



Administration of Justice Act 1982

1982 CHAPTER 53

PART I

DAMAGES FOR PERSONAL INJURIES ETC

Abolition of certain claims for damages etc.

1 Abolition of right to damages for loss of expectation of life

- (1) In an action under the law of England and Wales or the law of Northern Ireland for damages for personal injuries—
- (a) no damages shall be recoverable in respect of any loss of expectation of life caused to the injured person by the injuries; but
 - (b) if the injured person's expectation of life has been reduced by the injuries, the court, in assessing damages in respect of pain and suffering caused by the injuries, shall take account of any suffering caused or likely to be caused to him by awareness that his expectation of life has been so reduced.
- (2) The reference in subsection (1)(a) above to damages in respect of loss of expectation of life does not include damages in respect of loss of income.

2 Abolition of actions for loss of services etc.

No person shall be liable in tort under the law of England and Wales or the law of Northern Ireland—

- (a) to a husband on the ground only of his having deprived him of the services or society of his wife ;
- (b) to a parent (or person standing in the place of a parent) on the ground only of his having deprived him of the services of a child; or
- (c) on the ground only—
 - (i) of having deprived another of the services of his menial servant;
 - (ii) of having deprived another of the services of his female servant by raping or seducing her; or

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(iii) of enticement of a servant or harbouring a servant.

Fatal Accidents Act 1976

3 Amendments of Fatal Accidents Act 1976

(1) The following sections shall be substituted for sections 1 to 4 of the Fatal Accidents Act 1976—

“1 Right of action for wrongful act causing death.

- (1) If death is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured.
- (2) Subject to section 1A(2) below, every such action shall be for the benefit of the dependants of the person (" the deceased ") whose death has been so caused.
- (3) In this Act " dependant" means—
 - (a) the wife or husband or former wife or husband of the deceased;
 - (b) any person who—
 - (i) was living with the deceased in the same household immediately before the date of the death ; and
 - (ii) had been living with the deceased in the same household for at least two years before that date ; and
 - (iii) was living during the whole of that period as the husband or wife of the deceased;
 - (c) any parent or other ascendant of the deceased;
 - (d) any person who was treated by the deceased as his parent;
 - (e) any child or other descendant of the deceased;
 - (f) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage;
 - (g) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.
- (4) The reference to the former wife or husband of the deceased in subsection (3) (a) above includes a reference to a person whose marriage to the deceased has been annulled or declared void as well as a person whose marriage to the deceased has been dissolved.
- (5) In deducing any relationship for the purposes of subsection (3) above—
 - (a) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the stepchild of any person as his child, and
 - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.

- (6) Any reference in this Act to injury includes any disease and any impairment of a person's physical or mental condition.

1A Bereavement.

- (1) An action under this Act may consist of or include a claim for damages for bereavement.
- (2) A claim for damages for bereavement shall only be for the benefit—
- (a) of the wife or husband of the deceased ; and
 - (b) where the deceased was a minor who was never married—
 - (i) of his parents, if he was legitimate ; and
 - (ii) of his mother, if he was illegitimate.
- (3) Subject to subsection (5) below, the sum to be awarded as damages under this section shall be £3,500.
- (4) Where there is a claim for damages under this section for the benefit of both the parents of the deceased, the sum awarded shall be divided equally between them (subject to any deduction falling to be made in respect of costs not recovered from the defendant).
- (5) The Lord Chancellor may by order made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, amend this section by varying the sum for the time being specified in subsection (3) above.

2 Persons entitled to bring the action.

- (1) The action shall be brought by and in the name of the executor or administrator of the deceased.
- (2) If—
- (a) there is no executor or administrator of the deceased, or
 - (b) no action is brought within six months after the death by and in the name of an executor or administrator of the deceased,
- the action may be brought by and in the name of all or any of the persons for whose benefit an executor or administrator could have brought it.
- (3) Not more than one action shall lie for and in respect of the same subject matter of complaint.
- (4) The plaintiff in the action shall be required to deliver to the defendant or his solicitor full particulars of the persons for whom and on whose behalf the action is brought and of the nature of the claim in respect of which damages are sought to be recovered.

3 Assessment of damages.

- (1) In the action such damages, other than damages for bereavement, may be awarded as are proportioned to the injury resulting from the death to the dependants respectively.

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- (2) After deducting the costs not recovered from the defendant any amount recovered otherwise than as damages for bereavement shall be divided among the dependants in such shares as may be directed.
- (3) In an action under this Act where there fall to be assessed damages payable to a widow in respect of the death of her husband there shall not be taken account the re-marriage of the widow or her prospects of re-marriage.
- (4) In an action under this Act where there fall to be assessed damages payable to a person who is a dependant by virtue of section 1(3)(b) above in respect of the death of the person with whom the dependant was living as husband or wife there shall be taken into account (together with any other matter that appears to the court to be relevant to the action) the fact that the dependant had no enforceable right to financial support by the deceased as a result of their living together.
- (5) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (6) Money paid into court in satisfaction of a cause of action under this Act may be in one sum without specifying any person's share.

4 Assessment of damages: disregard of benefits.

In assessing damages in respect of a person's death in an action under this Act, benefits which have accrued or will or may accrue to any person from his estate or otherwise as a result of his death shall be disregarded.”.

- (2) In section 5 of the Fatal Accidents Act 1976 the words " brought for the benefit of the dependants of that person " shall be omitted.
- (3) In section 3 of the Carriage by Railway Act 1972 (which provides that a person who has a right of action under that Act in respect of the death of a railway passenger shall not bring an action under the Fatal Accidents Act 1976)—
 - (a) in subsection (1)(a), at the beginning there shall be inserted the words " subject to subsection (1A) below, ";
 - (b) the following subsection shall be inserted after that subsection—

“(1A) Nothing in subsection (1) above affects the right of any person to claim damages for bereavement under section 1A of the Fatal Accidents Act 1976.”; and
 - (c) in subsection (4), after the word " Order ", in the second place where it occurs, there shall be inserted the words " , the reference to section 1A of the Fatal Accidents Act 1976 in subsection (1A) above shall be construed as a reference to Article 3A of that Order ".

Claims not surviving death

4 Exclusion of Law Reform (Miscellaneous Provisions) Act 1934

- (1) The following subsection shall be inserted after section 1(1) of the Law Reform (Miscellaneous Provisions) Act 1934 (actions to survive death)—

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“(1A) The right of a person to claim under section 1A of the Fatal Accidents Act 1976 (bereavement) shall not survive for the benefit of his estate on his death.”.

(2) The following paragraph shall be substituted for subsection (2)(a)—

“(a) shall not include—

- (i) any exemplary damages ;
- (ii) any damages for loss of income in respect of any period after that person's death ;”.

Maintenance at public expense

5 Maintenance at public expense to be taken into account in assessment of damages

In an action under the law of England and Wales or the law of Northern Ireland for damages for personal injuries (including any such action arising out of a contract) any saving to the injured person which is attributable to his maintenance wholly or partly at public expense in a hospital, nursing home or other institution shall be set off against any income lost by him as a result of his injuries.

Provisional damages for personal injuries

6 Award of provisional damages for personal injuries

(1) The following section shall be inserted after section 32 of the Supreme Court Act 1981—

“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—
 - (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—

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- (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.”.
- (2) In section 35 of that Act (supplementary) " 32A," shall be inserted before " 33 " in subsection (5).
- (3) The section inserted as section 32A of the Supreme Court Act 1981 by subsection (1) above shall have effect in relation to county courts as it has effect in relation to the High Court, as if references in it to rules of court included references to county court rules.

PART II

DAMAGES FOR PERSONAL INJURIES ETC.—SCOTLAND

7 Damages in respect of services

Where a person (in this Part of this Act referred to as " the injured person ")—

- (a) has sustained personal injuries, or
- (b) has died in consequence of personal injuries sustained,

as a result of an act or omission of another person giving rise to liability in any person (in this Part of this Act referred to as " the responsible person") to pay damages, the responsible person shall also be liable to pay damages in accordance with the provisions of sections 8 and 9 of this Act.

8 Services rendered to injured person

- (1) Where necessary services have been rendered to the injured person by a relative in consequence of the injuries in question, then, unless the relative has expressly agreed in the knowledge that an action for damages has been raised or is in contemplation that no payment should be made in respect of those services, the responsible person shall be liable to pay to the injured person by way of damages such sum as represents reasonable remuneration for those services and repayment of reasonable expenses incurred in connection therewith,
- (2) The relative shall have no direct right of action in delict against the responsible person in respect of the services or expenses referred to in this section, but the injured person shall be under an obligation to account to the relative for any damages recovered from the responsible person under this section.

9 Services to injured person's relative

- (1) The responsible person shall be liable to pay to the injured person a reasonable sum by way of damages in respect of the inability of the injured person to render the personal services referred to in subsection (3) below.
- (2) Where the injured person has died, any relative of his entitled to damages in respect of loss of support under section 1(3) of the Damages (Scotland) Act 1976 shall be entitled to include as a head of damage under that section a reasonable sum in respect of the loss to him of the personal services mentioned in subsection (3) below.

- (3) The personal services referred to in subsections (1) and (2) above are personal services—
- (a) which were or might have been expected to have been rendered by the injured person before the occurrence of the act or omission giving rise to liability,
 - (b) of a kind which, when rendered by a person other than a relative, would ordinarily be obtainable on payment, and
 - (c) which the injured person but for the injuries in question might have been expected to render gratuitously to a relative.
- (4) Subject to subsection (2) above, the relative shall have no direct right of action in delict against the responsible person in respect of the personal services mentioned in subsection (3) above.

10 Assessment of damages for personal injuries

Subject to any agreement to the contrary, in assessing the amount of damages payable to the injured person in respect of personal injuries there shall not be taken into account so as to reduce that amount—

- (a) any contractual pension or benefit (including any payment by a friendly society or trade union);
- (b) any pension or retirement benefit payable from public funds other than any pension or benefit to which section 2(1) of the Law Reform (Personal Injuries) Act 1948 applies;
- (c) any benefit payable from public funds, in respect of any period after the date of the award of damages, designed to secure to the injured person or any relative of his a minimum level of subsistence ;
- (d) any redundancy payment under the Employment Protection (Consolidation) Act 1978, or any payment made in circumstances corresponding to those in which a right to a redundancy payment would have accrued if section 81 of that Act had applied ;
- (e) any payment made to the injured person or to any relative of his by the injured person's employer following upon the injuries in question where the recipient is under an obligation to reimburse the employer in the event of damages being recovered in respect of those injuries;
- (f) subject to paragraph (iv) below, any payment of a benevolent character made to the injured person or to any relative of his by any person following upon the injuries in question;

but there shall be taken into account—

- (i) any remuneration or earnings from employment;
- (ii) any unemployment benefit;
- (iii) any benefit referred to in paragraph (c) above payable in respect of any period prior to the date of the award of damages;
- (iv) any payment of a benevolent character made to the injured person or to any relative of his by the responsible person following on the injuries in question, where such a payment is made directly and not through a trust or other fund from which the injured person or his relatives have benefited or may benefit.

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11 Maintenance at public expense to be taken into account in assessment of damages: Scotland

In an action for damages for personal injuries (including any such action arising out of a contract) any saving to the injured person which is attributable to his maintenance wholly or partly at public expense in a hospital, nursing home or other institution shall be set off against any income lost by him as a result of the injuries.

12 Award of provisional damages for personal injuries: Scotland

- (1) This section applies to an action for damages for personal injuries in which—
- (a) there is proved or admitted to be a risk 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 the action, develop some serious disease or suffer some serious deterioration in his physical or mental condition ; and
 - (b) the responsible person was, at the time of the act or omission giving rise to the cause of the action,
 - (i) a public authority or public corporation ; or
 - (ii) insured or otherwise indemnified in respect of the claim.
- (2) In any case to which this section applies, the court may, on the application of the injured person, order—
- (a) that the damages referred to in subsection (4)(a) below be awarded to the injured person ; and
 - (b) that the injured person may apply for the further award of damages referred to in subsection (4)(b) below,
- and the court may, if it considers it appropriate, order that an application under paragraph (b) above may be made only within a specified period.
- (3) Where an injured person in respect of whom an award has been made under subsection (2)(a) above applies to the court for an award under subsection (2)(b) above, the court may award to the injured person the further damages referred to in subsection (4)(b) below.
- (4) The damages referred to in subsections (2) and (3) above are—
- (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 if he develops the disease or suffers the deterioration.
- (5) Nothing in this section shall be construed—
- (a) as affecting the exercise of any power relating to expenses including a power to make rules of court relating to expenses; 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.
- (6) The Secretary of State may, by order, provide that categories of defenders shall, for the purposes of paragraph (b) of subsection (1) above, become or cease to be responsible persons, and may make such modifications of that paragraph as appear to him to be necessary for the purpose.

And an order under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

13 Supplementary

- (1) In this Part of this Act, unless the context otherwise requires—
- " personal injuries " includes any disease or any impairment of a person's physical or mental condition ;
 - " relative ", in relation to the injured person, means—
 - (a) the spouse or divorced spouse ;
 - (b) any person, not being the spouse of the injured person, who was, at the time of the act or omission giving rise to liability in the responsible person, living with the injured person as husband or wife ;
 - (c) any ascendant or descendant;
 - (d) any brother, sister, uncle or aunt; or any issue of any such person ;
 - (e) any person accepted by the injured person as a child of his family.
- In deducing any relationship for the purposes of the foregoing definition—
- (a) any relationship by affinity shall be treated as a relationship by consanguinity; any relationship of the half blood shall be treated as a relationship of the whole blood ; and the stepchild of any person shall be treated as his child ; and
 - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.
- (2) Any reference in this Part of this Act to a payment, benefit or pension shall be construed as a reference to any such payment, benefit or pension whether in cash or in kind.
- (3) This Part of this Act binds the Crown.

14 Amendment and repeal of enactments

- (1) Section 1(7) of the Damages (Scotland) Act 1976 is amended by inserting after the word " section " the words " or in Part II of the Administration of Justice Act 1982 ".
- (2) Section 5 of that Act (provisions for the avoidance of multiplicity of actions) is repealed, and—
- (a) in section 4 of that Act the words " but this section is without prejudice to section 5 of this Act" shall cease to have effect, and
 - (b) in section 6 of that Act—
 - (i) in subsection (1) for the words " section 5 of this Act" there shall be substituted the words " this section ", and
 - (ii) after subsection (2) there shall be inserted—
 - “(3) This section applies to any action in which, following the death of any person from personal injuries, damages are claimed—
 - (a) by the executor of the deceased, in respect of the injuries from which the deceased died;
 - (b) in respect of the death of the deceased, by any relative of his.”.
- (3) Notwithstanding section 73(5) of this Act, where an action to which section 5 of that Act applies has been raised and has not, prior to the commencement of subsection (2) above, been disposed of, the court shall not dismiss the action on the ground only that

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the pursuer has failed to serve notice of the action as required by subsection (6) of the said section 5.

- (4) In section 10(2) of the said Act of 1976 (meaning of " deceased person's immediate family "), after the word " (a)" there shall be inserted the word " (aa) " , and in paragraph 1 of Schedule 1 to that Act there shall be inserted after sub-paragraph (a) the following—

“(aa) any person, not being the spouse of the deceased, who was, immediately before the deceased's death, living with the deceased as husband or wife;”.

PART III

POWERS OF COURTS TO AWARD INTEREST

15 Interest on debts and damages

- (1) The section set out in Part I of Schedule 1 to this Act shall be inserted after section 35 of the Supreme Court Act 1981.
- (2) The section set out in Part II of that Schedule shall be inserted after section 97 of the County Courts Act 1959.
- (3) The Crown Proceedings Act 1947 shall accordingly have effect subject to the amendment in Part III of that Schedule, being an amendment consequential on subsections (1) and (2) above.
- (4) The provisions mentioned in subsection (5) below (which this section supersedes so far as they apply to the High Court and county courts) shall cease to have effect in relation to those courts.
- (5) The provisions are—
- (a) section 3 of the Law Reform (Miscellaneous Provisions) Act 1934; and
 - (b) in the Administration of Justice Act 1969—
 - (i) section 22 ; and
 - (ii) in section 34(3) the words from " and section 22 " onwards.
- (6) The section set out in Part IV of Schedule 1 to this Act shall be inserted after section 19 of the Arbitration Act 1950.

16 Interest on lump sums in matrimonial proceedings

The following subsection shall be added after section 23(5) of the Matrimonial Causes Act 1973 (financial provision in orders in connection with divorce proceedings etc.)—

- “(6) Where the court—
- (a) makes an order under this section for the payment of a lump sum ; and
 - (b) directs—
 - (i) that payment of that sum or any part of it shall be deferred ; or
 - (ii) that that sum or any part of it shall be paid by instalments,
 the court may order that the amount deferred or the instalments shall carry interest at such rate as may be specified by the order from such date, not earlier

than the date of the order, as may be so specified, until the date when payment of it is due.”.

PART IV

WILLS

Amendments of Wills Act 1837

17 Relaxation of formal requirements for making wills

The following section shall be substituted for section 9 of the Wills Act 1837—

“9 Signing and attestation of wills.

No will shall be valid unless—

- (a) it is in writing, and signed by the testator, or by some other person in his presence and by his direction; and
- (b) it appears that the testator intended by his signature to give effect to the will; and
- (c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and (d) each witness either—

- (i) attests and signs the will; or
- (ii) acknowledges his signature,

in the presence of the testator (but not necessarily in the presence of any other witness),

but no form of attestation shall be necessary.”.

18 Effect of marriage or its termination on wills

(1) The following section shall be substituted for section 18 of the Wills Act 1837—

“18 Wills to be revoked by marriage, except in certain cases.

- (1) Subject to subsections (2) to (4) below, a will shall be revoked by the testator's marriage.
- (2) A disposition in a will in exercise of a power of appointment shall take effect notwithstanding the testator's subsequent marriage unless the property so appointed would in default of appointment pass to his personal representatives.
- (3) Where it appears from a will that at the time it was made the testator was expecting to be married to a particular person and that he intended that the will should not be revoked by the marriage, the will shall not be revoked by his marriage to that person.

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- (4) Where it appears from a will that at the time it was made the testator was expecting to be married to a particular person and that he intended that a disposition in the will should not be revoked by his marriage to that person.—
- (a) that disposition shall take effect notwithstanding the marriage ; and
 - (b) any other disposition in the will shall take effect also, unless it appears from the will that the testator intended the disposition to be revoked by the marriage.”.

(2) The following section shall be inserted after that section—

“18A Effect of dissolution or annulment of marriage on wills.

- (1) Where, after a testator has made a will, a decree of a court dissolves or annuls his marriage or declares it void.—
 - (a) the will shall take effect as if any appointment of the former spouse as an executor or as the executor and trustee of the will were omitted; and
 - (b) any devise or bequest to the former spouse shall lapse, except in so far as a contrary intention appears by the will.
- (2) Subsection (1)(b) above is without prejudice to any right of the former spouse to apply for financial provision under the Inheritance (Provision for Family and Dependents) Act 1975.
- (3) Where—
 - (a) by the terms of a will an interest in remainder is subject to a life interest; and
 - (b) the life interest lapses by virtue of subsection (1)(b) above, the interest in remainder shall be treated as if it had not been subject to the life interest and, if it was contingent upon the termination of the life interest, as if it had not been so contingent.”.

19 Gifts to children etc. who predecease testator

The following section shall be substituted for section 33 of the Wills Act 1837—

“33 Gifts to children or other issue who leave issue living at the testator's death shall not lapse.

- (1) Where—
 - (a) a will contains a devise or bequest to a child or remoter descendant of the testator ; and
 - (b) the intended beneficiary dies before the testator, leaving issue; and
 - (c) issue of the intended beneficiary are living at the testator's death,
 then, unless a contrary intention appears by the will, the devise or bequest shall take effect as a devise or bequest to the issue living at the testator's death.
- (2) Where—
 - (a) a will contains a devise or bequest to a class of persons consisting of children or remoter descendants of the testator ; and
 - (b) a member of the class dies before the testator, leaving issue; and

(c) issue of that member are living at the testator's death, then, unless a contrary intention appears by the will, the devise or bequest shall take effect as if the class included the issue of its deceased member living at the testator's death.

(3) Issue shall take under this section through all degrees, according to their stock, in equal shares if more than one, any gift or share which their parent would have taken and so that no issue shall take whose parent is living at the testator's death and so capable of taking.

(4) For the purposes of this section—

- (a) the illegitimacy of any person is to be disregarded ; and
- (b) a person conceived before the testator's death and born living thereafter is to be taken to have been living at the testator's death.”.

Rectification and interpretation of wills

20 Rectification

(1) If a court is satisfied that a will is so expressed that it fails to carry out the testator's intentions, in consequence—

- (a) of a clerical error ; or
- (b) of a failure to understand his instructions,

it may order that the will shall be rectified so as to carry out his intentions.

(2) An application for an order under this section shall not, except with the permission of the court, be made after the end of the period of six months from the date on which representation with respect to the estate of the deceased is first taken out.

(3) The provisions of this section shall not render the personal representatives of a deceased person liable for having distributed any part of the estate of the deceased, after the end of the period of six months from the date on which representation with respect to the estate of the deceased is first taken out, on the ground that they ought to have taken into account the possibility that the court might permit the making of an application for an order under this section after the end of that period; but this subsection shall not prejudice any power to recover, by reason of the making of an order under this section, any part of the estate so distributed.

(4) In considering for the purposes of this section when representation with respect to the estate of a deceased person was first taken out, a grant limited to settled land or to trust property shall be left out of account, and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

21 Interpretation of wills-general rules as to evidence

(1) This section applies to a will—

- (a) in so far as any part of it is meaningless ;
- (b) in so far as the language used in any part of it is ambiguous on the face of it;
- (c) in so far as evidence, other than evidence of the testator's intention, shows that the language used in any part of it is ambiguous in the light of surrounding circumstances.

- (2) In so far as this section applies to a will extrinsic evidence, including evidence of the testator's intention, may be admitted to assist in its interpretation.

22 Presumption as to effect of gifts to spouses

Except where a contrary intention is shown it shall be presumed that if a testator devises or bequeaths property to his spouse in terms which in themselves would give an absolute interest to the spouse, but by the same instrument purports to give his issue an interest in the same property, the gift to the spouse is absolute notwithstanding the purported gift to the issue.

Registration of wills

23 Deposit and registration of wills of living persons

- (1) The following, namely—
- (a) the Principal Registry of the Family Division of the High Court of Justice ;
 - (b) the Keeper of the Registers of Scotland ; and
 - (c) the Probate and Matrimonial Office of the Supreme Court of Northern Ireland,
- shall be registering authorities for the purposes of this section.
- (2) Each registering authority shall provide and maintain safe and convenient depositories for the custody of the wills of living persons.
- (3) Any person may deposit his will in such a depository in accordance with regulations under section 25 below and on payment of the prescribed fee.
- (4) It shall be the duty of a registering authority to register in accordance with regulations under section 25 below—
- (a) any will deposited in a depository maintained by the authority; and
 - (b) any other will whose registration is requested under Article 6 of the Registration Convention.
- (5) A will deposited in a depository provided—
- (a) under section 172 of the Supreme Court of Judicature (Consolidation) Act 1925 or section 126 of the Supreme Court Act 1981; or
 - (b) under Article 27 of the Administration of Estates (Northern Ireland) Order 1979,
- shall be treated for the purposes of this section as if it had been deposited under this section.
- (6) In this section " prescribed " means—
- (a) in the application of this section to England and Wales, prescribed by an order under section 130 of the Supreme Court Act 1981;
 - (b) in its application to Scotland, prescribed by an order under section 26 below ; and
 - (c) in its application to Northern Ireland, prescribed by an order under section 116 of the Judicature (Northern Ireland) Act 1978.

24 Designation of Principal Registry as national body under Registration Convention

- (1) The Principal Registry of the Family Division of the High Court of Justice shall be the national body for the purposes of the Registration Convention, and shall accordingly have the functions assigned to the national body by the Registration Convention including, without prejudice to the general application of the Convention to the Principal Registry by virtue of this section, the functions—
 - (a) of arranging for the registration of wills in other Contracting States as provided for in Article 6 of the Convention;
 - (b) of receiving and answering requests for information arising from the national bodies of other Contracting States.
- (2) In this Part of this Act " the Registration Convention " means the Convention on the Establishment of a Scheme of Registration of Wills concluded at Basle on 16th May 1972.

25 Regulations as to deposit and registration of wills etc.

- (1) Regulations may make provision—
 - (a) as to the conditions for the deposit of a will;
 - (b) as to the manner of and procedure for—
 - (i) the deposit and registration of a will; and
 - (ii) the withdrawal of a will which has been deposited; and
 - (iii) the cancellation of the registration of a will; and
 - (c) as to the manner in which the Principal Registry of the Family Division is to perform its functions as the national body under the Registration Convention.
- (2) Regulations under this section may contain such incidental or supplementary provisions as the authority making the regulations considers appropriate.
- (3) Any such regulations are to be made—
 - (a) for England and Wales, by the President of the Family Division of the High Court of Justice, with the concurrence of the Lord Chancellor ;
 - (b) for Scotland, by the Secretary of State after consultation with the Lord President of the Court of Session; and
 - (c) for Northern Ireland, by the Northern Ireland Supreme Court Rules Committee, with the concurrence of the Lord Chancellor.
- (4) Regulations made by virtue of subsection (1)(c) above shall be made by the Lord Chancellor.
- (5) Subject to subsection (6) below, regulations under this section shall be made by statutory instrument and shall be laid before Parliament after being made.
- (6) Regulations for Northern Ireland shall be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and any such statutory rule shall be laid before Parliament after being made in like manner as a statutory instrument and section 4 of the Statutory Instruments Act 1946 shall apply accordingly.
- (7) The Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations made in accordance with subsection (3)(a) or (c) above as if the regulations had been made by a Minister of the Crown.

- (8) Any regulations made under section 172 of the Supreme Court of Judicature (Consolidation) Act 1925 or section 126 of the Supreme Court Act 1981 shall have effect for the purposes of this Part of this Act as they have effect for the purposes of the enactment under which they were made.

26 Fees as to registration in Scotland

The Secretary of State may, with the consent of the Treasury, from time to time by order made by statutory instrument fix fees payable in respect of—

- (a) the deposit, registration or withdrawal of wills under this Act;
- (b) the obtaining of information from the register ; and
- (c) any other thing which the Keeper of the Registers of Scotland is required or authorised to do under this Act or any regulations made thereunder in connection with the depositing or registration of wills.

International wills

27 The form of an international will

- (1) The Annex to the Convention on International Wills shall have the force of law in the United Kingdom.
- (2) The Annex is set out in Schedule 2 to this Act.
- (3) In this Part of this Act—
 - " international will" means a will made in accordance with the requirements of the Annex, as set out in Schedule 2 to this Act; and
 - " the Convention on International Wills " means the Convention providing a Uniform Law on the Form of an International Will concluded at Washington on 26th October 1973.

28 International wills-procedure

- (1) The persons authorised to act in the United Kingdom in connection with international wills are—
 - (a) solicitors; and
 - (b) notaries public.
- (2) A person who is authorised under section 6(1) of the Commissioners for Oaths Act 1889 to do notarial acts in any foreign country or place is authorised to act there in connection with international wills.
- (3) An international will certified by virtue of subsection (1) or (2) above may be deposited in a depository provided under section 23 above.
- (4) Section 23 above shall accordingly have effect in relation to such international wills.
- (5) Subject to subsection (6) below, regulations under section 25 above shall have effect in relation to such international wills as they have effect in relation to wills deposited under section 23 above.

- (6) Without prejudice to the generality of section 25 above, regulations under that section may make special provision with regard to such international wills.
- (7) In section 10 of the Consular Relations Act 1968 (by virtue of which diplomatic agents and consular officials may administer oaths and do notarial acts in certain cases)—
 - (a) at the end of subsection (1)(b) there shall be added the words “or
 - (c) in connection with an international will.”; and
 - (b) at the end of subsection (4) there shall be added the words " and " international will" has the meaning assigned to it by section 27 of the Administration of Justice Act 1982 ".

PART V

COUNTY COURTS

29 County court districts

- (1) The Lord Chancellor may by order specify places at which county courts are to be held and the name by which the court held at any place so specified is to be known.
- (2) Any order under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.
- (3) The districts for which county courts are to be held shall be determined in accordance with directions given by or on behalf of the Lord Chancellor.
- (4) Subject to any alterations made by virtue of this section, county courts shall continue to be held for the districts and at the places and by the names appointed at the commencement of this section.

30 Residence of registrars

Section 25 of the County Courts Act 1959 (which obliges a county court registrar to reside in the district for which he is registrar, except with the consent of the Lord Chancellor and subject to such conditions as the Lord Chancellor may impose) shall cease to have effect.

31 Arrest in Admiralty proceedings

The following subsections shall be substituted for subsections (9) and (10) of section 57 of the County Courts Act 1959 (which provides for the mode of exercise of the Admiralty jurisdiction of a county court)—

- “(9) A county court may issue a warrant for the arrest and detention of any vessel, aircraft or property to which an action in rem brought in the court relates unless or until bail to the amount of the claim made in the action and the reasonable costs of the plaintiff in the action be entered into and perfected by or on behalf of the defendant.
- (10) Except as provided by subsection (9) of this section, no vessel, aircraft or property shall be arrested or detained in Admiralty proceedings in a county court otherwise than in execution.”.

32 Jurisdiction in relation to counterclaims etc.

The following section shall be inserted after section 75C of the County Courts Act 1959—

“75D Jurisdiction to deal with counterclaim or set-off and counterclaim.

If the condition specified in section 75C(1) (c) of this Act is satisfied, but—

(a) no application is made for an order under that section; or

(b) an application for such an order is made but is refused,

the county court shall have jurisdiction to deal with the counterclaim or set-off and counterclaim.”.

33 County court rules

(1) The following paragraph shall be inserted after section 102(3)(b) of the County Courts Act 1959—

“(bb) prescribing the circumstances in which a warrant for the arrest and detention of any vessel, aircraft or property to which an action in rem relates may be transferred from one court to another and the procedure consequent on any such transfer ;”.

(2) Without prejudice to the generality of subsection (1) of the said section 102, county court rules may regulate or provide for any matters which were regulated or provided for by county court rules which were made at any time before 1st January 1982.

34 Transfers from High Court to county court

(1) The following section shall be substituted for section 139 of the County Courts Act 1959—

“139 Enforcement in county court of judgments and orders of High Court.

A judgment or order of the High Court for the payment of money to a person, and any judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or foreign arbitrator) being a judgment, order, decree or award for the payment of money to a person which is or has become enforceable (whether wholly or to a limited extent) as if it were a judgment or order of the High Court shall be enforceable in the county court as if it were a judgment of that court.”.

(2) In section 148 of that Act (administration orders)—

(a) in subsection (1)—

(i) the words " in a county court" shall cease to have effect; and

(ii) for the words "that court" there shall be substituted the words " a county court "; and

(b) subsection (2) shall cease to have effect.

(3) In section 1(2)(c) of the Charging Orders Act 1979 (by virtue of which certain High Court orders for an amount exceeding £5,000 must be enforced in the High Court)

after the words " High Court" in the second place where they occur, there shall be inserted the words " or a county court ".

35 Transfers from county court to High Court

The following shall be inserted after section 139 of the County Courts Act 1959— ;

“Enforcement in High Court of judgments and orders of county courts

- (1) If—
 - (a) a judgment or order for the payment of a sum of money has been given or made by a county court; and
 - (b) an amount in respect of that sum exceeding the amount for the time being specified for the purposes of this section by an order under subsection (3) of this section has become recoverable by execution, the judgment or order may, subject to rules of court, be transferred to the High Court.
- (2) A judgment or order transferred to the High Court by virtue of subsection (1) above may be enforced in the High Court as if it were a judgment or order of that court and shall be treated as a judgment or order of the High Court for all purposes except—
 - (a) that powers to set aside, correct, vary or quash a judgment or order of a county court shall continue to be exercisable in relation to it and powers to set aside, correct, vary or quash a judgment or order of the High Court shall not be exercisable; and
 - (b) that enactments relating to appeals from a judgment or order of a county court shall continue to apply to it and enactments relating to appeals from a judgment or order of the High Court shall not apply.
- (3) The Lord Chancellor may by order specify an amount for the purposes of subsection (1) of this section; and any such order may specify different amounts for different descriptions of judgment or order.
- (4) An order under subsection (3) of this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

36 Proceedings against mortgage guarantors

In section 38(1) of the Administration of Justice Act 1970 (county court jurisdiction to hear and determine certain actions for possession of mortgaged land notwithstanding that a claim for payment by the mortgagor of the amount owing in respect of the mortgage is also made in the action and that by reason of the amount claimed the last-mentioned claim is not within the jurisdiction of a county court) for the words "for payment by the mortgagor of the amount owing in respect of the mortgage is also made in the action" there shall be substituted the words " is also made in the action for payment by the mortgagor of the amount owing in respect of the mortgage or for payment of that amount by any person who guaranteed the debt secured by the mortgage ".

37 Limits of county court jurisdiction

The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments to restate the limits of county court jurisdiction and to provide for the raising of those limits.

PART VI**FUNDS IN COURT****38 Management and investment of funds in court**

- (1) Subject to rules made under subsection (7) below, all sums of money, securities and effects paid and deposited in, or under the custody of—
 - (a) the High Court;
 - (b) a county court; or
 - (c) such other courts and tribunals as the Lord Chancellor may by rules made under that subsection prescribe,shall be vested in the Accountant General.
- (2) One or more accounts shall be opened and kept in the name of the Accountant General at such bank or banks as may be designated by the Lord Chancellor with the concurrence of the Treasury.
- (3) Money and securities held by the Accountant General shall vest in his successor in office without any assignment or transfer.
- (4) A sum of money paid and deposited in court may, subject to subsection (5) below, be invested and reinvested by the Accountant General in any manner authorised by rules made under subsection (7) below.
- (5) Where—
 - (a) a court orders that a particular fund in court shall be invested in a specified manner ; and
 - (b) that manner is authorised by the rules referred to in subsection (7) below,the Accountant General shall invest the fund in accordance with the order.
- (6) The Accountant General may, in such cases as the Lord Chancellor may by rules made under subsection (7) below prescribe, apply to the court for an order for directions as to the manner in which a particular fund in court is to be dealt with.
- (7) The Lord Chancellor, with the concurrence of the Treasury, may make provision as to the payment of interest on funds in court and may make rules as to the administration and management of funds in court including the deposit, payment, delivery and transfer in, into and out of any court of funds in court and regulating the evidence of such deposit, payment, delivery or transfer.
- (8) Rules made under subsection (7) above may—
 - (a) provide for the discharge of the functions of the Accountant General under the rules by a person or persons appointed by him ;
 - (b) provide for the transfer of money in court to and from the Commissioners;

- (c) provide for money paid and deposited in a county court to be vested in, and accounted for by, a person other than the Accountant General;
 - (d) prescribe cases in which interest is to be paid on funds in court;
 - (e) prescribe cases in which funds in court are to be in vested ;
 - (f) make provision for the transfer of funds in court from one court to another ;
and
 - (g) prescribe cases in which moneys payable under a judgment or order shall be paid into court.
- (9) Any such rules may make different provision for different cases.

39 Investment of money transferred to National Debt Commissioners

- (1) The Commissioners may invest, in such manner as may be prescribed by regulations made by the Treasury, money transferred to them in pursuance of rules made under section 38(7) above or section 82(1) of the Judicature (Northern Ireland) Act 1978 and the interest or dividends accruing on investments made under this subsection.
- (2) If in any accounting year the aggregate of the sums of money received by the Commissioners by way of interest and dividends on investments made by them under subsection (1) above, after deduction of—
- (a) any sum required by the Treasury to be set aside to provide for depreciation in the value of investments so made; and
 - (b) such sum as the Lord Chancellor may with the concurrence of the Treasury direct to be paid to him in respect of the cost to him in that year of administering funds in court,
- exceeds the aggregate of the sums due to be paid or credited in respect of that year by way of interest on funds in court, the excess shall be paid into the Consolidated Fund.
- (3) If in any accounting year the aggregate of the sums of money received as mentioned in subsection (2) above, after deduction of the sum or sums falling to be deducted under paragraph (a) and (b) of that subsection, is less than the aggregate of the sums due as mentioned in that subsection, the deficiency shall be made good out of the Consolidated Fund.
- (4) The Commissioners shall pay to the Lord Chancellor any sum deducted by them under subsection (2)(b) above; and any sum received by the Lord Chancellor under this subsection shall be paid into the Consolidated Fund.
- (5) If at any time the Commissioners are unable to pay—
- (a) to the Accountant General a sum due from them to him under rules made under section 38(7) above; or
 - (b) to the Accountant General of the Supreme Court of Judicature of Northern Ireland a sum due from them to him under rules made under section 82(1) of the Judicature (Northern Ireland) Act 1978,
- the Treasury shall provide them with it out of the Consolidated Fund.

40 Statutory deposits

- (1) Where money or securities are deposited with the Accountant General under any enactment or subordinate legislation, whether passed or made before or after the

commencement of this Part of this Act, they shall for the purposes of this Part of this Act be treated as if they were funds in court except in so far as—

- (a) the enactment; or
- (b) the subordinate legislation ; or
- (c) rules made under section 38(7) above,

provide to the contrary.

- (2) In subsection (1) above "subordinate legislation" means Orders in Council, orders, rules, regulations and other instruments made or to be made under any Act.

41 Transfer of funds in court to Official Custodian for Charities and Church Commissioners

- (1) Any funds for the time being vested in the Accountant General and held by him in trust for any charity or in trust for any ecclesiastical corporation in the Church of England may, if the Accountant General on an application made in that behalf to him by the Charity Commissioners or the Church Commissioners thinks fit so to direct, be transferred to the Official Custodian for Charities or the Church Commissioners, as the case may be.
- (2) Any funds transferred by virtue of a direction given under subsection (1) above shall be vested in and held by the Official Custodian for Charities or the Church Commissioners respectively in trust for the charity or ecclesiastical corporation upon the trusts upon which the funds were held before the transfer.
- (3) In this section "ecclesiastical corporation" means a capitular body within the meaning of the Cathedrals Measure 1963 or the incumbent of a benefice.

42 Common investment schemes

- (1) The Lord Chancellor may continue to make schemes ("common investment schemes") establishing common investment funds for the purpose of investing funds in court and money held by any person who in accordance with subsection (5)(b) below may hold shares in common investment funds.
- (2) A common investment scheme shall provide for the fund thereby established to be under the management and control of an investment manager appointed by the Lord Chancellor.
- (3) A common investment scheme shall make provision for the investment by its investment manager in accordance with the provisions of this section of funds in court transferred to the fund under rules made by virtue of section 38(7) above and of any sums of money transferred to the fund by persons who in accordance with subsection (5)(b) below may hold shares in the fund.
- (4) A common investment scheme shall make provision—
 - (a) for treating the fund established by it as being divided into shares; and
 - (b) for treating a sum invested in the fund as being represented by a number of shares determined by reference to that sum and the value of the fund at the time the investment was made.
- (5) Shares in a common investment fund—
 - (a) shall be allotted to and held by the Accountant General and

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- (b) may be allotted to and held by the Accountant General of the Supreme Court of Judicature of Northern Ireland and any other person authorised by the Lord Chancellor.
- (6) Where a person is authorised under subsection (5) above to hold shares in a common investment fund—
 - (a) he shall have the same power to invest trust money in shares in the fund as if they were investments specified in Part I of Schedule 1 to the Trustee Investments Act 1961; and
 - (b) he may invest trust money in a common investment fund of which he is the investment manager.
- (7) Moneys comprised in the fund established by a common investment scheme may, subject to the provisions of the scheme, be invested by the investment manager of the fund in any way in which he thinks fit, whether or not authorised by the general law in relation to trust funds.
- (8) Neither the Prevention of Fraud (Investments) Act 1958 nor the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 shall apply to dealings undertaken or documents issued for the purposes of a common investment scheme.
- (9) The investment manager of a fund established by a common investment scheme shall not be required or entitled to take account of any trusts or equities affecting any share in the fund whether or not he is also a trustee of any such trust.
- (10) The investment manager of a fund established by a common investment scheme shall be remunerated at such rates and in such manner as the Lord Chancellor shall with the concurrence of the Treasury determine.
- (11) The salary or remuneration of an investment manager and his officers and such other expenses of executing his office or otherwise carrying this Part of this Act into effect as may be sanctioned by the Treasury shall be paid out of moneys provided by Parliament.
- (12) There shall be charged in respect of the running of a common investment scheme such fees, whether by way of percentage or otherwise, as the Lord Chancellor shall with the concurrence of the Treasury fix and such fees shall be collected and accounted for by such persons, and in such manner, and shall be paid to such account, as the Treasury direct.
- (13) There shall be retained or paid out of a fund established by a common investment scheme any expenses which could be so retained or paid out of trust property if the investment manager of the fund were a trustee and such expenses shall be retained or paid in the same way as and in addition to fees charged in respect of the running of the scheme.
- (14) Fees and expenses recovered under this section shall be paid into the Consolidated Fund.
- (15) Money and securities held by an investment manager of a fund established by a common investment scheme shall vest in his successor in office without any assignment or transfer.
- (16) The power conferred by subsection (1) above to make a common investment scheme shall include the power to vary or revoke such a scheme.

43 Provision for making good defaults

If the Lord Chancellor, whether on a recommendation made to him by any person interested or not, certifies—

- (a) that the Accountant General; or
- (b) that the manager of a common investment fund,

has been guilty of any default with respect to any money, securities and effects for which he is responsible under this Part of this Act, such sum as may be certified by the Lord Chancellor to be necessary for making good the default shall be paid out of moneys provided by Parliament or, if and so far as it is not so paid, shall be charged on and issued out of the Consolidated Fund.

44 Power to repeal and modify ss. 42 and 43

- (1) Her Majesty may by Order in Council—
 - (a) repeal subsections (8), (10), (12), (14) and (15) of section 42 above and section 43 above ; or
 - (b) make such modifications to those enactments as Her Majesty considers appropriate.
- (2) Any Order in Council made under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

45 Accounts

- (1) Accounts shall be prepared and shall at such times as the Treasury shall direct be sent to the Comptroller and Auditor General—
 - (a) in respect of his transactions under section 38 above, by the Accountant General;
 - (b) in respect of their transactions under section 39 above. by the Commissioners ; and
 - (c) in respect of transactions in a fund established by a common investment scheme, by the investment manager.
- (2) The accounts shall be in such form and shall be prepared in respect of such periods as the Treasury may direct.
- (3) The Comptroller and Auditor General shall examine, certify and report on accounts sent to him under subsection (1) above and lay copies of them and his report on them before each House of Parliament.

46 Supplemental

- (1) Any power conferred by this Part of this Act to make a scheme or rules or regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The following amendments shall have effect—
 - (a) the words " invested under section 38 of the Administration of Justice Act 1982 " shall be substituted for the words " dealt with under section 6 of the Administration of Justice Act 1965 " in each case where they occur in the following enactments—

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- (i) section 46 of the Chelsea and Kilmainham Hospitals Act 1826;
 - (ii) section 12 of the Ecclesiastical Houses of Residence Act 1842;
 - (iii) sections 70, 78 and 86 of the Lands Clauses Consolidation Act 1845 ;
and
 - (iv) section 9 of the Tithe Act 1846 ;
- (b) the words " section 42 of the Administration of Justice Act 1982 " shall be substituted for the words " section 1 of the Administration of Justice Act 1965 " —
- (i) in section 11(a) of the Light Railways Act 1896; and
 - (ii) in section 20(1) of the Insurance Companies Act 1958 ;
- (c) in section 7(1) of the Industrial Assurance Act 1923, for the words from the beginning of paragraph (a) to " 1958 " there shall be substituted—
- “(a) the provision substituted by the Administration of Justice Act 1965 for section 19(1) of the Insurance Companies Act 1958 and the provision so substituted for section 20(1) of that Act, as amended by section 46(2)(c) of the Administration of Justice Act 1982,”;
- (d) in Schedule 1 to the Administration of Justice Act 1965, in the entry relating to the Tramways Act 1870—
- (i) the words " of the Supreme Court" shall be inserted after the words " Accountant General " in the first and second place where they occur; and
 - (ii) the words " under section 42 of the Administration of Justice Act 1982 " shall be added after the words " common investment schemes ";
- (e) in section 413 of the Income and Corporation Taxes Act 1970—
- (i) in subsection (1), for the words from " section 1 " to " Trustee", in the second place where it occurs, there shall be substituted the words

“section 42 of the Administration of Justice Act 1982 is for the time being designated for the purposes of this subsection by an agreement between the Board and the investment manager of the fund—

(a) the investment manager”;
 - (ii) in subsection (4), after the word " General" there shall be inserted the words " and any other person authorised to invest in a fund designated for the purposes of subsection (1) above " ; and
 - (iii) in subsection (5), for the words " Public Trustee " there shall be substituted the words " or the investment manager of the fund " ;
- (f) in section 99(3) of the Capital Gains Tax Act 1979—
- (i) in paragraph (a), for the words " section 14 of the Administration of Justice Act 1965 " there shall be substituted the words " section 40 of the Administration of Justice Act 1982 " ; and
 - (ii) in paragraph (b) for the words from " any " to " Ireland", in the first place where it occurs, there shall be substituted the words " money in the Supreme Court of Judicature of Northern Ireland " ; and
- (g) in section 9(7) of the Insurance Companies Act 1981 for the words " section 7 of the Administration of Justice Act 1965 " there shall be substituted the words " section 38(7) of the Administration of Justice Act 1982 " .

47 Interpretation

In this Part—

" Accountant General " means the Accountant General of the Supreme Court;

" the Commissioners " means the National Debt Commissioners ;

" a common investment scheme " means a scheme made under section 42 above ;

" funds " or " funds in court " means—

(a) any money, securities or other investments (including foreign currency and assets) standing or to be placed to the account—

(i) of the Accountant General by virtue of section 38(1) above; or

(ii) of any other person by virtue of rules made under subsection (7) of that section ;

(b) any effects deposited with the Accountant General by virtue of section 38(1) above ;

but does not include any statutory deposit referred to in section 40 above.

48 Application of Part VI to Scotland

This Part of this Act shall apply to Scotland only in relation to money or securities deposited with the Accountant General in the circumstances referred to in section 40 above ; and in the application to Scotland of the power to make rules under section 38(7) above as to the payment or transfer out of court of money or securities treated, by virtue of section 40 above, as if, for the purposes of this Part of this Act, they were funds in court, for the reference to the Lord Chancellor there shall be substituted a reference to the Secretary of State.

PART VII

MISCELLANEOUS

Family law

49 Presentation of petitions for matrimonial relief on behalf of patients under Mental Health Act 1959

In section 103(1)(h) of the Mental Health Act 1959 the words from " so however " to the end of the paragraph (which prevent the Master of the Court of Protection and other officers of that Court making orders or giving directions or authorities to present petitions for matrimonial relief in the name or on behalf of patients) shall cease to have effect.

50 Orders for the maintenance of wards of court

In section 6(2)(b) of the Family Law Reform Act 1969 (which empowers the High Court to make an order requiring parents of a ward of court to make periodical payments towards the maintenance and education of the ward) after the words " the ward " there shall be inserted the words " or to the ward " .

51 Remission of arrears of maintenance

The following subsection shall be inserted after subsection (2) of section 31 of the Matrimonial Causes Act 1973 (which gives the High Court and divorce county courts power to vary or discharge certain orders for the payment of maintenance etc. or to suspend any provision thereof temporarily and to revive the operation of any provision so suspended)—

“(2A) Where the court has made an order referred to in subsection (2)(a), (b) or (c) above, then, subject to the provisions of this section, the court shall have power to remit the payment of any arrears due under the order or of any part thereof.”.

52 Filing of orders

In section 19(3) of the Inheritance (Provision for Family and Dependents) Act 1975 (under which a copy of every order made under the Act is to be sent to the principal registry of the Family Division for entry and filing, and a memorandum of the order is to be endorsed on, or permanently annexed to, the probate or letters of administration under which the estate is being administered) after the words " made under this Act " there shall be inserted the words " other than an order made under section 15(1) of this Act ".

Amendments of Attachment of Earnings Act 1971

53 Power to order debtor to appear before court where attachment of earnings order is in force

(1) In section 14(2) of the Attachment of Earnings Act 1971 (power of court to make certain orders where an attachment of earnings order is in force) for the words from " make such " to the end there shall be substituted the words—

- “(a) make such an order as is described in subsection (1)(a) or (b) above ;
and
- (b) order the debtor to attend before it on a day and at a time specified in the order to give the information described in subsection (1)(a) above.”.

(2) In section 23(1) of that Act (enforcement provisions)—

- (a) after the words " an order " there shall be inserted the words " or with an order made under section 14(2) (b) above "; and
- (b) after the words " hearing of the application " there shall be inserted the words " or specified in the order ".

54 Deductions by employer under attachment of earnings order

The following paragraph shall be substituted for paragraph 4 of Schedule 3 to the Attachment of Earnings Act 1971 (deductions by employer under attachment of earnings order)—

- “4 (1) On any pay-day—
- (a) " the normal deduction " is arrived at by applying the normal deduction rate (as specified in the relevant attachment of earnings order) with respect to the relevant period; and

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- (b) " the protected earnings " are arrived at by applying the protected earnings rate (as so specified) with respect to the relevant period.
- (2) For the purposes of this paragraph the relevant period in relation to any pay-day is the period beginning—
 - (a) if it is the first pay-day of the debtor's employment with the employer, with the first day of the employment ; or
 - (b) if on the last pay-day earnings were paid in respect of a period falling wholly or partly after that pay-day, with the first day after the end of that period ; or
 - (c) in any other case, with the first day after the last pay-day, and ending—
 - (i) where earnings are paid in respect of a period falling wholly or partly after the pay-day, with the last day of that period; or
 - (ii) in any other case, with the pay-day.”.

Attachment of debts

55 Attachment of debts

- (1) The section set out in Part I of Schedule 4 to this Act shall be inserted after section 40 of the Supreme Court Act 1981.
- (2) The section set out in Part II of that Schedule shall be inserted after section 143 of the County Courts Act 1959.

Penalties under Solicitors Act 191A

56 Increase in penalty etc.

In section 47 of the Solicitors Act 1974 (powers of Solicitors Disciplinary Tribunal)—

- (a) in subsection (2)(c) (payment by solicitor of penalty) for " £750 " there shall be substituted " £3,000 "; and
- (b) the following subsections shall be added after subsection (3)—

“(4) If it appears to the Lord Chancellor that there has been a change in the value of money since the relevant date, he may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament substitute for the sum for the time being specified in subsection (2)(c) above such other sum as appears to him to be justified by the change.

- (5) In subsection (4) above " the relevant date " means—

- (a) in relation to the first order under that subsection, the date of the coming into force of section 56 of the Administration of Justice Act 1982; and
- (b) in relation to each subsequent order, the last occasion when the sum specified in subsection (2)(c) above was altered.”.

Judicial Trustees

57 Accounts of judicial trustees

- (1) In section 1(6) of the Judicial Trustees Act 1896 (by virtue of which, among other things, the accounts of every trust of which a judicial trustee has been appointed have to be audited once in every year, and a report on them made to the court) the words from the beginning to " and ", in the second place where it occurs, shall cease to have effect.
- (2) The following paragraphs shall be substituted for paragraph (11) of subsection (1) of section 4 of that Act (by virtue of which rules may be made for the filing and auditing of the accounts of any trust of which a judicial trustee has been appointed)—
 - “(11) for the preparation, auditing (by the court or otherwise) and filing of the accounts of any trust of which a judicial trustee has been appointed ;
 - (12) for the making of a report to the court on the accounts of any such trust.”.
- (3) The following subsection shall be inserted after the said subsection (1)—
 - “(1A) The rules under this Act may make different provision for different classes of trust, trustees, beneficiaries or trust property.”.

Recorders

58 Assistance by Recorders for transaction of business of High Court

At the end of the Table in section 9(1) of the Supreme Court Act 1981 (under which certain persons may be requested to act as judges in specified courts) there shall be added—

“6. A Recorder.	The High Court”.
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Official referees' business

59 Official referees' business

- (1) In subsection (1)(a) of section 68 of the Supreme Court Act 1981 (by virtue of which the Lord Chancellor may nominate Circuit judges to deal with official referees' business) for the words " of the Circuit judges " there shall be substituted the words " Circuit judges, deputy Circuit judges or Recorders ".
- (2) Accordingly—
 - (a) the word " persons " shall be substituted—
 - (i) for the words " Circuit judges " in subsection (5) and (6) of that section; and
 - (ii) for the word " judges ", in the second place where it occurs in subsection (6); and
 - (b) the word " person " shall be substituted for the words " Circuit judge " in subsection (7).

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

- (3) In subsection (4) of section 24 of the Courts Act 1971 (deputy Circuit judges and assistant Recorders) for the words " as regards any " there shall be substituted the words " in the case of a deputy Circuit judge, as regards " .

Deputy Master of Court of Protection

60 Power to abolish office of Deputy Master of Court of Protection

In section 89(6) of the Supreme Court Act 1981 after the words " Chancery Division " there shall be inserted the words " and the office of Deputy Master of the Court of Protection " .

Jurors

61 Questions to persons summoned for jury service

In section 2(5) of the Juries Act 1974—

- (a) for the words " attends in pursuance of such a summons, or of a summons " there shall be substituted the words " is summoned under subsection (4) above or "; and
- (b) after the word " may ", in the second place where it occurs, there shall be inserted the words " at any time " .

Inquests

62 Juries where death in police custody etc. suspected

In section 13(2) of the Coroners (Amendment) Act 1926 (which requires a coroner to summon a jury in certain circumstances) there shall be added after paragraph (e) the following paragraph—

“or

- (f) that the death occurred while the deceased was in police custody, or resulted from an injury caused by a police officer in the purported execution of his duty ;” .

Explosive substances—consents to prosecutions

63 Consents to prosecutions under the Explosive Substances Act 1883

- (1) The following subsection shall be substituted for section 7(1) of the Explosive Substances Act 1883—

“(1) Proceedings for a crime under this Act shall not be instituted except by or with the consent of the Attorney General.” .

- (2) In section 9(2) of that Act (application to Scotland) the following paragraph shall be inserted before the paragraph relating to the expression " Attorney General " —

“Section 7(1) shall be omitted.”

Constitution of the Law Commission

64 Temporary vacancies in Law Commission

In section 1(1) of the Law Commissions Act 1965 (by virtue of which the Law Commission consists of a Chairman and four other Commissioners) after the word "consisting" there shall be inserted the words "(except during any temporary vacancy)".

Justices of the Peace

65 Appointment of justices of the peace

In section 6(1) of the Justices of the Peace Act 1979 for the words from "on behalf" to "Chancellor" there shall be substituted the words "by the Lord Chancellor by instrument on behalf and in the name of Her Majesty".

Land Registration

66 Computerisation of the title register

(1) The following section shall be substituted for section 1 of the Land Registration Act 1925—

“1 Registers to be continued.

(1) The Chief Land Registrar shall continue to keep a register of title to freehold land and leasehold land.

(2) The register need not be kept in documentary form.”.

(2) The following section shall be inserted after section 113 of that Act—

“113A Inspection etc.— supplementary.

(1) Any duty under this Act to make a thing available for inspection is a duty to make it available for inspection in visible and legible form.

(2) Any reference in this Act to copies of and extracts from the register and of and from documents and plans filed in the registry includes a reference to reproductions of things which are kept by the registrar under this Act otherwise than in documentary form.”.

67 Jurisdiction

(1) The Land Registration Act 1925 shall have effect subject to the amendments specified in Schedule 5 to this Act.

(2) The Land Registration Rules 1967 are revoked.

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

PART VIII

PROVISIONS RELATING TO NORTHERN IRELAND

68 Damages for personal injuries etc.

Schedule 6 to this Act shall have effect.

69 Interest on debts and damages

- (1) The section set out in Part I of Schedule 7 to this Act shall be inserted after section 33 of the Judicature (Northern Ireland) Act 1978.
- (2) The Article set out in Part II of that Schedule shall be inserted after Article 45 of the County Courts (Northern Ireland) Order 1980.
- (3) The enactments specified in Part III of that Schedule shall have effect subject to the amendments there specified being amendments consequential on subsections (1) and (2) above.

70 Amendments of Judicature (Northern Ireland) Act 1978

The Judicature (Northern Ireland) Act 1978 shall have effect subject to the amendments specified in Schedule 8 to this Act.

71 Rules of court with respect to expert reports and oral expert evidence

- (1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in certain circumstances privileged from disclosure, provision may be made by rules of court for enabling the court in any civil proceedings to direct, with respect to medical matters or matters of any other class which may be specified in the direction, that the parties or some of them shall each by such date as may be so specified (or such later date as may be permitted or agreed in accordance with the rules) disclose to the other or others in the form of one or more expert reports the expert evidence on matters of that class which he proposes to adduce as part of his case at the trial.
- (2) Provision may be made by rules of court as to the conditions subject to which oral expert evidence may be given in civil proceedings.
- (3) Without prejudice to the generality of subsection (2), rules of court made in pursuance of that subsection may make provision for prohibiting a party who fails to comply with a direction given by virtue of rules under subsection (1) from adducing, except with the leave of the court, any oral expert evidence whatsoever with respect to matters of any class specified in the direction.
- (4) Any rules of court made in pursuance of this section may make different provision for different classes of cases, for expert reports dealing with matters of different classes, and for other different circumstances.
- (5) References in this section to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

- (6) In this section "rules of court" means—
- (a) rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978 ; and
 - (b) county court rules made under Article 47 of the County Courts (Northern Ireland) Order 1980,
- and nothing in this section shall prejudice the generality of the said section 55 and Article 47.

72 Travelling, subsistence and financial loss allowances for justices of the peace

- (1) The following section shall be inserted after section 12 of the Magistrates' Courts Act (Northern Ireland) 1964—

“12A Travelling, subsistence and financial loss allowances for justices of the peace.

- (1) Subject to the provisions of this section, a justice of the peace other than a resident magistrate shall be entitled—
- (a) to receive payments by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice, and
 - (b) to receive payments by way of financial loss allowance where for that performance there is incurred by him any other expenditure to which he would not otherwise be subject or there is suffered by him any loss of earnings or of benefit under the enactments relating to social security which he would otherwise have made or received.
- (2) Allowances under this section shall be paid at rates determined by the Lord Chancellor with the consent of the Treasury.”.
- (2) Sums required for the purposes of the section inserted in the Magistrates' Courts Act (Northern Ireland) 1964 by subsection (1) above shall be paid out of money provided by Parliament.

PART IX

GENERAL AND SUPPLEMENTARY

73 Transitional provisions and savings

- (1) Subject to subsections (2) and (3) below, nothing in Part I of this Act or paragraphs 2 to 10 of Schedule 6 to this Act applies to causes of action which accrue before its commencement.
- (2) Section 6 above and paragraph 10 of Schedule 6 to this Act shall apply to actions whenever commenced, including actions commenced before the passing of this Act.
- (3) The provisions to which this subsection applies have effect where a person has died after the commencement of Part I of this Act.

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

- (4) The provisions of this Act to which subsection (3) above applies are—
- (a) section 1;
 - (b) section 4(2); and
 - (c) paragraph 9(2) of Schedule 6.
- (5) Without prejudice to the provisions of Parts II and III of the Prescription and Limitation (Scotland) Act 1973, Part II of this Act shall apply to rights of action which accrued before, as well as rights of action which accrue after, the coming into operation of that Part of this Act; but nothing in Part II of this Act other than the repeal of section 5 of the Damages (Scotland) Act 1976 shall affect any proceedings commenced before that Part of this Act comes into operation.
- (6) Nothing in the following provisions of this Act
- (a) section 17;
 - (b) section 18(2);
 - (c) sections 19 to 22 ;
 - (d) section 75, so far as it relates—
 - (i) to the Wills Act Amendment Act 1852 ; and
 - (ii) to the Family Law Reform Act 1969,
 affects the will of a testator who dies before the commencement of the provision in question.
- (7) Neither section 18(1) above nor the repeal by this Act of section 177 of the Law of Property Act 1925 affects a will made before the commencement of section 18(1) above.
- (8) Until Part VI of this Act comes into force—
- (a) in section 1 of the Administration of Justice Act 1965—
 - (i) in subsection (4), after the word " General" there shall be inserted the words " and the Public Trustee "; and
 - (ii) the following subsection shall be inserted after that subsection—

“(4A) Where provision is made by a common investment scheme for the Public Trustee to hold shares in a common investment fund, he shall have the same power to invest trust money in shares in the fund as if they were investments specified in Part I of Schedule 1 to the Trustee Investments Act 1961.”; and
 - (b) in the County Courts Act 1959—
 - (i) the following subsection shall be substituted for section 99(3)—

“(3) Subject to rules under section 168 of this Act, all moneys payable under a judgment or order shall be paid into court.”; and
 - (ii) the following paragraph shall be added at the end of section 168—

“(o) prescribing cases in which moneys payable under a judgment or order are to be paid by one party to the other party or his solicitor and regulating, in such cases as may be prescribed, the evidence of such payment.”.

- (9) Nothing in paragraph 1 of Schedule 6 to this Act affects a cause of action accruing before that paragraph comes into force if an action in respect thereof has been begun before the paragraph comes into force.

74 Interest on damages-disregard for income tax purposes

In section 375A of the Income and Corporation Taxes Act 1970 (interest on damages for personal injuries or death not income for income tax purposes)—

- (a) in paragraph (a) of subsection (1), for the words from " an order " to " 1937 " there shall be substituted the words " a provision to which this paragraph applies "; and
- (b) the following subsection shall be inserted after subsection (1A) of that section—

“(1B) The provisions to which subsection (1)(a) of this section applies are—

- (a) section 3 of the Law Reform (Miscellaneous Provisions) Act 1934 ;
- (b) section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
- (c) section 35A of the Supreme Court Act 1981 ;
- (d) section 97A of the County Courts Act 1959 ;
- (e) section 33A of the Judicature (Northern Ireland) Act 1978 ; and
- (f) Article 45A of the County Courts (Northern Ireland) Order 1980.”.

75 Repeals and revocations

- (1) The enactments specified in Part I of Schedule 9 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Part of that Schedule.
- (2) The instruments specified in Part II of that Schedule are revoked to the extent specified in the third column of that Part of that Schedule.

76 Commencement

- (1) The provisions of this Act specified in subsection (2) below shall come into operation on such day as the Lord Chancellor may by order appoint.
- (2) The provisions of this Act mentioned in subsection (1) above are—
 - (a) section 6;
 - (b) Part III;
 - (c) sections 34 and 35 ;
 - (d) sections 38 to 47 ;
 - (e) section 54; (f) section 57;
 - (g) section 69;
 - (h) section 73(8);
 - (j) section 75, so far as it relates—
 - (i) to the Judicial Trustees Act 1896 ;

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

- (ii) to section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 ;
 - (iii) to the Prevention of Fraud (Investments) Act 1958;
 - (iv) to sections 99(3), 168 to 174A and 176 of the County Courts Act 1959 ;
 - (v) to sections 1 to 16 of the Administration of Justice Act 1965 and Schedule 1 to that Act;
 - (vi) to the Administration of Justice Act 1977 ; and
 - (vii) to the Judicature (Northern Ireland) Act 1978;
 - (k) paragraph 10 of Schedule 6 ; and
 - (l) paragraphs 6 to 8 of Schedule 8.
- (3) The provisions of this Act specified in subsection (4) below shall come into operation on such day as the Secretary of State may by order appoint.
- (4) The provisions of this Act mentioned in subsection (3) above are—
- (a) section 12;
 - (b) section 14(2);
 - (c) section 48 ; and
 - (d) section 75 above, so far as it relates to the Damages (Scotland) Act 1976.
- (5) The provisions of this Act specified in subsection (6) below shall come into operation on such day as the Lord Chancellor and the Secretary of State may by order jointly appoint.
- (6) The provisions of this Act mentioned in subsection (5) above are—
- (a) sections 23 to 25 ;
 - (b) sections 27 and 28 ;
 - (c) section 75, so far as it relates—
 - (i) to section 126 of the Supreme Court Act 1981; and
 - (ii) to Article 27 of the Administration of Estates (Northern Ireland) Order 1979.
- (7) Any order under this section shall be made by statutory instrument.
- (8) Any such order may appoint different days for different provisions and for different purposes.
- (9) The provisions of this Act specified in subsection (10) below shall come into operation on the day this Act is passed.
- (10) The provisions of this Act mentioned in subsection (9) above are—
- (a) section 32;
 - (b) section 36;
 - (c) section 52;
 - (d) section 60;
 - (e) section 64;
 - (f) section 65 ;
 - (g) this section;
 - (h) section 77 ; and
 - (i) section 78.

- (11) Subject to the foregoing provisions of this section, this Act shall come into operation on 1st January 1983.

77 Extent

- (1) Subject to subsection (6) below, the following provisions of this Act—
- (a) sections 3, 4 and 6 ; 1
 - (b) Part III;
 - (c) sections 17 to 22 ;
 - (d) Part V;
 - (e) sections 49 to 57 ;
 - (f) sections 65 to 67,
- extend to England and Wales only.
- (2) Sections 1, 2, 5, 39, 42 to 47, 64 and 74 above extend to England and Wales and Northern Ireland.
- (3) Part II of this Act and section 26 above extend to Scotland only and Part VI of this Act applies to Scotland only to the extent specified in section 48 above.
- (4) Part VIII of this Act extends to Northern Ireland only.
- (5) The repeal of the Wills Act Amendment Act 1852 by section 75 above does not extend to Northern Ireland.
- (6) Subject to subsection (5) above, where any enactment repealed or amended or instrument revoked by this Act extends to any part of the United Kingdom, the repeal, amendment or revocation extends to that part.

78 Citation

This Act may be cited as the Administration of Justice Act 1982.