A(1) by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), ss. 52(2), 69(5), [Sch. 9 para. 11\(2\)](#)

*Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F24** Words substituted by Administration of Justice Act 1985 (c. 61, SIF 37), **ss. 52(3)** 69(5), Sch. 9 para. 11(2)
- F25** Words substituted by virtue of Insolvency Act 1985 (c. 65, SIF 66), **s. 235(1) Sch. 8 para. 35** and Insolvency Act 1986 (c.45, SIF 66), s. 439(2), Sch. 11 para. 9, **Sch. 14**
- F26** Word substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), ss. 21, 23, 30, 31(8), **Sch. 2**
- F27** Words substituted by virtue of Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), ss. 21, 23, 30, 31(8), **Sch. 2** and Insolvency Act 1986 (c. 45, SIF 66), s. 439(2), **Sch. 14**
- F28** Word repealed by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(4), 67(2), 69(5), Sch. 8 Pt. II, **Sch. 9 para. 11(2)**
- F29** Words inserted by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(4), 69(5), **Sch. 9 para. 11(2)**

Marginal Citations

M16 1986 c.45(66)

41 Wards of court.

- (1) Subject to the provisions of this section, no minor shall be made a ward of court except by virtue of an order to that effect made by the High Court.
 - (2) Where an application is made for such an order in respect of a minor, the minor shall become a ward of court on the making of the application, but shall cease to be a ward of court at the end of such period as may be prescribed unless within that period an order has been made in accordance with the application.
- [^{F30}(2A) Subsection (2) does not apply with respect to a child who is the subject of a care order (as defined by section 105 of the Children Act 1989).]
- (3) The High Court may, either upon an application in that behalf or without such an application, order that any minor who is for the time being a ward of court shall cease to be a ward of court.

Textual Amendments

F30 S. 41(2A) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 45(2), **Sch. 14 para. 1(1)**; S.I. 1991/828, **art. 3(2)**

42 Restriction of vexatious legal proceedings.

- (1) If, on an application made by the Attorney General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground—
 - (a) instituted vexatious [^{F31}civil] proceedings, whether in the High Court or any inferior court, and whether against the same person or against different persons; or
 - (b) made vexatious applications in any [^{F31}civil] proceedings, whether in the High Court or any inferior court, and whether instituted by him or another, [^{F32}or
 - (c) instituted vexatious prosecutions (whether against the same person or different persons),]

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the court may, after hearing that person or giving him an opportunity of being heard, [^{F33}make a civil proceedings order, a criminal proceedings order or an all proceedings order.]

[^{F34}(1A) In this section—

“civil proceedings order” means an order that—

- (a) no civil proceedings shall without the leave of the High Court be instituted in any court by the person against whom the order is made;
- (b) any civil proceedings instituted by him in any court before the making of the order shall not be continued by him without the leave of the High Court; and
- (c) no application (other than one for leave under this section) shall be made by him, in any civil proceedings instituted in any court by any person, without the leave of the High Court;

“criminal proceedings order” means an order that—

- (a) no information shall be laid before a justice of the peace by the person against whom the order is made without the leave of the High Court; and
- (b) no application for leave to prefer a bill of indictment shall be made by him without the leave of the High Court; and

“all proceedings order” means an order which has the combined effect of the two other orders.]

- (2) An order under subsection (1) may provide that it is to cease to have effect at the end of a specified period, but shall otherwise remain in force indefinitely.
- (3) Leave for the institution or continuance of, or for the making of an application in, any [^{F35}civil] proceedings by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the High Court is satisfied that the proceedings or application are not an abuse of the process of the court in question and that there are reasonable grounds for the proceedings or application.

[^{F36}(3A) Leave for the laying of an information or for an application for leave to prefer a bill of indictment by a person who is the subject of an order for the time being in force under subsection (1) shall not be given unless the High Court is satisfied that the institution of the prosecution is not an abuse of the criminal process and that there are reasonable grounds for the institution of the prosecution by the applicant.]

- (4) No appeal shall lie from a decision of the High Court refusing leave [^{F37}required by virtue of this section].
- (5) A copy of any order made under subsection (1) shall be published in the London Gazette.

Textual Amendments

- F31** Word substituted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 24\(2\)\(a\)](#)
- F32** S. 42(1)(c) and word “or” preceding it inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s.24\(2\)\(b\)](#)
- F33** Words substituted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 24\(2\)\(c\)](#)
- F34** S. 42(1A) inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 24\(3\)](#)
- F35** Word substituted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 24\(4\)](#)
- F36** S. 42(3A) inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39\), s. 24\(5\)](#)
- F37** Words substituted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\), s. 24\(6\)](#)

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C16 S. 42 amended by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), [s.24\(7\)](#)

43 Power of High Court to vary sentence on certiorari.

- (1) Where a person who has been sentenced for an offence—
- (a) by a magistrates' court; or
 - (b) by the Crown Court after being convicted of the offence by a magistrates' court and committed to the Crown Court for sentence; or
 - (c) by the Crown Court on appeal against conviction or sentence,
- applies to the High Court in accordance with section 31 for an order of certiorari to remove the proceedings of the magistrates' court or the Crown Court into the High Court, then, if the High Court determines that the magistrates' court or the Crown Court had no power to pass the sentence, the High Court may, instead of quashing the conviction, amend it by substituting for the sentence passed any sentence which the magistrates' court or, in a case within paragraph (b), the Crown Court had power to impose.
- (2) Any sentence passed by the High Court by virtue of this section in substitution for the sentence passed in the proceedings of the magistrates' court or the Crown Court shall, unless the High Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings; but in computing the term of the sentence, any time during which the offender was released on bail in pursuance of section 37(1)(d) of the ^{M17}Criminal Justice Act 1948 shall be disregarded.
- (3) Subsections (1) and (2) shall, with the necessary modifications, apply in relation to any order of a magistrates' court or the Crown Court which is made on, but does not form part of, the conviction of an offender as they apply in relation to a conviction and sentence.

Marginal Citations

M17 1948 c. 58.

VALID FROM 27/09/1999

^{F38}**43ZA Power of High Court to vary committal in default.**

- (1) Where the High Court quashes the committal of a person to prison or detention by a magistrates' court or the Crown Court for—
- (a) a default in paying a sum adjudged to be paid by a conviction; or
 - (b) want of sufficient distress to satisfy such a sum,
- the High Court may deal with the person for the default or want of sufficient distress in any way in which the magistrates' court or Crown Court would have power to deal with him if it were dealing with him at the time when the committal is quashed.
- (2) If the High Court commits him to prison or detention, the period of imprisonment or detention shall, unless the High Court otherwise directs, be treated as having begun when the person was committed by the magistrates' court or the Crown Court (except

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

that any time during which he was released on bail shall not be counted as part of the period).]

Textual Amendments

F38 S. 43ZA inserted (27.9.1999) by 1999 c. 22, ss. 62, 108(3)(b) (with Sch. 14 para. 7(2))

[^{F39}43A Specific powers of arbitrator exercisable by High Court.

In any cause or matter proceeding in the High Court in connection with any contract incorporating an arbitration agreement which confers specific powers upon the arbitrator, the High Court may, if all parties to the agreement agree, exercise any such powers.]

Textual Amendments

F39 S. 43A inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 5), ss. 100, 124(3)

Other provisions

44 Extraordinary functions of judges of High Court.

- (1) Subject to the provisions of this Act, every judge of the High Court shall be—
 - (a) liable to perform any duty not incident to the administration of justice in any court of law which a judge of the High Court was, as the successor of any judge formerly subject to that duty, liable to perform immediately before the commencement of this Act by virtue of any statute, law or custom; and
 - (b) empowered to exercise any authority or power not so incident which a judge of the High Court was, as the successor of any judge formerly possessing that authority or power, empowered to exercise immediately before that commencement by virtue of any statute, law or custom.
- (2) Any such duty, authority or power which immediately before commencement of this Act was imposed or conferred by any statute, the law or custom on the Lord Chancellor, the Lord Chief Justice or the Master of the Rolls shall continue to be performed and exercised by them respectively.

THE CROWN COURT

45 General jurisdiction of Crown Court.

- (1) The Crown Court shall be a superior court of record.
- (2) Subject to the provisions of this Act, there shall be exercisable by the Crown Court—
 - (a) all such appellate and other jurisdiction as is conferred on it by or under this or any other Act; and
 - (b) all such other jurisdiction as was exercisable by it immediately before the commencement of this Act.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Without prejudice to subsection (2), the jurisdiction of the Crown Court shall include all such powers and duties as were exercisable or fell to be performed by it immediately before the commencement of this Act.
- (4) Subject to section 8 of the ^{M18}Criminal Procedure (Attendance of Witnesses) Act 1965 (substitution in criminal cases of procedure in that Act for procedure by way of subpoena) and to any provision contained in or having effect under this Act, the Crown Court shall, in relation to the attendance and examination of witnesses, any contempt of court, the enforcement of its orders and all other matters incidental to its jurisdiction, have the like powers, rights, privileges and authority as the High Court.
- (5) The specific mention elsewhere in this Act of any jurisdiction covered by subsections (2) and (3) shall not derogate from the generality of those subsections.

Marginal Citations

M18 1965 c. 69.

46 Exclusive jurisdiction of Crown Court in trial on indictment.

- (1) All proceedings on indictment shall be brought before the Crown Court.
- (2) The jurisdiction of the Crown Court with respect to proceedings on indictment shall include jurisdiction in proceedings on indictment for offences wherever committed, and in particular proceedings on indictment for offences within the jurisdiction of the Admiralty of England.

VALID FROM 01/01/1996

^{F40}46A Offences committed on ships and abroad.

- (1) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.]

Textual Amendments

F40 S. 46A inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 59(4) (with s. 312(1))

47 Sentences and other orders of Crown Court when dealing with offenders.

- (1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed, unless the court otherwise directs.
- (2) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of twenty-eight days beginning with the day

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

on which the sentence or other order was imposed or made or, where subsection (3) applies, within the time allowed by that subsection.

- (3) Where two or more persons are jointly tried on an indictment, then, subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court on conviction of any of those persons on the indictment may be varied or rescinded by the Crown Court not later than the expiration of whichever is the shorter of the following periods, that is—
- (a) the period of twenty-eight days beginning with the date of conclusion of the joint trial;
 - (b) the period of fifty-six days beginning with the day on which the sentence or other order was imposed or made.

For the purposes of this subsection the joint trial is concluded on the latest of the following dates, that is any date on which any of the persons jointly tried is sentenced, or is acquitted, or on which a special verdict is brought in.

- (4) A sentence or other order shall not be varied or rescinded under this section except by the court constituted as it was when the sentence or other order was imposed or made, or, where that court comprised one or more justices of the peace, a court so constituted except for the omission of any one or more of those justices.
- (5) Where a sentence or other order is varied under this section, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs:

Provided that for the purposes of section 18(2) of the ^{M19}Criminal Appeal Act 1968 (time limit for notice of appeal or of application for leave to appeal) [^{F41}and for the purposes of paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act)] the sentence or other order shall be regarded as imposed or made on the day on which it is so varied.

- (6) Crown Court Rules—
- (a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictments, provide for extending the period fixed by subsection (2);
 - (b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by that court.
- (7) In this section—
- “order” does not include a [^{F42}contribution order made under section 23 of the Legal Aid Act 1988];
- “sentence” includes a recommendation for deportation made when dealing with an offender.

Textual Amendments

F41 Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(1), Sch. 8 para. 16, [Sch. 15 para. 79](#)

F42 Words substituted by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 45(1), [Sch. 5 para. 10](#)

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C17 S. 47(2)(3) applied (3.2.1995) by 1994 c. 37, ss. 3(10), 69(2) (with s. 66(2))

Marginal Citations

M19 1968 c. 19.

48 Appeals to Crown Court.

- (1) The Crown Court may, in the course of hearing any appeal, correct any error or mistake in the order or judgment incorporating the decision which is the subject of the appeal.
- (2) On the termination of the hearing of an appeal the Crown Court—
 - (a) may confirm, reverse or vary [^{F43}any part of the decision appealed against, including a determination not to impose a separate penalty in respect of an offence]; or
 - (b) may remit the matter with its opinion thereon to the authority whose decision is appealed against; or
 - (c) may make such other order in the matter as the court thinks just, and by such order exercise any power which the said authority might have exercised.
- (3) Subsection (2) has effect subject to any enactment relating to any such appeal which expressly limits or restricts the powers of the court on the appeal.
- (4) If the appeal is against a conviction or a sentence, the preceding provisions of this section shall be construed as including power to award any punishment, whether more or less severe than that awarded by the magistrates' court whose decision is appealed against, if that is a punishment which that magistrates' court might have awarded.
- (5) This section applies whether or not the appeal is against the whole of the decision.
- (6) In this section “sentence” includes any order made by a court when dealing with an offender, including—
 - (a) a hospital order under [^{F44}Part III of the Mental Health Act 1983], with or without [^{F45}a restriction order, and an interim hospital order under [^{F44}that Act]]; and
 - (b) a recommendation for deportation made when dealing with an offender.
- [^{F46}(7) The fact that an appeal is pending against an interim hospital order under [^{F47}the said Act of 1983] shall not affect the power of the magistrates' court that made it to renew or terminate the order or to deal with the appellant on its termination; and where the Crown Court quashes such an order but does not pass any sentence or make any other order in its place the Court may direct the appellant to be kept in custody or released on bail pending his being dealt with by that magistrates' court.
- (8) Where the Crown Court makes an interim hospital order by virtue of subsection (2)—
 - (a) the power of renewing or terminating the order and of dealing with the appellant on its termination shall be exercisable by the magistrates' court whose decision is appealed against and not by the Crown Court; and
 - (b) that magistrates' court shall be treated for the purposes of [^{F48}section 38(7) of the said Act of 1983] (absconding offenders) as the court that made the order.]

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F43** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 156, **Sch. 8 para. 16**
- F44** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 43, **Sch. 4 para. 58(a)**
- F45** Words substituted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), s. 65(1), **Sch. 3 para. 61(a)**
- F46** [S. 48\(7\)\(8\)](#) inserted by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 3 para. 61(b)**
- F47** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 43, **Sch. 4 para. 58(b)**
- F48** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), s. 43, **Sch. 4 para. 58(c)**

GENERAL PROVISIONS

Law and equity

49 Concurrent administration of law and equity.

- (1) Subject to the provisions of this or any other Act, every court exercising jurisdiction in England or Wales in any civil cause or matter shall continue to administer law and equity on the basis that, wherever there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.
- (2) Every such court shall give the same effect as hitherto—
 - (a) to all equitable estates, titles, rights, reliefs, defences and counterclaims, and to all equitable duties and liabilities; and
 - (b) subject thereto, to all legal claims and demands and all estates, titles, rights, duties, obligations and liabilities existing by the common law or by any custom or created by any statute,
 and, subject to the provisions of this or any other Act, shall so exercise its jurisdiction in every cause or matter before it as to secure that, as far as possible, all matters in dispute between the parties are completely and finally determined, and all multiplicity of legal proceedings with respect to any of those matters is avoided.
- (3) Nothing in this Act shall affect the power of the Court of Appeal or the High Court to stay any proceedings before it, where it thinks fit to do so, either of its own motion or on the application of any person, whether or not a party to the proceedings.

50 Power to award damages as well as, or in substitution for, injunction or specific performance.

Where the Court of Appeal or the High Court has jurisdiction to entertain an application for an injunction or specific performance, it may award damages in addition to, or in substitution for, an injunction or specific performance.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Costs

51 Costs in civil division of Court of Appeal and High Court.

- (1) Subject to the provisions of this or any other Act and to rules of court, the costs of and incidental to all proceedings in the civil division of the Court of Appeal and in the High Court, including the administration of estates and trusts, shall be in the discretion of the court, and the court shall have full power to determine by whom and to what extent the costs are to be paid.
- (2) Nothing in subsection (1) shall alter the practice in any criminal cause or matter, or in bankruptcy.
- (3) Provision may be made by rules of court for regulating any matters relating to the costs of proceedings in the civil division of the Court of Appeal or in the High Court, including the administration of estates and trusts.

52 Costs in Crown Court.

- (1) Crown Court Rules may authorise the Crown Court to award costs and may regulate any matters relating to costs of proceedings in that court, and in particular may make provision as to—
 - (a) any discretion to award costs;
 - (b) the taxation of costs, or the fixing of a sum instead of directing a taxation, and as to the officer of the court or other person by whom costs are to be taxed;
 - (c) a right of appeal from any decision on the taxation of costs, whether to a Taxing Master of the Supreme Court or to any other officer or authority;
 - (d) a right of appeal to the High Court, subject to any conditions specified in the rules, from any decision on an appeal brought by virtue of paragraph (c);
 - (e) the enforcement of an order for costs; and
 - (f) the charges or expenses or other disbursements which are to be treated as costs for the purposes of the rules.
 - (2) The costs to be dealt with by rules made in pursuance of this section may, where an appeal is brought to the Crown Court from the decision of a magistrates' court, or from the decision of any other court or tribunal, include costs in the proceedings in that court or tribunal.
- [^{F49}(2A) Subsection (6) of section 51 applies in relation to any civil proceedings in the Crown Court as it applies in relation to any proceedings mentioned in subsection (1) of that section]
- (3) Nothing in this section authorises the making of rules about the payment of costs out of central funds, whether under the [^{F50}Part II of the Prosecution of Offences Act 1985] or otherwise, but rules made in pursuance of this section may make any such provision as [^{F51}in relation to costs of proceedings in the Crown Court, is contained in section 18 of that Act or in regulations made under section 19 of that Act (awards of party and party costs in criminal proceedings)].
 - (4) Rules made in pursuance of this section may amend or repeal all or any of the provisions of any enactment about costs between party and party in criminal or other proceedings in the Crown Court, being an enactment passed before, or contained in, the [^{F52}Part II of the Prosecution of Offences Act 1985].

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Rules made in pursuance of this section shall have effect subject to the provisions of section 41 of, and Schedule 9 to, the ^{M20}Administration of Justice Act 1970 (method of enforcing orders for costs).

Textual Amendments

- F49** S. 52(2A) inserted (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 4(2); S.I. 1991/1883, art. 2
- F50** Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), Sch. 1 para. 9
- F51** Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), Sch. 1 para. 9
- F52** Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(5), Sch. 1 para. 10
-

Marginal Citations

- M20** 1970 c. 31.

Status:

Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

Senior Courts Act 1981, Part II is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.