



# County Courts Act 1984

## 1984 CHAPTER 28

### PART II

#### JURISDICTION AND TRANSFER OF PROCEEDINGS

##### *Actions of contract and tort*

#### **15 General jurisdiction in actions of contract and tort.**

- (1) Subject to subsection (2), a county court shall have jurisdiction to hear and determine any action founded on contract or tort where the debt, demand or damage claimed does not exceed the county court limit whether on balance of account or otherwise.
- (2) A county court shall not, except as in this Act provided, have jurisdiction to hear and determine—
  - (a) any action for the recovery of land; or
  - (b) any action in which the title to any hereditament or to any toll, fair, market or franchise is in question; or
  - (c) any action for libel of slander.
- (3) A county court shall have jurisdiction to hear and determine any action where the debt or demand claimed consists of a balance not exceeding the county court limit after a set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, being a set-off admitted by the plaintiff in the particulars of his claim or demand.

#### **Modifications etc. (not altering text)**

**C1** S. 15 excluded by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 39(4)

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**16 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 county court limit.

**17 Abandonment of part of claim to give court jurisdiction.**

- (1) Where a plaintiff has a cause of action for more than the county court limit in which, if it were not for more than the county court limit, a county court would have jurisdiction, the plaintiff may abandon the excess, and thereupon a county court shall have jurisdiction to hear and determine the action, but the plaintiff shall not recover in the action an amount exceeding the county court limit.
- (2) Where the court has jurisdiction to hear and determine an action by virtue of this section, the judgment of the court in the action shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be made accordingly.

**18 Jurisdiction by agreement in certain actions.**

If the parties to any action, other than an action which, if commenced in the High Court, would have been assigned to the Chancery Division or to the Family Division or have involved the exercise of the High Court’s Admiralty jurisdiction, agree, by a memorandum signed by them or by their respective [<sup>F1</sup>solicitors][<sup>F1</sup>legal representatives], that a county court specified in the memorandum shall have jurisdiction in the action, that court shall have jurisdiction to hear and determine the action accordingly.

**Textual Amendments**

- F1** Words “legal representatives” substituted (1.4.1991) for “solicitors” by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 49\(3\)](#)

**19 Limitation of recoverable costs of actions of contract or tort commenced in High Court which could have been commenced in county court.**

- (1) Subject to subsections (2) to (4) and section 29, where an action founded on contract or tort is commenced in the High Court which could have been commenced in the county court the costs (if any) of the proceedings in the High Court to which the plaintiff is entitled shall be determined in accordance with section 20.
- (2) Neither this section nor section 20 affects any question as to costs if it appears to the High Court that there was reasonable ground for supposing the amount recoverable in respect of the plaintiff’s claim to be in excess of the amount recoverable in an action commenced in the county court.
- (3) The High Court, if satisfied—
  - (a) that there was sufficient reason for bringing the action in the High Court; or
  - (b) that the defendant or one of the defendants objected to the transfer of the action to a county court;

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may make an order allowing the costs or any part of the costs on the High Court scale or on such one of the county court scales as it may direct.

(4) Neither this section nor section 20 applies in the case of proceedings by the Crown.

## **20 Rules for limitation of recoverable costs.**

- (1) If the plaintiff in an action for the recovery of goods to which this section applies recovers an aggregate amount less than the higher limit, he shall not be entitled to recover any more costs of the action than those to which he would have been entitled if the action had been brought in the county court.
- (2) If the plaintiff in an action to which this section applies, other than one for the recovery of goods, recovers a sum less than the higher limit, he shall not be entitled to recover any more costs of the action than those to which he would have been entitled if the action had been brought in the county court.
- (3) Where a plaintiff is entitled to costs on a county court scale only, the taxing master shall have the same power of directing on what county court scale costs are to be allowed, and of allowing any item of costs, as the judge would have had if the action had been brought in a county court.
- (4) If the plaintiff in an action for the recovery of goods to which this section applies recovers an aggregate amount less than the lower limit, he shall not be entitled to recover any costs of the action.
- (5) If the plaintiff in an action to which this section applies, other than one for the recovery of goods, recovers a sum less than the lower limit, he shall not be entitled to recover any costs of the action.
- (6) For the purposes of this section a plaintiff shall be treated as recovering the full amount recoverable in respect of his claim without regard to any deduction made in respect of contributory negligence on his part or otherwise in respect of matters not falling to be taken into account in determining whether the action could have been commenced in the county court.
- (7) In this section “action for the recovery of goods” means an action brought to enforce a right to recover possession of goods or to enforce such a right and to claim payment of a debt or demands or damages.
- (8) The aggregate amount mentioned in subsections (1) and (4) includes the value—
  - (a) of any goods ordered in the action to be delivered to the plaintiff; and
  - (b) of any goods so ordered to be delivered of which the value is in the alternative ordered to be paid to him.
- (9) In this section—

“the higher limit” means, subject to section 145, £3,000;  
“the lower limit” means, subject to section 145, £600.

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*Recovery of land and cases where title in question*

**21 Actions for recovery of land and actions where title is in question.**

- (1) A county court shall have jurisdiction to hear and determine any action for the recovery of land where the net annual value for rating of the land does not exceed the county court limit.
- (2) A county court shall have jurisdiction to hear and determine any action in which the title to any hereditament comes in question, being an action which would otherwise be within the jurisdiction of the court,—
  - (a) in the case of an easement or licence, if the net annual value for rating of the hereditament in respect of which the easement or licence is claimed, or on, through, over or under which the easement or licence is claimed, does not exceed the county court limit; or
  - (b) in any other case, if the net annual value for rating of the hereditament in question does not exceed the county court limit.
- (3) Where a mortgage of land consists of or includes a dwelling-house and no part of the land is situated in Greater London then, subject to subsection (4), if a county court has jurisdiction by virtue of this section to hear and determine an action in which the mortgagee under that mortgage claims possession of the mortgaged property, no court other than a county court shall have jurisdiction to hear and determine that action.
- (4) Subsection (3) shall not apply to an action for foreclosure or sale in which a claim for possession of the mortgaged property is also made.
- (5) If an action in which the mortgagee under a mortgage of land claims possession of the mortgaged property would, by virtue of this section, be within the jurisdiction of a county court had that claim been the only claim made in the action, a county court shall have jurisdiction to hear and determine the action notwithstanding that a claim 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 and that by reason of the amount claimed the last mentioned claim is not within the jurisdiction of a county court.
- (6) Nothing in subsection (5) shall be taken as empowering a county court to hear and determine an action for foreclosure or sale which is not within the jurisdiction of a county court.
- (7) In this section—
 

“dwelling-house” includes any building or part of a building which is used as a dwelling;

“mortgage” includes a charge and “mortgagor” and “mortgagee” shall be construed accordingly;

“mortgagor” and “mortgagee” includes any person deriving title under the original mortgagor or mortgagee.
- (8) The fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being a dwelling-house for the purposes of this section.
- (9) This section does not apply to a mortgage securing an agreement which is a regulated agreement within the meaning of the <sup>M1</sup>Consumer Credit Act 1974.

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**Modifications etc. (not altering text)**

**C2** Ss. 21, 22 amended by S.I. 1990/776, art. 4(1)(g)(2)

**Marginal Citations**

**M1** 1974 c. 39.

**22 Injunctions and declarations relating to land.**

- (1) Subject to the provisions of this section, a county court shall have the same jurisdiction as the High Court to grant an injunction or declaration in respect of, or relating to, any land, or the possession, occupation, use or enjoyment of any land.
- (2) This section only applies where the net annual value for rating of the relevant land does not exceed the county court limit for section 21.
- (3) In this section “land” includes any hereditament, and in the case of an easement or licence the relevant land for the purposes of subsection (2) is the land in respect of which the easement or licence is claimed or on, through, over or under which the easement or licence is claimed.

**Modifications etc. (not altering text)**

**C3** Ss. 21, 22 amended by S.I. 1990/776, art. 4(1)(g)(2)

*Equity proceedings*

**23 Equity jurisdiction.**

A county court shall have all the jurisdiction of the High Court to hear and determine—

- (a) proceedings for the administration of the estate of a deceased person, where the estate does not exceed in amount or value the county court limit;
- (b) proceedings—
  - (i) for the execution of any trust, or
  - (ii) for a declaration that a trust subsists, or
  - (iii) under section 1 of the <sup>M2</sup>Variation of Trusts Act 1958, where the estate or fund subject, or alleged to be subject, to the trust does not exceed in amount or value the county court limit;
- (c) proceedings for foreclosure or redemption of any mortgage or for enforcing any charge or lien, where the amount owing in respect of the mortgage, charge or lien does not exceed the county court limit;
- (d) proceedings for the specific performance, or for the rectification, delivery up or cancellation, of any agreement for the sale, purchase or lease of any property, where, in the case of a sale or purchase, the purchase money, or in the case of a lease, the value of the property, does not exceed the county court limit;
- (e) proceedings relating to the maintenance or advancement of a minor, where the property of the minor does not exceed in amount or value the county court limit;

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- (f) proceedings for the dissolution or winding-up of any partnership (whether or not the existence of the partnerships is in dispute), where the whole assets of the partnership do not exceed in amount or value the county court limit;
- (g) proceedings for relief against fraud or mistake, where the damage sustained or the estate or fund in respect of which relief is sought does not exceed in amount or value the county court limit.

#### Marginal Citations

M2 1958 c. 53.

## 24 Jurisdiction by agreement in certain equity proceedings.

- (1) If, as respects any proceedings to which this section applies, the parties agree, by a memorandum signed by them or by their respective [<sup>F2</sup>solicitors][<sup>F2</sup>legal representatives] or agents, that a county court specified in the memorandum shall have jurisdiction in the proceedings, that court shall, notwithstanding anything in any enactment, have jurisdiction to hear and determine the proceedings accordingly.
- (2) Subject to subsection (3), this section applies to any proceedings in which a county court would have jurisdiction by virtue of—
  - (a) section 113(3) of the <sup>M3</sup>Settled Land Act 1925,
  - (b) section 63A of the <sup>M4</sup>Trustee Act 1925,
  - (c) sections 3(7), 30(2), 49(4), 66(4), 89(7), 90(3), 91(8), 92(2), 136(3), 146(13), 147(5), 181(2), 188(2) of, and paragraph 3A of Part III and paragraph 1(3A) and (4A) of Part IV of Schedule 1 to, the <sup>M5</sup>Law of Property Act 1925,
  - (d) sections 17(2), 38(4), 41(1A), and 43(4) of the <sup>M6</sup>Administration of Estates Act 1925,
  - (e) section 6(1) of the <sup>M7</sup>Leasehold Property (Repairs) Act 1938,
  - (f) sections 1(6A) and 5(11) of the <sup>M8</sup>Land Charges Act 1972, and
  - (g) sections 23 and 25 of this Act,
 but for the limits of the jurisdiction of the court provided in those enactments.
- (3) This section does not apply to proceedings under section 1 of the <sup>M9</sup>Variation of Trusts Act 1958.

#### Textual Amendments

**F2** Words “legal representatives” substituted (1.4.1991) for “solicitors” by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), [Sch. 18 para. 49\(3\)](#)

#### Marginal Citations

M3 1925 c. 18.

M4 1925 c. 19.

M5 1925 c. 20.

M6 1925 c. 23.

M7 1938 c. 34.

M8 1972 c. 61.

M9 1958 c. 53.

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### *Family provision proceedings*

## **25 Jurisdiction under Inheritance (Provision for Family and Dependants) Act 1975.**

A county court shall have jurisdiction to hear and determine any application for an order under section 2 of the<sup>M10</sup>Inheritance (Provision for Family and Dependants) Act 1975 (including any application for permission to apply for such an order and any application made, in the proceedings on an application for such an order, for an order under any other provision of that Act) where it is shown to the satisfaction of the court that the value at the date of the death of the deceased of all property included in his net estate for the purposes of that Act by virtue of paragraph (a) of the definition of “net estate” in section 25(1) of that Act does not exceed the county court limit.

#### **Marginal Citations**

**M10** 1975 c. 63.

### *Admiralty proceedings*

## **26 Districts for Admiralty purposes.**

- (1) If at any time it appears expedient to the Lord Chancellor that any county court should have Admiralty jurisdiction, it shall be lawful for him, by order—
  - (a) to appoint that court to have, as from such date as may be specified in the order, such Admiralty jurisdiction as is provided in this Act; and
  - (b) to assign to that court as its district for Admiralty purposes any part or parts of any county court district or of two or more county court districts.
- (2) Where a district has been so assigned to a court as its district for Admiralty purposes, the parts of the sea (if any) adjacent to that district to a distance of 3 miles from the shore thereof shall be deemed to be included in that district, and the judge and all officers of the court shall have jurisdiction and authority for those purposes throughout that district as if it were the district for the court for all purposes.
- (3) Where an order is made under this section for the discontinuance of the Admiralty jurisdiction of any county court, whether wholly or within a part of the district assigned to it for Admiralty purposes, provision may be made in the order with respect to any Admiralty proceedings commenced in that court before the order comes into operation.
- (4) The power to make orders under this section shall be exercisable by statutory instrument.

## **27 Admiralty jurisdiction.**

- (1) Subject to the limitations of amount specified in subsection (2), an Admiralty county court shall have the following Admiralty jurisdiction, that is to say, jurisdiction to hear and determine—
  - (a) any claim for damage received by a ship;
  - (b) any claim for damage done by a ship;

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- (c) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act neglect or default of—
- (i) the owners, charterers or persons in possession or control of a ship; or
  - (ii) the master or crew of a ship, or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible,
- being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;
- (d) any claim for loss of or damage to goods carried in a ship;
  - (e) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
  - (f) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section 87 of the <sup>M11</sup>Civil Aviation Act 1982, of the law relating to salvage of aircraft and their apparel and cargo);
  - (g) any claim in the nature of towage in respect of a ship or an aircraft;
  - (h) any claim in the nature of pilotage in respect of a ship or an aircraft;
  - (j) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
  - (k) any claim in respect of the construction, repair or equipment of a ship or dock charges or dues;
  - (l) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);
  - (m) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship.
- (2) The limitations of amount referred to in subsection (1) are that the court shall not have jurisdiction to hear and determine—
- (a) a claim in the nature of salvage where the value of the property saved exceeds £15,000; or
  - (b) any other claim mentioned in that subsection for an amount exceeding £5,000.
- (3) References in this section to claims in the nature of salvage include references to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections 544 to 546 of the <sup>M12</sup>Merchant Shipping Act 1894, or any Order in Council made under section 87 of the Civil Aviation Act 1982, are authorised to be made in connection with a ship or an aircraft.
- (4) Subject to subsection (5), subsections (1) to (3) apply—
- (a) in relation to all ships or aircraft whether British or not and whether registered or not and wherever the residence or domicile of their owners may be, and
  - (b) in relation to all claims, wheresoever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land).
- (5) Nothing in subsection (4) shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Merchant Shipping Acts 1894 to 1983.
- (6) If, as regards any proceedings as to any such claim as is mentioned in subsection (1), the parties agree, by a memorandum signed by them or by their respective

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[<sup>F3</sup>solicitors][<sup>F3</sup>legal representatives]or agents, that a particular county court specified in the memorandum shall have jurisdiction in the proceedings, that court shall, notwithstanding anything in subsection (2) or in county court rules for prescribing the courts in which proceedings shall be brought, have jurisdiction to hear and determine the proceedings accordingly.

- (7) Nothing in this section shall be taken to affect the jurisdiction of any county court to hear and determine any proceedings in which it has jurisdiction by virtue of section 15 or 17.
- (8) Nothing in this section, or in section 26 or in any order made under that section, shall be taken to confer on a county court the jurisdiction of a prize court within the meaning of the Naval Prize Acts 1864 to 1916.
- (9) 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.
- (10) In subsection (9) “the Rhine Navigation Convention” means the Convention of the 7th October 1868 as revised by any subsequent Convention.
- (11) Section 555 of the <sup>M13</sup>Merchant Shipping Act 1894 shall have effect as if there were inserted after the word “agreement” the words “or by a county court in England or Wales”.

#### Textual Amendments

- F3** Words “legal representatives” substituted (1.4.1991) for “solicitors” by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 49\(3\)](#)

#### Marginal Citations

- M11** 1982 c. 16.  
**M12** 1894 c. 60.  
**M13** 1894 c. 60.

## 28 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.
- (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 (b) to (m) of section 27(1), where—
  - (a) the claim arises in connection with a ship; and

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- (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) whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England or Wales.
- (8) Where, as regards any such claim as is mentioned in section 27(1)(b) to (m), 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) 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), no vessel, aircraft or property shall be arrested or detained in Admiralty proceedings in a county court otherwise than in execution.
- (11) Where—
- (a) a vessel, aircraft or other property would or might be sold under an execution to enforce a judgment or order given or made by a county court in Admiralty proceedings; and
  - (b) the owner of the vessel, aircraft or property desires that the sale should be conducted in the High Court instead of in the county court,
- he shall be entitled, on giving security for costs, and subject to such other provisions as may be prescribed, to obtain an order of the county court for transfer of the proceedings for sale, with or without (as the judge of the county court thinks fit) the transfer of any subsequent proceedings to the High Court.
- (12) On an appeal by a party to any Admiralty proceedings, the Court of Appeal, if it appears to it expedient that any sale ordered to be made of the vessel, aircraft or other property to which the proceedings relate should be conducted in the High Court instead

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of in the county court, may direct the transfer of the proceedings for sale, with or without the transfer of the subsequent proceedings, to the High Court.

- (13) Where an action is transferred to a county court under section 40, 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.

## **29 Costs of certain Admiralty proceedings commenced in High Court which could have been commenced in county court.**

- (1) Subject to subsection (4), subsections (2) and (3) have effect in relation to any action in the High Court in which there is made—
- (a) a claim arising out of an agreement relating to the use or hire of a ship;
  - (b) a claim for salvage services;
  - (c) a claim relating to the carriage of goods in a ship; or
  - (d) a claim in tort in respect of goods carried in a ship,
- unless it is certified by the court that there was sufficient reason for bringing the proceedings in the High Court.

- (2) If the plaintiff recovers less than £5,000, he shall not be entitled to recover any more costs of the action than those to which he would have been entitled if the action had been brought in the county court.

- (3) If the plaintiff recovers less than £350, he shall not be entitled to recover any costs of the action.

- (4) Subsections (2)

and (3)

shall not affect any question as to costs in any case where it appears to the High Court that there was reasonable ground for supposing the amount recoverable in respect of the plaintiff's claim to be in excess of the amount recoverable in proceedings commenced in a county court.

- (5) For the purposes of subsections (2)

and (3), a plaintiff shall be treated as recovering the full amount recoverable in respect of his claim without regard to any deduction made in respect of contributory negligence on his part or otherwise in respect of matters not falling to be taken into account in determining whether the action could have been commenced in the county court.

## **30 Restrictions on entertainment of actions in personam in collision and other similar cases.**

- (1) The claims to which this section applies are claims for damage, loss of life or personal injury arising—
- (a) out of a collision between ships;
  - (b) out of the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or
  - (c) out of the non-compliance, on the part of one or more of two or more ships,—

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- (i) with regulations for the prevention of collisions made under section 21 of the <sup>M14</sup>Merchant Shipping Act 1979; or
  - (ii) with any such rules as are mentioned in subsection (1) of section 421 of the <sup>M15</sup>Merchant Shipping Act 1894 or any rules made under subsection (2) of that section.
- (2) No county court shall entertain an action in personam to enforce a claim to which this section applies unless—
- (a) the defendant has his habitual residence or a place of business within England and Wales; or
  - (b) the cause of action arose within inland waters of England and Wales or within the limits of a port of England and Wales; or
  - (c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.
- (3) In subsection (2)—
- “inland waters” includes any part of the sea adjacent to the coast of the United Kingdom certified by the Secretary of State to be waters falling by international law to be treated as within the territorial sovereignty of Her Majesty apart from the operation of that law in relation to territorial waters; and
- “port” means any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of persons is empowered by or under an Act to make charges in respect of ships entering it or using the facilities in it, and “limits of a port” means the limits thereof as fixed by or under the Act in question or, as the case may be, by the relevant charter or custom;
- “charges” means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.
- (4) No county court shall entertain an action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside England and Wales against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (5) Subsections (1) to (4) shall apply to counterclaims (except counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions in personam, but as if the references to the plaintiff and the defendant were respectively references to the plaintiff on the counterclaim and the defendant to the counterclaim.
- (6) Subsections (1) to (5) shall not apply to any action or counterclaim if the defendant submits or has agreed to submit to the jurisdiction of the court.
- (7) Nothing in this section shall prevent an action or counterclaim which is brought in accordance with the provisions of this section in a county court being transferred, in accordance with the enactments in that behalf, to some other court (whether a county court or not).
- (8) This section applies in relation to the jurisdiction of any county court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction, if any.

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#### Marginal Citations

M14 1979 c. 39.

M15 1894 c. 60.

### 31 Admiralty—interpretation.

- (1) In the provisions of this Part of this Act relating to Admiralty proceedings, unless the context otherwise requires,—
- “goods” includes baggage;
  - “master” has the same meaning as in the <sup>M16</sup>Merchant Shipping Act 1894, and accordingly includes every person (except a pilot) having command or charge of a ship;
  - “towage” and “pilotage”, in relation to an aircraft, mean towage and pilotage while the aircraft is waterborne.
- (2) Nothing in those provisions shall—
- (a) be construed as limiting the jurisdiction of a county court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship;
  - (b) affect section 552 of the <sup>M17</sup>Merchant Shipping Act 1894 (power of receiver of wreck to detain a ship in respect of a salvage claim);
  - (c) authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty’s ships or Her Majesty’s aircraft, or of any cargo or other property belonging to the Crown.
- (3) In subsection (2) “Her Majesty’s ships” and “Her Majesty’s aircraft” have the meanings given by section 38(2) of the <sup>M18</sup>Crown Proceedings Act 1947.

#### Marginal Citations

M16 1894 c. 60.

M17 1894 c. 60.

M18 1947 c. 44.

#### *Probate proceedings*

### [<sup>F4</sup>32 Contentious probate jurisdiction.

- (1) Where—
- (a) an application for the grant or revocation of probate or administration has been made through the principal registry of the Family Division or a district probate registry under section 105 of the <sup>M19</sup>Supreme Court Act 1981; and
  - (b) it is shown to the satisfaction of a county court that the value at the date of the death of the deceased of his net estate does not exceed the county court limit,
- the county court shall have the jurisdiction of the High Court in respect of any contentious matter arising in connection with the grant or revocation.

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- (2) In subsection (1) “net estate”, in relation to a deceased person, means the estate of that person exclusive of any property he was possessed of or entitled to as a trustee and not beneficially, and after making allowances for funeral expenses and for debts and liabilities.]

**Textual Amendments**

**F4** S. 32 substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\), s. 51\(1\)](#)

**Marginal Citations**

**M19** 1981 c.54 (37)

**33 Effect of order of judge in probate proceedings.**

Where an order is made by . . . <sup>F5</sup>a county court for the grant or revocation of probate or administration, in pursuance of any jurisdiction conferred upon [<sup>F6</sup>the court]by section 32—

- (a) the registrar of the county court shall transmit to the principal registry of the Family Division or a district probate registry, as he thinks convenient, a certificate under the seal of the court certifying that the order has been made; and
- (b) on the application of a party in favour of whom the order has been made, probate or administration in compliance with the order shall be issued from the registry to which the certificate was sent or, as the case may require, the probate or letters of administration previously granted shall be recalled or varied by, as the case may be, a registrar of the principal registry of the Family Division or the district probate registrar according to the effect of the order.

**Textual Amendments**

**F5** Words repealed by [Administration of Justice Act 1985 \(c. 61, SIF 34\), s. 67\(1\)\(2\), Sch. 7 para. 7\(a\), Sch. 8 Pt. III](#)

**F6** Words substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\), s. 67\(1\), Sch. 7 para. 7\(b\)](#)

*Miscellaneous provisions as to jurisdiction*

**34 Proceedings beyond jurisdiction.**

- (1) Subject to subsection (2), where any proceedings are commenced in a county court in which a county court has no jurisdiction, the court shall, unless it is given jurisdiction by a jurisdiction agreement, order that the proceedings be transferred to the High Court.
- (2) Where, on the application of any defendant, it appears to the court that the plaintiff or one of the plaintiffs knew or ought to have known that the court had no jurisdiction in the proceedings, the court may, if it thinks fit, instead of ordering that the proceedings be transferred, order that they be struck out.
- (3) In this section “jurisdiction agreement” means an agreement under section 18, 24 or 27(6).

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**35 Division of causes of action.**

It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in one or more of the county courts.

**36 No action on judgment of High Court.**

No action shall be brought in a county court on any judgment of the High Court.

*Exercise of jurisdiction and ancillary jurisdiction*

**37 Persons who may exercise jurisdiction of court.**

- (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) 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.

**38 General ancillary jurisdiction.**

- (1) Every county court, as regards any cause of action for the time being within its jurisdiction,—
  - (a) shall grant such relief, redress or remedy or combination of remedies, either absolute or conditional; and
  - (b) shall give such and the like effect to every ground of defence or counterclaim equitable or legal,as ought to be granted or given in the like case by the High Court and in as full and ample a manner.
- (2) For the purposes of this section it shall be assumed (notwithstanding any enactment to the contrary) that any proceedings which can be commenced in a county court could be commenced in the High Court.

**39 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.

*Transfer of proceedings*

**40 Transfer of proceedings 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

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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 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), this section applies to all proceedings commenced in the High Court which a county court would, apart from any limitation by reason of amount or value or annual value, have jurisdiction to hear and determine if commenced in that court.
- [<sup>F7</sup>(3) This section does not apply to proceedings which are family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.]
- (4) This section applies to all proceedings transferred to the High court under section 41 or 42.
  - (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), on the documents mentioned in subsection (7) 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.

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- (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.

#### Textual Amendments

- F7** S. 40(3) substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 46(1), **Sch. 1 para. 29**

### 41 Transfer to High Court by order of High Court.

- (1) If at any stage in proceedings commenced in a county court or transferred to a county court under section 40, the High Court thinks it desirable 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) is without prejudice to section 29 of the <sup>M20</sup>Supreme Court Act 1981 (power of High Court to issue prerogative orders) [<sup>F8</sup>but shall be exercised in relation to family proceedings (within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984) in accordance with any directions given under section 37 of that Act (directions as to distribution and transfer of family business and proceedings).]

#### Textual Amendments

- F8** Words inserted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 46(1), **Sch. 1 para. 30**

#### Modifications etc. (not altering text)

- C4** S. 41 restricted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#) ss. 289, 305(3)

#### Marginal Citations

- M20** 1981 c. 54.

### 42 Transfer 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—

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- (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 [F9 proceedings which are family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984.]
- (4) This section applies to all proceedings transferred to a county court under section 40.

#### Textual Amendments

**F9** Words substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\), s. 46\(1\), Sch. 1 para. 31](#)

#### **43 Jurisdiction to deal with counterclaim or set-off and counterclaim.**

If the condition specified in section 42(1)(c) 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.

#### **44 Transfer of interpleader proceedings from High Court to county court.**

If it appears to the High Court that any proceedings in the High Court by way of interpleader, in which the amount or value of the matter in dispute does not exceed the county court limit, may be more conveniently heard and determined in a county court, the High Court may at any time order that the proceedings be transferred to any county court in which proceedings might have been brought by any party to the interpleader against any other party to it if there had been a trust to be executed concerning the matter in question.

#### **45 Costs in transferred cases.**

- (1) Where an action, counterclaim or matter is ordered to be transferred—

- (a) from the High Court to a county court; or
- (b) from a county court to the High Court; or
- (c) from one county court to another county court,

the costs of the whole proceedings both before and after the transfer shall, subject to any order of the court which ordered the transfer, be in the discretion of the court to which the proceedings are transferred; and that court shall have power to make orders with respect to the costs [F10 and as to the scales on which the costs of the several parts of the proceedings are to be taxed], and the costs of the whole proceedings shall be taxed in that court.

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[<sup>F11</sup>(2) The costs of so much of the proceedings in any action transferred from the High Court to a county court as takes place in the High Court before the transfer shall be subject to section 19, and the powers of the High Court under section 19(3) to make an order allowing costs on the High Court scale or on any county court scale shall, subject to any order of the High Court, be exercisable by the county court.]

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**Textual Amendments**

**F10** Words repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

**F11** S. 45(2) repealed (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

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**Modifications etc. (not altering text)**

**C5** S. 45 excluded by S.I. 1988/1328, **rule 23**

**Status:**

Point in time view as at 01/02/1991.

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