



# Administration of Justice Act 1970

## 1970 CHAPTER 31

### PART IV

#### ACTIONS BY MORTGAGEES FOR POSSESSION

#### **38 Further provisions as to actions in county court for possession of mortgaged land**

- (1) If an action in which the mortgagee under a mortgage of land claims possession of the mortgaged property would, by virtue of section 48 of the County Courts Act 1959, 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 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.
- (2) Nothing in subsection (1) above 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.
- (3) Without prejudice to section 102(3)(c) of the County Courts Act 1959 (which enables county court rules to authorise the registrar to hear and determine certain proceedings and actions), the registrar of a county court may hear and determine any action in which the mortgagee under a mortgage of land claims possession of the mortgaged land, being an action which is within the jurisdiction of a county court.