

## SCHEDULES

### SCHEDULE 3

Section 149(1).

#### AMENDMENTS OF COUNTY COURTS ACT 1959

1 For section 18(1) (appointment of registrars) substitute—

“(1) Subject to the provisions of this section, there shall be a registrar for each district, who shall be appointed by the Lord Chancellor and paid such salary as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service! direct.”.

2 (1) For sections 22 (whole-time registrars and assistant registrars) and 23 (removal and retirement of registrars and assistant registrars) substitute—

#### **“22 Restrictions on practice as solicitor of registrars and assistant registrars.**

- (1) A registrar or assistant registrar shall not directly or indirectly practise as a solicitor or as an agent for a solicitor.
- (2) If in any case the Lord Chancellor thinks it expedient so to do, he may authorise a registrar or assistant registrar to practise as a solicitor or as an agent for a solicitor, either subject to such restrictions as may be specified in the authorisation or without restrictions.
- (3) A registrar with respect to whom an authorisation has been given under subsection (2) of this section is in this Act referred to as a " part-time registrar ", and an assistant registrar with respect to whom an authorisation has been so given is referred to as a " part-time assistant registrar ".
- (4) The Lord Chancellor may revoke an authorisation under subsection (2) of this section by giving notice to the part-time registrar or part-time assistant registrar to whom it applies.

#### **23 Tenure of office.**

- (1) This subsection applies—
  - (a) to the office of registrar or assistant registrar ; and
  - (b) to the office of part-time registrar or part-time assistant registrar.
- (2) Subject to the following provisions of this section, a person who holds an office to which subsection (1) of this section applies shall vacate his office at the end of the completed year of service in which he attains the age of seventy-two years.
- (3) Where the Lord Chancellor considers it desirable in the public interest to retain in office a person who holds an office to which subsection (1) of this section applies after the time when he would otherwise retire in accordance with subsection (2) of this section, the Lord Chancellor may from time to

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time authorise the continuance in office of that person until such date, not being later than the date on which that person attains the age of seventy-five years, as he thinks fit.

(4) A person appointed to an office to which subsection (1) of this section applies shall hold that office during good behaviour.

(5) The power to remove such a person from his office on account of misbehaviour shall be exercisable by the Lord Chancellor.

(6) The Lord Chancellor may also remove such a person from his office on account of inability to perform the duties of his office.”.

(2) In section 18(4) (which enables the registrar of one district to act for the registrar of another but not in proceedings where he is engaged as solicitor or agent for any party) after " but" insert " a part-time registrar ".

3 For section 40 (money recoverable by statute) substitute—

**“40 Money recoverable by statute.**

A county court shall have jurisdiction to hear and determine an action for the recovery of a sum recoverable by virtue of any enactment for the time being in force, if—

- (a) it is not provided by that or any other enactment that such sums shall only be recoverable in the High Court or shall only be recoverable summarily; and
- (b) the amount claimed in the action does not exceed the amount specified in section 39(2) of this Act.”.

4 In section 56 (Admiralty jurisdiction)—

- (a) in subsection (1)(f), for the words from "and any" onwards substitute " (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages); "; and
- (b) after subsection (7) insert—

“(7A) No county court shall have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions of that Convention ; and any proceedings to enforce such a claim which are commenced in a county court shall be set aside.

(7B) In subsection (7A) above " the Rhine Navigation Convention " means the Convention of the 7th October 1868 as revised by any subsequent Convention.”.

5 For section 57 substitute—

**“57 Mode of exercise of Admiralty jurisdiction.**

- (1) The following provisions of this section shall apply to cases within the Admiralty jurisdiction of a county court.
- (2) Subject to the following provisions of this Part of this Act, an action in personam may be brought in all such cases.

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- (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 a county court against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in paragraphs (a) and (c) to (m) of section 56(1) of this Act, 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 of 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 a county 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 a county 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, a county court orders any ship, aircraft or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.
- (7) In determining for the purposes of subsections (4) and (5) of this section whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England or Wales.
- (8) Where, as regards any such claim as is mentioned in paragraphs (a) and (c) to (m) of section 56(1) of this Act, a ship has been served with a summons or arrested in an action in rem brought to enforce that claim, no other ship may be served with a summons 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 summons naming more than one ship or of two or more summonses each naming a different ship.
- (9) If, in any Admiralty proceedings in a county court, evidence is given to the satisfaction of the court that it is probable that the vessel, aircraft or property to which the proceedings relate will be removed out of the jurisdiction of the court before the plaintiff's claim is satisfied, the court may issue a warrant for the arrest and detention of the vessel, aircraft or property unless or until bail to the amount of the claim made in the proceedings and the reasonable costs of the plaintiff in the proceedings be entered into and perfected according to county court rules by or on behalf of the defendant.
- (10) Except as provided by subsection (9) of this section, and notwithstanding anything in section 74 of this Act, no vessel, aircraft or property shall be arrested or detained in Admiralty proceedings in a county court otherwise than in execution.

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(11) Where an action is transferred to a county court Under section 75A of this Act, any vessel, aircraft or other property which has been arrested in the action before the transfer shall, notwithstanding the transfer, remain in the custody of the Admiralty Marshal who shall, subject to any directions of the High Court, comply with any orders made by the county court with respect to that vessel, aircraft or property.”.

6 For section 73 substitute—

**“73 Persons who may exercise jurisdiction.**

- (1) Any jurisdiction and powers conferred by this or any other Act—
- (a) on a county court; or
  - (b) on the judge of a county court, may be exercised by any judge of the court.
- (2) Subsection (1) of this section applies to jurisdiction and powers conferred on all county courts or judges of county courts or on any particular county court or the judge of any particular county court.”.

7 For section 75 substitute—

**“75 Ancillary powers of judge.**

A judge shall have jurisdiction in any pending proceedings to make any order or exercise any authority or jurisdiction which, if it related to an action or proceeding pending in the High Court, might be made or exercised by a judge of the High Court in chambers.”.

8 After section 75 insert—

**“75A Transfer of proceedings from High Court to county court.**

- (1) At any stage in any proceedings to which this section applies, the High Court may, in accordance with rules of the Supreme Court, either of its own motion or on the application of any party to the proceedings, order the transfer of the whole or any part of the proceedings to a county court if—
- (a) the parties consent to the transfer ; or
  - (b) the High Court is satisfied—
    - (i) that, after allowance has been made for any payment, set-off or other amount admitted to be due, the amount remaining in dispute in respect of the claim is within the monetary limit of the jurisdiction of the county court; or
    - (ii) that the amount recoverable in respect of the claim is likely to be within the monetary limit of the jurisdiction of the county court; or
    - (iii) in the case of proceedings not involving an unliquidated claim, that the subject matter of the proceedings is or is likely to be within the limits of the jurisdiction of the county court; or
  - (c) where only a counterclaim remains in dispute, the High Court considers that the amount recoverable in respect of the counterclaim

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- is likely to be within the monetary limit of the jurisdiction of the county court; or
- (d) the High Court considers that the proceedings are not likely to raise any important question of law or fact and are suitable for determination by a county court.
- (2) Subject to subsection (3) of this section, this section applies to all proceedings commenced in the High Court which (disregarding any limitation by reason of amount or value or annual value) a county court would have jurisdiction to hear and determine if they were commenced in it.
- (3) This section does not apply to the following proceedings, namely—
- (a) matrimonial causes ;
  - (b) applications relating to the adoption or custody of, or access to, minors (including applications relating to guardianship or custodianship).
- (4) This section applies to all proceedings transferred to the High Court under section 75B or 75C of this Act.
- (5) An order for the transfer to a county court of any proceedings by or against the Crown in the High Court shall not be made without the consent of the Crown.
- (6) Proceedings transferred under this section shall be transferred to such county court as the High Court considers to be convenient to the parties.
- (7) Where proceedings are ordered to be transferred from the High Court to a county court—
- (a) any party may lodge with the registrar of the county court named in the order, or cause to be lodged with him, the order and the writ, or copies of them, and such other documents (if any) as the High Court may direct; and
  - (b) the proper officer of the Supreme Court shall, on the application of that party and on the production of the order and the filing of a copy of it, send by post to the registrar of the county court all pleadings, affidavits and other documents filed in the High Court relating to the proceedings.
- (8) Subject to subsection (9) of this section, on the documents mentioned in subsection (7) of this section being so lodged or sent, the proceedings shall be transferred to the county court.
- (9) The transfer shall not affect any right of appeal from the order directing the transfer, or the right to enforce in the High Court any judgment signed, or order made, in that court before the transfer.
- (10) Where proceedings are transferred to a county court under this section, the county court shall have jurisdiction—
- (a) to hear and determine those proceedings ; and
  - (b) to award any relief, including any amount of damages, which could have been awarded by the High Court.

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**75B Transfer of proceedings to High Court by order of High Court.**

- (1) If the High Court thinks it desirable, at any stage in proceedings commenced in a county court or transferred to a county court under section 75A of this Act, that the proceedings, or any part of them, should be heard and determined in the High Court, it may order the transfer to the High Court of the proceedings or, as the case may be, of that part of them.
- (2) The power conferred by subsection (1) of this section is without prejudice to section 29 of the Supreme Court Act 1981 (power of High Court to issue prerogative orders).

**75C Transfer of proceedings to High Court by order of county court.**

- (1) At any stage in any proceedings to which this section applies, the county court may, either of its own motion or on the application of any party to the proceedings, order the transfer of the whole or any part of the proceedings to the High Court if—
  - (a) the court considers that some important question of law or fact is likely to arise ; or
  - (b) the court considers that one or other of the parties is likely to be entitled in respect of a claim or counterclaim to an amount exceeding the amount recoverable in the county court; or
  - (c) any counterclaim or set-off and counterclaim of a defendant involves matters beyond the jurisdiction of the county court.
- (2) Where—
  - (a) the county court has ordered that the proceedings on a counterclaim or set-off and counterclaim be transferred to the High Court, but the proceedings on the plaintiff's claim and the defence other than any set-off are heard and determined in the county court; and
  - (b) judgment on the claim is given for the plaintiff,
 execution of the judgment shall, unless the High Court at any time otherwise orders, be stayed until the proceedings transferred to the High Court have been concluded.
- (3) This section applies to all proceedings commenced in a county court which the High Court would have jurisdiction to hear and determine if they were commenced in it, other than—
  - (a) matrimonial causes ;
  - (b) applications relating to the adoption or custody of, or access to, minors (including applications relating to guardianship or custodianship).
- (4) This section applies to all proceedings transferred to a county court under section 75A of this Act.”.

9            In section 87(1) (persons who may take affidavits in county courts) for "to 1891" substitute " and 1891 or a solicitor exercising the powers of a commissioner for oaths under section 81 of the Solicitors Act 1974 ".

10          For section 94(3) (trial by jury) substitute—

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“(3) Where, on any such application, the court is satisfied that there is in issue—

- (a) a charge of fraud against the party making the application ; or
- (b) a claim in respect of libel, slander, malicious prosecution or false imprisonment; or
- (c) any question or issue of a kind prescribed for the purposes of this paragraph,

the action shall be tried with a jury, unless the court is of opinion that the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury.”.

11 After section 101 insert—

**“101A Interest on judgment debts etc.**

- (1) The Lord Chancellor may by order made with the concurrence of the Treasury provide that any sums to which this subsection applies shall carry interest at such rate and between such times as may be prescribed by the order.
- (2) The sums to which subsection (1) of this section applies are—
  - (a) sums payable under judgments or orders given or made in a county court, including sums payable by instalments ; and
  - (b) sums which by virtue of any enactment are, if the county court so orders, recoverable as if payable under an order of that court, and in respect of which the county court has so ordered.
- (3) The payment of interest due under subsection (1) of this section shall be enforceable as a sum payable under the judgment or order.
- (4) The power conferred by subsection (1) of this section includes power—
  - (a) to specify the descriptions of judgment or order in respect of which interest shall be payable ;
  - (b) to provide that interest shall be payable only on sums exceeding a specified amount;
  - (c) to make provision for the manner in which and the periods by reference to which the interest is to be calculated and paid ;
  - (d) to provide that any enactment shall or shall not apply in relation to interest payable under subsection (1) of this section or shall apply to it with such modifications as may be specified in the order; and
  - (e) to make such incidental or supplementary provisions as the Lord Chancellor considers appropriate.
- (5) Without prejudice to the generality of subsection (4) of this section, an order under subsection (1) of this section may provide that the rate of interest shall be the rate specified in section 17 of the Judgments Act 1838 as that enactment has effect from time to time.
- (6) The power to make an order under subsection (1) of this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

12 For subsection (3)(c) of section 102 (county court rules) substitute—

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- “(c) prescribing cases in which—
- (i) the jurisdiction or powers of a county court or the judge of a county court may be exercised by a registrar or some other officer of the court; or
  - (ii) the jurisdiction or powers of the registrar of a county court may be exercised by some other officer of the court;”.
- 13 In section 106(1) (removal of action of replevin to High Court at instance of defendant) for " a master of the Supreme Court", and also for " the master ", substitute " the High Court ".
- 14 For section 108 substitute—

**“108 Appeals general provisions.**

- (1) Subject to the provisions of this section and the following provisions of this Part of this Act, if any party to any proceedings in a county court is dissatisfied with the determination of the judge or jury he may appeal from it to the Court of Appeal in such manner and subject to such conditions as may be provided by the rules of the Supreme Court.
- (2) The Lord Chancellor may by order prescribe classes of proceedings in which there is to be no right of appeal under this section without the leave either of the judge of the county court or of the Court of Appeal.
- (3) An order under subsection (2) of this section—
  - (a) may classify proceedings according to the nature of those proceedings ;
  - (b) may classify proceedings according to the amount or value or annual value of the money or other property which is the subject of those proceedings or according to whether that amount or value or annual value exceeds a specified fraction of the relevant county court limit;
  - (c) may provide that the order shall not apply to determinations made before such date as may be specified in the order ; and
  - (d) may make different provision for different classes of proceedings.
- (4) The power to make an order under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subject to the provisions of this section and the following provisions of this Part of this Act, where an appeal is brought under subsection (1) above in any action, an appeal may be brought under that subsection in respect of any claim or counterclaim in the action notwithstanding that there could have been no such appeal if that claim had been the subject of a separate action.
- (6) In proceedings in which either the plaintiff or the defendant is claiming possession of any premises this section shall not confer any right of appeal on any question of fact if by virtue of—
  - (a) section 13(4) of the Landlord and Tenant Act 1954 ; or
  - (b) Cases III to IX in Schedule 4 to the Rent (Agriculture) Act 1976; or
  - (c) section 98 of the Rent Act 1977, as it applies to Cases 1 to 6 and 8 and 9 in Schedule 15 to that Act, or that section as extended or applied by any other enactment; or



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- (d) section 99 of the Rent Act 1977, as it applies to Cases 1 to 6 and 9 in Schedule 15 to that Act; or
- (e) section 34(3)(a) of the Housing Act 1980; or
- (f) any other enactment,

the court can only grant possession on being satisfied that it is reasonable to do so.

(7) This section shall not—

- (a) confer any right of appeal from any judgment or order where a right to appeal is conferred by some other enactment; or
- (b) take away any right of appeal from any judgment or order where a right to appeal is so conferred,

and shall have effect subject to any enactment other than this Act.

(8) In this section "enactment" means an enactment whenever passed and "the relevant county court limit" means, in relation to proceedings of any description, the sum by reference to which the question whether a county court has jurisdiction to hear and determine the proceedings falls to be decided."

15 Omit section 109 (appeals on questions of fact).

16 In section 112(1) (judge's note on appeal) after " appeal" insert " or from which an appeal may be brought with leave ".

17 In section 124 (goods which may be seized) after subsection (1) insert—

“(1A) Any reference to the goods of an execution debtor in this Part of this Act includes a reference to anything else of his that may be lawfully seized in execution.”.

18 Before section 134 insert—

**“133A Effect of warrants of execution.**

(1) Subject—

- (a) to subsection (2) of this section ; and
- (b) to section 138(1A) of this Act,

a warrant of execution against goods issued from a county court shall bind the property in the goods of the execution debtor as from the time at which application for the warrant was made to the registrar of the county court.

(2) Such a warrant shall not prejudice the title to any goods of the execution debtor acquired by a person in good faith and for valuable consideration unless he had, at the time when he acquired his title—

- (a) notice that an application for the issue of a warrant of execution against the goods of the execution debtor had been made to the registrar of a county court and that the warrant issued on the application either—
  - (i) remained unexecuted in the hands of the registrar of the court from which it was issued; or
  - (ii) had been sent for execution to, and received by, the registrar of another county court, and remained unexecuted in the hands of the registrar of that court; or

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- (b) notice that a writ of fieri facias or other writ of execution by virtue of which the goods of the execution debtor might be seized or attached had been delivered to and remained unexecuted in the hands of the sheriff.
- (3) For the better manifestation of the time mentioned in subsection (1) of this section, it shall be the duty of the registrar (without fee) on application for a warrant of execution being made to him to endorse on its back the hour, day, month and year when he received the application.
- (4) For the purposes of this section—
- (a) " property " means the general property in goods, and not merely a special property ;
- (b) " sheriff" includes any officer charged with the enforcement of a writ of execution; and
- (c) a thing shall be treated as done in good faith if it is in fact done honestly, whether it is done negligently or not.”.
- 19 In section 135 (sale of goods where claim made therein)—
- (a) in subsection (3), for " In " substitute " Subject to subsection (4) of this section, in "; and
- (b) add after that subsection—
- “(4) The goods shall not be sold if the registrar decides that, in all the circumstances, the decision of the judge on the claim made to or in respect of them ought to be awaited.”.
- 20 In section 138 (execution out of jurisdiction of court) insert after subsection (1): —
- “(1A) The original warrant shall bind the property in goods of the execution debtor which are within the jurisdiction of the court to which it is sent as from the time when it is received by the registrar of that court.
- (1B) For the better manifestation of the time mentioned in subsection (1A) of this section, it shall be the duty of the registrar of the court to which the warrant is sent (without fee) on receipt of the warrant to endorse on its back the hour, day, month and year when he received it.”.
- 21 After section 138 insert—
- “138A Information as to writs and warrants of execution.**
- (1) A sheriff shall on demand inform the registrar of a county court, by writing signed by any clerk in the office of the under-sheriff, of the precise time of the delivery to him of a writ against the goods of any person issued from the High Court, and a bailiff of a county court shall on demand show his warrant to any sheriff's officer.
- (2) Any writing purporting to be signed as mentioned in subsection (1) of this section and the endorsement on any such warrant shall respectively be sufficient justification to any registrar or sheriff acting on it.”.
- 22 For section 143 substitute—

**“143 Attachment of debts.**

- (1) Subject to any order for the time being in force under subsection (4) of this section, 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 county 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 county court rules, any condition mentioned in subsection (3) of this section 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 the Banking Act 1979.”.

- 23 For paragraph (g) of section 168 (payment of funds into court) substitute—  
“(g) providing for dealing with accounts which, subject to such, if any, exceptions as may be prescribed by the rules, have not been dealt with for such period (not being less than fifteen years in the case of deposit accounts and of short- and long-term investment accounts or five years in the case of other accounts) as may be prescribed ;”.
- 24 In section 172 (provision as to closed accounts)—
  - (a) omit subsection (1); and
  - (b) in subsection (2), after the words " County Court Funds Rules " insert " made by virtue of section 168(g) of this Act before the coming into force of paragraph 23 of Schedule 3 to the Supreme Court Act 1981 ".

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25 In section 174 (transfer to county court of money recovered in High Court by infants &c.)—

- (a) in subsection (1), for " of unsound mind" substitute " a patient "; and
- (b) add after subsection (2): —

“(2A) In this section " patient" has the meaning assigned to it by section 101 of the Mental Health Act 1959.”.

26 After section 174 insert—

**“174A Transfer to High Court of money held in a county court.**

- (1) Where money is held in a county court in relation to any cause or matter in that court, the court may order the money or any part of it to be paid into or transferred to the High Court.
- (2) On the making of such an order, the sum to which the order relates shall be paid or transferred according to the order.”.

27 In section 186 (proof of service of summons, &c.)—

- (a) in subsection (2), for " fifty pounds " substitute " the statutory maximum "; and
- (b) add after subsection (2): —

“(3) In subsection (2) of this section " the statutory maximum " means the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980.”.

28 Before section 200 insert—

**“199A Lords Commissioners to represent Lord Chancellor when Great Seal in commission.**

When the Great Seal is in commission, the Lords Commissioners shall represent the Lord Chancellor for the purposes of this Act; but the powers vested in him by this Act in relation to the appointment of officers may be exercised by the senior Lord Commissioner for the time being.”.

29 In section 201 (interpretation)—

- (a) after the definition of " landlord " insert—  
 “"matrimonial cause " has the meaning assigned to it by section 10(1) of the Matrimonial Causes Act 1967 ;”;
- (b) after the definition of " officer " insert—  
 “" part-time registrar " and " part-time assistant registrar " have the meaning assigned to them by section 22(3) of this Act;”.